

# Public Document Pack



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Ask for Michelle Archer

PUBLIC

To: Members of Cabinet

Wednesday, 10 November 2021

Dear Councillor,

Please attend a meeting of the **Cabinet** to be held at **2.00 pm** on **Thursday, 18 November 2021** in the Members Room, County Hall, Matlock, the agenda for which is set out below.

Yours faithfully

A handwritten signature in black ink that reads 'Helen E. Barrington'.

**Helen Barrington**

**Director of Legal and Democratic Services**

## **A G E N D A**

### **PART I - NON-EXEMPT ITEMS**

1. To receive apologies for absence
2. To receive declarations of interest (if any)
3. To consider Minority Group Leader questions (if any)

Minority Group Leaders in attendance at the meeting are able to ask

questions on agenda items. Any questions should be provided in writing no later than 12 noon on the day before the meeting.

4. To confirm the non-exempt minutes of the meeting of Cabinet held on 14 October 2021 (Pages 1 - 16)

To consider non-exempt reports as follows:

- 5 (a) Whistleblowing Policy (Pages 17 - 40)
- 5 (b) Forward Plan (Pages 41 - 56)
- 5 (c) The future of Direct Care Homes for Older People (Pages 57 - 92)
- 5 (d) The transfer of the Infant Toddler and Nutrition Service and Oral Health Promotion Service into the existing Section 75 Partnership Agreement (Pages 93 - 106)
- 5 (e) Changes to Temporary Payment Arrangements to Bus, Coach and Taxi Operators for Contracted Transport Services and Concessionary Fares Reimbursement from 1 January 2022 due to the ongoing impact of Coronavirus (Pages 107 - 120)
- 5 (f) Project Management within Corporate Property (Pages 121 - 136)
6. Exclusion of the Public

To move "That under Regulation 4 (2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting for the following items of business on the grounds that in view of the nature of the items of business, that if members of the public were present, exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 would be disclosed to them."

## **PART II - EXEMPT ITEMS**

7. To receive declarations of interest (if any)
8. To consider Minority Group Leader questions (if any)

Minority Group Leaders in attendance at the meeting are able to ask questions on agenda items. Any questions should be provided in writing no later than 12 noon on the day before the meeting.

9. To confirm the exempt minutes of the meeting of Cabinet held on 14 October 2021 (Pages 137 - 140)

To consider exempt reports as follows:

- 10 (a) Project Management within Corporate Property and Business Case (Pages 141 - 210)
- 10 (b) Procurement Strategy Refresh 2021-2026 and Procurement Strategy Delivery Highlight Report (Pages 211 - 256)
- 10 (c) Urgent Officer Decision 3G All Weather Pitch Contracts (Pages 257 - 266)
- 10 (d) Great British Car Journey (GBCJ) - request for loan funding (Pages 267 - 272)
- 10 (e) Extension of block payments for the Derbyshire Integrated Sexual Health Service for quarter 3 and quarter 4 of the 2021-22 financial year (Pages 273 - 278)

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**MINUTES** of a meeting of **CABINET** held on 14 October 2021 in the Members Room at County Hall, Matlock

**PRESENT**

Councillor B Lewis (in the Chair)

Councillors K S Athwal, A Dale, C Hart, N Hoy, T King, J Patten and S Spencer.

Apologies for absence were submitted for Councillor C Renwick.

**Declarations of Interest**

There were no declarations of interest.

**147/21 MINORITY GROUP LEADER QUESTIONS**

The following questions had been submitted on behalf of Councillor E Fordham:

**Agenda item 6(a) – Climate Change Strategy & Action Plan**

1. Unlike other Councils, the Climate Change Strategy has been drawn up without any extensive or meaningful public consultation. When this consultation takes place, will the relevant officers update the Improvement and Scrutiny Committee – Climate Change, Biodiversity and Carbon Reduction in a timely fashion on the changes to the Strategy as a result of the consultation exercise?
2. The Climate Change, Biodiversity and Carbon Reduction Committee requested that a SMART action plan, developed from the Strategies Appendix A - Action Long List - be submitted to the next meeting of this Committee (29 Nov). Will the Cabinet agree with the Committee and support this request?

**Agenda item 6(b) – Single Use Plastics Policy**

1. The SUP policy appendix five sets out a series of actions to be enacted as part of this policy. When will these actions be carried out and how will the success of this policy be measured?
2. Will the Cabinet accept the request of the Improvement and Scrutiny Committee – Climate Change, Biodiversity and Carbon Reduction, that the SUP policy should be subject to annual review by this Committee and not be subject to a review every three years?

A written response to each question would be provided to Councillor Fordham.

**148/21    MINUTES**

**RESOLVED** – that the non-exempt minutes of the meeting of Cabinet held on 9 September 2021 be confirmed as a correct record.

**149/21    CABINET MEMBER MEETINGS - MINUTES**

**RESOLVED** – to receive the non-exempt minutes of Cabinet Member meetings as follows:

- (a) Health & Communities - 2 September 2021
- (b) Strategic Leadership, Culture, Tourism & Climate Change - 3 September 2021
- (c) Children's Services & Safeguarding - 7 September 2021
- (d) Education - 7 September 2021
- (e) Corporate Services & Budget - 9 September 2021
- (f) Adult Care - 16 September 2021

**150/21    CLIMATE CHANGE STRATEGY AND ACTION PLAN**

The Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change provided an update on the development of the Council's Climate Change Strategy and Action Plan and climate change and sought approval of the Strategy and delivery of the actions across the Council.

The Derbyshire County Council Climate Change Strategy: Achieving Net Zero (2021-2025) was attached at Appendix 2 and set out its structure and priority targets which would benefit residents and businesses across the county. The Strategy would be reviewed and updated fully in 2025, with review of targets and priority actions being conducted annually along with central Government legislation, policy, direction and significant technological advances.

A clear governance and delivery structure had been established and was detailed in the report. The delivery of the Strategy also had links and synergies with the work being carried out through the 'Living and Working sustainability' workstream of Vision Derbyshire.

A climate change engagement plan was in development and would set out how the Council would engage with residents and businesses and communicate crucial climate messages and information; a progress report would be presented to Cabinet annually.

The Cabinet Member thanked Caroline Toplis, Project Manager and the

Improvement & Scrutiny Committee for Climate Change, Biodiversity and Carbon Reduction for the work done towards this strategy.

**RESOLVED** to (1) approve the Derbyshire County Council Climate Change Strategy: Achieving Net Zero (2021-2025) and delivery of the priority actions within the Strategy; (2) support the production of an 'easy-read' document, that clearly and succinctly summarises the main points and priority actions within the Strategy; (3) note and support the revised governance arrangements of the climate workstream at the Council; (4) support the proposal that funding be made available from the General Reserve in 2021-22 up to a maximum of £100,000 to enable the programme to be moved forward in the short term; and (5) welcome the presentation of an annual progress report to Cabinet, summarising progress against delivery of the Strategy and Council's net zero targets, as well as outcomes of the annual review of the need to refresh and update the Strategy.

#### **151/21 SINGLE USE PLASTICS POLICY**

The Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change sought approval of a Single Use Plastics (SUP) Policy to reduce the use of plastics which were used once or for a short period of time before being disposed of, and to recognise the implications of this policy.

The Council was leading a once-in-a-generation opportunity to reduce carbon emissions generated in Derbyshire and wanted to go further to fulfil its climate and carbon reduction pledges and to deliver its Climate Change Strategy. This included building on measures already put in place to remove SUPs from catering at County Hall and minimising the use of SUPs across all the Council's operations.

SUPs could be described as any disposable plastic item that was designed to be used only once or for a short period of time, used in packaging, consumer products, cosmetics, personal protective equipment and healthcare products. Appendix 2 gave a comprehensive list of SUPs used by the Council.

The report gave details of fossil fuel use in the production of almost all plastics, carbon dioxide (CO<sub>2</sub>) in the atmosphere and where plastics end up. It was recognised that there was a need to develop alternatives to plastic through supporting research and innovation and to develop the circular economy to ensure SUPs were not end products, but part of a cycle. There were also several voluntary initiatives aimed at changing the way that plastics were designed, produced, used, re-used, disposed of and reprocessed by all stakeholders in the plastics chain: examples of these were listed.

The Council's draft policy, could be found at Appendix 3 and sought to reduce SUPs in new procurements and the on-going contract management of existing contracts. It also recognised that there would be justifiable reasons where the use of SUPs could not be reduced or removed and it was anticipated that there might be additional costs incurred when seeking alternatives.

An action plan was produced setting out key actions for implementing the policy; implementation might place additional responsibilities on procurement, waste and climate change officers and for additional staffing resource to support delivery of the outcomes (this would be subject to a business case and approval by the Climate Change and Environment Programme Board).

It was proposed that the SUP Policy was monitored and reviewed annually and that a progress report was presented to Cabinet after the first review.

**RESOLVED** to (1) approve the Single Use Plastics Policy; (2) receive a further report presenting the resource implications of this Policy; and (3) receive a further report providing an update on the Single Use Plastics Policy in due course.

## **152/21    CULTURAL FRAMEWORK**

The Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change sought approval for the draft Cultural Framework that had been prepared in partnership with the Culture Heritage and Tourism Board (CHAT) and the allocation of £1m from the Council's COVID-19 Recovery Fund to support delivery of the Cultural Framework, of which funding would be subject to further reports and approval by the Cabinet Member.

The impact of COVID-19 had been devastating to Derbyshire's creative and cultural economy and the wider visitor economy. The contribution of this sector to the vibrancy and vitality of place had also been evident, with a reduced cultural offer impacting on the sustainability of town centres.

Recovery across the County had been co-ordinated through the Economy, Business and Transport Recovery Cell which had also delivered the Derbyshire Economic Partnership (DEP) Economic Development and Employment and Skills Recovery Strategy comprising short term interventions and longer term actions to enable the County to re-orientate and grow the economy to capitalise on new opportunities post COVID.

Evidence highlighted the disproportionate impact the pandemic had had



on creative and cultural industries and recognised the significant place-making impact that the sector provided. The Strategy proposed a number of interventions across key themes, linked to the development of a cultural framework; these were detailed in the report.

At a meeting held on 4 February 2021, the Cabinet Member for Strategic Leadership, Culture and Tourism approved proposals to support the economic recovery of Derbyshire's creative and cultural industries through the development of a Cultural Framework, alongside proposals for 'Shine a Light' event as a replacement for the Festival of Derbyshire. These were developed by CHAT and included short term actions to support recovery and longer term interventions to enable the sector to become more resilient, re-orientate, grow and capitalise on new opportunities. The Framework sought to maximise the economic impact of Derbyshire's creative and cultural industries and considered how they could best support Derbyshire's place-making strategies, particularly the visitor economy and market towns renewal programme.

**RESOLVED** to (1) endorse the Cultural Framework which had been prepared in partnership with the Culture, Heritage and Tourism Board; (2) approve the allocation of £1m from the Council's COVID-19 Recovery Fund to support delivery of the Cultural Framework and pump prime match funding from other organisations (eg the Arts Council and Heritage Lottery); (3) agree the allocation of £1m for the delivery of the Cultural Framework subject to future detailed reports to be approved by the Cabinet Member - Strategic Leadership, Culture, Tourism and Climate Change; and (4) delegate the final approval of the Cultural Framework to the Cabinet Member - Strategic Leadership, Culture, Tourism and Climate Change, to allow final comments from the Culture Heritage and Tourism Board to be incorporated.

**153/21    ANNUAL REVIEW LETTER OF THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN 2020-21**

The Cabinet Member for Corporate Services and Budget presented a report on the Local Government and Social Care Ombudsman's (LGSCO) Annual Review Letter, which gave details of the total number of complaints for Derbyshire County Council for the year to 31 March 2021 (attached at Appendix 2 of the report).

The LGSCO had received 81 complaints and enquiries relating to the Council, a decrease of 34% on the previous year (in some part due to the Covid-19 pandemic and should be taken into consideration when comparing previous statistics). The report gave further detail on the number of investigations, their outcomes and comparisons with the previous year. One formal investigation report issued against the Council concerning Children's Services was reported separately to Cabinet on 17 June 2021 and to the Governance Ethics & Standards

Committee on 1 July 2021.

Details of complaints upheld were set out in Appendix 3. Compliance with the recommended remedy was recorded; the Council had a compliance rate of 100%.

The Covid-19 pandemic appeared to have amplified the LGSCO's concerns around the erosion of effective complaint functions in local authorities. As such they were developing a new programme of work that would utilise complaints to drive improvements in both local complaint systems and services, alongside their already established successful training programme which had been adapted for online delivery.

**RESOLVED** to note the Annual Review Letter of the Local Government and Social Care Ombudsman for the year ending 31 March 2021.

#### **154/21 FORWARD PLAN**

The Executive's Forward Plan for the period 1 September – 31 December was provided together with an opportunity for Cabinet to comment on future decisions for inclusion in the forthcoming Plan.

The Forward Plan looked to the future, for a period longer than the statutory requirement and enabled the four Improvement and Scrutiny Committees to prepare better informed work programmes. This would also apply to the new Improvement and Scrutiny Committee – Climate Change, Biodiversity and Carbon Reduction.

It had been agreed that a four-month rolling Forward Plan be considered by CMT and then by Cabinet monthly to improve planning and horizon-scanning. The Plan included any item that was likely to require an Executive decision of Cabinet or Cabinet Member whether a key decision or not. All items had been discussed and approved by the Corporate Management Team. A copy of the Forward Plan covering the period 1 September – 31 December was attached at Appendix 2.

**RESOLVED** to note the contents of the Forward Plan.

#### **155/21 MARKHAM VALE PROGRESS**

The Cabinet Member for Clean Growth and Regeneration provided a report on the continuing success and progress being made at Markham Vale, the Council's flagship regeneration project and to provide an overview of economic development activity over the period March 2020 to September 2021. Cabinet was also asked to note the continued success and progress in redeveloping Markham Vale and the scale and nature of work required to be undertaken over the coming years to

complete the project. Progress on developments at Markham Vale was last considered by Cabinet on 4 June 2020.

In summary, to date, the Project had brought forward 173 of the 200 acres available for development, with 151 acres now either fully developed or have buildings under construction. A full jobs survey was completed in March 2021 and recorded 2,232 people in full time equivalent jobs; a remarkable achievement by the Markham Vale businesses, given that the country was still in COVID-19 lockdown. The significant progress made in relation to bringing forward development sites and construction of new buildings was detailed in the report.

The Council continued to work closely with the district/borough planning authorities in the preparation and submission of planning applications. The site-wide Design Framework had been reviewed and revised and submitted to the three Local Planning Authorities for approval.

BEAM continued to assist the Council in delivering its Public Art Action Plan. Artist Stephen Broadbent was commissioned to develop the Walking Together installation, comprising 106 figures that represented individual miners killed in the three colliery disasters at Markham; 93 figures had been installed to date. Sponsorship from a range of organisations and individuals enabled the figures to be installed over the past 15 months. This was supported by The Story Mine website which included stories, memories and photos of miners, their families and life in the mining communities.

The report detailed other services that the Council had had success in, including assisting new businesses identify and fulfil recruitment and training needs, an on-line career and employability platform “My Future”, assisting the HR team at Squadron Medical in assisting their 65 employees who were facing redundancy as the business centralised its operations elsewhere in the UK and develop conference facilities at the Environment Centre. Landscape management and maintenance works across the whole site continued. Markham Vale Land Services (MVLS), a dedicated team established within Adult Care, provided training and support across areas, such as landscape and horticulture.

Henry Boot Developments was appointed in 2003 as the Council’s private sector partner to develop the Markham Vale project. The Partnership Agreement required both partners to work in a spirit of mutual trust and co-operation and set out key elements and roles of each partner. A number of boards had been established, each Board consisting of three representatives from Derbyshire County Council and three from HBD.

The past 18 months had focused on securing new occupiers and completing developments. Pace and momentum in the final stages of

the project would depend on external market forces, particularly the local economic recovery following from the COVID-19 pandemic period. To support continued programme delivery, the Place Department would continue its approach to project and programme management, ensuring critical alignment of available resources to support delivery.

**RESOLVED** to note the success and recent progress in developing Markham Vale and the scale and nature of work required to be undertaken over the coming years to complete the project.

**156/21     DIRECT CARE HOMES FOR OLDER PEOPLE: ESSENTIAL WORKS PROGRAMME**

The Cabinet Member for Adult Care presented the report seeking approval for a Corporate Property prepared report outlining a work schedule and budget estimates for all of the Council's directly provided residential care homes for older people.

The schedule, detailed within the report, included all priority works deemed necessary either for reason of health and safety or statutory compliance. The programme did not include rewiring or full refurbishment and did not include the three homes already undergoing full refurbishment but did include all other homes identified as requiring essential works.

**RESOLVED** to (1) approve the programme of essential works at the Direct Care Homes for Older People as set out in this report; (2) approve the funding allocation of £2.190m from Adult Care reserve to fund the programme (in addition to the already approved £1.410m from the Capital Programme); and (3) approve the arrangements for procurement set out in the report in order to undertake the work as soon as possible.

**157/21     TRADING STANDARDS - AUTHORISATION OF STATUTORY DUTIES**

The Cabinet Member for Health and Communities sought approval to update and amend the current arrangements in place within the Council's Scheme of Delegation, detailed within the Constitution, to ensure the appropriate authorisation of the Trading Standards service and its officers to undertake enforcement of over 150 Acts, Regulations and Orders.

The Trading Standards Service enforced over 150 pieces of legislation on behalf of the Council. These laws covered a diverse range of subjects and a full list was provided in Appendix 2. The Trading Standards Service subscribed to a vetted facility which provided an updated list of legislation on a six-monthly basis. A new and updated list had recently been provided and it was proposed that this update replaced that currently included at Appendix A of the Council's

Constitution.

To ensure the update be completed as speedily as possible in future, it was proposed that authority to update the list of legislation be delegated to the Director of Legal and Democratic Services. Cabinet was also asked to recommend that both the Governance, Ethics and Standards Committee and full Council note the decisions made regarding these delegations and that Council agreed to amend the Constitution accordingly.

Appendix 1 of the Constitution delegated the responsibility for undertaking enforcement and administrative duties to the relevant Executive Director or Director. This was detailed in the Constitution as being the Director – Community Services. In July 2021, the Trading Standards Service moved into the Place Department and, it was appropriate for the delegation to become the responsibility of Executive Director - Place. A departmental scheme of sub-delegation, further delegates this responsibility to the Head of Trading Standards (HoTS) who, in turn, provided specific authorisation to officers via warrants and/or credentials that were periodically updated and be reflected within the Place Department's Scheme of Sub-delegation.

One of the laws administered and enforced by Trading Standards was the Weights and Measures Act 1985, part of which defined the Local Weights and Measures Authority (LWMA) and in Derbyshire, this is the County Council. The Act required the LWMA to appoint a Chief Inspector Weights and Measures (CIWM) - the role of HoTs incorporated the role. An additional delegation was proposed to the Executive Director - Place to appoint inspectors of weights and measures; this would also be sub-delegated to the HoTS in accordance with the departmental scheme.

