

25 October 2012

Brighton & Hove City Council

Subject:	Learning Disability Accommodation		
Date of Meeting:	25 October 2012 24 th September 2012 – Adult Care & Health Committee		
Report of:	Director of Adult Social Services/Lead Commissioner People		
Contact Officer:	Name: Karin Divall	Tel: 29-4478	
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Key Decision:	Yes		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 A report was presented to the Adult Care and Health Committee in June 2012 following a three month consultation which recommended the re-modelling of the council's accommodation for people with learning disabilities. This committee decided to defer making a decision pending consultation with the service users and additional information being provided. This report sets out the additional information requested by the committee.
- 1.2 Following the June committee, as well as the additional work and information that the Committee requested, further work has been done to address some of the concerns raised at that time and during subsequent site visits which has resulted in changes to the original proposals. These changes are included in this report and include the removal of Ferndale Road from the current proposals, a reduction from 5 to 4 service users to be accommodated at Windlesham Road at this stage, a commitment to move service users together where this is important to them and/or their families, and a commitment to ensure consistency in service delivery and staffing to support any service user moves that take place.
- 1.3 The re-modelling of the in-house service is required to ensure a sustainable in-house service which can contribute to an increase in local services for people with challenging behaviour and other complex needs who are often at risk of being placed out of the City. The service currently provides some challenging behaviour services but at a significantly higher unit cost when compared with other local authorities. It is therefore proposed to remodel the in-house service by making some changes to the accommodation and further increasing staff skills and flexibility to improve value for money, and by focusing the in-house service on those with the greatest needs.

2. RECOMMENDATIONS:

- 2.1 That the Committee agrees to re-model the council's accommodation for people with learning disabilities as set out in Option 1 (paragraph 4.1).

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

3.1 Committee agreed to defer consideration of the proposals to a further meeting in order to enable the following information to be made available:

- The results of the consultation with service users
- Information on the number of service users affected, where they will be moving from and to which properties they will be moving
- More information on the properties proposed for closure and how they will be used in future.

3.2 The results of the consultation with service users.

The consultation with the service users directly affected by the potential closures involved four steps:

- A risk assessment to determine the likely impact of consulting with each individual and the most appropriate means of consultation
- Mental capacity assessment
- Use of photographs of existing and proposed new homes
- Visits by service users and their families to the proposed new homes.

The outcome of this consultation was that the risk in relation to the completion of a capacity assessment were assessed as high and that all the service users would be significantly distressed by the capacity assessment, this was a view confirmed by family members and the details of the process are attached in appendix 1.

3.3 Information on the numbers of service users affected, where they will be moving from, and to which properties they will be moving.

If option 1 is agreed then the following planned moves will take place:

- Old Shoreham Road- three people will move from this house to a larger registered home in Windlesham Road which will also be able to accommodate an additional young woman currently accommodated in children's services. Old Shoreham Road can not accommodate any additional women and there is no other women's service available for her. Windlesham Road is a larger house, is centrally located and will enable this young woman to move into her first home. If the service at Old Shoreham Road does not move to Windlesham Road then it is un-likely that we can provide a home for this young woman in our council service. Windlesham Road provides more flexibility for future use as a house to accommodate people with high level needs than Old Shoreham Road. Currently Windlesham Road has only one services user who has a planned move to a nursing home due to his continuing health care needs. The service users at Old Shoreham Road have individual day activity programmes which will continue at Windlesham Road.

- New Church Road currently accommodates three people, but will have a vacancy in January when one person has a planned move to more personally appropriate accommodation. The house is not large or flexible enough to accommodate a new person with high level needs. The vacancy would be suitable for someone with lower level needs but this is not what the service is required to provide for the future. It is planned that of the remaining two people, who do not have a specific need to live together, one will move to existing registered accommodation at Beaconsfield Villas and one person will move from New Church Road to registered council accommodation at Cromwell Road. The two men currently attend in-house day services and will be able to continue to do so.

3.4 More information on the properties proposed for closure and how they will be used in future.

If Option 1 is agreed then two properties will no longer be required by Adult Social Care. One of these in Old Shoreham Road is a terraced family home which forms part of the council owned housing stock within the Housing Revenue Account and will be returned for use as council family housing. One house in New Church Road is an end of terrace family home owned by a Housing Association and will be returned to them.

