

SURREY COUNTY COUNCIL**CABINET****DATE: 17 DECEMBER 2013****REPORT OF: MR MEL FEW, CABINET MEMBER FOR ADULT SOCIAL CARE****LEAD OFFICER: SARAH MITCHELL, STRATEGIC DIRECTOR, ADULT SOCIAL CARE****SUBJECT: ADULT SOCIAL CARE LOCAL AUTHORITY TRADING COMPANY BUSINESS CASE****SUMMARY OF ISSUE:**

Adult Social Care presented an Options Appraisal to Cabinet on 22 October 2013 recommending that a Local Authority Trading Company (LATC) could be the preferred model for the future delivery of day services and community support options for people with disabilities and older people. Cabinet gave its support to the Cabinet Member for Adult Social Care to prepare a business case to confirm the feasibility of an LATC to ensure financial benefits and service outcomes are achieved while retaining the public sector ethos and values of the Council.

This report and annexes together set out that business case, present an assessment of the benefits to the Council, the expected revenue streams and profitability of the company, along with a draft business plan and consultation and engagement proposal, to be co-designed with stakeholders.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Approves the creation of a Local Authority Trading Company (LATC) limited by shares and owned wholly by the Council to deliver the services within the scope of this report.
2. Delegate authority to the Shareholder Board to approve the relevant steps set out in this report to form the LATC, appoint its Directors and put in place appropriate governance arrangements to commence trading activities in April 2014.
3. Approves the award of a contract to the LATC for an initial five year period with a break point after three years to deliver the services in scope on behalf of the Council.
4. Approves debt financing to the LATC to enable it to purchase operational assets from the Council, pay for start-up costs and provide working capital, as set out in paragraph 42.
5. Agrees that officers will commence consultation with staff, Trade Unions, partner organisations and stakeholders.

REASON FOR RECOMMENDATIONS:

The LATC is expected to deliver benefits of £1.437m to the Council over the five year contract term. As explained in the Financial and Value for Money Implications section of this report, £1.068m of this relates to actions which, though the LATC might facilitate their progress, are in principle achievable under current arrangements.

Those benefits which could not be obtained without setting up the LATC total £369,000 (net of additional costs) over five years. Essentially, those benefits arise from price reductions which the LATC will be able to make by spreading its fixed costs over a wider base (by means of more trading than would be possible from within the Council); and from surpluses derived from that trading activity.

There is also potential to develop additional and alternative business opportunities - both within the services in scope, and by expanding into other areas - in the longer term, which could lead to substantial profits beyond the five year period covered by this proposal. These longer term gains would not be available if services remained in-house.

Central to the recommendation to create a LATC is that it will deliver benefits to Surrey residents by ensuring the sustainability and continued improvement of existing services. The benefits of the proposal include:

- continued commitment to the Personalisation Agenda
- delivery of high quality, well-regarded services for local people
- responsiveness to the requirements of commissioning plans
- the ability to meet current and projected demand
- responsiveness to the increased take-up of personal budgets and privately purchased services
- flexibility to deliver a new model of services embedded in local communities.

Trading on something close to an “as is” basis will ensure the continued stability and viability of existing services. This LATC provides a relatively low-risk environment in which to establish and take forward the principles and practice of running a trading company, which could feed positively into the broader trading developments which are an integral part of the Council’s longer term financial strategy.

DETAILS:

Background

1. Building on the extensive Day Services consultation in 2009 and associated Public Value Reviews, on 22 October 2013 Cabinet received a report from the Cabinet Member for Adult Social Care which outlined the options available to the Council regarding the future of in-house day services and community support for people with disabilities and older people. The in-house services under consideration were:

- **Day Services**, which provide approximately 790 people with learning and physical disabilities with a range of opportunities for leisure, activities, training, volunteering and work in a variety of settings; current annual cost £6.8m (direct costs only, excluding property)
- The **AboutUs Team**, who support people using day services with accessible learning programmes and communications projects; direct annual cost £0.2m

