



## **Contracts with SCC – have we learned the lessons?**

**Statement on planned Learning Disabilities Service Outsourcing,  
Somerset County Council, July 2016 to Dimensions (UK) Limited.**

### **Executive Summary**

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## **Flawed risk assessment**

The nine-risk assessment (Appendix G) is fundamentally inadequate in scope, because it is focused on procurement. It excludes strategic, transition/rationalisation, democratic governance, contract management and important operational risks, such as quality of service, performance, financial sustainability, business expansion and employment policies. Furthermore, the allocation, likelihood and impact of risks, essential for good practice risk management, are absent.

## **Dangerous reliance on business growth**

It is a grave mistake to assume business growth and income generation. It has been an abysmal failure in 65 PPP Strategic Partnership contracts (£14.2bn value) and in care trusts and arms length companies. It was a prime reason why savings targets were not achieved by transnational and national companies or local non-profit organisations. There is also a common mistaken belief that there are multiple sources or 'pots of money' that a social enterprise will be able to access.

## **Ignore market message of one bidder at your peril**

The fact that the Council received only one bid is, in effect, a signal that the market considered the proposed contract to be too large and/or complex. It eliminates competition, because the Council does not even have a comparator improved in-house option as this was rejected two years ago. It places the Council in an uncompetitive and weak negotiating position, which gets weaker as the project proceeds, because the County Council needs Dimensions more than it needs the Council.

## **Dimensions contract losses**

Dimensions lost contracts in Doncaster and Windsor and Maidenhead in 2013/14 and Wakefield in 2014/15. It took a singularly financial approach to the Wakefield loss – *“This contract was loss-making so the loss did not significantly reduce surplus”* (Dimensions (UK) Limited, Annual Report 2014-15). Somerset’s risk assessment does not even mention contract termination or contract renewal issues.

## **High transaction and upfront contractual costs**

We have seen no evidence of actual transaction and contractual costs, but they will be significant. They must include procurement costs up to contract signing (3%-5% of contract value); mobilisation of the contract and staff transfer costs; investment/rationalisation costs included in the contract; and annual contract management and monitoring costs (1%-3% of annual contract value).

## **Questionable value for money**

*“The bid received from Dimensions is forecast to provide a lower overall cost than the cost of continuing with the service provided by SCC, but in the early years of the contracts there is a higher profile of cost whilst the service modernises and undergoes transition to the social enterprise”* (Cabinet report, 11 July 2016).

1. This confirms the comparison with the current SCC service was not a like-for-like comparison between an improved in-house service and a proposal from an external bidder.
2. It is not a rigorous and transparent value for money assessment.
3. The lack of savings suggests the Council is funding the rationalisation programme.
4. The attempt to fund a social enterprise provider is almost certain to lead to increased public costs in the short term, opening the Council to challenge on grounds of value for money, flawed options appraisal and/or fiduciary duty.
5. In these circumstances, rationalisation will be ‘financed’ by cuts in services, job losses and changes to terms and conditions.

## **Democratic accountability and transparency**

Somerset County Council should be acutely aware that outsourcing erodes democratic accountability and transparency and limits effective public scrutiny of contracts and contractor performance. There is a danger that a social enterprise is not regarded as a 'contractor', but legally, financially and operationally that is precisely what it is. Comprehensive governance, contract management, monitoring and scrutiny arrangements must be put in place and costed.

## **In-house option and capability sidelined at the start**

The Council was negligent in failing to prepare a forward-looking in-house proposal inclusive of a Public Service Innovation and Improvement Plan. This should have been jointly prepared by the Council, staff, trade unions, families, service users, carers and community organisations and would have cost a fraction of the procurement costs. It could have better addressed needs, improved capabilities, increased effectiveness and efficiency and enhanced public service operational delivery.

## **The public cost of ideology**

The Cabinet and public appendices (11 July 2016) confirm the absence of savings and the potential increased costs. The continuation of austerity policies, increased poverty and inequalities are likely to increase demand for Learning Disability services. Meanwhile, Dimensions increased its 'cash at bank and in hand' by 28% to £18.2m in the 2014-15 financial year, which raises the question why it holds large reserves of cash?

## **Objectives ignore reality and make sweeping assumptions**

There is a fundamental gap between the Council's aspirational objectives (Appendix A) and the second column that describes Dimension's plans, proposals and statements as facts, but devoid of any awareness that they may not be achieved or fulfilled. It indicates a bonded and trusted relationship between Somerset managers and the contractor, which is usually regarded as poor procurement practice.

## **User/community preference ignored**

90% of responses to the Learning Disability consultation in 2013 said they preferred *Option 1 – "Leave things as they are. The Learning Disabilities Provider Service would continue to be owned and run by the County Council"* (Learning Disability Services in Somerset: Summary of Responses, 2013). The percentage in favour would have been even higher if it had been presented as a 'new, improved in-house service' instead of a negative 'business as usual' approach. Responses to the transfer of all or some services to a new publicly owned trust or not for profit organisation (76%) or to other care providers (56%) would have obtained even less support.

## **Quality of jobs, terms and conditions**

A common pattern is evident in outsourcing adult social care services irrespective of the organisational status of the contractor (for example, Your Choice Barnet). It consists of cuts in service provision despite assurances; new or increased user charges; job losses in direct provision and support services; downward regrading of jobs for existing and new staff; reduction in earnings; enforced switch from defined benefit to defined contribution pension scheme.

## **Sustainability of a social enterprise model**

Outsourcing does not secure the long-term sustainability of the services. It does so only for the contract period and sustainability is highly dependent on contractor performance. What happens if the social enterprise fails to retain the contract when it is retendered and it is left with significant pension liabilities? Will there be clarity over the ownership and

reevaluation of assets after the rationalisation programme is completed? These are important issues that must not be lost in political expediency to outsource the service.

### **Overall impact on users, Council and economy not assessed**

Outsourcing/privatisation of Learning Disabilities will involve 1,200 staff, the largest transfer undertaken by the County Council to date. Except for a very limited equalities impact assessment, there is no evidence that the Council has taken account of the potential impact on the Somerset economy. For example, job losses and reduced earnings will have a negative impact on local economies; the proportion of the rationalisation programme expenditure spent locally; changes in supply chains; and the extent to which Learning Disability surplus/profits remain in Somerset.

### **Recommendations**

1. Elected Members should call in the Learning Disability report to Cabinet, 11 July 2016.
2. Adopt a much more rigorous negotiating position supported by critical analysis and Gateway reviews at key stages.
3. Immediately draw up an in-house Public Service Innovation and Improvement Plan to provide an alternative strategy.

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