

CABINET – 18 OCTOBER 2011

Outcome of Consultation on Outsourcing of Independent Living Services for People with a Learning Disability

Report by Director for Social & Community Services

Introduction

1. Cabinet resolved in principle on 21st June 2011 to outsource Supported Living and Daytime Support services for people with a learning disability, subject to a period of consultation. The rationale for the proposed outsourcing was that efficiency savings were required, the Council wishes to commission rather than directly provide services, and the social care market is already well developed in these areas.
2. The strategy of increasing choice and control through Self Directed Support and the use of Personal Budgets is already well advanced in Oxfordshire. This outsourcing programme will offer a significant improvement in the choice of Providers available for key support services, and in the longer term will lead to Service Users receiving significantly better value for their budgets
3. This report summarises the outcomes from a comprehensive consultation exercise, and indicates the main changes to the proposed programme resulting from consultation. It recommends that outsourcing should begin in November 2011, and be completed by around April 2013.

Progress on efficiency savings and restructuring

4. The Council currently employs around 280 staff to run Supported Living and Daytime Support services, on a gross budget of £7.8m. Efficiency savings of £500k are required from these services in 2011/12, rising to £1m in 2012/13. A management restructure is underway, designed to achieve savings of £500k and a net reduction of 12.5 full time equivalent posts. This is progressing to plan and with the interviews completed, appointments and redundancies are being finalised to achieve a half year effect of the savings. Work continues on additional plans to achieve further savings and efficiencies during 2011/12 and 2013.

Consultation Process and Outcomes

5. Following the decision in principle to outsource these services, consultation papers in various formats were produced and circulated to Service Users, carers and staff during July 2011. Consultation meetings were held with managers and staff across the County to explain the proposals and seek their views. These were well attended, with over 75% of staff present. Four large public meetings were held with over 190 Service Users, families and carers in

attendance. A further seven small group sessions were held specifically for Service Users, utilising independent facilitators to help people express their views. Written comments were received from 101 consultees.

6. The main themes emerging during consultation are summarised in paragraphs 7 - 9 below. Further details are contained in **Annex 1**.

Summary of Service User/Carer Consultation Themes

7. Three main themes emerged strongly from Service Users and their carers:
 - (a) **Consistency:** The current range of services were generally valued highly, with particular praise for skilled and professional staff. Continuity of routine, staff and buildings was held to be important, with concerns expressed that loss or changes of staff should be kept to a minimum. Carers did not want to lose any days of service at the Daytime Support bases.
 - (b) **Procurement Process/Cost:** Carers wanted good information about potential Providers, and assurance that they would supply enough staff to meet needs. There was particular interest in how users and carers could be appropriately involved in the selection of Providers.
 - (c) **Quality/Safeguarding:** There were many comments requesting that staff should continue to have high levels of training and support. Carers wanted to be clear how they could express any concerns about service quality in the future, and wanted assurance that support was actually delivered as specified. External services must continue to offer a safe and supportive environment, provided by organisations that are robust and financially sustainable.
8. While there was strong satisfaction expressed about current service delivery by Council staff, there was a general acceptance by Users and carers that good quality services could be supplied by external Providers, as long as appropriate monitoring was conducted by Council staff.

Summary of Staff Consultation Themes

9. Staff concerns and consultation responses were in four main areas:
 - (a) **Human Resources:** There was a high level of interest from staff in job security and conditions of service including pension protection. There was a very strong message that staff like working for the council and there is concern that the new providers would want to renegotiate down their terms and conditions.
 - (b) **Process:** Staff were concerned about what the alternatives to outsourcing could be, how costs would be reduced, and how Users and carers were being informed or consulted.

- (c) **Procurement:** Questions were raised about how to practically support people with learning disabilities to choose which framework provider they would like and how to enable them to extend their choice if they did not want to employ framework providers. Staff also queried how the bids would be grouped and wanted to ensure that providers would not be allowed to offer inducements to encourage people to choose them as their provider. Staff wanted to know how much freedom providers would have to change the way services were delivered. Concern was also expressed that daytime support services would be at risk of being broken up to such a degree that the current management support, which is seen as critical in terms of knowledge, experience and quality of service would be lost.
- (d) **Service Provision and Quality:** Some staff wanted to know more about Social Enterprise, and how they could ensure that existing bases or Centres would remain open. They were particularly concerned that comprehensive quality monitoring would be maintained, and that there was a route for them to report any quality issues.

