

CYNGOR SIR POWYS COUNTY COUNCIL.

PORTFOLIO HOLDER DELEGATED DECISION

By

Councillor Stephen Hayes (Portfolio Holder for Adult Social Care)

5th June 2018

REPORT AUTHOR: Dylan Owen
Head of Transformation for Adult Services

SUBJECT: Powys County Council Residential Care
Portfolio

REPORT FOR:	Decision
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1. Summary

1.1 BUPA have confirmed that they do not wish to extend the existing contractual arrangements of Powys Council's care homes and Glan Irfon beyond the current contract term which is due to end in May 2019. The purpose of this report is therefore to seek approval to go to the market seeking expressions of interest from providers and developers who would be interested in:

- working with the Council on the future development the Powys' own care homes; and / or
- to recommissioning the management of the care homes post May 2019 for a period of time (potentially 3 to 5 years), during which it is intended transformational plans will be agreed and start to be implemented.

If individual providers wish to be considered to undertake both roles, this will be encouraged where proposals would provide the best outcome for the council and Powys residents. It should be noted that analysis of specialist advice on the viability of Housing companies would also be undertaken by the Head of Housing during the market engagement period.

1.2 The decision on how the council's own care home portfolio should be managed in the future will have a long lasting impact and influence on the nature of the Powys Care Home market. An options appraisal has been completed (Appendix 1) to explore all available options for the management and ownership of the Council's care home portfolio post May 2019. In undertaking the options appraisal, commissioners have identified that projected needs going forward across the residential and nursing care home market in Powys is likely to be for both more residential EMI and Nursing/EMI beds rather than existing predominately residential care provision across the council's care home portfolio. Whilst projected need is understood, the level of market interest in helping the Council to transform the care home market across Powys is not as equally understood. A programme

of market engagement would be required to improve understanding of what future transformational opportunities could be delivered.

- 1.3 Three main options were considered in developing plans for the management of care home once the BUPA contract ends (negotiate a contract extension with BUPA, bring the management of the care homes back in-house, or procure an alternative external provider to run the care homes on the council's behalf). Two of these three options have a number of variants which have also been explored.
- 1.4 When considering externally commissioned options, it is not currently known whether there will be market interest from a developer(s) to assist in transformation the care home portfolio and managing the care homes during the transformation process. Needs analysis suggests that the transformation of the Council's portfolio of care homes needs to change the cumulative focus of services to support more residents who have dementia, and the consolidation of beds / capacity in localities where the need is the most acute. This may result in some care homes being identified as no longer strategically relevant and released for some other form of re-development or sale.
- 1.5 Alongside exploration of external market interest in working with the council, work is progressing to explore options to bring the management of the service back In-House should this become necessary or desirable. This work builds upon work undertaken previously around the development of a Local Authority Trading Company (LATC) and Teckal regulations. However, it should be noted that should a LATC be developed, the outcome of work indicates that the Council would face additional operational costs that could not continue to be offset against private funders' income after approximately 18 months. To address this risk, specialist advice has been commissioned to explore the relative merits of developing a Housing Company that could negate the needs to incur some of the additional costs.
- 1.5 A draft of the Options Appraisal was presented to the April 2018 Adult Social Care Scrutiny Working group. Key comments and observations made by the Group were:
 - Support for the Portfolio Holder within in his delegated decision to explore the market further.
 - The Group would wish to consider the options further once that additional information has been received and offer an opinion on the options under consideration.
 - An 80/20 care quality/cost split was supported.
- 1.6 The proposed timetable for approaching the market is:

Stage 1 (July 2018): A Pin Notice will be advertised in July 2018 seeking to establish relative market interest in delivering the short-term management of the care homes whilst in the longer term working with the Council to develop the Powys care home market. Analysis of specialist advice on the viability of Housing companies undertaken would also be undertaken during this period.

Stage 2 (August to October 2018):

1. Market and Housing company proposal's respective merits considered against the outcomes required for older people within Powys' Vision 2025. Individual provider meetings / workshop events to be undertaken depending on response to PIN Notice.
2. Subject to the market response to the Pin Notice tender for an external provider to manage the council's care homes on the council's behalf or arrange to bring the management of the service in-house.
3. Develop commissioning proposals in response market options received for longer term portfolio transformation.
4. Proposals on the way forward to be presented to the Adult Social Care Scrutiny Working Group for their consideration and comment.

Stage 3 (October 2018 to January 2019):

1. Proposals on the way forward to be presented to both the Health Care and Housing Committee, and Cabinet for their consideration and agreement.
2. Evaluate tender bids, and select winning tender.
3. Subject to agreement are initial Cabinet presentation, final commissioning intentions to be presented to Cabinet for agreement.
4. Appoint approved care home provider (if required).

Stage 4 Contingency Planning (If required)

- 1.7 Should the proposed procurement exercise fail, and it becomes necessary to bring the management of the service in-house, a minimum of 3 months will be required to safely bring the service in-house. A decision on the future of the care homes will therefore need to be made by the end of January 2019.

