

Name of meeting: Cabinet

Date: 26 September 2023

Title of report: Review the offer of council in-house supported living provision

Purpose of report: To seek Cabinet approval to review the offer of council in-house supported living services in line with current market conditions

<p>Key Decision – A key decision is an executive decision to be made by Cabinet which is likely to result in Council spending or saving £500k or more per annum, or to have a significant positive or negative effect on communities living or working in an area compromising two or more electoral wards. Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</p>	<p>Yes</p> <p>If yes give the reason why</p> <p>Affecting more than 2 wards</p>
<p>Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u></p>	<p>Key Decision – Yes</p> <p>Private Report/Private Appendix –No</p>
<p>The Decision - Is it eligible for call in by Scrutiny?</p>	<p>Yes</p>
<p>Date signed off by <u>Strategic Director</u> & name</p> <p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>Richard Parry on 15 September 2023.</p> <p>Isabel Brittain on 15 September 2023.</p> <p>Julie Muscroft on 15 September 2023.</p>
<p>Cabinet member portfolio</p>	<p>Cllr Ramsay – Health and Social Care</p>

Electoral wards affected: Heckmondwike, Mirfield, Cleckheaton

Ward councillors consulted: Cllr V Kendrick, Cllr S Hall, Cllr A Butt, Cllr M Bolt, Cllr V Lees-Hamilton, Cllr I Ali, Cllr J Lawton, Cllr A Pinnock, Cllr K Pinnock

Public or private: Public

Has GDPR been considered? Yes

1. Summary

1.1 This report seeks approval to explore the role and ongoing viability of the Council as a provider of Supported Living care and support services. Supported Living is accommodation where people hold a tenancy or similar with a care provider providing on site care and support as people cannot live independently. It is similar to but not the same as residential care. The scale is much smaller with the accommodation typically supporting up to 8 people. Individuals are responsible for their living costs such as food and utilities (unlike residential care). The Council is proposing to review the arrangements at the properties listed below in line with the wider commissioning framework for Learning Disabilities Supported Living

- Brighton Court, Heckmondwike
- The Mews, Mirfield
- Wilton Terrace, Cleckheaton

1.2 In the case of The Mews, Mirfield, the landlord of the property has given notice to the Council that they no longer wish to let the building and, instead, to take possession back.

In the case of Brighton Court and Wilton Terrace, there have been a number of alternative service options develop since these services opened which would meet the needs of current residents.

1.3 This proposal will involve re-assessing tenants' needs in order to provide suitable alternative accommodation and support services. This is likely to mean that people, over the course of time, move into different accommodation that will also have support available to meet their needs.

1.4 It will also involve consulting with staff and unions around the proposed changes to the services affected.

1.5 Additionally, it will include the need to liaise with the owners of these properties, which are not council owned, and with the specialist accommodation providers that lease these properties from the property owners.

1.6 We also know that there are a number of individuals whose needs we cannot meet locally at present but whose needs could be met through repurposing Brighton Court and Wilton Terrace so that it could accommodate them rather than in out of area placements.

2 Information required to take a decision

2.1 Brighton Court in Heckmondwike has 6 flats of which 5 are currently occupied, The Mews in Mirfield has 7 flats of which 5 are currently occupied and Wilton Terrace in Cleckheaton has 6 flats of which all 6 are currently occupied. This represents an average occupancy rate of 84% (as at 01/08/2023). All of these properties are owned by other organisations rather than the Council.

2.2 There are currently approximately 37 staff (equating to 31.108 FTEs) staff providing support across all three properties, primarily grade 5 support workers. (see affected staff numbers / grades below).