- **EmployAbility**, which supports approximately 650 adults and young people with disabilities who are seeking or engaged in work, volunteering or training; direct annual cost £0.9m
 - **Shared Lives Service**, which matches Shared Lives carers with people with disabilities and older people, offering short or long term care in a family home environment; direct annual cost £0.2m
 - The **Personalisation Team**, which works with adults with learning disabilities to facilitate Supported Self Assessments, uptake of personal budgets and support planning using community support networks; direct annual cost £0.4m.
2. It is anticipated the services in scope will be traded from “day one” of the proposed LATC. These services have a total current cost of £13.7m (2013/14 – including all support services, property costs and overheads), which is similar to the Year One value of the proposed contract. There are approximately 273 full time equivalent (FTE) posts, including management, and 294 staff in post (including 26 bank staff). The services represent a small proportion of the £400m Adult Social Care cash limit and overall spend, and their separate treatment will not impact significantly on the remainder of the Directorate.
 3. In-house accommodation and supported living services for older people and people with learning disabilities were not considered due to the level of investment required to make these services commercially viable.
 4. Three options were assessed in terms of their potential to meet both current and future needs of customers, secure the long-term sustainability of services, and provide the potential to trade:
 - stay “as is”
 - de-commission services and re-commission in the market
 - adopt a different model of delivery.
 5. The report concluded that a different model of delivery, potentially a LATC, was the preferred option for the following reasons:
 - *Sustainability*: The LATC model offers service continuity, modest but consistent growth projections, and ongoing efficiency savings
 - *Customer Benefits*: Greater flexibility to offer services to a wider market, including people who do not meet current eligibility criteria
 - *Ownership*: The Council will own the LATC and any surplus or dividend will revert back to the Council for further investment in services
 - *Flexibility*: The LATC will provide an agile means of delivering adaptable services, aligned to the Council’s objectives
 - *Employment*: Retaining a skilled workforce and links to the Council’s trusted brand
 - *Influence*: By retaining ownership, the Council can continue to shape a significant proportion of the market offer.
 6. On that basis, the Strategic Director was asked to proceed with developing a detailed business case for creating a LATC.

The proposal

7. The Council's long term strategy to develop its approach to trading is to (i) safeguard the quality of services and value for money for Surrey residents and businesses and (ii) generate income to support council services for the benefit of Surrey residents and businesses.
8. This LATC proposal is based upon ensuring the sustainability of services, which has been a consistent theme of successive conversations with people who use our services, their families and carers. The proposal does not in itself mean the services will change on day one, or that income alone is the rationale for creating an LATC. Instead the proposal takes a conservative approach to commercial projection but seeks to capture the ambition of Adult Social Care staff to retain existing service levels, to grow and develop additional service offers to support a wider range of people across Surrey, and to engage stakeholders and people using services in the design and implementation of this new model of delivering high quality, valued local services.

The benefits

9. Creating an LATC to deliver the services in scope of this proposal will deliver the following benefits to people who use services, Surrey residents and the Council:
 - Continued high quality services for people with disabilities, with increased freedom to change and respond to meet people's needs
 - Greater flexibility to offer services to a wider market, including people who do not meet current eligibility criteria, enabling the services to grow and respond to the needs of their local community
 - Services will operate in a commercial environment, further promoting innovation and a culture of continuous improvement
 - Continued transformation of Adult Social Care, furthering the Personalisation Agenda and complementing commissioning strategies
 - Financial projections show a profit over an initial five year period, which could be used to meet other council priorities, service developments, or efficiencies
 - The LATC will have additional opportunities to evolve its customer offer to generate profit in the longer term
 - Following establishment of this LATC for the services in scope, the Council will be well placed to consider the benefits of expanding the scope to include other services
 - The LATC will continue to deliver the efficiencies projected within the Council's Medium Term Financial Plan (MTFP) and has the potential to exceed those efficiencies over its five year business plan.
 - The LATC will buy support services from the Council as a customer; this approach provides the Council with an opportunity to develop its customer offer for support services through a structured commercial approach to establishing requirements and evaluating costs.
10. In addition, the commercial proposal represents a low risk to the Council, as the LATC:
 - requires no additional capital investment from the Council
 - will be commissioned by the Council for the vast majority of its business
 - will proceed to the market with a stable core business.

11. A five year contract with a break clause after three years is proposed on the basis that this commissioning arrangement will:
- provide a sufficient period of initial stability for the LATC without committing the Council as commissioner on too long-term a basis
 - give enough time for the LATC to move towards a second phase of expanding provision and finding new market opportunities before its core business is subject to potential competition
 - afford flexibility to change arrangements – with appropriate account taken of procurement / competition issues – after three years, should circumstances indicate that is appropriate.