**RESOLVED** to (1) agree to the updating of the existing list of legislation within the Council's Constitution; (2) note the Departmental Scheme of Sub-delegation which provides for the delegation of the responsibility to undertake enforcement and administrative duties under the legislation detailed to the Head of Trading Standards (HoTS) which, in turn, provides for further delegation to individual officers within the Trading Standards Service; (3) agree to delegate authority to the Director of Legal and Democratic Services to update the Constitution as necessary and in response to changes in relevant legislation regarding Trading Standards enforcement or administration and, in particular, to update the list of legislation to update the list of legislation attached at Appendix A to Appendix 1 of the Constitution – Responsibility for Functions, as necessary; (4) agree that the postholder of the role of HoTS also be appointed as Chief Inspector Weights and Measures as required by Section 72 of the Weights and Measures Act 1985; (5) agree that the responsibility to appoint additional inspectors of Weights and Measures is delegated to the Executive Director – Place; and (6) agree to

recommend the necessary amendments to the Constitution to the Governance, Ethics and Standards Committee and to Council; and for Council to note the decisions and amend the Constitution.

**158/21    ENHANCED PARTNERSHIP ARRANGEMENTS FOR BUS SERVICES IN DERBYSHIRE AND THE BUS SERVICE IMPROVEMENT PLAN**

The Cabinet Member for Highways Assets and Transport updated Cabinet on the development of the Enhanced Partnership arrangements for bus services in Derbyshire and the various measures which were recommended for inclusion in the Council's Bus Service Improvement Plan to support the delivery of the partnership.

The Government published the first National Bus Strategy for England in March 2021, the main objective of which was to reverse the long term decline in bus use nationally. It aimed to make bus services more frequent, reliable, better co-ordinated and easier to use. Government wanted to see major improvements in a variety of areas and had committed to provide £3bn of new transformation funding nationally to help drive forward these improvements.

The Strategy expected all Local Transport Authorities (LTAs) in England to play a much bigger role in the way bus services were operated in their area. The existing deregulated model of bus provision had been in place since the 1986 and most services were provided on a commercial basis. LTAs could become involved by specifying and funding additional services to fill gaps in commercial provision. Prior to the pandemic, approximately 80% of bus passenger journeys in Derbyshire were made on commercially operated services.

The Department for Transport (DfT) had made it clear that adoption of Franchising or EPs was essential if LTAs were to receive future funding. Cabinet had agreed in June 2021 to enter into an EP arrangement with all of the bus operators who provide local bus services in Derbyshire and with other relevant stakeholders and a formal notice of intent to prepare an EP Plan was subsequently published.

The Council needed to publish a Bus Service Improvement Plan (BSIP) by 31 October 2021 and would be developed in collaboration with bus operators and other stakeholders. The BSIP would be used to judge how much of the £3bn Transformation Fund each LTA would be allocated for future bus projects and support. Formal agreement of the terms of the Partnership would take place to allow an EP to be in place, covering all of Derbyshire, from the 1 April 2022.

The Council's Public Transport Unit and external consultants, Systra, had developed the project - undertaking detailed consultation across Derbyshire with key stakeholders. It was apparent that there were a

number of broad themes where improvements were considered to be required – these were listed. A copy of the final draft of the BSIP was not yet available however the key interventions proposed for inclusion were also listed.

The Council estimated its proposed measures would cost between £85m and £95m over a five year period from 2022-23. A requirement for additional Council capital and revenue funding was likely. The DfT had said that LTAs which committed more of their own funding as part of the process was likely to receive more from the Government for their BSIP.

Once the BSIP was submitted, it was anticipated that the membership of the board would change (to that stated in the report) to include representatives from a variety of other stakeholders including representatives from passenger groups and borough and district councils. Workshops had been held to agree the area to concentrate on and the associated targets. Following the submission of the BSIP, the Board's focus would change with particular emphasis on finalising the details of the EP agreement and an implementation plan for what measures should be introduced during the first year of the new arrangements in 2022-23.

Councillor Athwal added to the report: During the pandemic the DfT had supported local bus services by making bus recovery grants (BRG) to the bus operators to replace lost on bus fare revenue. The BRG payments would finish at the end of March 2022. In the week leading up to the Cabinet meeting, the DfT informed local transport authorities that any continuing revenue funding to support commercial bus services from April 2022 should be included in the BSIP bid.

The Council's bid included just over £10m of bus revenue support for maintaining and enhancing the bus network over the next 5 years. In light of this last-minute change by the DfT and following intelligence received from our major operators on future funding to support the current network, increase our financial bid needed to increase by £10m to £20m.

Officers considered this amount to be sufficient and included some contingency to allow for any unforeseen changes to the commercial bus network over the next five years. This would ensure that the Council could continue to support the commercial bus operators until they return to full financial recovery, possibly by 2025, and ensure that bus services continue to operate across Derbyshire without any significant changes.

The Cabinet Member for Corporate Services and Budget welcomed the report and the start of a strategic vision to enhance public transport. The challenges in delivering a service across rural areas faced by the local authority, were recognised and thanked the incredible work of the transport department.

**RESOLVED** to (1) note the work undertaken on the development of the Enhanced Partnership including the formation of the Board; (2) note the measures which are likely to form the key elements of the Bus Service Improvement Plan (BSIP) and the estimated funding bid to the Department of Transport (DfT) associated with it; (3) grant the Executive Director - Place in consultation with the Cabinet Member - Highways Assets and Transport delegated powers to agree the final wording of the BSIP which will be submitted to the DfT by 31 October 2021; and (4) note the requirement for an increased commitment to revenue and capital funding from the County Council for public transport to support the Enhanced Partnership and BSIP over the medium term.

#### **159/21 CHESTERFIELD EAST-WEST WALKING AND CYCLE ROUTE**

The Cabinet Member for Highways Assets and Transport sought approval for the completion of detailed design and subsequent construction of the proposed east-west Chesterfield walking and cycling route as per the consulted extents and drew attention to a typing error in the recommendations; reference to “5.25 above” should read “the report”.

In November 2020, the County Council was successful in securing funding of £1.68m from the Department for Transport’s (DfT’s) Active Travel Fund (Tranche 2) to create a new east-west walking and cycling route between Holymoorside and Chesterfield Royal Hospital at Calow, providing access to Chesterfield town centre, the rail station and a range of other key employment, retail and education destinations. This was follow-on investment from a Tranche 1 of the DfT’s Active Travel funding allocation, which provided temporary walking and cycling improvements along a section of this route with the temporary closure of Crow Lane (as well as at various other locations across the County).

The proposed route formed a strategic transport corridor across Chesterfield, an essential commuter route and used as a route to schools, transport hubs and health, education, and retail destinations and would enhance walking and cycling access to all destinations referred to in the report. The delivery of the route also formed a fundamental part of Derbyshire’s Covid-19 economic recovery planning and supported and embedded longer term changes in behaviour by encouraging people to walk/cycle/wheel, thereby helping to decarbonise transport, tackle climate change, reduce inequalities and improve air quality. The route proposals were also closely aligned to the priorities of the Derbyshire Key Cycle Network approved by Cabinet in January 2020.

The route measured approximately 8km in length and was divided into five distinct sub-sections. Initial design options had been produced and



considered and a wide-ranging engagement exercise to seek the views of the local community was undertaken, with a detailed summary of findings being published in '*Chesterfield Active Travel Route Community Engagement Summary Report*' (appended to the report) and key findings highlighted.

It was considered that the consultation had demonstrated overall broad support for the proposed route across Chesterfield and provided appropriate justification to continue with the further design and implementation of the route proposals. Detailed design would consider measures to alleviate concerns and would include enhanced signing and lining to clearly mark cyclists and pedestrian space with appropriate road markings, signage and traffic calming to encourage considerate cycling and enhanced lighting along Crow Lane to include the western section to begin and expand on the entire length subject to ongoing funding award. Thinning of the trees and shrubs would also be considered to aid improved lighting conditions for the Crow Lane and Wetlands Lane route.

Cabinet members recognised the prescriptive nature to the criteria and that further consultation would be held. It recognised the wish of government and the need for communities to change their approach to clean and greener modes of transport.

**RESOLVED** to approve to continue with the further detailed design and subsequent implementation of the east-west Chesterfield walking and cycling route proposals with inclusion for the measures outlined in the report.

#### **160/21     DERBYSHIRE YOUTH JUSTICE PLAN 2021-22**

The Cabinet Member for Children's Services and Safeguarding sought approval of the Youth Justice Plan 2021-22.

Derbyshire Youth Offending Service (YOS) was a multi-agency statutory partnership established under Section 39 of the 1998 Crime and Disorder Act. Funding was provided by a Youth Justice Board Grant, DCC and partner agency funding or staffing in kind. The YOS worked with children and young people who had offended, to prevent further offending.

It was a requirement, under Section 40 of the Crime and Disorder Act 1998, for the partnership to produce an annual youth justice plan setting out how youth justice services in the area were provided, funded, how the YOS was composed, operated and what functions it would carry out. The Plan, drawn up in conjunction with strategic partners, was attached to the report.

The authority was required to submit an "in principle agreement" from

youth justice partners and sign off via the Chair of the Management Board – this was attached to the report. It also required approval by full Council.

**RESOLVED** to approve the Youth Justice Plan and recommends it for approval by Council as part of the policy framework.

## **161/21    CORPORATE PARENTING BOARD TERMS OF REFERENCE**

The Cabinet Member for Children's Services and Safeguarding sought approval for the Corporate Parenting Board to cease being a formally constituted public meeting, continue secretarial support for the Board, revise the Terms of Reference and membership for the Board and for consequential amendments to be made to the Constitution.

The corporate parenting principles provided a framework to help local authorities understand and fully comply with existing duties however there was nothing prescribed on how local authorities should implement those principles: however it was considered good practice to set up a Corporate Parenting Board.

Board meetings were held in public and were conducted in accordance with legislation regarding such meetings. Items affecting particular individuals were regularly discussed and a significant amount of the information was confidential. Subsequently concerns around maintaining confidentiality of the children and their representatives had been raised.

The Board was rarely required to make decisions, but supported those made by the Cabinet Member or Cabinet. It was apparent that the Board was a forum for discussion with an advisory function, rather than a decision-making one.

To enable more freedom for discussion around topics which arose on the day and related to identifiable individuals, and to preserve the confidentiality of the members of the Children in Care Council, the Care Leavers Council and the Foster Carer Council, it was proposed that the Board be confirmed as non-decision-making and have an advisory function only. It was also proposed that the status of the Board be re-considered so that it no longer required meetings be constituted as formal Council meetings which were open to the public.

The Terms of Reference attached at Appendix 2 reflected the proposed changes as well as the benefits of improved engagement realised through virtual meetings held during the pandemic.

The contents of the report were also welcomed by the Cabinet Member for Education who recognised the responsibilities of the Board and engagement by all parties. He also concurred that private meetings of

the Board would encourage essential open and robust debate.

**RESOLVED** to (1) approve the proposal for the Corporate Parenting Board to be convened as an informal advisory group and for it to cease to be a public meeting; (2) approve that secretarial support for the Board continues; (3) approve the revised Terms of Reference for the Corporate Parenting Board; and (4) agree that the Terms of Reference currently at Article 16 of the Constitution be removed and no longer included and that the required changes be reported to full Council for agreement for those changes to be made.

## **162/21 EXCLUSION OF THE PUBLIC**

**RESOLVED** that under Regulation 4(2)(b) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting for the following items of business on the grounds that in view of the nature of the items of business, that if members of the public were present, exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 would be disclosed to them.

### **SUMMARY OF PROCEEDINGS CONDUCTED AFTER THE PUBLIC HAD BEEN EXCLUDED FROM THE MEETING**

1. To confirm the Exempt Minutes of the meeting of Cabinet held on 9 September 2021.
2. To confirm the Exempt Minutes of the following Cabinet Member Meetings:
  - (a) Strategic Leadership, Culture, Tourism & Climate Change – 3 September 2021
  - (b) Corporate Services & Budget – 3 September 2021
3. To consider the following exempt reports:
  - (a) Markham Vale Delegated Decisions – for the continued redevelopment of the Markham Vale taken by the Executive Director - Place (formerly Economy, Transport and Environment), in conjunction with the Leader of the Council and to secure approval to extend the current partnership agreement with the Council's private sector partner Henry Boot Development (HBD) (Clean Growth & Regeneration) (information relating to the financial or business affairs of any particular person (including the authority holding that information)).
  - (b) Derbyshire Carers Association – Carers Assessment Contract Extension - to seek Cabinet approval for the extension of the current contract for the provisions of Carer Information Advice Assessment and

Support service, under Protocol 10 of the Financial Regulations, for a period of twelve months until 31 March 2023 (Adult Care)(not for publication by virtue of paragraph 3 of part 1 of schedule 12a to the local government act 1972 or not for publication – report contains confidential information).



Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**18 November 2021**

**Report of the Managing Executive Director**

**WHISTLEBLOWING POLICY**

(Corporate Services & Budget)

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is not a Key Decision

**3. Purpose**

3.1 To seek approval for a new Whistleblowing Policy.

**4. Information and Analysis**

4.1 'Whistleblowing' means the confidential reporting by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. This includes reporting of suspected wrongdoing, malpractice or illegality within the Council.

4.2 The Council currently has in place the Confidential Reporting Code which was approved in November 2016, a copy of which is attached at Appendix 2 for information. It has been reviewed to ensure that it is up to date and fit for purpose. When conducting the review, the Guidance

for Employers and Code of Practice issued by the Department for Business Innovation & Skills has been taken into account. The guidance makes it clear there is no one-size-fits-all whistleblowing policy, however provides some tips about what a policy should include. It recognises policies will vary depending on the size and nature of the organisation, but should be clear, simple and easily understood.

- 4.3 In light of the guidance, the Confidential Reporting Code has been renamed Whistleblowing Policy as it is considered the purpose of the document will be more clearly understood. The document has also been re-drafted so that it is easier to read. A copy of the proposed Whistleblowing Policy is attached at Appendix 3 for approval.
- 4.4 The draft Policy sets out how the Council will handle and respond to any whistleblowing allegations and seeks to:
- a) encourage employees and members of the public and/or their representatives to feel confident in raising concerns or allegations in the public interest about suspected serious wrongdoing in the Council and its services without fear of reprisals or victimisation even where the concern or allegations are not subsequently confirmed by the investigation;
  - b) give a clear message that allegations of serious wrongdoing or impropriety are taken seriously;
  - c) ensure that where the disclosure proves to be well founded, the individuals responsible for such serious wrongdoing will be held accountable for their actions;
  - d) set out what employees and members of the public can expect by way of confidentiality and protection when making a whistleblowing disclosure; and
  - e) identify independent support for employees who wish to make a whistleblowing disclosure.
- 4.5 Once the Policy is approved, the Council will ensure it is publicised via the intranet and the employee newsletter and training is provided. It will also be published on the internet. This will ensure that individuals are aware of the policy and how to make a disclosure.
- 4.6 Subject to Cabinet approving the new Policy, it will also be necessary to remove references to the Confidential Reporting Code and replace with Whistleblowing Policy in the Constitution, specifically the Code of Conduct for Officer, Financial Regulations and role and function of the Governance, Ethics and Standards Committee. This will be addressed through reports to Governance, Ethics and Standards Committee and Council.

## **5. Consultation**

- 5.1 The draft Policy has been presented to Audit Committee for comment in recognition of the Committee's role in providing independent assurance on the Council's arrangements for governance, risk management and internal control. Governance, Ethics and Standards Committee has also been given the opportunity to comment on the draft Policy as the Committee is responsible for the overview of the Confidential Reporting Code.
- 5.2 Audit Committee supported the draft Policy and requested that it is widely promoted and accessible to staff. The Governance, Ethics and Standards Committee considered the draft Policy to be supportive and robust. Recognising the seriousness of criminal activity, the Committee requested that the wording of the Policy be amended to emphasis that there is an expectation potential criminal offences are reported. Some additional wording has therefore been included to reflect this. Governance, Ethics and Standards Committee also agreed that, subject to Cabinet approving the Policy, the above Constitutional amendments be referred to Council for approval.

## **6. Alternative Options Considered**

- 6.1 Do nothing - Cabinet could choose to retain the current Whistleblowing Confidential Reporting Code and not to approve the Whistleblowing Policy. However it is recommended that this option is not pursued to ensure that the Council has an up to date policy in place that is clear and easily understood.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Department for Business, Innovation & Skills Whistleblowing Guidance for Employers and Code of Practice

## **9. Appendices**

- 9.1 Appendix 1- Implications
- 9.2 Appendix 2 – Current Whistleblowing Confidential Reporting Code

### 9.3 Appendix 3 – Whistleblowing Policy

## 10. Recommendations

That Cabinet:

- a) approves the Whistleblowing Policy at Appendix 3 to the report;
- b) notes that once the Policy is approved it will be promoted both internally and externally; and
- c) recommends to Council that references to the Confidential Reporting Code be replaced with Whistleblowing Policy in the Constitution, specifically the Code of Conduct for Officer, Financial Regulations and role and function of the Governance, Ethics and Standards Committee.

## 11. Reasons for Recommendations

- 11.1 To ensure the Council has a Whistleblowing Policy in place that clearly sets out how the Council will handle and respond to any whistleblowing allegations.
- 11.2 To demonstrate the Council's commitment to listen to concerns raised and give a clear message that allegations of serious wrongdoing or impropriety are taken seriously.
- 11.3 To raise awareness of the Policy so that individuals know how to make a disclosure and understand how the Council will respond.
- 11.4 To ensure that the Constitution remains accurate and is kept up to date.

## 12. Is it necessary to waive the call in period?

- 12.1 No.

**Report Author: Helen Barrington**

**Contact details: [Helen.Barrington@Derbyshire.gov.uk](mailto:Helen.Barrington@Derbyshire.gov.uk)**



**Implications**

**Financial**

- 1.1 None directly arising from this report.

**Legal**

- 2.1 The law relating to whistleblowing is set out in the Employment Rights Act 1996 (as amended by the Public Interest Disclosure Act 1998). It provides the right for a worker to take a case to an employment tribunal if they have been victimised at work or they have lost their job because they have 'blown the whistle'.
- 2.2 The legislation does not require the Council to have a whistleblowing policy in place, however the existence of a whistleblowing policy shows the Council's commitment to listen to the concerns of employees and how it will respond to those concerns.
- 2.3 The Whistleblowing Policy complies with and must be applied in accordance with data protection legislation.

**Human Resources**

- 3.1 As set out in the legal implications section.

**Information Technology**

- 4.1 None directly arising from this report

**Equalities Impact**

- 5.1 The Whistleblowing Policy is aimed at ensuring the highest standard of ethical and honest behaviour. It is intended to give confidence to those who wish to raise an allegation of wrongdoing and should not disadvantage any individual that has one or more protected characteristic. An Equality Impact Assessment will be prepared for consideration by Cabinet in due course.

**Corporate objectives and priorities for change**

- 6.1 None directly arising from this report.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 Having a robust Whistleblowing Policy in place that encourages employees to report wrongdoing is an important way to manage risks to the Council.

# WHISTLEBLOWING

## THE CONFIDENTIAL REPORTING CODE



Version history			
Version	Date	Detail	Author
1.00	02/11/2015	Revised the code	Liz Wild

## **Derbyshire County Council**

### **Confidential Reporting Code**

#### **1 Introduction**

- 1.1** Confidential reporting is the disclosure or communication of information about possible malpractice by individuals or organisations. Disclosure can be either internal within the organisation or external to an outside authority.
- 1.2** This confidential reporting code is intended to enable individuals or organizations to disclose information about malpractice internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and, by demonstrating the Council's accountability, maintain public confidence and the Council's good reputation.