Changes made as a result of consultation

- 10. Many of the detailed points raised during the consultation exercise will be used to inform the contract specification and select appropriate Providers. Three particular improvements to the proposals will be implemented as a direct result of the feedback from Service Users, carers and staff:
 - (a) The development and evaluation of one or more small-scale Social Enterprise projects will be considered, as detailed in paragraphs 11 and 12 below.
 - (b) Service Users, carers and staff strongly supported the proposal that service users and carers will be directly involved in the selection of Providers for individual Supported Living houses, and Day Support centres. This development will be embedded at the centre of the process.
 - (c) The Council will ensure that all services are regularly monitored to make sure that the quality of provision is maintained and improved. Quality monitoring will make extensive use of direct feedback from people using the services and their families. People with learning disabilities will be involved in quality monitoring as *experts by experience*. Through the contracting and quality monitoring relationship, the Council will ensure that provider organisations are working with people using the service and their families and are delivering good quality services which effectively respond to needs. The Council will make sure that accessible information is available so that service users and their families know who they should contact if they have any concerns about their service. The Taking Part team have also developed a team of service users and carers to undertake

monitoring activities for older people's services and there is now potential to widen this to include Learning Disability Services.

Social Enterprise

11. General interest was expressed by a few staff and other stakeholders in developing small-scale Social Enterprises. A workshop has been held to explore the potential implications, and individual staff have been given advice about how a Social Enterprise could be established. Particular interest has been shown in the Banbury area from North Cherwell Daytime Support services linked to the Redlands Centre. Further development work on supporting micro-enterprises will be undertaken in the context of a revised commissioning strategy for Learning Disability. While this model of service delivery will be encouraged for local innovations, it is unlikely to offer a short-term solution for this project overall, and Framework contracts will be used for all services in the initial outsourcing.
12. If one or more small-scale Social Enterprises are successfully developed over the coming months, these services could be removed from the second stage Daytime Support tender, or extracted from contracts with Framework Providers at the appropriate time. The Director would need to be satisfied that all potential risks to vulnerable Service Users had been addressed before agreeing to a Social Enterprise solution.

Options Appraisal

13. A formal options appraisal including a cost / benefit analysis will be undertaken as an integral part of the bid evaluation process.

Financial and Staff Implications

14. There are no short-term financial implications for Cabinet arising from this report. Project costs will be absorbed by the Directorate. Part-year savings towards budget targets of £500k are expected from the management restructuring. No significant revenue savings are anticipated in 2012/13 from outsourcing, because of TUPE costs. However, savings will begin to accrue from 2013/14 onwards as staff turnover in new Providers reduces costs. Details of these savings will not be known until the procurement exercises are completed.
15. If the outsourcing is approved by Cabinet, there will be a reduction of around 285 staff employed directly in these services by the Council.

16. Transfer of Undertakings – Protection of Employment (TUPE) and Pension Protection

17. At present it seems likely that many staff may transfer to the new providers. Staff transfers under this outsourcing will be covered by the TUPE legislation in most cases and current pension guidance under the 'Fair Deal' policy. This requires provision of broadly comparable pensions where staff are

compulsorily transferred from the public sector to a new non-public sector employer. However, the Government has recently concluded consultation on proposals to amend the 'Fair Deal' policy, and there may be future legislative or policy changes resulting from this exercise. Employees have been made aware of this possibility during their consultation sessions.

Key Risks and Mitigation

18. A summary of key risks and mitigation plans is set out below in Table 1. Further details of risks and mitigation are set out in the project risk register, available as a background document.