2. Background

- 2.1 Powys County Council and their partners are committed to working with residents, communities, and businesses for the continual improvement of both local general housing stock and access to high quality more specialist accommodation designed to meet peoples assessed care needs. Work is ongoing to understand and develop accommodation options across Powys in response to residents' views. A Market Position Statement (MPS) including a high level needs analysis relating to older peoples' accommodation in Powys was published in March 2017. Overall outcomes for residents required within the MPS are:

- Increased independence by improving our responsiveness to individuals' needs in their own home.
- Improved choices over accommodation, care and support that enables independent living for older people (within their own self-contained accommodation).
- Individuals will receive appropriate care and support in the right place at the right time, which will optimise their potential for recovery and recuperation.
- Mixed community developments supporting people with different levels of ability including different tenures.

- Reinvestment of resources into preventative services, offering a range of accommodation choices.
- 2.2 In helping to support the ongoing delivery a number of the above required outcomes, the options appraisal concentrates on reviewing the Council's options for the management and ownership of the Council's care home portfolio post May 2019. The option appraisal did build upon an earlier options appraisal completed in 2017 prior to the collapse of negotiations between BUPA and HC-One regarding the potential assignment of the care homes' support contracts in February this year.

3. **Proposal**

- 3.1 The outcome of the option appraisal indicates that many options are not exclusive, and a staged implementation is possible if the preferred option(s) would take longer than 12 months to be developed and therefore would not be fully ready for implementation by May 2019. All external procurement options identified within this appraisal for further development could be explored further within a single PIN Notice.
- 3.2 Options requiring the transfer of registration from BUPA to any other service provider (including the Council) would require the homes to be reregistered with CIW. Based on CIW requirements within the recent proposed re-registration of homes to HC-One, it is possible that CIW may require up to 19 rooms across 6 homes to be removed from use once they become vacant as they no longer meet quality standards. Statutory Guidance issued in February 2018 for service Providers on meeting service standard regulations have yet to fully embed. Advice obtained from CIW on whether the new requirements will still require the decommissioning of the 19 rooms is unclear. The new Guidance removes statutory room sizes, but CIW will need to inspect the care homes on re-registration to assure themselves that facilities are fit for purpose in relation to each care homes' statement of purpose.
- 3.3 It is therefore possible that additional capital maintenance works will be required to some of the homes on or prior to registration. It is not known what the cost of capital works at this point. Discussions will need to be undertaken with CIW subject to the outcome of this Option Appraisal. Within the reregistration discussion between BUPA, HC-One in late 2017 indicated a requirement for around £770k of work to be undertaken; of which the council were subsequently advised that around £636k of work had been completed before the negotiations between the two organisations failed.
- 3.4 In considering the above options, it is considered that any new model of delivery must:
- Maintain or increase current standards of quality for care
 - Maintain a sustainable service
 - Develop a service model that is flexible, and responsive

- Provide a model of service provision that reflects a response to the personalisation agenda
- Addresses capital investment to address weaknesses identified by CIW in the physical standards, condition and state of repair of a number of the homes, or support the decommissioning of a number of rooms within care homes identified as no longer meeting current standards and will need to be taken out of use.
- Support the implementation of the new Pooled Budget for the future commissioning of care Homes has been agreed with PTHB.

4. Options Considered

- 4.1 Options considered are detailed below. It was originally intended to score each option against a range of outcomes to select a recommended option to be implemented. However, officers seeking to score each option, identified that further market intelligence was required in order to consider the relative merits and costs of each option. It is therefore recommended that further market engagement is undertaken ahead of agreeing transformation priorities / plans.
- 4.2 In the absence of sufficient market intelligence to score each option, it is proposed that a range of options are explored with the market as detailed below.

√ = Options recommended for further consideration

Negotiate extension to existing contract

1. Negotiate with Bupa to continue with the contract post May 2019.

This option is not recommended at this point as BUPA have stated that they do not wish to extend their existing contract with the Council, and have requested the Council's exit plans for the contract. A softening of BUPA's stance was however noted post completion of the Options Appraisal in May 2018, when the council were advised that BUPA may be interested in considering future proposals that the council may have, but were still not interested in extending the current contract with the council on existing terms and conditions.

Bring the management of the care homes back in-house

2. √ Return the management of the care homes to in-house

It is recommended that this option continues to be worked up as a contingency plan should it ultimately be necessary to bring the service back in-house

3. √ Create a Local Authority Trading Company (LATC)

Previous work on the potential to develop a LATC indicated that a residential care home portfolio reliant on a relatively high level of trading would not be Teckal compliant within previous declared timescales. However, it is suggested that this option should be explored further as there may be merits with a LATC if additional lead in time is allowed.

4. √ Create a Council owned Social Enterprise.

It is recommended that the legality and potential costings of this option is explored further.

5. **✓ Transfer the care homes in to a Housing Company wholly owned by the Council.**

The Powys Housing Team are currently exploring this option. Adult social Care will work with housing to further explore this option.

6. **✓ Commission an alternative provider to manage the Care homes and Glan Irfon post May 2019.**

- Variant (a) Council could seek to commission care in blocks of two or more care homes.