The Mews/Wilton Terrace/Brighton Court Staffing			
Job Role	Grade	Number of Staff	FTE
Registered Manager	11	2	2
Deputy Manager	9	5	5
Support Worker (Days)	5	20	18.002
Support Worker (Night)	5	9	5.106
Business Support	5	1	1

- 2.3 The net revenue budgets for 2023-24 for the council to provide support for all these tenants is £1,146,409 which is primarily staff related costs.
- 2.4 Phase 1 of this proposal is deliverable during 2024/25 and is based on the Council exiting from being the provider of care and support at The Mews, as a response to the property owners request following expiry of the lease. This would involve joint working with assessors to reassess/reaccommodate existing tenants into suitable alternatives and maximising available capacity across remaining in-house provision across Brighton Court and Wilton Terrace. Exiting as the service provider from The Mews eliminates the current tenancy risk associated with the setting, mitigates the cost of existing voids and releases staffing revenue costs, with alternative provision delivering a net saving of £200k in 2024/25.
- 2.5 Phase 2 of this proposal is anticipated to be deliverable as a saving during 2025/26 and is sequential to Phase 1. This phase involves reassessment/reaccommodating of service users at Wilton Terrace into alternative and more appropriate settings with a view to using the flats at Wilton Terrace to accommodate more complex, high cost, out of area placements. It is anticipated that this will create a net saving on the placement budget of £252k.
- 2.6 This provides cumulative savings of £452k in respect of this proposal.
- 2.7 Expected impact / outcomes, benefits & risks (how they will be managed)
- **Impact** – the stage 1 Integrated Impact Assessment shows this will have a negative affect on the tenants and on staff. (see published IIA).
 - **Benefits** – the benefits to this proposal are both financial and also support the intention to bring back people that have been placed out of area in line with the wider commissioning framework for learning disabilities specialist accommodation.
 - **Risks** – reputational risk of moving vulnerable tenants.

3 Implications for the Council

3.1 Working with People

All relevant stakeholders will be consulted as part of the formal non-statutory consultation process.

3.2 Working with Partners

We will collaborate with all relevant partners to ensure the best outcomes possible for all concerned.

3.3 Place Based Working

These establishments support tenants from the whole of the Kirklees community.

3.4 Climate Change and Air Quality

No impact.

3.5 Improving outcomes for children

No impact.

3.6 Financial Implications for the people living or working in Kirklees

None.

3.7 Other (eg Integrated Impact Assessment/Legal/Financial or Human Resources)

There will be HR implications from these changes and staff and trade unions will be consulted in accordance with the usual procedures.

The Care Act 2014 imposes a general duty on local authorities to promote an individual's well-being (section 1 Care Act 2014).

Section 2 of the Care Act 2014 imposes a general duty to provide or arrange services to reduce ,prevent or delay the development of needs

Local authorities had a duty to provide residential accommodation for adults who were in need of care and attention not otherwise available to them under section 21 of the National Assistance Act 1948. This was repealed and replaced by a duty to meet needs for care and support (section 18 Care Act 2014). Section 19 of the Care Act 2014 gives a local authority the power to meet needs for care and support, where it is not under a duty to do so. Unlike the National Assistance Act 1948, the Care Act 2014 does not specify separate duties for the provision of residential and non-residential care. Section 8 of the Care Act instead gives examples of the different ways that a local authority may meet needs under section 18, and the list includes "accommodation in a care home or premises of some other type "(s8(1)(a)), or "care and support at home or in the community" (s.8(1)(b)).

An assessment of needs must be carried out where it appears to the local authority that a person may have needs for care and support. The assessment must identify whether the adult has any needs for care and support. If there are, the assessment must state what those needs are. (Section 9(1), Care Act 2014.) A Local authority must also assess any carer (current or prospective) where it appears they may have need for support. Section 10(1) Care Act 2014.

After assessing what the needs of an adult or carer are, a Local Authority must consider whether the needs meet the eligibility criteria for a provision or service (section 13(1), Care Act 2014). The criteria does not specify the types of care and support that a Local Authority must provide to meet eligible needs. Prior to any individual moving accommodation, their needs assessment and care and support plan should be reviewed. In offering alternative

accommodation the Local Authority should have regard to the Care and Support and After-care (Choice of Accommodation) Regulations 2014.