Table 1

RISK	MITIGATION
Insufficient procurement and HR staffing resource available to complete outsourcing within set timescales.	<ul style="list-style-type: none"> Regularly review project plan and resource requirements, increase if necessary subject to available budget.
Business Continuity: the morale of staff and the associated stability of the services (particularly Supported Living Services) are at risk during this process with turnover of frontline staff likely to increase. This could lead to an increase in the use of agency staff.	<ul style="list-style-type: none"> Keep to timetable as far as possible. Recruit to permanent contracts during procurement phase to provide assurance to staff about job security. Ensure effective and regular communication throughout to ensure all staff are informed and involved including agency staff.
Business Continuity: Loss of key senior staff through resignation, organisational restructure, redundancy or retirement during this process.	<ul style="list-style-type: none"> Procurement team to work with framework providers as soon as possible to gauge potential management requirements post transfer. Explore the possibility of incentives to encourage managers to remain in post as long as possible. Business continuity planning workshop to define minimum requirements and how to resource those.
Costs of outsourced services exceed current internal costs	<ul style="list-style-type: none"> Review price submissions, re-tender if necessary.
Complexity of individual choices prevents appropriate Providers being selected	<ul style="list-style-type: none"> People will have a range of options to find out about Providers. It will be clearly explained that a single decision needs to be made and the process for doing this will be agreed up front. Sufficient time will be built in to ensure full consideration and discussion before coming to a decision.

Impact Assessment

19. A Service and Community Impact Assessment (SCIA) has been undertaken, taking into account information gathered during consultation. This is available as **Annex 2**.

Timetable and Next Steps

20. Subject to approval from Cabinet on 18th October, the procurement phase for Supported Living will begin in November 2011. Daytime Support procurement will begin in January 2012. This is a complex exercise, requiring in-depth

consultation with small groups of Users with moderate to severe learning disabilities, across many different sites. All staff, Service Users and carers will receive regular communications on how they will be involved and consulted in the next stages of outsourcing. The intention is to complete the transfer of Supported Living services by August 2012, and Daytime Support by April 2013.

21. The schedule has been designed to allow sufficient time for tendering and contract evaluation, but may have to be adjusted in the light of experience. It is possible that some services may not actually transfer until later in 2013.

Conclusions

22. The Director of Social and Community Services wishes to express his appreciation to all Service Users, carers and staff, for their constructive and supportive comments during the consultation exercise. There was an extremely positive view of the employees who currently provide these services expressed by Users and Carers. Every effort will be made to retain these high quality staff when they transfer to external employers. There have been many helpful suggestions on how the outsourcing process could be improved for the benefit of Service Users. No significant obstacles to outsourcing have been identified during the consultation process, and the Director has therefore concluded that the programme should proceed as proposed in the June 2011 Cabinet report.

RECOMMENDATIONS

23. **The Cabinet is RECOMMENDED to:**
 - (a) **Note the outcome of consultation with Service Users, carers and other stakeholders;**
 - (b) **Agree to the outsourcing of Independent Living Services by April 2013.**

JOHN JACKSON
Director for Social & Community Services

Background papers:

List of Annexes

Annex 1 – Consultation summary

Annex 2 – Social & Community Impact Assessment

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October 2011

Summary of emerging themes

This document is a summary of headlines emerging from consultation with staff, service users and carers, in response to the proposed transfer of Supported Living and Daytime Support services to external providers.

The groups of stakeholders listed above were able to respond to the proposal through a variety of means during the consultation process. All comments and questions received were recorded, collated and analysed.

The information below provides an overview of the feedback received and is divided into themes, highlighting those points that are most frequently raised.

PART A – Service Users and Carers

Consistency

This theme covers consistency of care, in terms of the services provided, the staff providing them as well as the buildings used.

- The changes must as a minimum maintain the current service.
- New providers must keep service users connected with their friends.
- Staff are often part of the service user 'family'. There is a concern about how TUPE will support staff long term, could it lead to poorer working conditions or an increase in stress or turnover?
- Current staff are excellent and really know our service users. There is a great deal of concern around losing staff.
- Concern of loss of social base for service users should day centres close.
- Day centres should remain within the existing building where possible.
- Routine is important to service users. Continuity of service, carer and provider are all very important.
- Concern that elderly carers in particular would find it difficult to continue to provide care if days per week at the day centres were reduced.