Option recommended for exploration with the market through the PIN Notice. An open PIN notice will be published with a view to meeting with companies independently to discuss a range of option for bidding for or sale of the homes (if desired) This would include smaller groupings of the homes, the 'as is' option or any variants thereof proposed.

Organisations expressing interest will be provided with a prospectus of the homes including private public bed mix and any relevant information to be able to consider options for a contract and to attract them to discussions and if pursued later to bid.

Proposals and options offered will be considered and scored in a robust manner to ensure that they would meet with the desired outcomes set out below and to accord with previously undertaken options appraisals. BUPA will be also informed of the intention.

7. **✓ Create a Joint Venture Company**

Option recommended for exploration with the market through the PIN Notice

8. **✓ Sell facilities and commission support from the private market:**

- Variant (a) Council could seek to sell one or more care homes, but maintain ownership of others.
- Variant (b) Commission the homes in smaller 'packages' by way of regional or specialism packages to open up the opportunity to smaller or even independent/RSL and existing providers.

Option recommended for exploration with the market through the PIN Notice

9. **Transfer the care homes in to a Social Enterprise / Community Interest Company**

This option is not recommended as it unlikely to be either achievable by May 2019, or produce a capital receipt for the council.

5. **Impact Assessment**

5.1 Is an impact assessment required? No

5.2 If yes is it attached?

6. Corporate Improvement Plan

This proposal will contribute towards the following aim and objectives:

Supporting people in the community to live fulfilled lives

Older people will feel:

- Supported, independent, safe, dignified and connected
- A valued member of their communities
- Informed and empowered to make choices about their support and care

Carers:

- Are able to maintain employment, education and training where they choose
- Have good physical, emotional and mental health

People with a learning disability:

- Have improved health and well-being
- Receive services that meet their needs and enable them to maximise their independence and live in the community of their choice

People's emotional and mental health:

- Is promoted and improved
- Challenges are responded to effectively, aiding recovery

What will this look like?

People will:

- Be confident that challenges are responded to effectively, aiding recovery
- Have opportunities for activity, social stimulation and community inclusion to maintain their well-being.
- Feel safe in their own home and retain their independence for as long as possible through a range of home based services.
- Be informed to enable them to have increased choice and control over what matters to them.
- Have greater access to health and social care which is close to home and responsive to their needs.
- Can be discharged home safely once fit to do so.

7. Local Member(s)

The proposal will affect all electoral divisions.

8. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council?

No

If so please provide their comments

9. Communications

Have Communications seen a copy of this report? Yes

Have they made a comment? No proactive media action required, initial communication will be through specific stakeholder engagement.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

10.1 Legal: The recommendations can be supported from a legal point of view.

10.2 Finance: The Finance Manager notes the content of the report and will support the development of any future proposals. The revenue and/or capital resources will need to be considered as part of the Councils annual budget setting and Medium Term Financial Plan (MTFP).

10.3 Corporate Property:

10.4 HR:

10.5 ICT:

11. Scrutiny

Has this report been scrutinised? Yes

11.1 Comments from Scrutiny have been noted. In line with the comments received, officers will continue to work with Scrutiny to address all matters raised following, and in light of the market engagement outcomes.

12. Statutory Officers

12.1 The Solicitor to the Council (Monitoring Officer) commented as follows : “ I note the legal comments and have nothing to add to the report.”

12.2 The Head of Financial Services (Deputy Section 151 Officer) notes the comments from the Finance Manager.

13. Members' Interests

- 13.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If the Portfolio Holder has an interest, he/ she should declare it, complete the relevant notification for and refer the matter to Cabinet for decision.

Recommendation:	Reason for Recommendation:
<ol style="list-style-type: none">1. Issue a Prior Indicative Notice so that the service can explore interest and feasibility for all of recommended options. The PIN Notice should also provide an opportunity for the market to submit additional development proposals not specifically identified within the Notice. The PIN Notice should be supported by market events, and one to one discussions to understand market opinions and preferred commercial model.2. Further explore internal Council options to develop either a Social Enterprise, LATC or a Housing Company owned by the Council to support better understanding of opportunities, disadvantages and legal considerations.3. Subject to the market response to the PIN Notice and the outcome of further exploration of internal options, present final commissioning proposals to Cabinet for approval.4. Co-opt nominated PTHB representatives on to the project team / board as part of residential care Pooled	<ul style="list-style-type: none">• Further market intelligence is required in order to better understand future commissioning and market options available to the Council• It is possible to simultaneously explore market opportunities across residential and nursing care markets to support achievement of best practice.• The establishment of a project team is required to ensure timely completion of all required actions.• Seek Cabinet approval to implement proposed external commissioning intention, or seek agreement to bring the management of the service In-House.• Registration regulations have recently changed. Early discussions with CIW is recommended to reduce the potential for any misunderstandings by any stakeholder on requirements / reduce the risk of time delays in any required re-registration.

Budget arrangements (Deadline July 2018). 5. Pre-reregistration discussions are held with CIW to establish extent of re- registration works required.	
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Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y – Engagement within budget.

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Dylan Owen
Date By When Decision To Be Implemented:	

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Background Papers used to prepare Report: