

Bolsover District Council

Executive

1 December 2014

Supporting People – Delivery of Assistive Technology Monitoring Services

Report of the Cllr K Reid, Portfolio Holder for Housing

This report is public

1 Purpose of the Report

To inform Executive of progress on the project and to seek approval to establish two jointly owned companies with Derbyshire County Council, Chesterfield Borough Council and South Derbyshire District Council, who have their own in-house operations, to secure monitoring services for assistive technology devices such as community alarms and telecare systems.

2 Report Details

- 2.1 Assistive Technology is the generic term used to describe equipment and services usually for older or disabled people which maximise independence. An example of this is a community alarm system that provides assistance 24 hours a day, seven days a week. The system connects to a telephone through a base unit which is set off either by pressing the alarm button on the telephone itself or by pressing a radio button worn on the body. Once the alarm is set off, the client is connected to an operator at a contact centre who summons the required assistance. Telecare equipment can be added to the community alarm to provide further assistance such as motion sensors, which make accidents and falls less likely by automatically switching on a light at night when the individual gets out of bed. All these devices require a monitoring centre to provide a response to any equipment which is triggered. These preventative services aim to delay, prevent or reduce the need for statutory care and support services.
- 2.2 At present there are 19 alarm monitoring service contracts supporting people across Derbyshire which are due to end 31 March 2016. These are funded partially by Derbyshire County Council Adult Care with some customers paying for their own service.
- 2.3 Looking forward, Derbyshire County Council Cabinet agreed to enter into an agreement with Chesterfield Borough Council, Bolsover District Council and South Derbyshire District Council for the provision of a County-wide assistive technology monitoring service. And gave in principle approval for the establishment of jointly owned local authority (Teckal and trading) companies to provide the service The

Teckal company will offer the service to clients who are funded by DCC, and the trading company will offer the service to clients who pay for the service.

2.4 Teckal Company

It is proposed that one company will be a jointly owned company limited by guarantee with a 'Teckal exemption' from procurement rules. Under current EU procurement law, authorities can set up arrangements, including wholly owned companies to supply services back to those authorities, in the same manner as an in-house arrangement. The advantage is that public procurement rules do not apply to those arrangements and therefore these services can be supplied directly by the company to the Councils without any need for the Councils to run competitive procurements. This company will be able to deliver services on behalf of any public body including other local authorities.

For a charge based on usage, the company would have access to the staff (who would remain employees of the respective Councils), premises, IT and other assets of the call centres run by the three District and Borough Councils.

2.5 Trading Company

The other company will be a jointly owned commercial trading company limited by shares, which will allow the partner Councils to trade in the wider market with an intention to generate a surplus from the private business. The ability to sell services to other organisations and/or individuals in order to generate income for the company will allow the Councils either to re-invest in the service and grow the business, to take the surplus out to spend on other services or to reduce the unit cost paid by clients. In the future it may be possible to expand the customer base outside the County.

The trading company would be charged market value rates for the services it receives from the District and Borough Councils in order to avoid subsidising the company and to comply with state aid rules. These would be the same services and assets described above in respect of the Teckal company.

2.6 The Councils have worked together to develop more detailed proposals about the operation of the services. These are included in the joint business case (Appendix A). The joint business case addresses amongst other points the governance of the proposed arrangements, assumptions about the balance between publicly funded and private paying customers, and initial start-up investment required.

The proposed membership of the two companies is as follows:

- Teckal Company.

Derbyshire County Council appoints three directors to the Board (one as Chair) and each District and Borough appoints one director. The Chair has a casting vote if there is a deadlock.

- Trading Company.