Procurement

This theme concerns everything to do with choosing a provider, the various services provided and what people want out of their services.

- New providers must put the service user first.
- There should be enough staff available to provide care options for service users.
- Will providers purchase parts of services from each other?
- Can service users 'cherry pick' services from different providers?
- There is a need for more financial information to allow for fair comparison between provider services.

Personal budgets

The issue of how the proposal links with personal budgets has been raised on several occasions.

- There is a need for more information about how personal budgets would be used in the future.
- Will services be too expensive with personal budgets?

Approach

This concerns the councils approach to the proposal, the mechanisms to support implementation and the consultation process itself.

- Information around the proposed changes needs to be clear.
- The processes for supporting the proposed changes are reassuring.
- The consultation must be seen to be done, but do my views really matter?

Improvements

During the consultation people were asked if they had any ideas on how to improve the services they were already receiving.

- It is unclear how the proposed changes will benefit service users, will the services improve?
- New day services should be constructive, adding value to the lives of service users.
- Include lifelong learning options as part of the services provided.
- More staff to enable activities that are important to service users.
- Investigate joint service for elderly carers and sons or daughters.
- More information about new and existing services available.
- Information and involvement must improve.

Quality

The issue of who will ensure that the quality of care is maintained and that providers are effectively meeting the needs of their service users is mentioned frequently during consultations.

- Separating the provider and 'inspector' function of OCC is a positive move.
- Staff employed by providers need to be properly trained and aware of the capabilities of the service user.
- Areas of high quality must be maintained. In other areas this is an opportunity to improve the quality of care.
- Who do we contact with concerns or complaints about care in the future, the council or the provider?
- Will carers be able to access quality control and inspection reports on providers?
- There is a need to ensure that assessed care is actually delivered.

Safeguarding

It is important that service users receive care in a safe environment, protected from harm or abuse. Safeguarding is a very important aspect of care monitoring and has been raised at all consultations.

- There needs to be effective safeguarding of service users from other service users.
- Services must continue to provide a safe and secure environment.

PART B – Staff

Human Resources

This theme includes issues regarding working pay and condition, the level and duration of protection provided by TUPE as well as pension consideration and access to quality training.

- How long will staff that are transferred be protected under TUPE?
- What kind of things can lead to a change in pay and/or terms and conditions?
- What happens to my pension if I transfer?
- How will staff be assigned to different providers?
- If a provider doesn't need all the staff to deliver a service, who loses the jobs?
- Do I have a choice over which provider I want to work with?
- We there be support to maintain training standards?

Process

This theme includes comments and questions on the rationale and approach to the outsourcing as well as the timeline for specific elements.

- How soon after the October Cabinet meeting will we know what's happening?
- What happens if Cabinet doesn't agree to the outsourcing?
- Is this a consultation or has it already been decided?
- How do you expect to reduce costs?
- Should the proposals be approved, how will the handover of service progress?
- How are services users, carer and families being informed and involved?
- What happens if you are not able to reduce costs with the available external providers?

Procurement

The issue of how OCC will invite tender applications, who will be able to bid for what types of service and how will service users be able to choose a specific provider is included within this theme.

- If services will be procured in groups, what will happen if a group of service users want to use different providers?
- What if service users want to use a service not provided by framework providers?
- How will service users, carers and families be able to decide on the provider they want?
- Have existing providers expressed an interest in running the services?
- Would you expect providers to bid for services as a whole or by specific sites?
- Can a new provider change the service that is being delivered to service users?
- How will the choice of provider be made?

Service Provision

This theme deals with the types, locations and availability of services and is closely linked with the Quality theme.

- Will service bases/day centres close?
- Will we lose integrated transport?
- Will service users still get the same level of care?
- Is there another way of remodelling the service by looking to social enterprises to provide niche or specific services?

- How do we keep the existing service running until handover if staff continue to leave?
- Why do you think other providers can run these services more efficiently?

Quality

How and who monitors service quality are important to ensure that a safe and effective service continues to be provided to the public.