The vision

12. Adult Social Care’s aspiration for this LATC is to support people throughout their lives when they need it, where they need it, underpinned by the belief that people with disabilities should be able to live as they wish, with access to employment, relationships, friendships and able to contribute to their communities.
13. The LATC will deliver day and community support opportunities, as well as assessment, planning and coordination services, for all people, of whatever age, and whatever level of support they need. The LATC will:
- create a flexible offering so that people can purchase services that most meet their needs – when and wherever they need them
 - work with stakeholders in Surrey to create sustainable, quality and person-centred services fit for the future
 - lead the way in developing innovative models of social care that achieve excellence, and support staff to do their best work.

14. The values of the LATC are consistent with the Council’s values, and will be:
- **Personal** – offering choice and control for individuals; maximising their autonomy
 - **Flexible** – innovative support options; responding to people’s needs and aspirations
 - **Local** – we will support people to get involved in and contribute to their communities
 - **Trusted** – safe, reliable services delivered by skilled staff
 - **Value for money** – cost-effective and sustainable, without compromising quality
 - **Collaborative** – working with partners and local communities; supporting them to support people

The opportunity

15. By diversifying and developing the services on offer, the LATC will be able to reach more people, creating services that are sustainable, flexible, potentially profitable, and focused on meeting the needs of people in Surrey.
16. The approach to business development will be to:
- focus on retaining our existing customer base – driving up quality and bringing down unit costs

- build customer bases and income streams at a modest initial rate with a view to more substantial development in the long term
- develop new community support services.

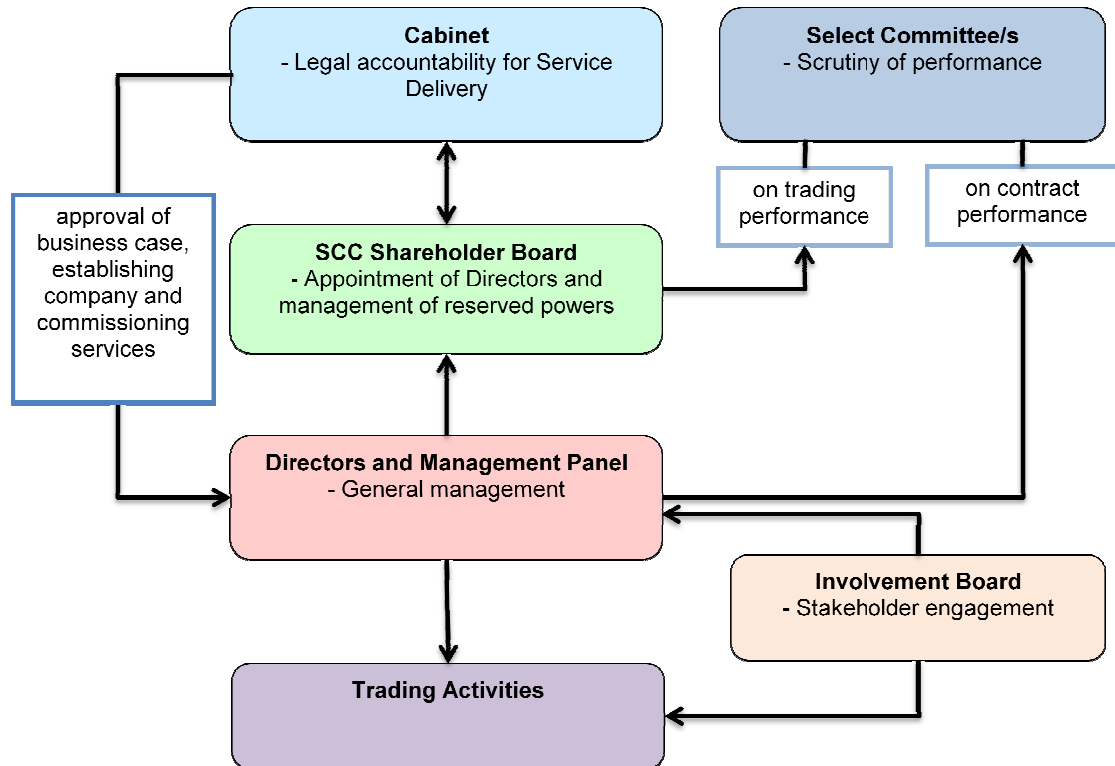
17. Below is a brief summary of market opportunities we have identified and ideas for products and services the LATC could develop for these customers.