The council has a market shaping duty under section 5 of the Care Act 2014 and must exercise its duties in accordance with the Department of Health Care and Support Statutory guidance (updated June 2023).

The Council also has responsibilities under the Care and Support (Ordinary Residence) (specified Accommodation) Regulations SI 2014/2828 which specifies supported living accommodation (reg 5) whereby if an individual's needs can only be met in supported living accommodation, the council where the individual is ordinarily resident immediately before being placed is responsible (section 39 Care Act 2014).

The Council will also comply with all relevant mental health legislation, amongst other things, in relation to capacity issues.

The Council is required to carry out a non-statutory consultation process regarding proposals to reconfigure services and to carefully consider responses before reaching any decision regarding reconfiguration of care services. The consultation process should be done at a formative stage in line with criteria laid out in R v Brent LBC Ex parte Gunning [1985] and endorsed by the Supreme Court in R (Moseley) v Haringey LBC [2014].

The criteria are:

1. The duty to act fairly.
2. The requirement of fairness is linked to the purpose of the Consultation, and sufficient reasons given so that the proposals enable an intelligent response.
3. The features of the consultees are relevant in deciding the degree of specificity required in the information provided.
4. Where the proposals involve the denial of a benefit, fairness demands will be higher.
5. Where there are no statutory restrictions on the content of the consultation, fairness may require that interested stakeholders be consulted on preferred option and also rejected options. Consultation in this case will be non-statutory.

Article 8 of the Human Rights Act 1998 - right to a private and family life, may be engaged. Following completion of the consultation, the council will need to ensure the needs of residents have been properly assessed and individual service user reviews in line with the Care Act 2014 will be carried out.

The council must comply with its Public Sector Equality Duty in section 149 Equality Act 2010. An Equality Impact Assessment (EIA) of the proposed options is advisable. The Council when exercising its functions must have "due regard to the need to":

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Section 149(7) sets out 7 protected characteristics namely: age, disability, gender reassignment; pregnancy and maternity, race, religion or belief, sex or sexual orientation. It follows that age and disability will be most relevant in taking decisions about the future of the Council's care homes and an EIA will show how the proposals impact on people.

4 Consultation

4.1 All relevant stakeholders will be consulted if this report is approved.

5 Engagement

5.1 Following formal consultation, all stakeholders will be engaged in delivery of changes as appropriate.

6 Next steps and timelines

6.1 Cabinet is asked to note the proposed implementation of Phase 1 (see 2.4 above) and Phase 2 (see 2.5 above).

6.2 Subject to Cabinet approval, a formal consultation process will take place from October to December 2023 and the results of this exercise will be brought back to Cabinet in January 2024 for final decision following which any approved service changes as set out in Phase 1 and Phase 2 will be implemented.

7 Officer recommendations and reasons

7.1 To approve this report and delegate to the Strategic Director for Adults and Health [in consultation with the relevant Portfolio Holder] the authority to design the consultation and to enter into a formal [12 weeks] consultation process about supported living care and support services and consultees feedback on this to be reported back to Cabinet by January 2024 for final decision on implementing potential service changes as set out in phase 1 and phase 2 and explained at paragraph 2.4 and 2.5 of this report .

7.2 The consultation and any subsequent changes will enable the council to deal with notice being given on The Mews and to make the most efficient use of the range of supporting living capacity to meet needs and deliver financial efficiencies.

8 Cabinet Portfolio Holder's recommendations

8.1 The inability to renew the lease for The Mews has provided the impetus for the service to reassess the needs of tenants within these three properties and for individuals in out of area placements, with a view to ensuring our 2 remaining properties are fit for purpose, fully utilised and that individuals are supported in the most appropriate manner.

To approve this report to allow officers to enter a formal consultation process and this to be reported back to Cabinet by January 2024 for final decision.

9 Contact officer

Saf Bhuta, Head of In-House provision, Adult Services.

10 Background Papers and History of Decisions

None.

11 Service Director responsible

Michelle Cross, Service Director, Learning Disabilities, Mental Health and Provider Services