- Surely it is not in the interest of external providers to report safeguarding concerns. How will this be managed?
- Is there an independent team that will quality check the providers?
- How will staff raise concerns? Will there be protection for 'whistle-blowers'?
- Will quality monitoring continue to run by the council?

Full details of all issues raised during the consultation process, from service users, carers and staff can be obtained from Martin Bradshaw. Email: martin.bradshaw@oxfordshire.gov.uk

Service and Community Impact Assessment

Social and Community Services

Proposed Outsourcing of Supported Living and Daytime Support Services for People with Learning Disability

Equality Impact Assessment

Lead Officer: Martin Bradshaw, Assistant Head of Service, Adult Social Care.

Purpose of Assessment

This document is a full equality assessment of the impact of the proposed externalisation of the internal Learning Disability Supported Living and Daytime Support Service on staff / the communities of Oxfordshire. This assessment will be reviewed on a six month basis by Martin Bradshaw and will be updated as the policy is implemented and feedback is received.

Summary of Impact Identified

The main equality impact of this project will be positive, because it will extend choice of Provider to people with learning disability across all Supported Living and Day Support services. This right is already available to older people because of previous outsourcing of council-run residential and domiciliary care services.

Actions:

Aim	Actions	Lead	Date of Completion
To achieve full Service User choice of external Providers	Tender for Supported Living and Day Support Services	Ann Nursey	April 2013
To ensure that all Service Users, Carers and staff have a good understanding of changes in the delivery of services	Communications strategy	Rachel Woodcock	October 2013

Introduction

1. Project

The proposed transfer of the internal Learning Disability Supported Living and Daytime Support services to external providers. Full details of the proposal can be found in two Cabinet reports (21st June 2011 and 18th October 2011)

2. Context of Assessment

The purpose of the Equality Impact Assessment is to produce fair and consistent services for our staff and customers. It is also a legal duty to prevent discrimination. Cabinet resolved in principle on 21st June 2011 to outsource these services subject to consultation. An extensive consultation programme of written documentation and meetings with Service Users, families, staff and other stakeholders was undertaken from July to September 2011. This report describes any impacts on equality in light of the consultation programme.

3. Alternative Options Considered and Rejected

The outsourcing programme was established to achieve two key objectives in line with Directorate and Cabinet policy: 1) To commission rather than provide services and 2) To reduce costs.

The main alternative to outsourcing would be to retain these services in-house. This option has been rejected because retention of such a large volume of service would not achieve the objective of reducing the level of core services provided directly by the Council. A longer-term objective of the Directorate is to extend the choice and control available to Service Users through the introduction of Personal Budgets. At present, Service Users in some areas of Supported Living and Day Support have no choice of Provider. They are forced to accept the council-run service. If this outsourcing proceeds, the range of choice will be significantly extended, and costs are likely to fall. It is also extremely unlikely that council-run services could be provided at an acceptable cost, but the final details of external costs will not be known until the outcome of two procurement exercises is known in 2012.

The impact of the changes to the service areas will be significant for staff, service users and carers.

Impact on customers

These are services specific to people with learning disabilities, and are offered on the basis of people having specific needs. The primary impact will be a change of service provider for those people who currently use internal services. Whilst this policy will impact everyone who uses these internal services, it does not impact any group specifically due to their age, disability gender, religion or belief or sexual orientation.

People with learning disabilities are more likely to become particularly anxious about any change to their service. The consultation demonstrated that the key area of anxiety is around the continuity of staff and familiarity of a known organisation. At this stage in the project it is anticipated that most internal staff will transfer to the new

providers and will continue to support the same people as they do now. Clarity around this issue will develop when contracts are awarded to the external providers.

People with learning disabilities need information presented in easy-read and accessible formats (pictorial/large print/video/audio etc) as many cannot read or write. They also need plenty of time to absorb and understand complex information. There are some people who will not be able to understand this information at all, so their carers will need to respond on their behalf. These requirements have been built into the communication and project plans.

This project may have an additional impact on different racial groups but only where people do not have English as a first language. Increased levels of support will be provided in these circumstances to ensure people fully understand what is happening.