Potential Customers	Products and Services
People who are funded by SCC or other local authorities (OLAs) but do not currently access our services: <ul style="list-style-type: none"> • 100 young people with high support needs leaving school each year • Growing demand: dementia, autism, profound and multiple disabilities, older people • 2000 adults with a learning disability known to SCC are not yet supported by council services 	<ul style="list-style-type: none"> • Bespoke group activities designed in partnership with Personalisation & Assessment Team • Stronger focus on employment and volunteering projects • Extend evening and weekend activity options • Greater flexibility in how people access facilities, e.g. 'drop in' • Menu of assessment, planning and coordination options
People who are not funded by SCC or OLAs) but can afford to purchase services: <ul style="list-style-type: none"> • Significant and growing self funder market in Surrey – older people • 55,000 adults in Surrey with a physical disability 	<ul style="list-style-type: none"> • Menu of assessment, planning and coordination options • Short breaks • Bespoke day opportunities • Registered personal assistance service • Travel training
Commissioners and other organisations <ul style="list-style-type: none"> • Increased assessment responsibilities for local authorities following the Care Bill • NHS roll-out of personal budgets • Increased scrutiny on assessments and care planning post Winterbourne View 	<ul style="list-style-type: none"> • Assessment, planning and coordination services • Independent safeguarding investigations • Accessible communication services and products • Training and supervision for personal assistants
Local communities	<ul style="list-style-type: none"> • Strong geographical presence providing: <ul style="list-style-type: none"> • Local area coordination • Community brokerage • Best use of Family, Friends and Community support

18. The Draft Business Plan attached as **Annex One** outlines in more detail the vision for the development of the LATC. This is subject to further consultation and co-design with staff, people who use services and other stakeholders during the implementation phase. The Business Plan will be signed off by the Council's Shareholder Board following consultation.

Governance arrangements

19. The LATC will be a company limited by ordinary share capital wholly owned by the Council. The proposed relationship between the executive functions of the Council and the LATC is shown on the diagram below.



20. The Shareholder Board exercises the Council's shareholding powers over all Council trading activities. The Board will act with the delegated authority of Cabinet to oversee the performance of the LATC. The Shareholder Board will appoint Directors of the LATC.

21. All decisions regarding the day to day operation of the LATC, its business developments and commercial opportunities, staff terms and conditions and the development and implementation of its internal procedures, rest with the Directors of the LATC. The shareholder board will retain responsibility for significant decision making which will be described under the reserved matters of the Articles of Association for the company. This includes, for example, any proposed changes to share capital or share ownership, approval of dividend payments, the appointment and removal of directors of the company and approval of any significant capital investment proposed.

22. The LATC aims to become an exemplar by involving customers and stakeholders in the design, delivery and development of the business. This will include working with the LATC Board to influence and assist with overall strategy, management and product development, by means of an Involvement Board. The Involvement Board will include representatives of:

- people with disabilities who use services
- family carers and personal advocates
- LATC staff and volunteers.

23. The LATC will consult with relevant external advisors when deemed appropriate or necessary.

The proposed model

24. In the first instance the LATC will be contracted by the Council contract terms issued by the Council, with all associated requirements regarding reporting, performance, quality assurance and payment terms. Contracted services will include:

Service Type	People who use services
Provider Services	
Day Opportunities: <ul style="list-style-type: none"> Specialist Support Community based activities Evening breaks and holidays Volunteering Projects AboutUs Accessible Learning and accessible Technology Transport to/from activities 	Adults (18+) with: <ul style="list-style-type: none"> Learning disabilities Physical disabilities and sensory impairment People who are eligible for support from the Council
EmployAbility: <ul style="list-style-type: none"> Job finding / job coaching and support Supported volunteering Job clubs 	Any adults who are eligible for support from the Council, except for people with mental health as their primary support need Young people in schools and colleges
Shared Lives Service	Any adults who are eligible for support from the Council, including older people
Assessment and Support Planning	
Reassessment, Reviews and Support Planning	All adults who currently access the Council's in-house provider services

25. The overall approach to establishing the LATC will be to:

- transfer staff and services into the LATC unchanged, with a framework to enable changes over time
- minimise the impact on services and staff remaining in the Council.