#### **2 Purpose**

- 2.1** Employees are often the first to realise that there may be evidence of malpractice within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation.
- 2.2** In line with the Council's commitment to high standards of openness, integrity and accountability, the Council expects employees who have a reasonable belief that malpractice is taking place within the Council to come forward and voice those concerns internally. This may be an awareness of suspected irregularity, wrongdoing or a failure of standards. This code provides the means for employees to make such disclosures.
- 2.3** An employee's concerns about malpractice may include a reasonable belief that one or more of the following has occurred or is likely to occur:
- Conduct which is an offence or a breach of law,
  - Miscarriages of justice,
  - Health and safety risks, including risks to the public as well as other employees,
  - Damage to the environment,
  - The unauthorised use of public funds,
  - Fraud and corruption,
  - Sexual or physical abuse of clients,
  - Other unethical conduct.

- 2.4** Under this code employees should make disclosures about possible malpractice with:
- a) Their line manager
  - b) Where (a) is inappropriate, their Strategic Director, Director or senior manager in their department.
  - c) Where (a) and (b) are inappropriate, you should approach the Director of Legal Services, or,
  - d) if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

It is recognised that most cases will have to proceed on a confidential basis.

- 2.5** It is in the interests of all parties that disclosures are dealt with properly, quickly and discreetly. The overriding consideration for the Council and the employee is that it would be in the public interest for any malpractice found to be corrected and, where appropriate, sanctions applied.
- 2.6** The code provides employees with a procedure to make disclosures of suspected irregularity or wrongdoing without fear of adverse treatment as a result. The Council will not tolerate any harassment or victimisation of employees making disclosures (including informal pressures) and will take action to protect employees when they make a disclosure that they reasonably believe is in the public interest.
- 2.7** The code addresses major concerns that fall outside the scope of other procedures and where the interests of others or of the Council are at risk. It has been developed within the following legislative and policy framework:
- It takes into account the requirements of the Public Interest Disclosure Act 1998.
  - It is complementary to the Council's Code of Conduct which makes clear the standards of propriety and good practice expected of employees.
  - It is complementary to the Council's Discipline, Grievance and Harassment Procedures. Together they form a framework which allows employees to be disciplined, to seek personal redress, to raise personal complaint and to disclose malpractice where appropriate.
  - The code is in addition to the Council's complaints procedures and other reporting procedures applying to some departments, for example child protection procedures.

### **3 Scope**

- 3.1** This code applies to all employees, including those employees within the Children's Services Department for whom the Local Education Authority is the relevant body but excluding teachers. It is also applicable to:

- a) contractors working for the Council on Council premises, for example, agency staff, builders, drivers.
- b) suppliers and those providing services under a contract with the Council in their own premises, for example care homes.

## **4 Procedure for Making A Disclosure**

### **4.1 Introduction**

4.1.1 This code provides you with a procedure for making disclosures internally about suspected wrongdoing, irregularity or a failure of standards within the Council. Its aims are:

- 1. To encourage you to feel confident in raising serious concerns and to question and act upon concerns about possible malpractice within the Council.
- 2. To provide a means for you to disclose those concerns and receive feedback on any action taken.
- 3. To ensure that you receive a response to your concerns and that you are aware of how to pursue them further if you are not satisfied.
- 4. To reassure you that you will be protected from possible reprisals or victimisation and from subsequent discrimination or disadvantage.

4.1.2 Any serious concerns that you have about an aspect of service provision or the conduct of officers or Members of the Council or others acting on behalf of the Council can be reported under this code. This may be about something that:

- a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to.
- b) is against the Council's Standing Orders and policies.
- c) falls below established standards of practice.
- d) amounts to improper conduct.

Examples of these are given in paragraph 2.3.

### **4.2 Confidentiality**

4.2.1 All disclosures will be treated in confidence and wherever possible, every effort will be made not to reveal your identity. However, you may need to come forward as a witness and you will be given every support from management at that time.

### **4.3 Anonymous Disclosures**

4.3.1 You should put your name to your disclosure whenever possible. Disclosures made anonymously will still be considered at the discretion of the Council.

However, it is helpful to have your name in case further information is required.

4.3.2 In exercising its discretion, the Council will take into account the:

- a) seriousness of the issues raised.
- b) credibility of the disclosure.
- c) likelihood of confirming what is alleged from attributable sources.

#### **4.4 Untrue Disclosures**

4.4.1 If you make a disclosure that you reasonably believe is in the public interest, but it is not confirmed by the investigation, no action will be taken against you. If however, your allegation is frivolous, malicious or for personal gain, you may be subject to disciplinary action.

#### **4.5 Employee Action**

4.5.1 As a first step, you should normally raise your concerns with your immediate line manager. If you believe your line manager is involved, you should approach your Strategic Director or another senior manager in your department. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If you believe that senior management is involved, you should approach the Director of Legal Services, or, if the concern is regarding financial irregularities or fraud then you should contact the Assistant Director of Finance (Audit).

4.5.2 You may raise your concern either verbally or in writing. The earlier you express the concern, the easier it is to take action. You should provide:

- a) details of your concerns, including the nature, dates and location of any relevant incidents.
- b) reasons why you feel concerned about the situation.

4.5.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

4.5.4 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns. You may also discuss your concerns with your trade union representative.

4.5.5 You may invite your trade union or other representative to be present during any meetings or interviews in connection with the concerns you have raised.

4.5.6 The amount of contact between you and the officer considering the issues will depend on the nature of the matters raised, the potential difficulties

involved and the clarity of the information provided. If necessary, the Council will seek further information from you.

#### **4.6 Action Taken by the Council**

4.6.1 The Council will respond to your disclosure. Where appropriate, the matters raised may be:

- a) investigated by management, by Audit Services, or through the disciplinary process.
- b) referred to the Police.
- c) referred to the external auditor.
- d) the subject of an independent inquiry.

4.6.2 In order to protect individuals and those accused of possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The over-riding principle the Council will have in mind is the public interest. Disclosures for which there are other specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

4.6.3 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

4.6.4 Within 10 working days of a concern being raised, you will receive a response:

- a) acknowledging that the concern has been received.
- b) telling you what initial enquiries have been made.
- c) indicating how the matter is going to be dealt with.
- d) giving an estimate of how long it will take to provide a final response.
- e) supplying you with information on staff support mechanisms.
- f) telling you why if there is to be no further investigation.

4.6.5 The Council will take steps to minimise any difficulties you may experience as a result of making a disclosure. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

4.6.6 You will need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, you will be informed of the outcomes of any investigation.

4.6.7 The Director of Legal Services has overall responsibility for the maintenance and operation of this code. A record of disclosures made and the outcomes is maintained (but in a form which does not endanger your confidentiality) and reports will be made as necessary to the Council.



## **4.7 How the Matter Can Be Taken Further**

4.7.1 This code is intended to provide you with a route within the Council to make disclosures of malpractice. The Council hopes you will be satisfied with any action taken. If you are not, and you believe the information you have disclosed is substantially true, possible contact points are:

- Public Concern At Work
- The external auditor
- Your trade union
- Your local Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- A relevant voluntary organisation
- The Police

4.7.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the officer dealing with your disclosure within the Council before divulging any information.

4.7.3 General advice and guidance on how matters of concern may be pursued can be obtained from the:

- a) Chief Executive,
- b) Director of Legal Services,
- c) Assistant Director of Finance (Audit).

**John McElvaney**  
**Director of Legal Services**  
**Corporate Resources Department**

**November 2016**

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# WHISTLEBLOWING POLICY

Version history			
Version	Date	Detail	Author
1.0	August 2021	Reviewed the previous Code and drafted new Policy	H. Barrington
1.0	21/09/2021	Audit Committee	
1.0	20/10/2021	Governance, Ethics and Standards Committee	
1.1	18/11/2021	Cabinet. Final version incorporating Committee comments	H. Barrington

Review: November 2024

## Derbyshire County Council

### Whistleblowing Policy

#### 1. Introduction

1.1 Derbyshire County Council is committed to the highest possible standards of honesty, openness and accountability and will not tolerate wrongdoing, malpractice or illegality in the workplace.

1.2 The Council's Whistleblowing Policy is a vital element of our governance arrangements and is designed to allow those employed by the Council, members of the public or organisations to come forward and disclose serious allegations of wrongdoing, malpractice or illegality involving the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities. The Council is committed to treat all disclosures fairly and consistently.

1.3 It is intended that this Whistleblowing Policy enables individuals or organisations to disclose information about wrongdoing, malpractice or illegality internally and to provide them with protection from subsequent victimisation, discrimination or disadvantage. This will assist in detecting and deterring malpractice and, by demonstrating the Council's accountability, maintain public confidence and the Council's good reputation.

1.4 This Whistleblowing Policy should be read in conjunction with the Anti-Fraud Anti-Corruption Strategy and Fraud Response Plan.

#### 2. Aim of the Policy

2.1 The aims of this Policy are to:

- create a culture of zero tolerance toward fraud and corruption and deter wrongdoing;
- encourage employees and others with serious concerns about any aspect of the Council's work to feel confident to come forward and voice those concerns within the Council rather than ignoring a problem or 'blowing the whistle' outside;
- ensure concerns are raised at an early stage and in the right way ensuring that critical information gets to the people who need to know and who are able to take action so that the matter can be properly investigated;

- provide reassurance to those who raise concerns in the public interest and not maliciously or for personal gain, that they can do so without fear of reprisals or victimisation or disciplinary action, regardless of whether these are subsequently proven;
- ensure that a response is received when concerns are raised, and it is clear how to pursue the matter if not satisfied with the response.

### **3. Scope of the Policy**

3.1 The Whistleblowing Policy seeks to cover all disclosures and allegations made by employees of Derbyshire County Council, including temporary and agency staff. For those employed in maintained schools, the school must have whistleblowing procedures in place and a model Whistleblowing Policy is available which can be adopted by governing boards of Derbyshire schools. The Secretary of State for Education is the prescribed person for matters relating to education for individuals who wish to raise concerns but not direct with their employer. This Policy also extends to any other individual who wants to raise an allegation of wrongdoing, malpractice or illegality. This could include consultants, contractors, sub-contractors who are engaged in work for the Council, volunteers, Councillors, anyone who uses the Council's services or a member of the public.

3.2 The Whistleblowing Policy is not intended to replace existing procedures and it should not be used where other more appropriate reporting procedures are available.

- a) If the concern relates to treatment as an employee, it should be raised under the existing Grievance or Harassment procedures;
- b) If the concern is about services provided, it should be raised under the Complaints Procedure;
- c) If the concern is regarding the behaviour of a County Councillor, it should be raised under the Code of Conduct complaints process.

### **4. What is Whistleblowing?**

4.1 In this policy 'whistleblowing' means the confidential reporting by an individual of any concerns relating to a perceived wrongdoing involving any aspect of the Council's work or those who work for the Council. This includes reporting of suspected wrongdoing, malpractice or illegality within the Council.

4.2 The Public Interest Disclosure Act 1998 (PIDA 1998), known as the whistleblowing law is designed to encourage and enable employees to "speak out" and to report suspected wrongdoing at work. This is commonly known as "blowing the whistle". The PIDA protects employees (including those

employed in schools maintained by the Council, temporary workers and agency staff), from any detriment from their employer or colleagues that arises as a result of making a “protected disclosure” (a qualifying disclosure) in the public interest. This includes protection from harassment, victimisation or dismissal by their employer.

4.3 A qualifying disclosure means any disclosure which in the reasonable belief of the employee shows the following:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or likely to fail to comply with a legal obligation to which he/she is subject;
- that a miscarriage of justice has occurred, is occurring or likely to occur;
- that the health and safety of an individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged;
- that any of the above matters are being or likely to be deliberately concealed.

4.4 Personal grievances are not covered by this Policy and instead should be dealt with under the Council’s Grievance Procedure.

## **5. Whistleblowing by Employees**

### **5.1 Who should concerns be raised with?**

All employees should ensure that they remain aware of this Whistleblowing Policy and use it where they have concerns about wrongdoing, malpractice or illegality internally.

Under this Policy employees should raise their concerns with:

- a) their line manager;
- b) where this is inappropriate, (e.g. because it is believed the line manager is involved) their Executive Director, Director or other senior manager;
- c) where (a) and (b) are inappropriate (e.g. Members or it is believed senior management are involved), the Monitoring Officer; or
- d) if the concern is regarding financial irregularities or fraud, the Assistant Director of Finance (Audit).

### **5.2 Protection for Employees**

5.2.1 Under the PIDA 1998, employees are protected when they make a qualifying disclosure. This applies where the employee:

- makes the disclosure in good faith;
- reasonably believes that the disclosure they are making is in the public interest; and
- reasonably believes that the information detailed and any allegation in it are substantially true.

5.2.2 The PIDA 1998 makes it unlawful for the Council to dismiss anyone or allow them to be victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

5.2.3 The Council recognises that the decision to report a concern can be a difficult one to make. If an employee honestly and reasonably believes what they are saying is true, they should have nothing to fear because they will be doing their duty to their employer, their colleagues and those for whom they are providing a service. Indeed, employees are encouraged to report concerns, particularly where a potential criminal offence has been committed.

5.2.4 The Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures) and will take appropriate action to protect an employee when they raise a concern in good faith. Any harassment or victimisation of a whistleblower will be treated as a serious disciplinary offence which will be dealt with under the Disciplinary Procedure.

### 5.3. Support to Employees

5.3.1 An employee may wish to consider discussing their concerns confidentially with a colleague first and may find it easier to raise the matter if there are two (or more) employees who have had the same experience or concerns.

5.3.2 An employee may discuss their concerns confidentially with their trade union representative. They may also invite their trade union or other representative to be present during any meetings or interviews in connection with the concerns they have raised.

5.3.3 Any employee making a qualifying disclosure under this Policy:

- will be given full support from senior management, and
- the Council will do all it can to help them throughout the investigation. This may include consideration of temporary redeployment for the period of the investigation, if appropriate.

5.3.4 Any employee thinking about raising a concern can refer to the guidance from the Government or ACAS for further information and obtain confidential advice from Protect (formerly Public Concern at Work).

## **6. Whistleblowing by Contractors, service users, members of the public etc.**

### **6.1 Who should concerns be raised with?**

Under this Policy consultants, contractors, sub-contractors who are engaged in work for the Council, volunteers, Councillors, anyone who uses the Council's services or a member of the public can still contact the Council to report any concerns or disclosures of wrongdoing. They should raise concerns with:

- a) the Monitoring Officer; or
- b) if the concern is regarding financial irregularities or fraud, the Assistant Director of Finance (Audit).

### **6.2 Protection and Support**

The protection under the PIDA 1998 does not extend to disclosures made by those who are not County Council employees. For those who are not County Council employees, the Council will endeavour to provide appropriate advice and support wherever possible.

## **7. How to raise a concern**

7.1 Concerns may be raised verbally or in writing, although it is better if it is provided in writing and an online form is available. The earlier a concern is raised, the easier it will be for the Council to take action. Any person reporting a concern should provide as much information as possible, including:

- their name and contact details;
- who the concerns relate to;
- full details on the nature of the alleged wrongdoing and why it is believed to be true; and
- evidence in support (including copies of any documents, dates and information relating to relevant events).

7.2 It is not expected that the individual proves their suspicions beyond doubt, however they will need to demonstrate that they have a genuine



concern relating to suspected wrongdoing or malpractice within the Council and there are reasonable grounds for that concern.

## **8. Confidentiality**

8.1 All concerns will be treated in confidence and every effort will be made not to reveal identity of the individual raising concerns, if that is their wish. However, it is recognised that if disciplinary or other proceedings follow the investigation, it may not be possible to take action without the individual who has raised concerns coming forward as a witness.

## **9. Anonymous Allegations**

9.1 The Council recognises that there may be circumstances where individuals are worried about being identified when they report concerns, particularly where they are an employee. However, this Policy encourages individuals to put their name to an allegation wherever possible as we believe that open or confidential whistleblowing is the best means of addressing the concerns and protecting individuals. Where an individual does not provide their name, it will be much more difficult for the Council to support and protect their position or to give them feedback. It will also be more difficult for the individual to qualify for protection under the PIDA 1998. This is because there would be no documentary evidence linking them to the disclosure for the Employment Tribunal to consider.

9.2 In addition concerns expressed anonymously are more difficult to investigate, and harder to substantiate. Anonymous allegations will be considered at the discretion of the Monitoring Officer in conjunction with the Assistant Director of Finance (Audit) taking into account the following factors:

- the seriousness of the issues raised;
- the credibility of the concern;
- the same or similar concerns being received; and
- the likelihood of confirming the allegations from other credible sources.

9.3 Where anonymous allegations are investigated, the individual may seek feedback through a telephone appointment or by using an anonymised email address. A reference will be provided to the individual reporting concerns to ensure safeguards are in place to ensure feedback is given to them and not a third party.

## **10. Untrue Allegations**

10.1 If an allegation is made which is frivolous, vexatious, malicious or for personal gain, the Council may take appropriate action that could include disciplinary action.

## **11. How the Council will respond**

11.1 The Council will endeavour to respond to concerns raised as quickly as possible. If a name and contact details have been provided, the person with whom the concerns are raised will formally acknowledge receipt within 5 working days of the concerns being received.

11.2 In order to be fair to all employees, including those who may be wrongly or mistakenly accused, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The over-riding principle for the Council will be the public interest.

11.3 Where appropriate, the concerns raised may be:

- investigated by management, by Audit Services, or through the disciplinary process;
- referred to the Police;
- referred to the external auditor;
- the subject of an independent inquiry;
- resolved by agreed action without the need for investigation; or
- deemed not to be sufficient to warrant an investigation.

11.4 Disclosures for which there are other specific procedures (for example, child protection, safeguarding or discrimination issues) will normally be referred for consideration under those procedures.

11.5 If a name and contact details have been provided, the person with whom the concerns are raised will within 10 working days of a concern being received, confirm in writing:

- what initial enquiries have been made;
- how the matter is going to be dealt with;
- an estimate of how long it will take to provide a final response;
- employee support mechanisms (where appropriate);
- why there is to be no further investigation, if appropriate.

11.6 It is recognised that the individual who raised concerns will need to be assured that the matter has been properly addressed. Therefore, subject to legal and data protection constraints, they will be informed of the outcome of any investigation.

## **12. How the Matter Can Be Taken Further**

12.1 This Policy is intended to provide an avenue within the Council to raise concerns. The Council hopes any individuals who raise concerns will be satisfied with any action taken. If they are not, and they feel it is right to take the matter outside the Council, the following may be contacted:

- the Council's External Auditor;
- the trade union;
- the police;
- the Local Government and Social Care Ombudsman;
- the independent charity Protect (formerly Public Concern at Work);
- other relevant bodies prescribed by legislation.

12.2 If concerns are raised outside the Council it should be to one of these prescribed contacts. A public disclosure to anyone else could take an individual outside the protection of the PIDA 1998 and of this Policy.

12.3 Information that is confidential to the Council or to anyone else, such as a client or contractor of the Council, should only be shared with those included in the above list of prescribed contacts.