It is possible that any uncertainty caused by the proposed changes could cause anxiety which may lead to increased challenging behaviour which would adversely effect the social inclusion of service users in their day to day lives. For example participation at education classes, daytime activities and participation in work placements,

Increased levels of anxiety could also have an ill-effect on the long term health conditions of service users which could worsen, particularly at the point of handover and the first few months of a new contract.

The consultation also highlighted some concern from carers that by dividing the services between different providers across the county, some degree of a postcode lottery and differing levels of support may be experienced. To mitigate this; all service providers are already reviewed by quality monitoring officers using the same monitoring tools. Any quality issues will be addressed through this process. Whilst each provider will operate in slightly different ways, they will all be held accountable to the same quality standards.

This project will promote equality because it allows people with learning disability to choose from a much wider range of Providers at lower cost. Progressive externalisation of services for Older People has already allowed much wider access to new Providers and reduced costs, and this project will enable people with Learning Disability to have more equal access to external Providers.

Local communities will not be immediately affected by the project. Services are likely to be transferred in their current locations, so community access to Day Support will not be reduced. There may be some changes over time, because some buildings are not fit for purpose. Full consultation will be undertaken if any changes to current operations are proposed in future.

Impact on Staff

This project has a more significant impact on all the current Supported Living and Daytime Support Service management and front line staff. However there is no

discrimination due to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

At this stage we expect most staff to transfer to the new external providers under protected terms and conditions. However until the procurement cycle is well underway the degree to which the service may become fragmented is uncertain. The risk of redundancies will become clearer after procurement during the employment contract negotiation stage of transfer. Any redundancy would be dictated by the needs of the service, and would not involve discrimination against any particular group.

The uncertainty caused by the proposed transfer is already causing some anxiety amongst staff and morale is being affected. This may impact on the ongoing quality of support people receive.

At the point of transfer, any changes to the personnel or places of work will cause some disruption. The project team will work hard to minimise the impact of this. Handover can be quite a complex time and while the new organisations learn about service users and staff it is possible the quality of service might dip at this particular point.

Impact on Providers

The public authority is legally responsible for complying with the equality duty in its undertaking of procurement.

Service specifications and quality standards clearly outline how the organisations must work to improve outcomes for people with learning disabilities, recognising and promoting cultural diversity. This will be monitored via the annual review and through contract monitoring meetings. The contract requires that people with learning disabilities will be treated fairly and all forms of discrimination will be challenged.

The move from internal to external services inevitably means a change of provider. The impact of this is likely to be a period of uncertainty as service users, carers and staff get to know the new organisations and they develop an understanding about the exact nature of the services.

The consultation process for the change has taken into account people's views of the potential externalisation. In addition the procurement process will fully involve service users and carers, providing them with the opportunity to question bidding organisations so they can check for themselves how the provider will deal with this crucial transition. Service users and carers will choose the new provider based on this information.

The council will mitigate the risks of transition by ensuring quality monitoring officers undertake detailed checks to ensure that the new providers has considered all the employment, support, training, safety, housing and equipment tasks necessary to run the services safely. The new provider will not be able to start the service until the new service checklists have been signed off by the Director of Social and Community Services

There are no significant proposed changes to grants or contracts resulting from this project. Potential Providers have already been selected under the 'Framework Contract' arrangements.

Impact on other Council Services

Customer services will be impacted by the outsourcing of these services, in particular payroll, HR and finance because of reduced volume of in-house activity. The project team will ensure that the customer service management team are kept fully informed in advance of the timescales and scale of change and will work with them to minimise disruption to services.

Mitigation

- The proposals are being communicated regularly to enable all key stakeholders equal opportunity to understand what is happening and the means by which they can make their views known.
- Service Users and front line staff are going to have the opportunity to contribute to the development of the service specification.
- Service Users have a distinct role during the procurement cycle to meet with the potential new providers and to make a choice about which provider they would prefer to provide their services.
- We are using an accessible information provision process and are signposting to a wide range of sources of support, within the council and from organisations with relevant expertise e.g. staff support and advocacy.