26. This approach is intended to give stability to both the LATC and the Council, but with flexibility to enable to the LATC to make changes once it is operational and has a fuller understanding of what is required to deliver the business objectives.

27. The LATC proposal and financial projections are based on an assumption that the LATC will have admitted body status within the Local Government Pension Scheme, which will remain open both to Council employees transferring to the LATC and to new employees joining it. This has advantages in terms of maximising staff morale, avoiding a two tier workforce and potentially providing a recruitment and retention advantage in a market driven by the quality of staff. However, although the financial impact of this assumption is minimal over the five year business plan of the LATC, the treatment of pensions is a matter of principle with greater potential impacts looking across the whole council over the long

term. This matter will, therefore, be considered further as part of the consultation and engagement process to prepare the final business plan of this LATC.

28. The Council will continue to provide support services to the LATC, including HR and Training, Procurement, Finance, Property, IMT, Legal, Shared Services and Communications. The business case financial model is based on estimated service level requirements and associated estimated cost. The LATC will establish contractual Service Level Agreements (SLAs) with each support service from its first day of trading. These will include measurable performance indicators, break clauses and remedies for non-performance.
29. Once the LATC is operational there will be a quarterly review process to develop a support offer that meets the changing needs of the LATC. This approach will also afford the Council an opportunity to develop its customer support offer.
30. The Council will retain ownership of all its freehold premises used by the LATC and rental arrangements will be established through lease or licence. The business case financial model includes charges for fully serviced office accommodation based on expected usage.
31. The LATC will review its use of office accommodation and day services premises on an ongoing basis to ensure premises are fit for purpose and cost effective.

CONSULTATION:

32. There are no specific proposals to change the services available to Surrey residents and as a result there is no requirement for formal public consultation. However, building on the approach undertaken by the learning disability Public Value Review there is an ongoing platform for stakeholder dialogue built into formal governance arrangements and the success measures of the proposed LATC. In addition, a digital platform to support various methods of communication will complement easy-read materials.
33. A high level communications and engagement proposal is attached as **Annex Two** outlining how the service intends to engage with key stakeholders to (a) develop a process for consultation and engagement for the LATC in keeping with the principles of co-design and (b) follow that process to contribute to the final business plan.
34. Engagement regarding the preparation of this business case has included:
 - Briefing staff in affected services and creating a Questions and Answers document responding to questions raised in these sessions
 - Personalisation Team away day
 - Meetings with Trade Union representatives
 - Meeting with the Learning Disability Partnership Board on 7 November to discuss the proposal and future communication needs/ideas
 - Circulating a link to the 22 October Cabinet Report to affected staff, ASC managers and all stakeholders on the Learning Disability Partnership Board and Empowerment Boards email lists
35. Subject to approval of the recommendation to create a LATC, there will be a formal consultation with staff and trade unions as part of the TUPE process.

RISK MANAGEMENT AND IMPLICATIONS:

36. Risks and issues during the implementation phase will be managed by Project Team, which will report to the Project Board initially, followed by the Shareholder Board once the LATC exists as a legal entity. Risks during the implementation include:

- Potential challenge to the business case or contract award
- Change management, such as the loss of key staff and/or organisational development capacity
- Insufficient capacity in the Council to deliver the implementation plan to the proposed timescale
- Negative impact on business as usual service delivery due to large scale change and a period of transition to the new model
- The VAT status of certain services and the relationship between regulated and non-regulated services will need to be resolved prior to trading
- Properties not owned freehold by the Council will need to be reviewed to establish the most effective means by which the LATC could continue to occupy them and mitigate against any associated liabilities and costs

37. The impact of these risks would be primarily delays to go live, or adjustments to be made to the Business Plan. Risks will be mitigated primarily through:

- The Implementation Plan, which will identify work streams and resources required to successfully implement the LATC.
- A robust Communication and Engagement Plan, which identifies key stakeholders and approaches to engaging with them based on principles of co-design.