12.4 This Policy does not prevent an individual from taking their own independent legal advice.

## **13. The Responsible Officer**

13.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this Policy.

## **14. Corporate Recording and Monitoring**

14.1 The Monitoring Officer will maintain a corporate register containing all concerns that are brought to his/her attention. All officers to whom concerns are raised under this Policy must notify the Monitoring Officer and provide sufficient details for the corporate register.

14.2 The Monitoring Officer will review the corporate register and produce an annual report for the Governance, Ethics and Standards Committee which is responsible for the overview of this Policy.

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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**18 November 2021**

**The Forward Plan**

**Report of the Managing Executive Director**

**(Corporate Services & Budget)**

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is not a Key Decision

**3. Purpose**

3.1 To present the Executive's Forward Plan for the period 1 November 2021 – 28 February 2022 and provide an opportunity for Cabinet to comment on future decisions for inclusion in the forthcoming Forward Plan.

**4. Information and Analysis**

4.1 An independent review of the Council's Scrutiny function was undertaken in 2020 by the Centre for Governance and Scrutiny. The report commented upon several areas, including the proposal for a Forward Plan which looks to the future, for a period longer than the statutory requirement.

- 4.2 It was believed that such a Forward Plan would enable the four Improvement and Scrutiny Committees to prepare better informed work programmes. This will equally apply to the work programme of the new Improvement and Scrutiny Committee – Climate Change, Biodiversity and Carbon Reduction.
- 4.3 It has been agreed that a four-month rolling Forward Plan be considered by CMT and then by Cabinet monthly. This approach should improve planning and horizon-scanning.
- 4.4 In the interests of effective coordination and public transparency, the Forward Plan includes any item that is likely to require an Executive decision of Cabinet or Cabinet Member whether a key decision or not. The Forward Plan covers the forthcoming 4 months and will be updated on a rolling monthly basis. All items have been discussed and approved by the Corporate Management Team.
- 4.5 The Forward Plan is ultimately the responsibility of the Leader and Cabinet as it contains executive business due for decision. A copy of the Forward Plan covering the period 1 November 2021 – 28 February 2022 is attached at Appendix 2. This document was originally published on 20 October to comply with the requirements to give 28 days' notice of key decisions to be considered at the 18 November Cabinet meeting.

## **5. Consultation**

- 5.1 There is no requirement to consult in relation to the preparation of the Forward Plan.

## **6. Alternative Options Considered**

- 6.1 Cabinet could decide not to agree with any of the items that are suggested for inclusion in the Plan. This would then be referred to the Corporate Management Team.
- 6.2 Cabinet could decide to move the date for consideration of any item provided the requirement to give at least 28 days' notice of a key decision is met.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

8.1 The Scrutiny Review 2020.

## **9. Appendices**

9.1 Appendix 1 - Implications

9.2 Appendix 2 - The Forward Plan for the period 1 November 2021 to 28 February 2022

## **10. Recommendation**

10.1 That Cabinet notes the contents of the Forward Plan attached at Appendix 2 and comments on future decisions for inclusion in the Forward Plan, where appropriate.

## **11. Reasons for Recommendation**

11.1 To promote the items that are due for decision by Derbyshire County Council's Executive during the forthcoming four-month period.

11.2 Whilst the Forward Plan cannot be an exhaustive list of all future decisions, to ensure as far as possible that the Forward Plan gives an indication of those decisions which it is known the executive will need to consider in the coming period and can therefore be used as a planning tool for managing the work programme of the executive and Improvement and Scrutiny Committees.

## **12. Is it necessary to waive the call-in period?**

12.1 No

**Report Author:** Helen Barrington    **Contact details:** [helen.barrington@derbyshire.gov.uk](mailto:helen.barrington@derbyshire.gov.uk)

## **Implications**

### **Financial**

- 1.1 None directly arising from this report.

### **Legal**

- 2.1 The Council is required by law to give to give 28 days' notice of key decisions that are scheduled to be taken by the Executive. A key decision is one which is financially significant, in terms of spending or savings, for the service or function concerned (more than £500,000), or which will have a significant impact on communities, in two or more divisions in the County. This legal obligation is discharged by including the necessary information in the 'Forward Plan'.
- 2.2 There is no legal requirement to have a four-month rolling Forward Plan, however it is good practice to do so to support effective work programmes for the executive and scrutiny functions.

### **Human Resources**

- 3.1 None directly arising from this report.

### **Information Technology**

- 4.1 None directly arising from this report.

### **Equalities Impact**

- 5.1 None directly arising from this report.

### **Corporate objectives and priorities for change**

- 6.1 The Forward Plan will include future decisions which support the Council's corporate objectives and delivery of the Council Plan priorities and deliverables.

### **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

- 7.1 None directly arising from this report.





## **FORWARD PLAN FOR THE FOUR MONTH PERIOD 1 NOVEMBER 2021 TO 28 FEBRUARY 2022**

This Forward Plan sets out the details of the executive decisions (key and non-key) which the Cabinet individual Cabinet Members or Officers expect to take during the next four-month period.

Please note that a key decision is a decision to be taken by the Executive which:

- (1) is likely to result in the local authority incurring expenditure or making savings of above £500,000 and/or
- (2) is significant in terms of its effects on communities living or working in an area comprising two or more divisions/county electoral areas.

The current members of the Cabinet are:

Councillor Barry Lewis	Leader of the Council and Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change
Councillor Simon Spencer	Deputy Leader and Cabinet Member for Corporate Services and Budget
Councillor Carol Hart	Cabinet Member for Health and Communities
Councillor Tony King	Cabinet Member for Clean Growth and Regeneration
Councillor Natalie Hoy	Cabinet Member for Adult Care
Councillor Carolyn Renwick	Cabinet Member for Infrastructure and Environment
Councillor Kewal Athwal	Cabinet Member for Highways Assets and Transport
Councillor Julie Patten	Cabinet Member for Children's Services and Safeguarding
Councillor Alex Dale	Cabinet Member for Education

The information provided for each key decision includes a list of the documents which will be submitted to the decision maker. Further documents relevant to the matter may also be submitted to the decision maker.

Subject to any restriction on their disclosure, copies of, or extracts from, any document listed will be available on the County Council's website or for inspection at County Hall, Matlock, Derbyshire DE4 3AG at least five clear days before the meeting.

If you wish to request details of documents listed or further documents as they become available please email Democratic Services at [democratic.services@derbyshire.gov.uk](mailto:democratic.services@derbyshire.gov.uk)

Subject: Consider Arrangements Regarding the Long-Term Waste Contract - EXEMPT

Is this a key decision?	Yes
Date notice of key decision published	15 September 2021
Date decision to be made	10 November 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Infrastructure & Environment and Corporate Services & Budget
Documents to be submitted to the decision maker	Report of the Executive Director - Place
Lead Officer	Claire Brailsford – Environment & Transport Director e-mail <a href="mailto:claire.brailsford@derbyshire.gov.uk">claire.brailsford@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

Subject: Loan to Great British Car Journey (GBCJ) - EXEMPT

Is this a key decision?	No
Date notice of key decision published	n/a
Date decision to be made	18 November 2021
Decision to be taken by	Cabinet
Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Report of the Director of Finance & ICT
Lead Officer	Peter Handford e-mail <a href="mailto:peter.handford@derbyshire.gov.uk">peter.handford@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources/Places

Subject: The Future of Direct Care Homes for Older People

Is this a key decision?	Yes
Date notice of key decision published	11 August 2021
Date decision to be made	18 November 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Adult Care
Documents to be submitted to the decision maker	Report of the Executive Director of Adult Social Care and Health
Lead Officer	Simon Stevens e-mail <a href="mailto:simon.stevens@derbyshire.gov.uk">simon.stevens@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	People

Subject: Project Management within Corporate Property - EXEMPT

Is this a key decision?	Yes
Date notice of key decision published	11 August 2021
Date decision to be made	18 November 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Corporate Services & Budget
Documents to be submitted to the decision maker	Report of the Managing Executive Director
Lead Officer	Stuart Knight – Interim Property Programme Director e-mail <a href="mailto:stuart.knight@derbyshire.gov.uk">stuart.knight@derbyshire.gov.uk</a>

## Improvement and Scrutiny Committee

## Resources

## Subject: Whistleblowing Policy

Is this a key decision?

No

Date notice of key decision published

n/a

Date decision to be made

18 November 2021

Decision maker

Cabinet

Relevant Cabinet portfolio

Corporate Services &amp; Budget

Documents to be submitted to the decision maker

Report of the Managing Executive Director

Lead Officer

Helen Barrington – Director of Legal &amp; Democratic Services

e-mail [helen.barrington@derbyshire.gov.uk](mailto:helen.barrington@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Resources

## Subject: The Transfer of the Infant Toddler and Nutrition Service and Oral Health Promotion Service into the existing Section 75 Partnership Agreement

Is this a key decision?

Yes

Date notice of key decision published

20 October 2021

Date decision to be made

18 November 2021

Decision to be taken by

Cabinet

Relevant Cabinet portfolio

Health &amp; Communities

Documents to be submitted to the decision maker

Report of the Director of Public Health

Lead Officer

Jamie Dix

Email: [jamie.dix@derbyshire.gov.uk](mailto:jamie.dix@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Health

## Subject: Extension of Block Payments for the Derbyshire Integrated Sexual Health Service for Quarter 3 and Quarter 4 of the 2021-2022 Financial Year - EXEMPT

Is this a key decision?

Yes

Date notice of key decision published

20 October 2021

Date decision to be made

18 November 2021

Decision to be taken by

Cabinet

Relevant Cabinet portfolio

Health &amp; Communities

Documents to be submitted to the decision maker

Report of the Director of Public Health

Lead Officer

Andy Raynor

Email: [andrew.raynor@derbyshire.gov.uk](mailto:andrew.raynor@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Health

## Subject: Urgent Officer Decision 3G All Weather Pitch Contracts - EXEMPT

Is this a key decision?

No

Date notice of key decision published

n/a

Date decision to be made

18 November 2021

Decision to be taken by  
Relevant Cabinet portfolio  
Documents to be submitted to the  
decision maker  
Lead Officer

Cabinet  
Corporate Services & Budget  
Report of the Managing Executive Director

Paul Stone  
Email: [paul.stone@derbyshire.gov.uk](mailto:paul.stone@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Health

Subject: Changes to Temporary Payment Arrangements to Bus, Coach and Taxi Operators for Contracted Transport Services and Concessionary Fares Reimbursement from 1 January 2022 due to the ongoing impact of Coronavirus

Is this a key decision?  
Date notice of key decision published  
Date decision to be made  
Decision maker  
Relevant Cabinet portfolio

Yes  
20 October 2021  
18 November 2021  
Cabinet  
Highways Assets & Transport

Documents to be submitted to the  
decision maker  
Lead Officer

Report of the Executive Director - Place

Chris Hegarty – Project Manager  
e-mail [chris.hegarty@derbyshire.gov.uk](mailto:chris.hegarty@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Places

Subject: Procurement Strategy Refresh 2021-2026 and Procurement Strategy Delivery Highlight Report

Is this a key decision?  
Date notice of key decision published  
Date decision to be made  
Decision maker  
Relevant Cabinet portfolio

No  
n/a  
18 November 2021  
Cabinet  
Corporate Services & Budget

Documents to be submitted to the  
decision maker  
Lead Officer

Report of the Managing Executive Director

Teresa Gerrard – Finance Manager  
(Procurement)  
e-mail [teresa.gerrard@derbyshire.gov.uk](mailto:teresa.gerrard@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Resources

Subject: Public Engagement on Transport and Regeneration Projects

Is this a key decision?  
Date notice of key decision published  
Date decision to be made  
Decision maker  
Relevant Cabinet portfolio

Yes  
20 October 2021  
6 December 2021  
Cabinet  
Infrastructure & Environment

Documents to be submitted to the  
decision maker

Report of the Executive Director - Place

Lead Officer	Jim Seymour – Principal Transportation Strategy Manager e-mail <a href="mailto:jim.seymour@derbyshire.gov.uk">jim.seymour@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

Subject: Voluntary and Community Sector Review.

Is this a key decision?	Yes
Date notice of key decision published	11 August 2021
Date decision to be made	6 December 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Health & Communities
Documents to be submitted to the decision maker	Report of the Managing Executive Director & Executive Director Adult Social Care & Health
Lead Officer	Sarah Eaton e-mail <a href="mailto:sarah.eaton@derbyshire.gov.uk">sarah.eaton@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

Subject: Voluntary and Community Sector Review Grants Prospectus and Framework.

Is this a key decision?	Yes
Date notice of key decision published	5 November 2021
Date decision to be made	6 December 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Health & Communities
Documents to be submitted to the decision maker	Report of the Managing Executive Director & Executive Director Adult Social Care & Health
Lead Officer	Sarah Eaton e-mail <a href="mailto:sarah.eaton@derbyshire.gov.uk">sarah.eaton@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

Subject: Voluntary and Community Sector Infrastructure Provision.

Is this a key decision?	Yes
Date notice of key decision published	5 November 2021
Date decision to be made	6 December 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Health & Communities
Documents to be submitted to the decision maker	Report of the Managing Executive Director & Executive Director Adult Social Care & Health
Lead Officer	Sarah Eaton e-mail <a href="mailto:sarah.eaton@derbyshire.gov.uk">sarah.eaton@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

Subject: Report Seeking Approval to Procure Projects in Addition to the Latest Departmental Forward Plan - EXEMPT

Is this a key decision?	Yes
Date notice of key decision published	15 September 2021
Date decision to be made	4 December 2021
Decision to be taken by	Cabinet

Relevant Cabinet portfolio  
Documents to be submitted to the  
decision maker  
Lead Officer

Highways Assets and Transport  
Report of the Executive Director – Place

George Davies – Senior Procurement Officer  
Email: [George.Davies@derbyshire.gov.uk](mailto:George.Davies@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Places

Subject: An Update on the Implementation of the Scrutiny Action Plan

Is this a key decision?

No

Date notice of key decision published

n/a

Date decision to be made

6 December 2021

Decision to be taken by

Cabinet

Relevant Cabinet portfolio

Strategic Leadership, Culture, Tourism & Climate  
Change

Documents to be submitted to the  
decision maker

Report of the Managing Executive Director

Lead Officer

Jeanette McGarry  
Email: [jeanette.mcgarry@derbyshire.gov.uk](mailto:jeanette.mcgarry@derbyshire.gov.uk)

Improvement and Scrutiny Committee

All

Subject: Freeport - EXEMPT

Is this a key decision?

Yes

Date notice of key decision published

5 November 2021

Date decision to be made

6 December 2021

Decision to be taken by

Cabinet

Relevant Cabinet portfolio

Strategic Leadership, Culture, Tourism & Climate  
Change

Documents to be submitted to the  
decision maker

Report of the Executive Director – Place

Lead Officer

Joe Battye  
Email: [joe.battye@derbyshire.gov.uk](mailto:joe.battye@derbyshire.gov.uk)

Improvement and Scrutiny Committee

Places

Subject: Quarter 2 Council Plan Performance and budget update

Is this a key decision?

Yes

Date notice of key decision published

13 May 2021

Date decision to be made

6 December 2021

Decision maker

Cabinet

Relevant Cabinet portfolio

Strategic Leadership, Culture, Tourism &  
Climate Change

Documents to be submitted to the  
decision maker

Report of the Managing Executive Director and  
Director of Finance & ICT

Lead Officer

Emma Alexander – Managing Executive

Director

e-mail [emma.alexander@derbyshire.gov.uk](mailto:emma.alexander@derbyshire.gov.uk)

## Improvement and Scrutiny Committee

## Resources

Subject: Physical Activity Programmes Grant for District and Borough Councils and SHIFT to March 2023

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	6 December 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Health & Communities
Documents to be submitted to the decision maker	Report of the Director of Public Health
Lead Officer	Adam Norris e-mail <a href="mailto:adam.norris@derbyshire.gov.uk">adam.norris@derbyshire.gov.uk</a>

## Improvement and Scrutiny Committee

## Health

Subject: Children's Services Capital Programme 2021-22 S106 Allocation for the expansion at The Ecclesbourne School

Is this a key decision?	Yes
Date notice of key decision published	5 November 2021
Date decision to be made	6 December 2021
Decision maker	Cabinet
Relevant Cabinet portfolio	Children's Services
Documents to be submitted to the decision maker	Executive Director – Children's Services
Lead Officer	Jenny Webster e-mail <a href="mailto:jenny.webster@derbyshire.gov.uk">jenny.webster@derbyshire.gov.uk</a>

## Improvement and Scrutiny Committee

## People

Subject: Staveley Waterside Phase 1

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	13 January 2022
Decision to be taken by	Cabinet
Relevant Cabinet portfolio	Clean Growth & Regeneration
Documents to be submitted to the decision maker	Report of the Executive Director – Place
Lead Officer	Peter Storey – Head of Markham Vale Email: <a href="mailto:peter.storey@derbyshire.gov.uk">peter.storey@derbyshire.gov.uk</a>

## Improvement and Scrutiny Committee

## Places

Subject: Reimbursement of stop smoking pharmacotherapy costs



Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	13 January 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Health & Communities
Documents to be submitted to the decision maker	Report of the Director of Public Health
Lead Officer	Hayley Gleeson e-mail <a href="mailto:hayley.gleeson@derbyshire.gov.uk">hayley.gleeson@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Health

#### Subject: Budget Consultation

Is this a key decision?	Yes
Date notice of key decision published	13 May 2021
Date decision to be made	20 January 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Report of the Director of Finance & ICT
Lead Officer	Peter Handford e-mail <a href="mailto:peter.handford@derbyshire.gov.uk">peter.handford@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

#### Subject: Revenue Budget Report 2022-23

Is this a key decision?	Yes
Date notice of key decision published	13 May 2021
Date decision to be made	20 January 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Report of the Director of Finance & ICT
Lead Officer	Peter Handford e-mail <a href="mailto:peter.handford@derbyshire.gov.uk">peter.handford@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

#### Subject: Schools Block Funding Settlement 2022-23

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	20 January 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Education
Documents to be submitted to the decision maker	Joint report of the Executive Director for Children's Services and Director of Finance & ICT
Lead Officer	Chris Allcock – Head of Finance (Schools) Email: <a href="mailto:Chris.allcock@derbyshire.gov.uk">Chris.allcock@derbyshire.gov.uk</a>



## Subject: Capital Programme Approvals, Treasury Management and Capital Strategy

Is this a key decision?	Yes
Date notice of key decision published	13 May 2021
Date decision to be made	20 January 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Report of the Managing Executive Director and Director of Finance & ICT
Lead Officer	Peter Handford e-mail <a href="mailto:peter.handford@derbyshire.gov.uk">peter.handford@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

## Subject: The Early Help Transition Team

Is this a key decision?	Yes
Date notice of key decision published	5 November 2021
Date decision to be made	10 February 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Children's Services
Documents to be submitted to the decision maker	Report of the Executive Director – Children's Services
Lead Officer	Chris Caley Email: <a href="mailto:chris.caley@derbyshire.gov.uk">chris.caley@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	People