4. PROPOSED OPTIONS

The consultation included engagement with staff, families/carers and key professionals and service users about the principles of re-modelling to achieve efficiencies and deliver improved value for money, a focus for the service on accommodating people with high level needs, providing accommodation for people with high level needs who would otherwise be at risk of moving out of City, changes to staffing to further improve efficiency and ways of increasing the capacity of some homes in order to accommodate more people.

4.1 (Option 1) Re-model the existing Accommodation service by maximising the use of all our homes and focusing services on larger houses that can provide services for people with high needs and challenging behaviour in the future. To agree to relocate the service at Old Shoreham Road to Windlesham Road and to move the service users from New Church Road to existing vacancies in alternative council owned registered accommodation.

This option will potentially provide homes for an additional 5 people, uses two less houses than we currently do, achieves £400,000 savings for the accommodation service, saves £200,000 for the Community Care budget in a full year, reduces our unit costs, provides better value for money and focuses on services for people with complex and high level needs to prevent the need for people to live outside the City in future. It should be noted that adaptations will be required to some of our existing properties to facilitate this option in a way that ensures we meet service users' needs and sources of capital funding have been identified for this.

Whilst some of our smaller houses do meet the needs of the current service users, it is not sustainable going into the future to provide a personalised service focused on maximising independence for people with high needs and challenging

behaviour in small houses. By developing our service in larger houses we can provide bespoke accommodation that meets the needs of people into the future and that provides more personalised services for people with complex needs. The physical environment of the smaller houses proposed for closure do not provide for development of such bespoke individual accommodation.

If this option is agreed then the service users concerned will be assessed as to their capacity to make a decision regarding the home it is proposed they are to move to. In the event a service user is assessed as lacking capacity to make this decision a best interest decision will be made. This and the process of engagement with all service users who have to move as a result of the re-modelling will be undertaken sensitively and in accordance with their specific needs and Mental Capacity Act Guidance. Individualised transitions plans will be developed which take account of current needs, how they have adapted to previous transitions etc. These plans will involve the Behaviour Support Team where appropriate, key workers and managers of the services they live in and families. Core staff will be moving with the service users which will minimise risks in relation to increases in challenging behaviours. We will risk assess and minimise the identified risks in the case of Old Shoreham Road for example the risks are already reduced by the service moving as a whole so there will be familiar people and routines. The transition will be planned and include individual plans, building works to adapt the accommodation as required and any moves are unlikely to take place until early next year.

The next steps will also include staff and union consultation and there is likely to be a reduction in staffing of 8.78 full time equivalent posts, with between 8 and 13 less staff required for the new service (the number will vary according to the mix of full and part time employees). Having held a number of staff vacancies it is envisaged that all the staff can be relocated within the service if they so wish, and there will be no compulsory redundancies.

This approach provides a planned way to provide a more sustainable accommodation service. If this option is not agreed then the service is not sustainable going forward, and the result will be that as vacancies occur they will not be filled and over time some of the houses will be closed as they become empty which will affect staff morale in the interim, increase the risk in delivering these services and increase unit costs.

Current Provision affected by proposals

Service and capacity	Current Occupancy	Proposed occupancy	Property ownership	Service description	Comments
New Church Rd (current capacity 3)	3	0	Affinity HA	Registered Supported Living	X1 service user has planned move for early 2013 to live with relative. The two remaining service users do not need to remain together but need to ensure any new service meets their needs and that they are compatible with other service users living in the accommodation . x1 service user would benefit from ground floor accommodation. Both service users will need some staff who know them well to move with them and for their service to be in Brighton & Hove to maintain community links and friendships.
Old Shoreham Rd (current capacity 3)	3	0	BHCC (Housing)	Registered Care Home	3 female service users are well matched and would benefit from remaining together with a core group of staff that know them well. Any additional service users who may live with them need to be compatible. The accommodation needs to meet their assessed needs and their service to be in Brighton & Hove to maintain community links and friendships and ensure regular contact with family.
Windlesham Rd (current capacity 4)	1	4	BHCC (Transferred from NHS)	Registered Care Home	X1 remaining resident's health care needs have increased and there is already a planned move to a more appropriate service.