38. Ongoing risks and issues once the LATC is operational will be managed by the Directors and management team. These will include:

- Managers transferring from the Council to the LATC may not have experience of running a commercial enterprise and will take time to adjust
- Capability of the new leadership to deliver the business plan objectives, including the development of new services to generate income
- The Draft Business Plan makes no contingent provision for unforeseen circumstances
- Any significant delays or changes to the Care Bill could have an impact on the proposed Personalisation and Assessment services.

39. This will be the first significant LATC to be created by the Council and there are risks associated with both the delivery of the business plan and the provision of support services.

Financial and Value for Money Implications

40. This report explains how the Council's finances will be affected, in order to demonstrate that it is in the Council's interests to set up a LATC. The Draft Business Plan explains how the LATC's accounts are expected to look, in order to demonstrate its viability.

41. The direct financial gains to the Council during the initial five year period are modest, £369,000 over five years, however there are other potential benefits, including:
- the company itself, once set up, will have additional opportunities to generate profit in the longer term. The initial setup is predicated on stability of service and minimising risk, but once in place and potential markets are fully understood, additional benefits can be expected
 - following establishment of this LATC for the services in scope, the Council will be well placed to consider the benefits of expanding the scope to include other services.
42. The LATC will be established with share capital of £100. The Council will provide the following debt financing to the LATC:
- a fixed five year interest bearing loan of up to £700,000 to cover set-up costs and the purchase of operational assets from the Council
 - a revolving loan facility of £2m to provide working capital requirements.
43. The cost of loan financing in terms of interest payments is included in the LATC profit and loss forecast.
44. The model as set up is low risk, and in particular the continuation of existing pension arrangements at least in the short term, avoids the potential necessity of setting aside a reserve for the potential obligations arising should shortfalls occur in a separate scheme. Nonetheless, it would make sense for any available profits to be used to build up some contingency ready for when business expansion increases the risks taken.
45. The table below shows a summary of Value for Money analysis over the five year period:

<u>LATC driven benefits</u>	<u>£000s</u>
Reduced unit costs	648
Profit and contribution to SCC internal set-up costs	316
Less: Additional costs	(595)
Total	369
<u>Benefits delivered with more certainty via an LATC:</u>	<u>£000s</u>
Staff turnover - new staff paid at grade minimum	388
Staff mix changes	280
Shared Lives - economies of scale	400
Total	1,068
Grand Total	1,437

46. There are opportunities to make savings which, as explained at (ii) below, could also be made within current arrangements. Those are not relevant to making the business case for setting up a LATC, but are of potential future benefit to the

LATC and the Council. In order to understand those opportunities, it is important to distinguish between the different cost impacts:

- i. Firstly, there are costs which fall to the LATC, but which provide an offsetting benefit to the Council. For example, the LATC is required to purchase its operational assets from the Council in order to ensure that it is not inappropriately subsidised, which is a cost to the LATC and a factor to be taken into account in assessing its viability, but, from the Council's point of view, is income that would not otherwise have been received. The same is true of rental payments made by the LATC, for example. Such flows – the Council charging the LATC – are neutral in evaluation terms.
- ii. Secondly, there are savings the LATC can potentially make, but which might also have been made within the existing Council arrangements. The creation of the LATC might facilitate such opportunities, but, in principle, it does not create them. For example, the LATC may be able to make better use of its property portfolio and reduce the amount of space it occupies by remodelling its approaches to service delivery. Those actions could be taken without setting up a LATC, and so are not seen as a reason for setting up a LATC. In practice, such opportunities will directly improve the long term viability and competitiveness of the LATC, which will in turn improve the Council's financial position through higher profits or lower prices.
- iii. Thirdly, there are gains made as a result of setting up the LATC which could not have been achieved under current arrangements. The table below identifies the surpluses generated by trading on a broader basis than is currently possible, and the ability to reduce unit costs by spreading overheads over a wider base as external business increases. Those financial advantages, net of any internal reinvestment required, will flow to the Council.

47. Looking across these three categories of cost impact:

- The Draft Business Plan takes account of the first category, which reduces the LATC's ability to make a profit, but advantages the Council in equal and opposite ways.
- The second category may well benefit both the LATC and the Council, but those opportunities are not taken into account because they cannot be said to result purely from setting up a LATC.
- The third category benefits both the company (directly) and the Council (through profit share). Projections are modest over the five year period, in the context of an untested market.