## Subject: Climate Change Projections, Risk and Adaptation

Is this a key decision?	Yes
Date notice of key decision published	15 September 2021
Date decision to be made	10 February 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Executive Director – Adult Social Care & Health
Lead Officer	Caroline Toplis – Programme Manager – Climate Change e-mail <a href="mailto:caroline.toplis@derbyshire.gov.uk">caroline.toplis@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Climate Change, Biodiversity and Carbon Reduction

## Subject: Quarter 3 Council Plan Performance and budget update

Is this a key decision?	Yes
Date notice of key decision published	13 May 2021
Date decision to be made	10 March 2022
Decision maker	Cabinet

Relevant Cabinet portfolio	Strategic Leadership, Culture, Tourism & Climate Change
Documents to be submitted to the decision maker	Report of the Managing Executive Director and Director of Finance & ICT
Lead Officer	Emma Alexander – Managing Executive Director
	e-mail <a href="mailto:emma.alexander@derbyshire.gov.uk">emma.alexander@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

**Subject: Central School Services Block and Pupil Growth Fund Settlement 2022-23**

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	10 March 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Education
Documents to be submitted to the decision maker	Joint report of the Executive Director for Children's Services and Director of Finance & ICT
Lead Officer	Shelley Kerslake – Senior Business Partner (Children's Services)
	Email: <a href="mailto:Shelley.Kerslake@derbyshire.gov.uk">Shelley.Kerslake@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

**Subject: Early Years Block Funding Settlement 2022-23**

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	10 March 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Education
Documents to be submitted to the decision maker	Joint report of the Executive Director for Children's Services and Director of Finance & ICT
Lead Officer(s)	Shelley Kerslake – Senior Business Partner (Children's Services)
	Email: <a href="mailto:Shelley.Kerslake@derbyshire.gov.uk">Shelley.Kerslake@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

**Subject: High Needs Block Funding Settlement 2022-23**

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	10 March 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Education
Documents to be submitted to the decision maker	Joint report of the Executive Director for Children's Services and Director of Finance & ICT
Lead Officer(s)	Shelley Kerslake – Senior Business Partner (Children's Services)
	Email: <a href="mailto:Shelley.Kerslake@derbyshire.gov.uk">Shelley.Kerslake@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Resources

Subject: Levelling Up

Is this a key decision?	Yes
Date notice of key decision published	5 November 2021
Date decision to be made	7 April 2022
Decision maker	Cabinet
Relevant Cabinet portfolio	Leader of the Council and Cabinet Member for Strategic Leadership, Culture, Tourism and Climate Change
Documents to be submitted to the decision maker	Executive Director for Children's Services
Lead Officer	Iain Peel Email: <a href="mailto:iain.peel@derbyshire.gov.uk">iain.peel@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	People

Member Decisions

Subject: Procurement of a Short-Term Traffic Signals Maintenance Contract - EXEMPT

Is this a key decision?	Yes
Date notice of key decision published	20 October 2021
Date decision to be made	21 October 2021
Decision to be taken by	Member Decision
Relevant Cabinet portfolio	Highways Assets and Transport
Documents to be submitted to the decision maker	Report of the Executive Director – Place
Lead Officer	Andrew David Hilton-Barber – Senior Technician – Traffic Signals Email: <a href="mailto:David.HiltonBarber@derbyshire.gov.uk">David.HiltonBarber@derbyshire.gov.uk</a>
Improvement and Scrutiny Committee	Places

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Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**18 November 2021**

**Report of the Executive Director of Adult Social Care and Health**

**The future of Direct Care Homes for Older People  
(ADULT CARE)**

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is a Key Decision because it is likely to:

- a) result in the Council incurring expenditure which is, or making savings which are, significant having regard to the budget for the service or function concerned; and
- b) be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

3.1 Cabinet is asked to approve the undertaking of a public consultation, including consultation with the current residents and their families, on the future provision of accommodation for older people in a number of the Council's residential care homes.

## **4. Information and Analysis**

### **Background and Context**

- 4.1 The Council owns and runs 23 residential care homes for older people which makes it one of the largest local authority providers of residential care in the country. There are 11 other residential care homes run by local authorities across the East Midlands Region; 2 in Nottingham City, 1 in North Northamptonshire, 8 in West Northamptonshire and 0 in Leicester City Council, Rutland, Derby City, Leicestershire County Council, Lincolnshire County Council and Nottinghamshire County Council. Each service is individually registered with the Care Quality Commission and inspected by them to ensure the required standards are being met. In 2018, detailed property condition surveys were commissioned in relation to a number of these homes, focusing on general building condition and electrical systems in the older homes. These reports were commissioned in the context of concerns that the ageing buildings were no longer considered fit for purpose and a concern for the state of the buildings given their age and the ongoing need to ensure the safety and wellbeing of residents both now and in the future. The Director of Adult Social Services (DASS) advised Cabinet Members that an appropriate and rapid course of action was needed to mitigate the concerns raised and thereby ensure the ongoing safety of residents.
- 4.2 Significant maintenance, renovation and refurbishment needs were identified which included the requirement for arrangements to be made for the homes to be rewired by September 2022 in addition to significant refurbishment works, including the replacement of boilers and heating systems, the refitting of all bathrooms and kitchens and the installation of sprinkler systems throughout the buildings. To complete these major works Adult Care was advised that there would be significant disruption to residents including the potential requirement for people to move out of their home for up to 40 weeks whilst the work was undertaken.
- 4.3 In light of the advice received on the standard of the electrical wiring and the associated risk, consideration was given as to whether immediate vacation of the properties was the necessary course of action. However, to avoid taking this action it was determined that a programme of mitigation measures could be implemented to adequately manage the immediate and medium term risks.

As a result of the inspections and alongside implementing the urgent mitigation measures, a consultation exercise was undertaken in early 2020 on proposals for the future of ten of the homes.

## **Previous Consultation**

- 4.5 A 12 week public consultation was undertaken early in 2020, following a report to Cabinet on 23 January 2020 regarding the proposed possible closure of the following 7 residential care homes; Ladycross House (Sandiacre), Beechcroft (West Hallam), East Clune (Clowne), Holmlea (Tibshelf), The Spinney (Brimington), Goyt Valley House (New Mills) and Gernon Manor (Bakewell), as well as the refurbishment of New Bassett House, Briar Close and Rowthorne. The consultation regarding the possible closure of the seven homes followed advice from the council's Corporate Property Department that these homes required a full electrical rewire by September 2022 to meet current safety standards.

On 4 June 2020, Cabinet agreed that;

- further to the consultation none of the homes proposed for closure would close unless a local care home or alternative provision was available to replace them and further consultation was undertaken as appropriate.
- a further report setting out a programme of repair and refurbishment for these seven homes, to include any works required immediately to ensure their soundness and safety, would be presented to Cabinet in due course.
- the plans to undertake a programme of work to refurbish New Bassett House, Briar Close and Rowthorne would continue, with a further report presented to Cabinet seeking a business case and procurement approval in due course.
- Scrutiny Committee – People would be invited to consider including within its work programme, oversight of the next steps (with particular reference to the need for and type of local provision required), to ensure transparency of decision making and to make any recommendations to Cabinet or elsewhere that may arise as a result of such scrutiny.
- a revised strategy and investment plan taking into account reviews of the Market Position Statement and of the strategic needs analysis would be presented to Cabinet by the end of 2020.

## **Actions taken following the Cabinet decision**

The views of the Scrutiny Committee – People referred to in the fourth bullet point above, following the work they have undertaken, are set out at Appendix 2 along with the refreshed data regarding the alternative local provision currently available, which is at Appendix 3.

The prior consultation considered the possible closure of the seven homes and the refurbishment of a further three homes. The outcome of that consultation was that the three homes proposed for refurbishment would continue to be refurbished and this work is now underway. The outcome in relation to the other seven homes was that they would not close until such time as a local care home or alternative provision was available to replace them, and further consultation had been undertaken.

- 4.6 On 10 December 2020, the Executive Director for Adult Social Care and Health, submitted a report to Cabinet providing an update on the actions agreed at 4 June 2020 Cabinet.

Cabinet was informed that the Council's Property Department had compiled a schedule of works, including the work required over the next 1-2 years, to refurbish the seven properties that were subject to the original consultation which included roof works, heating works/replacement of boilers, replacement of kitchen ventilation etc. In addition to this, it was reported that the buildings would require a full, comprehensive, invasive electrical rewire to bring them up to the current required standard. Whilst further feasibility studies would be required, it should be noted that the outline budgeting cost to refurbish the 10 homes subject to the initial consultation, (7 under consideration for possible closure and 3 for refurbishment), was reported to be approximately £30m.

Cabinet agreed the revised timeline below:

- December 2020 – January 2021: citizen engagement and engagement with care providers undertaken (including information from the virtual investment event 14 December 2020).
- February 2021: completion of an Interim Market Position Statement to respond to the impact of COVID-19, which will be reported to Cabinet in March 2021.
- Summer 2021 (estimated post pandemic): commencement of a full review of the care market to develop a refreshed Market Position Statement, review of the Health and Wellbeing Strategy and Joint Strategic Needs Analysis.
- Summer 2021: completion of feasibility work on the seven homes which require rewiring.
- Autumn 2021: consideration of a longer-term strategic plan taking account of the revised Market Position Statement, Health and Wellbeing Strategy and Joint Strategic Needs Analysis.



It should be noted that Cabinet was assured on 10 December 2020 that the Scrutiny Committee – People, were satisfied that the mitigations currently in place at the seven homes were sufficiently robust and durable to address the perceived increased risk at these properties, but that was on the understanding these mitigations remain in place on an interim basis only and do not represent a long term, sustainable, solution.

- 4.7 The detail required in order to commission the feasibility work that was recommended by Corporate Property in order to obtain an updated cost of the rewire and refurbishments at the 7 properties is completed. The property team have previously provided budgeting estimates of approximately £27m to fully refurbish all seven homes which would include a full reinstall of the boiler and heating system, removal of any asbestos, the fitting of sprinklers in the ceiling, replacement of all bathrooms, a kitchen refit, replacement of the flooring throughout and a full decoration throughout. It would be necessary for the current residents living in these homes to move to alternative accommodation on a temporary basis for a period of up to 40 weeks whilst the refurbishment work was undertaken. Whilst further feasibility work would be required in order to obtain additional updated cost estimates, we are not proposing to progress with commissioning further feasibility studies at this stage in light of the information contained within the Interim Market Position Statement, which has shown that the trend away from residential care and towards care being provided at home has accelerated in the intervening period between the previous consultation exercise and this report. The detail in relation to these aspects is contained within the remainder of this report.
- 4.8 Whilst it has been necessary to delay the development of a full Market Position Statement in light of the pandemic, and it is acknowledged that a further engagement exercise will be required to fully understand its impact upon the views of local people about their future care and support, we consider there is sufficient additional and updated information available to support the recommendation that people should now be further consulted on the future of the seven homes listed above. A consultation exercise at this stage in the process will also serve to further develop our understanding of the market in our locality and enable us to complete a comprehensive Market Position Statement.

#### **Analysis of the current position**

- 4.9 At present, we have an Interim Market Position Statement for Older People's Nursing, Residential, Extra Care and Homecare Services 2021 – 2022 ("IMPS"), which was published in June 2021. The IMPS is based upon analysis of the current research and data and takes into account the feedback from the citizens engagement exercise carried out in January 2021. The IMPS highlights that people are continuing to

choose to live at home for longer and that people are entering care homes later in life and with more acute needs, which has resulted in a reduction in the demand for long-term residential care and an increased demand for nursing care and homecare. Residential care home providers are reporting that they are now supporting people with more complex needs who would have previously had their needs met in a nursing home. This trend is reflected within the Council's directly provided residential care homes and is also reflected in the national picture. As mentioned above, in February 2021 37% of the Council's providers reported occupancy rates below 80%.

4.10 The following information contained within the IMPS is relied upon to support the recommendation to conduct a consultation exercise on the proposals regarding possible closure of the homes identified in the report.

4.10.1 Recent modelling conducted by Laing-Buisson in 2021 suggests that there will be a lower number of people accessing residential care in the future than the ONS figures suggest. This is because the ONS projections are based upon an assumption that entering a care home is inevitable in later years, but we know people are choosing alternative long-term care options.

4.10.2 Lower levels of demand are expected to continue for an extended period and recent research by the Institute for Public Policy Research found that there is a lower demand for residential care and that 1/3 of people are now less likely to seek residential care for an elderly relative, while 40% of over 65's are less likely to consider it for themselves.

4.10.3 ONS data from the 2011 Census shows that from 2001 to 2011, the increase in the number of people in care homes (avg. 1.3%) did not rise in line with the general population (avg. 13%) and contrary to expectations, the 45% increase in the number of people aged 85+ since 2001 has not resulted in a corresponding increase in demand for residential care. There was in fact a reduction of 4.4% in the number of people aged 85+ in residential care between 2001 and 2017 and a 10.4% reduction between 1996 and 2017 (Laing-Buisson 2017).

4.10.4 Derbyshire's long-term care admission rate per 100,000 of population was 730.7 in 2015-2016, this fell to 585.3 in 2019-2020, a drop of 25% despite an expanding population. This local picture follows national trends which show a period of decline in the number of long-term admissions to care homes prior to the pandemic and throughout the pandemic. The figures available for 2020 – 2021 indicate there has been a further 20% reduction in admission rates compared with 2019 – 2020.

4.10.5 Conversely, demand for homecare services for people who live in their own homes and are aged 65 and over has been increasing at pace. An

average of 4,504 people were supported by homecare services in Derbyshire every month during 2018. This increased by 3% to 4,656 during 2019 and the number of people supported during 2020 increased by a significant 12%, or 5,201 per month average, in spite of people withdrawing from care due to the perceived risk of COVID infection.

- 4.10.65,439 people were supported with a package of care in their home in January 2021 and the Council's area demand figures indicate that over the last 12 months on average there were 102 people waiting for a service. This figure includes people currently without support and others who may already receive support but need to change the type of support or provider, e.g. transferring from short-term to long-term services and hospital discharges. The data indicates that in Q3 of 2020-21 (Oct - Dec 2020), 129 or 87.7% of people referred to the Council after being discharged from hospital were supported to remain at home.
- 4.11 The Council is taking steps to respond to this increased demand and recognises the need to develop a much stronger emphasis on existing types of support which are community and housing based, as well as new and innovative forms of care for the future. The Better Lives work continues at pace to ensure there is sufficient capacity to support people who are being discharged from hospital with packages of support in their own home on a short-term basis, whilst the appropriate long-term support within the community is commissioned if it is required.
- 4.12 In quarter 1 of this year, the new reablement offer is on target to ensure that an additional 1,320 people are able to access the reablement service every year and performance in the first quarter shows that the service supported 885 against a target of 897. This work will continue to impact upon the number of people who can be supported in their own home.
- 4.13 The Commissioning Strategy for Derbyshire 2019–2035, (the “Commissioning Strategy”), details the joint ambition of Derbyshire County Council, Health, Housing and the District and Borough Councils, to support older people to live independently in their homes and communities for as long as possible. This strategy was based upon a strategic vision developed in 2018, which incorporated the wishes of older people who told us they wish to remain living in their own homes. In creating the vision in 2018, the Council worked with the Housing Learning and Improvement Network (“Housing LIN”), which is a national independent network that brings together health and social care professionals to encourage innovative housing solutions that meet people's needs and expressed wishes. When asked, 69% of people in Derbyshire surveyed, expressed a wish to stay in their own home with care and support from a care provider in the hometown or village they are familiar with. The engagement exercise conducted in January 2021

reaffirmed the message given to us by people living in Derbyshire that residential care is not the preferred option for most people.

- 4.14 As described above, we know that when people do go into residential care, they often have more complex needs and it is therefore important that the structure and layout of our residential homes allow for these needs to be met. The Commissioning Strategy sets out that good quality residential care should include en-suite facilities for all residents, including level access showers and bedrooms that are no smaller than 12m square, with sufficient room within the bedrooms for visitors and carers to access both sides of the bed and with easy use of any equipment that is required for care. There should be sufficient disabled toilet facilities, accessible outdoor space for residents and they should be dementia friendly in design. When commissioning residential care, the focus needs to be on residential homes that meet the needs of older people with complex physical or medical care needs and where those with dementia can be supported.

4.15 **The homes requiring a rewire by September 2022**

In light of the advice received from the Council's Corporate Property Department that the seven homes subject to the original consultation require a rewire by September 2022, and taking into consideration the information contained within the analysis section above, it is necessary to review all possible options with the aim of seeking to ensure that residents live in residential homes which are safe, fit for purpose and meet the required standards, as well as delivering the Accommodation Strategy.

4.16 **Options available to the Council**

- One option is to do nothing and maintain the status quo. This is not recommended as viable option in light of the advice received from colleagues in corporate property that major rewiring and refurbishment work is required at the seven sites to bring the properties up to the required standard. It is not recommended that this option should be consulted upon.
- One option is to rewire the homes and carry out any other essential maintenance work but not carry out a full refurbishment. Any aesthetic damage done to the properties as a result of this work could be 'made good' following completion. Whilst this is likely to bring down the immediate cost of the work it is not recommended as a viable option because this would not bring the properties up to the standard our residents expect and deserve. For example, the properties would still be left without modern sprinkler systems throughout having a significant

impact upon the staffing requirement in these homes. It is not recommended that this option should be consulted upon.

- One option is to rewire and carry out major works to refurbish the homes including a full reinstall of the boiler and heating system, removal of any asbestos, the fitting of sprinklers in the ceiling, the replacement of all bathrooms, a kitchen refit and full decoration, as described in paragraph 4.7. This option would require current residents to move out for a period of up to 40 weeks.
- One option is to close the homes and support residents to move to 'local', 'reasonable' and 'suitable' alternative provision as recommended by the Improvement and Scrutiny Committee – People, the detail of which is set out in Appendix 2.
- One option is to close the homes and support residents to move to any suitable alternative provision.

It is proposed that the Council consults on the three viable options from the five listed above. The relevant factors to be considered as part of any consultation of the viable options are contained within the following paragraph.

- a) Cabinet has previously made a decision to only close the homes if a local care home or alternative provision was available to replace them.
- b) To ensure that all people requiring residential care can access high quality care in appropriate facilities a full rewire is required in the 7 homes to bring them up to standard.
- c) The homes require significant expenditure in the short and medium-term in order to address urgent maintenance and refurbishment issues. This includes rewiring as a priority, but also heating/boiler replacement, roof works, fire safety improvements and kitchen ventilation works, which cannot be delayed indefinitely. The Corporate Property Department has advised that arrangements to replace the current wiring must be completed by September 2022 to ensure the electrics are brought up to the required standard within a reasonable timeframe.
- d) The homes are no longer fit for the purpose they were originally designed for and do not meet the design requirements set out in the Commissioning Strategy. Even if they are refurbished, they do not have the space, facilities or capability to be adapted to meet the needs of increasingly frail older people, which impacts upon the Council's ability to provide high quality care.