Proposed Provision

Service	Move to	Property ownership	Service description	How proposal needs identified needs
New Church Rd	X1 service user to 14 Beaconsfield Villas (this is a 5 person service with vacancy) X1 service user to Cromwell Rd (this will increase capacity from a 2 person service to a 3 person service)	Hyde HA Southern HA	Registered Supported Living	Compatibility assessments completed. & the service user who requires ground floor accommodation will have this at Cromwell Rd. Both service users will remain in the city to ensure community links and friendships are maintained and some staff who know them well will move with them to their new services
Old Shoreham Rd	Windlesham Rd (this will remain as a 4 person service)	BHCC (Transferred from NHS)	Registered Care Home	The x3 service users will remain together and all move to the new property. A core group of staff from Old Shoreham Rd would move with the service users to ensure consistency of support. Family members and staff would be involved in any remodelling of the physical layout and the property will be fully refurbished. The property is within a central location and easily accessible to shops, parks and seafront.

OTHER OPTIONS

4.2 The following options were considered during the consultation but are not being recommended because they do not provide an in-house service that in future will focus on people with the highest needs, provide homes and staffing that are flexible and adaptable, meet the commissioning requirements to deliver improved value for money or deliver the savings we are required to make:

4.2.1 Do nothing and continue to keep services running as currently.

Benefits:

- Feedback from families and carers has been very positive about the in-house service and in general they would prefer to see the service remain as it is so this would be popular with families
- There would be no staffing changes or reduction

Risks:

- The financial savings required by Council will not be delivered.
- The commissioning requirements to deliver improved value for money will not be achieved which will make our services financially un-sustainable when compared to the private or voluntary sector
- Our unit costs would remain high in comparison to other providers.
- The commissioning requirement to provide homes for people with high level needs could not be met in some of the smaller houses.

4.2.2 Retain the existing properties and increase capacity where practicable and move towards a service providing homes for people with complex needs and challenging behaviour

Benefits:

- This would require minimal change to staffing and accommodation
- This would improve efficiency and accommodate people with high level needs
- There would be some additional capacity to support people moving back into the City or through transition.

Risks:

- The financial savings required by the Council will not be delivered.
- The commissioning requirements to deliver improved value for money will not be achieved which will make our services financially un-sustainable when compared to the private or voluntary sector
- Some of the smaller houses are not suitable to be developed to accommodate more service users, or to deliver better value for money. Larger properties can be more readily adapted to provide personalised accommodation that enables service users to live more independently and to enable people with challenging behaviour to live alongside other service users, larger houses can in some cases also enable additional people to be accommodated to deliver better value for money.

4.2.3 To cease providing council accommodation for people with learning disabilities and tender the service with private sector providers.

Benefits

- Accommodation is provided in the private sector at a lower unit cost than council provision
- Required savings would be achieved over a period of time.

Risks

- The feedback from families, carers and staff was positive about the quality of the service provided by the council
- Many families and carers expressed that they wanted the council to continue to provide accommodation
- Staff would be subject to TUPE
- Provision of suitable accommodation for people with high level needs may not be available in the private sector
- There would be no service of last resort within the council

4.2.4 As a principle we will seek to increase capacity in our existing homes and where capacity arises then we will look to bring people back from out of City as appropriate. Since July 2012 a sub group has been meeting to look at the options for developing the service that would reduce the need for out of city placements in the future. This option on its own will not make the savings required by Council, but will enable the in-house service to operate on a more sustainable basis in future.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

Details of the consultation process with staff, family, carers, advocates and key professionals and the outcomes of this was presented to committee in June and the committee requested that additional consultation be carried out with the service users. This additional consultation has been completed and is detailed in Appendix 1.

6. OUTCOME OF CONSULTATION

6.1 A summary of the consultation undertaken with the five affected service users is attached at Appendix 1 and this provides a mix of views about the proposed accommodation changes. There was a detailed consultation with families, staff and other stakeholders which was reported in the June committee and a summary of this is attached as Appendix 2. In general the families were positive about the service that their family member received and wanted them to continue to live within a council provided service and would prefer the service to remain unchanged. If change were to happen consistent support from staff who know the service user well was the most important factor for most people and for some people remaining living with the people they currently live with was also important.