48. The effects of the factors above can be summarised as follows; £1.4m of benefit can be expected over five years in the services to be provided by the LATC, but only £369,000 of that can be attributed to the setting up of the LATC. A Value for Money analysis is attached as **Annex Three**.

49. Overall, the direct effects over the five year period from setting up a LATC are modest but positive. Setting up a LATC is consistent with achieving further financial advantages and will better place the Council beyond the contract term. Given these wider considerations, the proposal provides good Value for Money for Surrey residents and for the Council.

Section 151 Officer Commentary

50. All relevant business and financial matters and risks have been assessed in terms of the effects on both the Council and the proposed LATC. One issue - that of how pensions should be treated - is flagged as a matter which may require further consideration due its importance in principle.

51. The figures show that:

- existing plans to make savings in the services covered will continue to the Council's advantage (£1.068m over five years)
- the LATC is expected to make a modest profit (£163,000 over five years), demonstrating its viability
- the overall advantage to the Council as a result of setting up the LATC is assessed at £369,000 over five years.

52. Given that the risks are low, current services are protected and the Council needs to make no capital investment, this position is acceptable. However, it is not in itself a compelling demonstration of Value for Money. That requires the broader context than these services over five years:

- there is good potential for trading to escalate significantly in the longer term
- once set up, the infrastructure could potentially be used to trade additional ASC services
- this would be the first LATC to explore how best to trade, and as such would usefully inform taking forward trading to greater advantage in any of the Council's services.

53. Looked at as a first step in the long term plan of generating trading surpluses as an alternative to the more restricted income sources of grant and council tax, this proposal therefore represents short term consolidation and long term Value for Money.

Legal Implications – Monitoring Officer

54. The Council is empowered, by the Local Government Act 2003, to set up a company to provide services and/or undertake trading activities. There are however procedural requirements that must be met. A full business case in support of the proposal must be prepared and approved by Cabinet. This must be a 'comprehensive statement' as to:

- the objectives of the business;
- the investment and other resources required to achieve those objectives;
- any risks the business might face and how significant these risks are; and
- the expected financial results of the business, together with any relevant outcomes that the business is expected to achieve.

This report together with the draft business plan contained in the annex provides a statement of the requisite information. The business case is intended to assist Cabinet in exercising its fiduciary duty to Surrey taxpayers, by providing the information Members need to ensure that their decision will result in a prudent use of the Council's financial and other resources.

55. In considering these proposals Cabinet also needs to keep in mind the public sector equality duty contained in the Equality Act 2010. This requires Cabinet to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This duty applies both in respect of the people who are accessing Adult Social Care services and the workforce providing those services.

56. It is proposed that, initially at least, the Council would commission services from the company without embarking on a competitive tender process. Provided that the company met certain tests, principally relating to the Council's control over it and its reliance on the Council for the 'essential part' of its business, the Council would be permitted to do this. All such commissioning by the Council should be underpinned by a properly documented contractual arrangement. The company would also be able to offer some services to the wider market identified above, but could not embark on wide scale trading activity. The business plan assumes that the income derived from external trading activities will grow throughout the five years of the plan, but the level of income anticipated would still require the company to rely on the Council for the essential part of its business.

57. It is predicted that the draft Care Bill currently making its way through Parliament will have an impact upon the activities carried out by the Personalisation Team. At present, the Council cannot delegate its assessment functions, such as those undertaken by the Personalisation Team, to external bodies. However, by virtue of section 79 of the Care Bill (as currently drafted), a local authority will be able to do this in the future. Until those provisions take effect as law, any assessments made by the Personalisation Team will need to be checked and approved internally by the Council. A process for this will need to be reflected in the contract between the Council and the LATC.

58. As the company will be a distinct legal entity from the Council, the Council cannot provide it with any unfair or anti-competitive advantage. Any accommodation, services, staff or other support provided by the Council must be charged for. This is important in the context of competition law and state aid.

59. The company will be responsible for the disclosure of information under the Freedom of Information Act 2000 in its own right. It will be required to comply with the relevant legislation and guidance and liaise with the Council as necessary. The company will also need to comply with the relevant legislation and guidance concerning Data Protection.