- e) As result of abridged timescales to complete this essential work any residents living in the homes in September 2022 would need to move out on a temporary basis for a period of up to 40 weeks whilst a full rewire or refurbishment is undertaken causing significant disruption and disturbance for residents and their families and for staff who would need to be redeployed during this period. Current residents could return to the homes to live there in the longer-term following completion of the work.
- f) There is currently an oversupply of residential care beds in Derbyshire and in February 2021, 37% of the Council's providers reported occupancy rates below 80%. Local demand is following national trends and shows a period of decline prior to the pandemic which appears to have been accelerated by the pandemic.
- g) There is sufficient capacity in the market to provide alternative provision for the current residents. Information about the current vacancies in the relevant areas is at Appendix 3.
- h) In accordance with the expressed wishes of the majority of people consulted in Derbyshire about their future care needs, the Council will be seeking to offer alternatives to residential care through increased community based services and via engaging with the market in relation to the identified undersupply of housing with care provision to 2035.
- i) Significant expenditure on those homes which there is diminishing strategic need for and, even if refurbished, will still not be fit for purpose, is not the best use of public money.

### **Preferred Course of Action**

- 4.17 In light of the above factors, it is proposed that approval is sought to commence consultation; with the possible closure of the seven homes subject to securing local reasonable and suitable alternative provision for the current residents set out as the perceived most viable option within that consultation.
- 4.18 Whilst the Council considers this to be the likely most viable option at this stage and that suitable alternatives are currently available for residents within their local area, it is vital to the process that the views of the residents, their families and other stakeholders are sought prior to any decision being taken with regard to the future of these 7 homes. The Council will keep an open mind as to whether this option remains the most viable throughout any approved consultation exercise and will need to evaluate any responses received to such a consultation in order to ascertain whether further viable alternative options have been put forward, or give the council reason to reconsider whether the other

options above themselves represent a more viable future for each of the seven homes. Specific questions in this regard would form part of any approved consultation exercise.

- 4.19 Should a consultation exercise be approved and, subsequently, closure of any homes be approved following that consultation, families and residents would be supported in accordance with the Council's Major Change and Closure Guidance at appendix 4 and in accordance with the 'Pledges' at appendix 5. At that point in the process, it would also be necessary to seek approval to explore viable options in relation to disposal of the site of each of the seven homes. This would ensure that all possible avenues available to the Council may be identified and evaluated in line with the Council's priorities; for example, including but not limited to, opportunities for engaging developers to deliver additional housing where demand has been identified in the accommodation and support strategy, or disposing of the properties with a view to obtaining a capital receipt representing best value for the Council.

## **5. Consultation**

If this report is approved, it is proposed that formal public consultation will commence on 22 November 2021 and last for 12 weeks ending on 14 February 2022. A single consultation exercise would be carried out covering all seven homes which are the subject of this report.

We also propose engaging informally with the staff members of each of the seven homes as part of the consultation exercise. Such engagement will encourage all staff to participate in the consultation and to share their experiences and views on the proposals. We will also offer support through the process, engaging more formally with the staff of any home which may eventually be closed and we would seek to support as many staff as possible to be redeployed into other available vacancies across both the department and the wider Council.

We will support individual residents and their families to understand and engage with the consultation process and the potential implications for them by offering face to face consultations, where requested, and creating an information pack for residents to ensure the relevant information is presented in an accessible and clear format.

Subject to this report being approved and the consultation exercise undertaken it is anticipated that, once the consultation responses have been considered and an Equality Impact Analysis completed, a further report will be presented to Cabinet regarding the proposed next steps. Dependent upon the outcome of any decision at that time, an indicative timeline for events following this would be:

- 07 April 2022: Cabinet receives and considers a report on the outcome of the consultation.
- 11 April 2022: Dependent on the decision of Cabinet, the social work teams start work on individual patient care assessments in order to reassess the individual residents affected in terms of their suitability to move, and, as appropriate, to tailor individual planning for alternate accommodation. This work would be prioritised to ensure that the people impacted were provided with information about the available options in order to allow them and their families to make the best choice available to them. Cabinet should note that if the process reaches this stage, further focused consultation would need to be carried out with individual residents, taking into account the individual's personal circumstances in order to understand their appropriate individual needs, and to locate and provide the best suitable alternative provision that will meet those needs.

## **6. Alternative Options Considered**

- 6.1 To determine the future provision of accommodation for older people in the seven residential care homes without conducting a further public consultation exercise. This is not recommended as a viable option because proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders. In addition it would not meet the previous Cabinet commitment in June 2020 that “none of the homes proposed for closure would close unless a local care home or alternative provision was available to replace and further consultation be undertaken as appropriate”.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

Older People's Housing, Accommodation and Support: a commissioning strategy for Derbyshire 2019 - 2035

Interim Market Position Statement for Older People's nursing, residential, extra care and homecare services 2021 – 2022.

Cabinet on 23 January 2020 – Report of the Executive Director for Adult Social Care and Health; Revised vision and future strategy for Direct Care homes for Older People 2020 – 2025



Cabinet 4 June 2020 – Report of the Executive Director for Adult Social Care and Health; Outcome of the consultation on the future of Direct Care Homes for Older People

Cabinet 10 December 2020 - Report of the Executive Director for Adult Social Care and Health; Direct Care homes for older people: update on actions

Cabinet 11 March 2021 – Report of the Chairman of the Improvement and Scrutiny Committee – People; Scrutiny of the next steps in relation to Direct Care Homes for Older People – update on progress

## **9. Appendices**

9.1 Appendix 1 - Implications

9.2 Appendix 2 - Outcome of engagement of the Scrutiny Committee – People

9.3 Appendix 3 – Alternative local provision within 10 miles of each home

9.4 Appendix 4 - Adult Care – Major Change and Closure Guidance  
<https://staff.derbyshire.gov.uk/site-elements/documents/working-here/adult-care/major-change-and-closure-guidance-accommodation-care-and-support-for-older-people.pdf>

9.5 Appendix 5 – Pledges to Residents

## **10. Recommendation(s)**

That Cabinet approves:

- (a) The programme of formal public consultation on the future of the homes listed below (one of which includes an integral day centre), including possible closure, for a period of 12 weeks, to be conducted as set out in the report:
- Ladycross House (Sandiacre)
  - Beechcroft (West Hallam)
  - East Clune (Clowne)
  - Holmlea (Tibshelf)
  - The Spinney (Brimington)
  - Goyt Valley House (New Mills)
  - Gernon Manor (Bakewell)
- (b) That a further report will be received following the conclusion of the consultation and market engagement processes, including a full Equality

Impact Analysis.

## **11. Reasons for Recommendation(s)**

- 11.1 Proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders to ensure that their views can be taken into account when a final decision is made. Consultation for 12 weeks is proposed to ensure the Council complies with its legal obligations.
- 11.2 A further report following the conclusion of a consultation is recommended to ensure that Cabinet is fully informed of the outcome of the consultation, any market engagement processes and EIA when it makes a decision on the future of the seven homes.

## **12. Is it necessary to waive the call-in period?**

- 12.1 No

### **Implications**

#### **Financial**

- 1.1 The gross budget available as a result of the proposed closure programme for the seven homes would be in the region of £7.577m

However, there would be a requirement for up to 103 beds to be purchased from the independent sector for residents to move to (based on current occupancy of 42.6%). The ongoing costs of this would be an estimated £3.188 million based on an average weekly cost of £593 per placement.

This would result in a net surplus of £4.389m. Of this a proportion would need to be allocated against the Better Lives project following successful work undertaken on the pathway redesign for older people to remain within their own homes for as long as possible.

These figures don't include provision for potential redundancy costs, site clearance/security costs. Also, potential receipts from sale of land/property are not included.

In addition there is some urgent remedial work that needs to be undertaken within these homes at a cost of £2.400 million. The full refurbishment costs for these homes is estimated to be £27.000 million.

#### **Legal**

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

'Well-being' is a broad concept but particular reference is made to an individual's control over day-to day life (including over care and support and the way in which it is provided) domestic, family and personal relationships and also the suitability of living accommodation (section 1(2)(d), (g) & (h) Care Act 2014). Local authorities are also required to have regard to particular matters regarding well-being, including the importance of beginning with the assumption that the individual is best-placed to judge the individual's well-being; the individual's views, wishes, feelings and beliefs; and the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate (section 1(3)(a), (b) and (e) Care Act 2014).

Local authorities must promote diversity and quality in the provision of services. There is a duty to promote the efficient and effective operation of the market, which includes ensuring that there is a variety of high quality services and providers to choose from (section 5 Care Act 2014).

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 eligible needs. 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.

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 (Choice of Accommodation) Regulations 2014.

Proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders.

Case law has established minimum requirements of consultation, which are:

- a) Consultation must be at a time when proposals are at a formative stage;
- b) Sufficient information must be given to permit a person to “give an intelligent consideration and response”;
- c) Adequate time must be given for consideration and response; and
- d) The results of the consultation must be conscientiously taken into account in finalising any proposal and provided to the decision maker to inform their decision

Following the consultation set out in the report Members will need to take careful account of the views expressed in arriving at their decision. In addition, any final decisions must also take into account the rights of service users as set out in the Human Rights Act 1998, specifically Article 8, “Right to respect for private and family life”.

In assessing these proposals, the Council should also have regard to its statutory duties under the Care Act 2014 set out above and the Public Sector Equality Duty. (PSED) under the Equality Act 2010.

The PSED requires public authorities to have "due regard" to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 (*section 149(1a)*).
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (*section 149(1b)*). This involves having due regard to the needs to:
  - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (*section 149(4)*); and
  - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Preliminary consideration has been given to the impact of the proposals on persons with protected characteristics in drawing up these proposals. In particular it is recognised that the methods and content of the consultation will need to be designed so as to fully reflect the needs of the relevant protected groups, in particular older people and disabled people.

In addition, regard has been paid to the Equality Impact Analysis (EIA) carried out in respect of the care pathway redesigns as is referred to in the report. A full EIA will be prepared during the consultation process reflecting issues that are raised during the consultation process. This will be reported in full to Cabinet and a full copy of the EIA made available to Members in order that any adverse impact along with any potential mitigation can be fully assessed. Cabinet members will be reminded at that time of the need to have careful regard to the conclusions of the EIA.

## **Human Resources**

- 3.1 Any workforce implications arising from the proposals will be the subject of further reports on the conclusion of public consultation. Staff will be included in the public consultation and as mentioned in Section 5 of the report, separate engagement with, and support for, all staff of the homes

that are the subject of this report will be carried out as part of any consultation exercise.

## **Information Technology**

4.1 None directly arising.

## **Equalities Impact**

- 5.1 The Council has a duty to recognise and mitigate the impact of any changes it proposes upon people in protected groups. The proposals in this report affect older and disabled people living in residential care homes.
- 5.2 There are 73 long term residents living in the 7 homes (as at 20 July 2021) of which 78% are women and 22% are men; 57.5% are over 85 years old, 42.5% are between 65 and 84 years old and 0 are under 65; 98.5% are white British, 1.5 % are from other backgrounds. There are an additional 18 short term residents, (as at 20 July 2021), 77% are women and 23% are men; 61% are over 85 years old and 39% are between 65 and 84; 100% of the short-term residents are white British.
- 5.3 The Council will take account of the challenges which the people affected by the proposals in this report face, both in terms of participation in the consultation and in ensuring that the impact of any changes is mitigated if they are to be implemented. Family and friends will be invited to participate in the consultation and advocacy services will be arranged for people who require them. In terms of the impact of the changes, if they are to be implemented, attached at appendix 4 is the Council's "Major Change and Closure Guidance" which sets out the arrangements which will be made if a decision is made to close a home.
- 5.4 A full Equality Impact Analysis will be undertaken and this will be reported to Cabinet on the completion of the consultation on the proposals in this report, should a consultation exercise be approved by Cabinet.

## **Corporate objectives and priorities for change**

- 6.1 In the Council Plan 2021 – 2025 the Council states that listening to, engaging and involving local people in order to ensure services are responsive and take account of what matter most to people, as being a core value.
- 6.2 The Council commits to work together with its partners and communities to be an enterprising council, delivering value for money and enabling local people and places to thrive, and to spend money wisely making the best use of the resources that it has.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 As set out in the report.

### **11 March 2021 – Scrutiny of the Next Steps in Relation to Direct Care Homes for Older People – Update on Progress from Councillor Musson**

On 4 June 2020 Cabinet invited Scrutiny Committee – People to consider including within its work programme, oversight of the next steps (with particular reference to the need for and type of local provision required), to ensure transparency of decision making and to make any recommendations to Cabinet or elsewhere that may arise as a result of such scrutiny.

On 11 March 2021, the Chairman of the Improvement and Scrutiny Committee – People, provided an update in relation to the work completed and provided comment on the methodology that might be used to determine what is “local” and “suitable” alternative provision, in the event of each of the above-mentioned care homes closing.

Whilst the committee did not provide any comment on any proposals with respect to the future of the seven homes, they did provide comment on the proposed methodology to decide what the definition of the terms “local”, “suitable” and “reasonable” might be. To assist the Scrutiny Working Group, Officers from Adult Care provided descriptions of different types of alternative provision and suggested definitions for the terms “local”, “suitable” and “reasonable”. The definitions provided were as follows:

**Local** - It was suggested by officers that for the purposes of relocating people as a result of any residential care home closure any accommodation within a ten-mile radius of their existing care home would be considered as local.

**Suitable** – In the context of any proposed care home closure it is *likely* (but not always) that the most suitable alternative would be another residential care home.

**Reasonable** – It was suggested that a reasonable alternative would be that which is the most appropriate setting for the individual, based on an assessment of need and which could offer a combination of “suitable” and “local” as defined above. It would be expected that in the context of an alternative residential care home this would be any establishment within the whole market, not necessarily just a Council operated alternative.

As part of this work, Scrutiny Members were provided with a map of the surrounding area for each of the seven homes with a 10 mile radius drawn and Members were advised of the vacancies at residential care homes in this ‘local’ area with an indication of the Care Quality Commission rating for each home. This information has been updated and the latest figures are at Appendix 3.

Cabinet was asked by the Chair of the Improvement and Scrutiny Committee – People, to note the following;



- Note that due to the revised timetable the Committee will not be able to deliver against all of the key lines of enquiry in the timeframe anticipated.
- Note that the Improvement and Scrutiny Committee – People has considered the proposed methodology to determine what is “local” and “suitable” alternative provision.
- When determining what is “local” provision, not only consider distance but also place a high priority on a person’s connectedness to an area, the location of family and friends and accessibility to transport routes.
- When determining what is “suitable” provision, place a high degree of importance on the ongoing affordability for individual service users of CQC rated “good” or above provision.
- Note that the Committee recognises that in this current pandemic climate occupancy levels have been significantly reduced and operating costs are temporarily well above the norm. The situation is unlikely to change in any significant way in the immediate term, but measures are being put in place, both nationally and locally, to improve the situation in the more medium term. The Committee understands the need to delay the development of the Market Position Statement and think it sensible to delay decisions on long term strategies until such a time that future service needs and the state of the market are more predictable.
- Note that when the Committee conducts pre-decision scrutiny deliberations in relation to the future of the seven care homes, Members will require demand and the supply data for residential care that can be viewed with a high degree of certainty.

The Committee explained the position that given there is the potential for both demand for residential care and the supply of appropriate provision to fluctuate considerably during the ongoing uncertainties created by the pandemic, the timing of the decision about the future of the seven care homes and the long-term accommodation strategy needs to be carefully considered.

When considering the proposed methodology, Members placed great importance on the individual assessment of current needs when determining what is “local” for each resident. There was unanimous agreement that whilst distance is an important factor, it is not sufficient to determine “local” in terms of a 10-mile radius from a person’s existing residence. Therefore, Members sought assurance that factors outlined in the explanation of individual assessment of current need, (such as accessibility to transport routes, location of family and friends and a person’s connectedness to the area), will be given sufficient consideration when identifying options for each individual.

The Committee considered that the maps provided were a helpful visual aid to see the number and location of provision in each area. However, it was felt that it was an oversimplification to ask Members to form a view about the approach for future provision by merely counting up the number of vacancies in an area and comparing that to the number of residents in each of the DCC homes under consideration.

As such, the parameters set for “local”, “suitable” and “reasonable” are very much to be treated as guiding principles which must be viewed entirely subjectively and subject to an individual’s personal circumstances, which may require those parameters to be flexed in order to provide the best suitable alternative provision that will meet their appropriate individual needs.

## **Appendix 3**

See attached documents

Appendix 3 Goyt Valley House

Appendix 3 The Spinney

Appendix 3 Ladycross

Appendix 3 East Clune

Appendix 3 Holmlea

Appendix 3 Gernon Manor

Appendix 3 Beechcroft 10

Appendix 3 PVI – DCC vacancies as at October 2021

Home name	Postcode	Number of long-term residents	Total Vacancies	Total Vacancies rated as 'good' within a 10 mile radius	Total Vacancies rated as good within a 12.2 mile radius	CQC rating	Distance miles	Top ups
<b>GOYT VALLEY HOUSE – New Mills</b>	SK22 4PA	8				Requires Improvement 27/09/19	0	
BRANKSOME CARE HOME - High Peak	SK17 6XB		0			Requires Improvement 19/11/20	12.3	0
OAKFORD MANOR - High Peak	SK13 2AJ		0			Inadequate, 23/09/20	10.1	0
HADDON HALL - High Peak	SK17 9NW		29		29	Good, 17/09/19	13	varies
ARGYLE CARE HOME - High Peak	SK17 6JR		3		3	Good, 02/12/17	12.2	varies
GABLES CARE HOME - High Peak	SK17 6TD		2		2	Good, 16/11/18	12.1	0
HAWTHORNS CARE HOME - High Peak	SK17 9AR		4		4	Good, 21/06/19	12.1	varies
PAVILION CARE HOME - High Peak	SK17 6XJ		0		0	Good, 03/01/19	12.1	low
PENDLEBURY COURT - High Peak	SK13 8DN		9		0	Requires Improvement 13/03/20	7.5	0
PENNINE CARE CENTRE - High Peak	SK13 6JW		4	2	2	Good, 16/11/19	8	0
REGENCY HALL - High Peak	SK13 1PJ		0			Requires Improvement 13/03/20	9.7	0
WATFORD HOUSE CARE HOME - High Peak	SK12 4EJ		2			Requires Improvement 28/03/19	1.5	medium
WELBY CROFT - High Peak	SK23 9RY		3			Requires Improvement 19/03/21	5.8	varies
<b>DCC HOMES</b>								

WHITESTONES - Chapel	SK23 9TW		11			Requires Improvement 20/02/20	6.0	
THOMAS FIELDS - Buxton	SK17 7BR.		4			Requires Improvement 16/01/20	11.0	
<b>Totals (number of beds required and total vacancies within the vicinity)</b>		8	71	2	40			

NB: for DCC Homes \*\* previously considered for closure, \* due for refurbishment

Home name	Postcode	Number of long-term residents	Vacancies	'Good' vacancies	CQC rating	Distance miles	Top ups
<b>GERNON MANOR HOUSE - Bakewell</b>	DE45 1EN	8			Requires Improvement 2/11/19		
DARLEY HALL CARE HOME	DE4 2FB		0	0	Good, 05/02/20	7.6	varies
LONGMEADOW	DE4 3BN		0	0	Good, 10/04/19	8.7	0
MOORLAND HOUSE	S32 1DD		6	6	Good, 06/06/18	9.4	high
OLD VICARAGE CARE HOME	DE45 1FJ		2	0	Requires Improvement 16/04/20	0.6	high
HADDON HALL	SK17 9NW		29	29	Good, 17/09/19	12.8	varies
IVONBROOK	DE4 2JW		0	0	Good, 21/02/19	6.4	high
LILYBANK HAMLET	DE4 3DQ		10	10	Good, 24/03/20	8.3	medium
MASSON HOUSE	DE4 3PY		0	0	Good, 11/01/18	10	0
<b>DCC Homes</b>							
THOMAS FIELDS - Buxton	SK17 7BR.		4	0	Requires Improvement 16/01/20	12.5	
MEADOW VIEW – Darley Dale	DE43BN		0	0	Good 26/08/20	6.8	