The same as Teckal Company but Chair shall rotate. Deadlock provisions are still to be discussed and finalised

- 2.7 Agreement has been reached between the partner Councils regarding sharing of any surplus from the trading company activity and Derbyshire County Council will receive 55%, with 45% being split amongst the District and Boroughs should any surplus be made and taken out of the company. The target weekly unit cost of £1.00 per client has also been agreed for each client of the Teckal company, and this will be set for three years.
- 2.8 The three District and Borough Councils are seeking formal approval on these proposals on the same basis as detailed in this report, in accordance with their governance arrangements.
- 2.9 The start date planned for these companies is between October 2015 and April 2016, and all the clients currently receiving services from other providers funded by the Council will move across to the new service at this time. Board Members (who will be Elected Members) and a Management Team will be appointed three to four months prior to the go live project date, and until then regular meetings of the Project Board and Operational Group will take place.

2 Conclusions and Reasons for Recommendation

- 2.1 That the establishment of the two companies would retain services within the County with the ability to offer high quality services to vulnerable people.
- 2.2 This option provides job security to BDC employees.
- 2.3 There is the possibility in the medium term to make profit from this service.

3 Consultation and Equality Impact

- 3.1 None undertaken. If accepted the service would remain broadly similar with minimal impact on BDC staff and customers. DDC will be undertaking a wider Equality Impact Assessment across the county.

4 Alternative Options and Reasons for Rejection

- 4.1 Status Quo – not a real option as DCC are cutting budgets, including the Accommodation Support funding (previously known as supporting people) which means that continued funding at previous levels is not feasible.
- 4.2 DCC offer the service directly to BDC and other partners. Not feasible as DCC would need to conduct a competitive process prior to the award of a contract. The establishment of a joint teckal company allows the award to be made.

5 Implications

5.1 Finance and Risk Implications

As detailed in the enclosed business case. DCC will reduce their costs from approximately £950k to £650k per year. The District Councils will receive funding for more clients and will operate across the county. An increase in the number of self funding clients will reduce the unit cost.

Most of the effort to date has been from officers with some specialist support. The establishment of the two companies will need specialist legal support, with the costs shared across the partners. During the period of negotiation with DCC the Council has built up a small reserve to deal with such matters, there is sufficient funding to cover these costs within the reserve.

5.2 Legal Implications including Data Protection

Proposed governance and decision making arrangements have been agreed for the Boards of both companies, and this will be developed further through the establishment of the Shadow Board.

The Council has the power through Section 1 of the Localism Act 2011 to establish both proposed companies.

Compliance with the Teckal exemption rules throughout the life of the Company and the contracts will require ongoing monitoring in order to take account of proposed EU legislative changes and developing case law.

These rules are expected to be codified, in the forthcoming Public Contracts Regulations 2015. Consultation on the draft Regulations has just commenced and the Council Solicitor will continue to keep the impact on the proposed companies of any changes to the new Regulations under review.

The main advantage of limited companies being used as the governance structure is that the liability of each member is limited to, in the case of Teckal Company as a company limited by guarantee, the amount of the contribution which each member agrees to make to the assets of the company in the event of the company being wound up.

In the case of the Trading Company as a company limited by shares, the liability of each member is limited to the amount which it has to pay the company for its shares, which is likely to be a nominal sum only. Further, as a separate legal entity, the company would be able to enter contracts, hold assets and be independent of its members.

Once established, this Company will have to operate separately from the Councils and both Companies will become subject to company law.

5.3 Human Resources Implications

None directly, all staff remain employees of the respective councils.

6 Recommendations

That Executive approve:

- a) The draft Business Case attached at Appendix A; and
- b) The establishment of jointly owned Teckal and trading companies with Derbyshire County Council, Chesterfield Borough Council and South Derbyshire District Council, to provide monitoring services for assistive technology devices such as community alarms and telecare systems.
- c) The proposed membership arrangements of the companies as set out in this report and in Appendix
- d) That the JAD Community Safety and Head of Housing with advice from the Solicitor to the Council be given delegated authority to agree the details of the establishment of the two companies, the working practices and associated agreements. This will be confirmed in a future report to Executive.
- e) That up to £25,000 from the identified reserve can be used for project costs and legal advice.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	Yes/No
District Wards Affected	
Links to Corporate Plan priorities or Policy Framework	

8 Document Information

Appendix No	Title
a.	Diagram
b.	Business Plan
c.	DRAFT Terms of Reference
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
P Campbell	