60. No formal consultation process has been undertaken in relation to the proposed transfer of services to the company. This is because the proposals is for an 'as is' transfer without any material changes to service delivery. As such, there is no requirement to consult at this stage. A full Equalities Impact Assessment (EIA) is still required, however. If services are to be developed or changed in the future an appropriate consultation and new EIA will need to be undertaken at that time.

61. Legal Services will continue to be involved in the proposals to ensure all the legal requirements are met.

Equalities and Diversity

62. A draft Equalities Impact Assessment is attached as **Annex Four**. The summary table is below.

<p>Information and engagement underpinning equalities analysis</p>	<p>Information:</p> <ul style="list-style-type: none"> • Data regarding current customers from service data collection September 2013 • Staff data from Surrey County Council Payroll and Organisational Management databases. • Data regarding potential future customers from the LATC Draft Business Plan. <p>Engagement:</p> <p>While developing the proposals we have engaged early on with affected staff and key stakeholder groups to identify their initial concerns and questions.</p> <p>Wider consultation and engagement with staff and other stakeholders is planned as part of the next phase of the project and will include specific engagement regarding equalities impacts.</p>
<p>Key impacts (positive and/or negative) on people with protected characteristics</p>	<p>The Draft Business Plan identifies a number of opportunities to improve and develop services for existing customers and other potential customers – in particular older people, young adults with disabilities, and a wider range of people with disabilities.</p> <p>No specific negative impacts on people with protected characteristics have been identified with regard to the proposals themselves. (The Cabinet Report addresses general benefits and risks of the proposals.)</p> <p>The potential negative impacts that have been identified with regard to the process of implementing the proposals will be addressed through the HR and Communications work stream of the project team.</p>
<p>Changes you have made to the proposal as a result of the EIA</p>	<p>Incorporated ideas from early engagement into the draft Communications and Engagement Plan.</p>
<p>Key mitigating actions planned to address any outstanding negative impacts</p>	<p>The Communications and Engagement Plan will ensure that staff and other stakeholders are fully informed and consulted throughout the process of creating the LATC, particularly the development of the business plan.</p> <p>Once the LATC is established, the Involvement Board will ensure that people who use services, families, and carers, as well as staff and volunteers, will be actively involved.</p>

Potential negative impacts that cannot be mitigated	None identified

WHAT HAPPENS NEXT:

63. A project team is in place to lead the implementation of the LATC if approved by Cabinet. The Implementation Plan will include the following work streams:

- Operational Preparation
- Commercial and Legal
- Finance
- Systems and Infrastructure
- HR
- Communication

64. Critical steps will include:

Action	Target dates	Responsibility
Co-design process to develop a consultation and engagement approach with stakeholders	Dec 2013-Jan 2014	Service / Comms Leads
Full consultation with staff and Trade Unions	Jan – March 2014	HR / Service Leads
Prepare Articles of Association and create the LATC as a legal entity	Jan 2014	Legal Lead / Shareholder Board
Appointment of Director/s	Jan – March 2014	Shareholder Board
Preparation of contract and schedules for LATC services	Jan – March 2014	Commissioning / Procurement Leads
Preparation of Managed Services Agreement for support services provided by the Council	Jan – March 2014	Procurement / Service Leads
Establish financial management arrangements	Jan – March 2014	Finance Lead
Formalise contractual arrangements	By 31 March 2014	LATC Director/s
'Go Live'	1 April 2014	n/a
Ongoing consultation and engagement	1 April onwards	LATC Management Team

Contact Officers:

Simon Laker, Business Services, 01483 519153

Paul Carey-Kent, Strategic Finance Manager, 0208 541 8536

Kat Macann, Mobilisation Project Manager, 0208 541 8038

Consulted:

- Council Leadership Team
- Adult Social Care Leadership Team
- New Models of Delivery Programme Board
- Senior Managers in Adult Social Care
- Team Managers and Staff – in-scope services
- Learning Disability Partnership Board
- Trade Union representatives

Annexes:

Annex 1: Draft Business Plan

Annex 2: Communications and Engagement Approach

Annex 3: Value for Money Analysis (part 2)

Annex 4: Draft Equalities Impact Assessment

Sources/background papers:

- 26 March 2013 Cabinet Report 'Strengthening the Council's Approach to Innovation'
 - 22 October 2013 Cabinet Report 'Options Appraisal: in-house support services for working age adults and older people with disabilities'
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