Totals (number of beds required and total number of vacancies in the vicinity)		8	51	45			
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Home name	Postcode	Number of long-term residents	Vacancies	'Good' Vacancies	CQC rating	Distance (miles)	Top ups
<b>THE SPINNEY – Brimington</b>	S43 1BE	13			Requires Improvement 15/5/19		
ASHCROFT CARE HOME	S41 0BT		20	0	Inadequate 10/03/21	4	0
WHITTINGTON CARE CENTRE	S41 9HF		0	0	Good, 14/12/17	2.5	0
WILLOWS CARE HOME	S43 3BW		10	10	Good, 26/02/19	4.3	low
BROOKHOLME CARE HOME	S40 3LA		1	1	Good, 27/07/18	4.7	low
HEATHER VALE COURT	S41 0HZ		0	0	Good, 08/01/20	3.7	high
RIVERDALE CARE HOME	S41 7LL		6	6	Good, 04/01/18	2.7	0
SPRINGBANK HOUSE	S40 4AA		4	4	Good, 11/07/18	4.1	low
ASHLEIGH	S404TE		0	0	Good, 14/12/19	2.3	medium
BANKS CLOSE HOUSE	S410RZ		3	0	Inadequate 24/12/20	3	varies
BRIMINGTON CARE CENTRE	S431NN		0	0	Good, 04/01/19	1.1	0
CHATSWORTH LODGE	S403BQ		0	0	Good, 10/04/19	3.8	0
ELM LODGE	S418SJ		8	0	Requires Improvement 7/9/19	1.9	low
RAVENSWORTH	S445HP		2	2	Good, 21/02/20	8.6	low
RIDGEWOOD HOUSE	S417LL		0	0	Good, 04/01/18	1.9	low
<b>DCC homes</b>							
STAVELEY CENTRE – Middlecroft	S43 3LY		8	8	Good 26/02/19	2.6	
EAST CLUNE – Clowne**	S43 4NW		0	0	Good 10/03/20	7.9	
THOMAS COLLEDGE – Bolsover	S44 6DJ		3	3	Good 31/07/17	6.6	
THE GRANGE – Eckington	S21 4FT		4	4	Good 13/11/19	6.4	
HOLMLEA – Tibshelf**	DE55 5PS		0	0	Requires Improvement 13/12/19	9.9	
<b>Totals (number of beds required and total number of vacancies within the vicinity)</b>		13	69	38			

Home name	Postcode	Number of long-term residents	Vacancies	'Good' Vacancies	CQC rating	Distance (miles)	Top ups
<b>EAST CLUNE – Clowne</b>	S43 4NW	7			Good 10/03/20		
VALE CARE CENTRE – Bolsover	S44 6PS		6	0	Requires Improvement 23/01/20	7.3	0
RICHMOND CARE HOME – Bolsover	NG20 8QE		7	7	Good, 13/11/19	8.7	0
HOLLYBANK CARE HOME – Bolsover	S80 4JH		8	8	Good, 30/06/18	2	0
AUTUMN GRANGE – Bolsover	S80 4JF		2	0	Requires Improvement 06/8/19	2.4	0
HADDON HOUSE – Bolsover	S434JU		2	2	Good, 27/02/19	1.2	0
LODGE CARE CENTRE – NE Derbyshire	S21 1AH		5	5	Good, 12/03/19	5.6	low
APRIL PARK – NE Derbyshire	S214GA		9	9	Good, 13/02/19	6.35	low
NETHERMORE CARE HOME – NE Derbyshire	S21 1AL		0	0	Good, 10/04/19	6	0
CLIFF HOUSE – Bolsover	S43 4LE		3	3	Good, 11/12/18	1.27	low
LANGWIDTH LODGE – Bolsover	NG20 9ES		0	0	Good, 22/01/21	6.24	0
<b>DCC Homes</b>							
STAVELEY CENTRE – Middlecroft	S43 3LY		8	8	Good 26/02/19	6.1	
THE SPINNEY- Brimington**	S43 1BE		0	0	Requires Improvement 15/5/19	7.8	
THOMAS COLLEDGE – Bolsover	S44 6DJ		3	3	Good 31/07/17	4.8	
THE GRANGE – Eckington	S21 4FT		4	4	Good 13/11/19	5.7	
NEW BASSETT HOUSE – Shirebrook*	NG20 8JW		0	0	Good 17/10/18	7.7	
<b>Totals (number of beds required and total number of vacancies in the vicinity)</b>		7	57	49			



Home name	Postcode	Number of long-term residents	Vacancies	'Good' Vacancies	CQC rating	Distance (miles)	Top ups
<b>HOLMLEA – Tibshelf</b>	DE55 5PS	11			Requires Improvement 13/12/19		
PINXTON MANOR	NG16 6PX		0	0	Good, 07/02/19	5.7	low
CLAYDON LODGE	S42 5LY		19	19	Good, 22/02/20	5.6	low
NORMANTON LODGE	DE55 2EF		1	1	Good, 22/05/19	4.14	low
OLD VICARAGE -	S459AQ		10	10	Good, 07/10/17	5.3	medium
GABLES -	S425RJ		2	2	Good, 24/06/17	3.5	0
GROVE HOUSE -	S450AQ		2	2	Good, 11/01/19	7.5	medium
HAZELDENE HOUSE -	S459DX		0	0	Requires Improvement 10/04/19	5.5	0
HOLMEWOOD MANOR -	S425RH		13	13	Good, 11/05/19	3.7	low
<b>DCC Homes</b>							
STAVELEY CENTRE – Middlecroft	S43 3LY		8	8	Good 26/02/19	10.0	
THE SPINNEY- Brimington**	S43 1BE		0	0	Requires Improvement 15/05/19	9.8	
THOMAS COLLEDGE – Bolsover	S44 6DJ		3	3	Good 31/07/17	8.8	
NEW BASSETT HOUSE – Shirebrook*	NG20 8JW		0	0	Good 17/10/18	7.9	
ROWTHORNE – Swanwick*	DE55 1RZ		0	0	Good 05/01/18	6.3	
<b>Totals (number of beds required and total number of vacancies within the vicinity)</b>		11	58	58			

Home name	Postcode	Number of long-term residents	Vacancies	'Good' Vacancies	CQC rating	Distance (miles)	Top ups
<b>LADYCROSS HOUSE – Sandiacre</b>	NG10 5GF	7			Good, 02/04/20	0	
ALEXANDRA CARE HOME	NG10 4AA		23	0	Requires Improvement 5/10/19	8.2	varies
CEDARS & LARCHES CARE HOME	DE72 5GR		21	21	Good, 18/10/19	4.7	0
LADYWOOD CARE HOME	DE7 4HL		1	1	Good, 02/03/19	4.7	low
OLIVER HOUSE CARE HOME	DE7 4JY		0	0	Good, 06/12/19	3.7	low
SANDIACRE COURT	NG10 5GT		36	36	Good, 28/03/18	0.6	varies
VICTORIA PARK CARE HOME	DE7 5HB		2	2	Good, 24/07/19	5.3	medium
BRAMBLE LODGE	DE7 6HQ		13	0	Requires Improvement 1/5/19	6.7	high
LONGMOOR LODGE	NG10 5JP		24	24	Good, 09/03/21	1	low
VICTORIA COURT	DE7 8AY		2	2	Good, 07/04/18	4.8	varies
WEST HALLAM RES HOME	DE7 6GZ		8	8	Good, 21/02/18	6.9	medium
ASHLEE	NG10 2BU		1	0	Requires Improvement 25/12/20	3.2	0
CAMDEN	NG10 2BU		6	0	Requires Improvement 24/12/20	3.2	0
FIRS	DE72 3BU		3	3	Good, 05/06/19	2.8	varies
GRANGE	NG10 5NL		3	3	Good, 21/01/21	1	medium
<b>DCC Homes</b>							
FLORENCE SHIPLEY – Heanor	DE75 7AA		4	0	Requires Improvement 08/11/19	7.9	

LACEMAKER COURT – Long Eaton	NG10 1BE		0	0	Good 08/09/18	3.1	
BRIAR CLOSE – Borrowash *	DE72 3GB		0	0	Good 17/07/18	4.3	
HAZELWOOD - Cotmanhay	DE7 8SW		0	0	Good 26/06/19	5.8	
BEECHCROFT – West Hallam **	DE7 6JB		0	0	Good 14/03/18	6.3	
<b>Totals (number of beds required and total number of vacancies within the vicinity)</b>		7	147	100			

NB: Hazelwood due to close and relocate when new home is built estimated Summer 2022. Beechcroft vacancies not included in final total of available beds. Vicinity

Home name	Postcode	Number of long-term residents	Vacancies	'Good' Vacancies	CQC rating	Distance (miles)	Top ups
<b>BEEHCROFT - West Hallam</b>	DE7 6JB	14			Good, 14/03/18		
ALEXANDRA CARE HOME	NG10 4AA		23	0	Requires Improvement 5/10/19	8.2	varies
CEDARS & LARCHES CARE HOME	DE72 5GR		21	21	Good, 18/10/19	2.7	0
LADYWOOD CARE HOME	DE7 4HL		1	1	Good, 02/03/19	3.9	low
OLIVER HOUSE CARE HOME	DE7 4JY		0	0	Good, 06/12/19	3.7	low
SANDIACRE COURT	NG10 5GT		36	36	Good, 28/03/18	6.8	varies
VICTORIA PARK CARE HOME	DE7 5HB		2	2	Good, 24/07/19	3.2	medium
BRAMBLE LODGE	DE7 6HQ		13	0	Requires Improvement 1/05/19	1.2	high
LONGMOOR LODGE	NG10 5JP		24	24	Good, 09/03/21	7.4	medium
VICTORIA COURT	DE7 8AY		2	2	Good, 07/04/18	3.1	varies
WEST HALLAM RES HOME	DE7 6GZ		8	8	Good, 21/02/18	0.9	medium
ASHLEE	NG10 2BU		1	0	Requires Improvement 25/12/20	9.4	0
CAMDEN	NG10 2BU		6	0	Requires Improvement 24/12/20	9.4	0
FIRS	DE72 3BU		3	3	Good, 05/06/19	8.2	varies
GRANGE	NG10 5NL		3	3	Good, 21/01/21	3.7	medium

<b>DCC Homes</b>							
FLORENCE SHIPLEY – Heanor	DE75 7AA		4		Requires Improvement 8/11/19	5.9	
LACEMAKER COURT – Long Eaton	NG10 1BE		0	0	Good 10/08/18	9.1	
BRIAR CLOSE – Borrowash *	DE72 3GB		0	0	Good 17/07/18	6.3	
HAZELWOOD - Cotmanhay	DE7 8SW		0	0	Good 26/06/19	4.7	
LADYCROSS – Sandiacre **	NG10 5GF		0	0	Good, 02/04/20	6.7	
ADA BELFIELD - Belper	DE56 1DF		10	10	Awaiting inspection	8.3	
<b>Totals (number of beds required and total number of vacancies in the vicinity)</b>		14	157	104			

## Appendix 4

See attached document

Appendix 4 - Major change and closure guidance - Accommodation, care and support for older people - DCC Adult Social Care

<https://staff.derbyshire.gov.uk/site-elements/documents/working-here/adult-care/major-change-and-closure-guidance-accommodation-care-and-support-for-older-people.pdf>

### OUR PLEDGES TO RESIDENTS

1. We will treat you with dignity and respect, consulting with you and keeping you informed throughout the process
2. We will ensure relatives and friends chosen by you are informed of the home closure and are able to remain involved in the process too
3. We will name a member of staff from your present care home who knows you well to listen to you, support you and stay in contact with you
4. We will provide an advocate to assist anyone who does not have mental capacity to make decisions about their future arrangements and has no family or friend to do this
5. We will discuss your preferences, and care and support needs with you; addressing any concerns you or your family or friends have about you moving. We will update your assessment if necessary and check you agree with what has been written
6. We will try our best to meet your own personal priorities, for example you may have friends you particularly wish to stay together with when you move
7. We will ensure you have as much choice as possible about the type of care service you choose. We will arrange for you to visit ones you consider may be suitable, or for your family or friends to do this if you are unable to do so
8. We will complete a new 'support plan' and 'life book' with you to make clear your likes, things you want to do or be assisted with, your interests and priorities now and in earlier life. Once you are in agreement with what is in the plan/book this can be used to brief your new service providers and help them prepare for your arrival
9. We will ensure within reason you do not incur any additional costs through moving to a new provider
10. We will carefully plan the day of your move with you to reduce stress or worries. We will take into consideration things like how you travel, who you want to travel with you, and write a list of your personal items
11. Finally, we pledge to visit you and find out how you are doing after the move and check if there is anything else you wish to be done

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Agenda Item

**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**18 November 2021**

**Report of the Director of Public Health**

**The transfer of the Infant Toddler and Nutrition Service and Oral Health Promotion service into the existing Section 75 Partnership Agreement (Health and Communities)**

**1. Divisions Affected**

1.1 County-wide.

**2. Key Decision**

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned (this is currently defined as £500,000)

**3. Purpose**

3.1 To seek Cabinet approval to undertake a joint consultation with Derbyshire Community Health Services NHS Foundation Trust (DCHS) to transfer the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the current Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS for the provision of the 0-19 Public Health Nursing Service.

- 3.2 That, subject to the outcome of the public consultation, Cabinet endorses transferring both services into the Section 75 Partnership Agreement.
- 3.3 That, subject to the outcome of the public consultation, Cabinet delegates authority to the Director of Public Health and Cabinet Member for Health and Communities to take any further decisions required to complete the transfer of both services into the Section 75 Partnership Agreement.

#### **4. Information and Analysis**

##### **4.1 Background information on the current Section 75 Partnership agreement**

On 26 July 2018, Cabinet approved an enterprising approach to providing key public health services for the 0-19 age group and their families, including: 0-19 Public Health Nursing (Health Visiting and School Nursing) and the National Child Measurement Programme (NCMP). This included the transfer of responsibility for NCMP to the Council's Live Life Better Derbyshire Service, and the development of a Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS for the delivery of the 0-19 Public Health Nursing Service. The original budget for the 0-19 Public Health Nursing Service as part of the Section 75 was £12.000m per annum, however on 19 November 2020 Cabinet approved a pay up lift of £0.500m per annum increasing the annual budget to £12.500m. In addition, Cabinet approved the transfer of £1.000m per annum to support Children's Centres to continue to deliver services to vulnerable families across Derbyshire.

- 4.2 Service delivery commenced on 1 October 2019 and Cabinet approved sign off of the Section 75 Partnership Agreement on 10 October 2019. The Section 75 Agreement was completed on 24 December 2021. This report seeks to transfer the following two services into the current Section 75 Partnership Agreement, both of which are currently commissioned by Public Health and are delivered by DCHS:

- Infant and Toddler Nutrition Service
- Oral Health Promotion Service

##### **4.3 Infant and Toddler Nutrition Service**

The Infant and Toddler Nutrition Service provides support for breastfeeding mothers to establish and sustain breastfeeding to six weeks and beyond. The service also provides support and advice to families on the introduction of first foods (designed to delay the

introduction of first foods until six months); and establishing healthy eating behaviours in families with toddlers; and building a supportive breastfeeding Derbyshire through recruitment, training and supporting of volunteers. This enables the service to have a broader reach to the population across the county and with the addition of online information and an interactive website, is more accessible.

- 4.4 The overarching aim of the Infant and Toddler Nutrition Service is to protect and promote the health and wellbeing of children in the early years; improve the short and long term health, wellbeing and development of children; and to reduce health inequalities by ensuring that services for children, families and communities are developed and delivered with a strong focus on prevention, health promotion and early identification of needs.
- 4.5 The contract for the provision of the Infant and Toddler Nutrition Service was awarded by Cabinet on 16 November 2017 to DCHS to deliver. This was for an initial three year period from 1 April 2018 to 31 March 2021 with an option to extend for a further two 12 month periods until 31 March 2023. Public Health SMT approved the first of these 12-month extensions on 6 July 2020 covering the period 1 April 2021 to 31 March 2022. Public Health SMT approved the second 12-month extension on 5 July 2021 meaning this contract is due to expire on 31 March 2023.
- 4.6 Oral Health Promotion Service  
The Health and Social Care Act (2012) conferred the responsibility for health improvement, including oral health improvement to local authorities in order to achieve sustained and long-term improvements in oral health and reduce inequalities.
- 4.7 This legislation states that local authorities are responsible for providing, or securing provision of:
- a) Oral health promotion programmes
  - b) Oral health surveys to facilitate
    - the assessment and monitoring of oral health needs,
    - the planning and evaluation of oral health promotion programmes,
    - the planning and evaluation of the arrangements for provision of dental services as part of the health service, and
  - c) Where there are water fluoridation programmes affecting the authority's area, the monitoring and reporting of the effect of water fluoridation programmes.
- 4.8 DCHS deliver the oral health promotion programmes mandated element as part of the contract for the Oral Health Promotion Service, however National Public Health commissioners (previously Public Health

England) commission the other two mandated elements of Oral Health Improvement (Oral health surveys and water fluoridation) on the Council's behalf.

- 4.9 The contract for the Oral Health Promotion Service was awarded by Cabinet on 12 July 2016 to DCHS, and commenced on 1 April 2017. The term of the contract approved by Cabinet was for three years with an option to extend for a further two 12-month periods until 31 March 2022. The contract is currently in the final 12-month extension. Public Health SMT approved the second 12-month extension on 6 July 2020 covering the period 1 April 2021 to 31 March 2022, meaning this contract was due to expire on 31 March 2022. Due to tight timeframes to re-procure or transfer this service into the Section 75, a Business Case was approved on 16 July 2021 to extend this contract beyond the original award period by 12 months. As a result, this contract is due to expire on 31 March 2023. This end date will now align with the date that the Infant and Toddler Nutrition Service contract is due to expire.
- 4.10 Performance of Infant and Toddler Nutrition and Oral Health Services. Before the Covid-19 pandemic both services were performing well and meeting the key performance indicators (KPIs) outlined within the service specifications. However, the pandemic has resulted in significant changes to the way in which both services have been and continue to be delivered. For example, the Oral Health Promotion Service have had to adapt the way in which they deliver training to partner organisations by creating an online offer where appropriate, or delivering face-to-face training in different ways to reduced numbers in order to comply with Covid-19 guidelines. The Infant and Toddler Nutrition Service has had to suspend group-based programmes and offer support via telephone on an individual basis. These changes have impacted both services' ability to work with the numbers of individuals that they have worked with over previous years and that has been stipulated within the KPIs. Both services have had to make adaptations to the service delivery models at short notice and performance remains satisfactory for both services under the current circumstances.
- 4.11 Benefits of transferring the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the Section 75  
The successful implementation of the Section 75 Partnership Agreement for the delivery of 0-19 Public Health Nursing service has raised the possibility of transferring both the Infant and Toddler Nutrition Service and Oral Health Promotion Service within the current Section 75 Agreement. Transferring both services into the current section 75 would have the following benefits:

- Enable better integration between 0-19 Public Health Nursing, Infant and Toddler Nutrition, Oral Health Promotion and Early Help services delivered internally via Children's Services. This in turn will also lead to greater opportunities for partnership working between services and aligning resources appropriately within each service to gain efficiencies in scale
- Enable the Council and DCHS to work together more cohesively to achieve positive outcomes for the children and young people and their families across Derbyshire
- Enables the provider to be more innovative and provides better opportunities to adapt services accordingly to meet the changing needs of the children and young people in Derbyshire
- Including both services within the current Section 75 Partnership Agreement will build on the successful services currently delivered and mitigate future risks in performance as a result of re-procurement

#### 4.12 Possible constraints to approach

It is envisaged that transferring Infant and Toddler Nutrition and Oral Health Promotion Services into the current Section 75 Partnership Agreement may have the following potential constraints:

- The approach does not help stimulate the wider market, nor give the market the opportunity to respond to service specification and generate competition/innovation
- The span of the Council's control as a formal commissioner may reduce a little, however the benefits include improved partnership working. The Integrated Care System (ICS) is working towards a single contract model over the next 24 months. Section 75 Partnership Agreements may be a contract mechanism that is used both locally and nationally.
- The approach may generate some challenge from the market. However, powers provided to local authorities and the NHS under the NHS Act 2006 support the development of Section 75 partnership agreements.