6.2 Further work has been completed in relation to the services users potentially directly affected by these proposals. See 3.2 above and Appendix 1 for details. The consultation with five service users affected by the proposal in option 1 involved five stages:

- A risk assessment
- A mental capacity assessment
- Use of photographs of current and proposed homes
- Visits by service users to the proposed new home
- Visits by families to the proposed new homes

A full risk assessment was completed for each individual by staff who work with them which took into account the views of their families. In each case, the outcome of the detailed risk assessment was that it would cause too much distress to the individual to carry out a capacity assessment or to use visual aids to discuss a move. Their families were invited to visit the homes and several of them did so. Full details are attached in Appendix 1.

6.3 Following the consultation process communication has been received from a relative of one of the service users at Old Shoreham Road expressing her concern as to the potential effect of any move on the service user. In addition the relative raises a question regarding the financial implications involved in previously adapting Old Shoreham Road and the alternatives available to make the savings the council is required to make. The person's views form part of the consultation outcome for committee to consider and she has of course been advised of the availability of this report and the committee meeting.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

The recommended option 1 is expected to deliver better value for money than current provision and reduce unit costs to bring them more in line with comparable authorities. This option has been analysed through a financial model and has the potential to deliver savings of £600k in a full year and will support the delivery of budget plans for 2012/13 and 2013/14.

Finance Officer Consulted: Name: Anne Silley Date: 05/08/12

7.2 Legal Implications:

As set out in the previous reports in January and June 2012 the Local Authority has to fulfil dual functions in meeting its statutory community care duties to people with learning disabilities in the context of central and local Guidance on individual choice and control, and its duty to the public purse.

In fulfilling its functions the Local Authority must have regard to the Human Rights Act 1998 and in particular in this case the Right to Family Life in accordance with Article 8 European Convention on Human Rights. The recommended option in this report describes the plans for individuals who have important relationships with fellow residents [and staff] to remain living together as a unit but within new locations in the city.

The Local Authority also has a duty to consult with all interested and affected parties including ensuring compliance with Equalities legislation. The Report describes comprehensive consultation with families, staff and unions. Advice from Advocact informed the Report to Committee in June 2012 where it was reported that given the level of vulnerability of the residents potentially affected that an attempt at a consultation exercise involving those individuals would be too distressing and damaging. Given this generic approach and on deferment of the decision at June Committee, officers agreed to undertake an individualised approach to consulting each of the individuals concerned.

As described in the body of the Report a staged approach was undertaken in the context of consultation with residents. Application of such an approach being necessary to ensure fairness, attention to the specific vulnerabilities of the individuals concerned and proportionality.

The Mental Capacity Act 2005 states that the starting assumption must always be that an individual has capacity to make a decision until there is proof that they do not. The individuals potentially affected by a decision to re-model the service necessitating their move to new locations have learning difficulties and significant and specific support and care needs as described in Appendix 1. There is reasonable cause to believe that the individuals concerned may lack capacity to make the decision to engage in a consultation exercise and express a view on the proposals for re-modelling the service. Therefore it was identified that all of those individuals affected would require an assessment of their capacity to decide to engage in the consultation exercise.

A person's capacity must be assessed *specifically* in terms of their capacity to make a *particular decision at the time it needs to be made*.

The Mental Capacity Act 2005 Code of Practice provides that in order to undertake an assessment of capacity the following questions need to be addressed:-

- Does the person have a general understanding of what decision they need to make and why they need to make it?
- Does the person have a general understanding of the likely consequences of making, or not making, this decision?
- Is the person able to understand, retain, use and weigh up the information relevant to this decision?
- Can the person communicate their decision (by talking, using sign language or any other means)? Would the services of a professional (such as a speech and language therapist) be helpful?

Therefore in order to undertake an assessment of each individual's capacity to engage in a full consultation the *possibility* of a move would have to be introduced within the context of the assessment. In order to determine the effect such a capacity assessment may have on each individual, as described in this Report, individual risk assessments were first undertaken.

It is incumbent on the Local Authority and those caring for the individuals concerned to ensure their emotional welfare and safety need are met. In pursuance of continuing to meet these needs a balanced approach was

adopted by first assessing the risk of undertaking an assessment of the individuals' capacity to exercise their right to engage in the consultation process should they choose to do so.

The outcome of the risk assessments in all cases [informed by family members' views] resulted in the assessed risk of a capacity assessment in the context of the decision to engage in a consultation exercise being too high to be proportionate to the outcome.

The result for Committee considering this Report is a consultation outcome that cannot include the direct views of the individuals potentially affected by the proposed re-modelling and closures due to the adverse impact of taking the vulnerable adults concerned through the required mental capacity assessment process.

The ascertainable wishes and feelings of the individuals potentially affected are highlighted in Appendix 1. Whilst not indicative of capacity to make a decision to engage and express a view in a consultation exercise they do provide Committee with evidence of the individuals' response to their current environments and care setting.

In reaching its decision it is necessary for Committee to properly consider all of the implications for the individuals concerned and the implications for the Council as a whole. Such consideration must include the views expressed via the consultation process. As the views of the potentially affected individuals have not been possible to obtain due to their vulnerabilities and the impact of an assessment of their capacity to decide to engage in the consultation process, it is suggested Committee adopts the position that those individuals, if able express a view in the context of a consultation process, would express that they would elect to remain in their current locations.

It is also suggested that Committee will wish to take into account the preferences and ascertainable wishes and feelings of service users as recorded in Appendix 1 in terms of whom they may wish to live with, the environment they enjoy and the aspects of home life that are important to them.

The decision to re-model the service, including closure of homes, is one for this Committee. If Committee agrees the recommended option and makes this decision the service users affected will clearly have to be told [in an appropriate manner tailored to their needs] of the plans for closure. Whether the service users wish to move to the proposed services outlined in the body of the report is a decision for them. That is a separate and distinct decision from a decision to contribute in a consultation exercise. Therefore assessments of the capacity of each individual service user to make a decision as to whether they wish to move to the proposed service will have to be undertaken. Where assessments conclude the individual service user lacks capacity to make such a decision then a best interests decision will have to be made on their behalf in accordance with the Mental Capacity Act 2005 and informed by their ascertainable wishes and feelings. In any event attention

must be given to meeting the expressed preferences of individuals in terms of their surroundings and home environment.

Lawyer Consulted: Name Sandra O'Brien

Date: 11 September 2012

7.3 Equalities Implications:

An Equalities Impact Assessment has been carried out for the re-modelling of the accommodation services and was appended to the report that was presented in June 2012 to Adult Care and Health Committee.

7.4 Sustainability Implications:

The consolidation of the service into fewer buildings will reduce fuel consumption and bills e.g. fewer food shopping trips, less vehicles.

7.5 Crime & Disorder Implications:

People living in larger housing accommodation may feel a greater sense of personal security. Use of assistive technology may also enable a greater sense of security for individuals e.g. alarms to inform door or windows left open etc.

7.6 Risk and Opportunity Management Implications:

The consultation has looked at the risks of consolidating our accommodation and working with people with complex needs and challenging behaviour. The risks will be mitigated by design and building adaptations where appropriate and by a training plan and staff support to ensure they have the skills to work with people with challenging needs.

7.7 Public Health Implications:

People living in our in-house accommodation are some of the most vulnerable people in the City and staff work proactively with health colleagues to improve residents health and well-being.

7.8 Corporate / Citywide Implications:

Accommodation services are currently provided in fifteen buildings across the City, and this will reduce to thirteen buildings under this proposal.

8. EVALUATION OF ANY ALTERNATIVE OPTION(S):

The consultation process explored alternative models of accommodation which could meet the needs of the service users whilst delivering improved value for money.

9. REASONS FOR REPORT RECOMMENDATIONS

The decision is sought following a full consultation with stakeholders in order to deliver a 2 year plan that provides a more cost effective service focused on supporting people with complex needs, and challenging behaviour, and supporting people to move-on and increase their independence.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1: Consultation with service users

Appendix 2: Consultation with stakeholders

Documents in Members' Rooms

1. Consultation Overview- process, documentation and summary of responses

Background Documents

1. None