## 5. **Consultation**

- 5.1 Regulation 4 of the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) provides that before entering into partnership arrangements the two parties must undertake a joint public consultation with such persons as appear to them to be affected by the arrangements. It is therefore proposed that the Council and DCHS undertake a public consultation with stakeholders on the

proposal to transfer the Infant and Toddler Nutrition and Oral Health Promotion Services into the current Section 75 Partnership Agreement.

- 5.2 The stakeholders to be consulted will include but will not be limited to service users, CCGs and Local Authorities and responses will be assessed by the Strategic Governance Group chaired by the Director of Public Health which oversees the operation of the Section 75 Partnership Agreement.

## **6. Alternative Options Considered**

- 6.1 Alternative option 1 – Re-procure the Infant and Toddler Nutrition and Oral Health Promotion Services

- 6.2 The main benefit of re-procuring the Infant and Toddler Nutrition and Oral Health Promotion Services as part of a competitive procurement process is that it would enable the Council to go out to the wider market, which would enable the opportunity for other providers to bid for these services.

- 6.3 However, despite this the benefits of transferring both services into the existing Section 75 Partnership Agreement outweigh the benefits of going out to the wider market. This is because the advantages of transferring these services into the Section 75 include:

- Enable better integration between 0-19 Public Health Nursing, Infant and Toddler Nutrition, Oral Health Promotion and Early Help services delivered internally via Children's Services. This in turn will also lead to greater opportunities for partnership working between services and aligning resources appropriately within each service to gain efficiencies in scale
- Enable the Council and DCHS to work together more cohesively to achieve positive outcomes for children and young people and their families across Derbyshire
- Enables the provider to be more innovative and provides better opportunities to adapt services accordingly to meet the changing needs of children and young people in Derbyshire
- Including both services within the current section 75 will build on the successful services currently delivered and mitigate future risks in performance as a result of re-procurement

- 6.4 There are also additional social value advantages to commissioning these services as part of a Section 75 Partnership Agreement. A partnership approach offers an opportunity for efficiencies as one party provides functions on behalf of another. Savings can then be utilised to deliver service improvement to better meet the needs of the local

population. DCHS, as the current provider of various Public Health services is one of the largest employers in Derbyshire, employing over 4,500 local people.

- 6.5 The success of the implementation of the current Section 75 Partnership Agreement between the Council (Public Health and Children's Services) and DCHS coupled with the advantages highlighted above is why this report seeks approval to transfer these services into the existing Section 75 Partnership Agreement as opposed to undertaking a competitive re-procurement of both services.
- 6.6 Alternative option 2 – De-commission Infant and Toddler Nutrition and Oral Health Promotion services after the current contracts end in March 2023.
- 6.7 Public Health are not mandated to commission Infant and Toddler Nutrition Services. However, Public Health does have a statutory duty to commission Oral Health Promotion Programmes, although Public Health are not constrained to commissioning the current model delivered as part of the Oral Health Promotion Service. Decommissioning both services would produce an initial cost saving to the Public Health Grant. However, failure to commission these services could have an adverse impact on the health of the population and increase health inequalities within some of the most vulnerable populations in Derbyshire. Over the longer-term, failure to have these preventative services in place might create an additional cost within the health and social care system. Failure to provide these services may also cause reputational damage for the Council. It is for these reasons why this is not considered a viable option.

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Cabinet report 12 July 2016 – 'Oral Health Promotion Service'
- 8.2 Cabinet report 16 November 2017 – 'Provision of Infant and Toddler Nutrition Peer Support Service'

- 8.3 Cabinet report 26 July 2018 – ‘A New Approach to Public Health Nursing and Achieving Population Health and Wellbeing Outcomes in 0-19 Year Olds across Derbyshire’
- 8.4 Cabinet report 10 October 2019 – ‘Achieving Public Health 0-19 Outcomes – Section 75 Agreement between Derbyshire County Council and Derbyshire Community Health Services NHS Foundation Trust’
- 8.5 Business Case August 2020 – ‘Oral Health Promotion’
- 8.6 Cabinet report 19 November 2020 – ‘Additional Investment for Public Health Nursing’
- 8.7 Business Case July 2021 – ‘Protocol 10 Extension of contract beyond original award period for provision of Oral Health Promotion’

## **9. Appendices**

- 9.1 Appendix 1- Implications.

## **10. Recommendation(s)**

- 10.1 That Cabinet approves that a public consultation exercise is undertaken in conjunction with Derbyshire Community Health Services NHS Foundation Trust on transferring the Infant and Toddler Nutrition and Oral Health Promotion Services into the existing Section 75 Partnership Agreement.
- 10.2 That, subject to the outcome of the public consultation, Cabinet endorses transferring both services into the Section 75 Partnership Agreement
- 10.3 That, subject to the outcome of the public consultation, Cabinet delegates authority to the Director of Public Health and Cabinet Member for Health and Communities to take any further decisions required to complete the transfer of both services into the Section 75 Partnership Agreement.

## **11. Reasons for Recommendation(s)**

- 11.1 The Council is only able to transfer the Infant and Toddler Nutrition Service and Oral Health Promotion Service into the current Section 75 Partnership Agreement following a joint consultation with DCHS. Therefore, this report seeks approval to undertake this consultation to inform the future commissioning decision.



- 11.2 If the outcome of the consultation is favourable to transferring both the Infant and Toddler Nutrition Service and Oral Health Promotion Services into the Section 75 Partnership Agreement, then this report seeks approval from Cabinet to commence the necessary process to start transferring both services into the existing Section 75 Partnership Agreement.
- 11.3 This report also seeks approval to delegate approval for future decisions in relation to transferring both services into the Section 75 Partnership Agreement to the Director of Public Health (as chair of the Strategic Governance Group that has oversight of the current Section 75 Partnership Agreement) and the Cabinet Member if the outcome of the public consultation supports the transfer.

**12. Is it necessary to waive the call in period?**

12.1 No

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## **Appendix 1**

### **Implications**

#### **Financial**

- 1.1 The overall budget of both the Infant and Toddler Nutrition and the Oral Health Promotion services equates to £0.561m. Transferring both services into the existing Section 75 Partnership Agreement will increase the overall budget of all services included within the Section 75 Partnership Agreement to £14,061m. This budget will continue to be met out of the Public Health grant.

Service	Provider	Current arrangements	Annual value
0-19 Public Health Nursing Services	DCHS	Part of current Section 75 Partnership agreement	£12.500m per annum
Public investment into Early Help	DCC Children's Services	Part of current Section 75 Partnership agreement	£1.000m per annum
Infant and Toddler Nutrition Service	DCHS	Contract	£0.424m per annum
Oral Health Promotion Service	DCHS	Contract	Original annual budget of £86,544. A pay uplift approved via a Business Case in August 2020 to provide an additional £50,000 per annum for the final year of the contract to expand the scope of the service, thus increasing the annual budget for 2021-22 to £0.137m. This pay uplift will be retained during the one-year extension beyond the original award for the 2022-23 financial and thereafter once the service has transferred into the section 75.

## **Legal**

- 2.1 Section 75 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) enables local authorities and NHS bodies (including clinical commissioning groups and foundation trusts) to enter into arrangements in relation to the exercise of each other's health-related functions where such arrangements will provide a more streamlined service if they are likely to lead to an improvement in the way those functions are exercised. The arrangements may mean that one body carries out the functions of both in providing the service; that the two bodies share functions (usually with a pooled budget); or that one body commissions services on behalf of both. In this instance, DCHS and the Council work in partnership under the Section 75 Agreement to deliver a better service to service users but maintain separate budgets.
- 2.2 As set out in paragraph 5.1 above, the NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (as amended) require that a joint public consultation is carried out before any partnership arrangements are entered into. This includes situations where an existing agreement is to be amended by the addition of services.
- 2.3 The Director of Legal Services will advise on the legal process required in order to undertake a variation of the current Section 75 Partnership Agreement between the Council and DCHS to transfer the Infant and Toddler Nutrition and Oral Health Promotion Services into the agreement.
- 2.4 This will include clearly defined shared performance measures, outcomes, aims and objectives, setting out the services to be delivered and the budget for both Infant and Toddler Nutrition and Oral Health Promotion. Both services will also become part of the existing governance arrangements including accountability, financial reporting, management of risks, exit strategy that was established as part of the current Section 75 Partnership Agreement.

## **Human Resources**

- 3.1 The current services in scope for the partnership arrangement employ a range of clinical and non-clinical staff from DCHS. Employee consultation and briefings will take place as appropriate to ensure

understanding and maintenance of the service during this process of change.

## **Information Technology**

4.1 N/A

## **Equalities Impact**

5.1 We do not envisage the need to undertake an Equalities Impact Assessment (EIA) at this stage because this report proposes to change the way services are commissioned as opposed to proposing significant changes to service delivery. If the way these services are delivered change as a result of transferring both services into the current Section 75 Agreement, then an EIA will be undertaken before any proposed changes to service delivery within either of these services are implemented.

## **Corporate objectives and priorities for change**

- 6.1 All Public Health commissioned services set out to meet the aims and objectives outlined within the Adult Social Care and Health Service Plan 2021-2025 which are to ensure Derbyshire has:
- Resilient, thriving and green communities which share responsibility for improving their lives and supporting each other
  - Happy, safe and healthy people, with solid networks of support, who feel in control of their personal circumstances and aspirations
  - A strong, diverse and clean economy which makes the most of Derbyshire's rich assets and provides meaningful opportunities for local people to achieve their full potential
  - Great places to live, work and visit with high performing schools, diverse cultural opportunities, transport connections and keep things moving and a healthy and sustainable environment for all
  - High quality public services that work together and alongside communities to deliver services that meet people's needs

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 N/A



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**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**Thursday, 18 November 2021**

**Report of the Executive Director - Place**

**Changes to Temporary Payment Arrangements to Bus, Coach and Taxi Operators for Contracted Transport Services and Concessionary Fares Reimbursement from 1 January 2022 due to the ongoing impact of Coronavirus**

(Cabinet Member for Highways, Assets and Transport)

**1. Divisions Affected**

1.1 County-wide.

**2. Key Decision**

2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned and it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

3.1 To update Cabinet on current Coronavirus (COVID-19) related public transport issues and seek approval for an extension of the flexible payment arrangements for bus, coach and taxi operators providing contracted Council transport services and for concessionary fares reimbursement after the current provision ends on 31 December 2021.

## **4. Information and Analysis**

- 4.1 On 20 March 2020, following the worsening health situation and the Government's more specific advice to avoid travel by public transport, it became clear that urgent action was required to secure the immediate future of the Council's contracted transport services and public bus services in Derbyshire more generally. The then Executive Director - Economy, Transport and Environment therefore made an urgent decision to maintain normal contract payments to transport providers who operated the following services for the Council:
- Adult Social Care and Health (ASCH) Transport Services.
  - Contracted Local Bus Services.
  - 'Derbyshire Connect' Services.
  - Mainstream Home to School Transport Services.
  - Special Education Needs and Disabilities (SEND) Home to School Transport.
  - Swimming services for primary schools (normally recharged to schools, but during the initial lockdown from March 2020 to July 2020 *this cost was absorbed by Children's Services*).
- 4.2 At the same time, the then Executive Director also agreed to maintain payments to bus operators for accepting English National Concessionary Travel Scheme (ENCTS) cards, known as Gold Card in Derbyshire, based on the level of travel before the pandemic. Both of these arrangements were to continue until 30 June 2020.
- 4.3 This urgent decision was the subject of an Officer Decision Record (ODR) agreed by Gold CMT on 20 March 2020. It was also reinforced with a Cabinet Office 'Procurement Policy Note' 02/20 (PPN) about supplier relief. The Cabinet Office guidance advised public bodies to issue a Memorandum of Understanding (MoU) to suppliers about terms of payment relief to allow for them to undertake other civic duties in the national emergency. A variation of contract notice was issued and agreed by all transport providers in Derbyshire.
- 4.4 Maintaining contract and concessionary payments ensured that service providers were able to continue to operate Council services, where required to do so. It also ensured they were able to undertake alternative activities, such as taking food or medical supplies to people without access to any other transport, when the normal contracted services were not required, for example, due to the closure of schools or day centres. Maintaining normal payments also allowed the network of public bus services to continue to operate, providing key workers with travel options and learners with access to schools and colleges. These



payments also gave the various operators some certainty about their short term financial stability and allowed them to be available to resume full services when required.

- 4.5 Following this decision on 25 March 2020, the Department for Transport (DfT) issued its own guidance to all English local transport authorities that they needed to take the same actions as Derbyshire already had, in their own areas. At the same time, the DfT also provided emergency direct funding to bus companies to allow them to continue to operate their commercial services.
- 4.6 On 4 June 2020, the then Executive Director - Economy, Transport and Environment made a further urgent decision to continue with the contract and concessionary payment arrangements until 31 October 2020, due to continued uncertainty around future transport requirements as a result of the COVID-19 pandemic. This decision was subsequently reported to the Cabinet Member - Highway, Transport and Infrastructure meeting on 9 July 2020 (Minute No. 34/20 refers) and reflected further Government PPN 04/20 which provided advice to public bodies about continued payment and transitional relief arrangements.
- 4.7 Following the easing of lock down restrictions in mid-June 2020 and the opening of non-essential shops and hospitality venues in July 2020, demand for public transport services slowly began to increase. Most commercial and Council supported conventional bus services returned to their pre-COVID-19 timetables and passenger numbers rose from a low of 10%-15% of normal patronage in the lockdown to a high of 55%-60%. Leisure-related travel was reported as being particularly important as commuter usage remained lower than normal, due to the numbers of people continuing to work from home. The fact that these increases took place whilst the DfT was continuing to advise people to avoid unnecessary use of public transport, showed the importance of these services to a significant number of Derbyshire residents and visitors.
- 4.8 In September 2020, schools and colleges reopened fully for the first time since March 2020. As a result, the Council's mainstream and special educational needs and disability (SEND) home to school transport services fully resumed. Because of the legal requirement to maintain social distancing and support year group "bubble" arrangements, additional services were introduced in some areas using grant funding provided by Government. At the same time, bus operators reported an increase in commuter traffic as people began returning to their normal workplaces rather than working from home. Demand also began to return closer to normal on more specialist, Council funded transport services, with the reopening of some ASCH day centres to

provide for emergency placed clients. The Derbyshire Connect shopping bus service, which mainly caters for the needs of elderly and disabled residents, also saw passenger numbers increase to 70% of pre-COVID-19 levels by the end of October 2020.

4.9 As part of the Council's responsive approach to service provision, on 22 October 2020, the then Director – Economy, Transport and Environment made a further urgent decision that took account of changes in the impact of the COVID-19 pandemic at the time and the need for ongoing support to facilitate the recovery of transport services in Derbyshire. A schedule of revised payment arrangements were agreed effective from 1 November 2020 which were:

- Payments for Adult Care Transport were reduced to 75% of the contracted levels for those services which continued not to operate due to the closure of the day care centre concerned.
- Payments for Contracted Local Bus Services were to remain at 100% of contract levels as services were now operating.
- Payments for Derbyshire Connect Services were to remain at 100% as services were now operating.
- Payments for Mainstream Home to School Transport Services were to remain at 100% as services were now operating.
- Payments for SEND Home to School Transport were to remain at 100% as services were now operating.
- Payments for swimming transport services during the autumn term from September 2020 to December 2020 were to be reduced to 0% of contracted costs. The existing contractual arrangements were, however, to remain in place in the anticipation that services would resume as normal at the start of the new school term in January 2021.

4.10 Concessionary fares payments continued to be made based on the level of bus travel before the pandemic.

4.11 In addition, it was decided that:

- Should local lockdown arrangements be introduced that required the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in the affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced.
- Should a transport operator be unable to fulfil a contracted service due to instruction by an authorised body (such as NHS Test and

Trace) that a driver or passenger assistant must self-isolate, then the operator *should* find a replacement member of staff to cover that service. However, in the extreme circumstance that an entire company needed to self-isolate and therefore was unable to provide any contracted services, then payments would be reduced to 75% of the contracted level until such time as normal services could be resumed.

- 4.12 This decision was subsequently reported to Cabinet at the meeting on 19 November 2020 (Minute No. 194/20 refers).
- 4.13 At the time these decisions were made, it had been hoped that the introduction of the tier restrictions, and the more limited four week lockdown in November 2020, where many schools remained open, would negate the need for a further national lockdown.
- 4.14 Unfortunately, this did not prove to be the case and a further national lockdown was introduced on 5 January 2021. This led to the closure of most non-essential businesses and shops with schools remaining open only for children of key workers and vulnerable pupils. At the same time, the DfT reinforced the message not to use public transport services unless absolutely necessary and advised operators and Councils to reduce frequencies on their commercial and supported bus networks. As a result, the local bus network was scaled back to around 75%-85% of normal mileage with passenger usage dropping to around 25%-35% of pre-COVID-19 use.
- 4.15 The Prime Minister's 'roadmap' announcement on 22 February 2021, *set out* the key dates for the lifting of the various COVID-19 restrictions. As a first step, schools began reopening to all pupils from 8 March 2021, with other parts of the economy, including non-essential retail, the hospitality sector, and leisure industries, following over a number of months up to July 2021.
- 4.16 To take account of the changing situation, further alterations to the revised payment arrangements were introduced from 1 April 2021 following approval by Cabinet at a meeting on 11 March 2021 (Minute No. 45/21 refers). The new arrangements were:
- Payments for Adult Care Transport to remain at 75% of the contracted levels for those services which continued not to operate due to the closure of the day care centre concerned.
  - Payments for Adult Care Transport, contracted local bus, Derbyshire Connect, Mainstream Home to School and SEND services which continued to operate normally to remain at 100% of contract levels.

- Payments for Swimming Transport Services to remain at 0% of contracted costs until services could resume, which was not anticipated to be until the new school year began in September 2021.
- Concessionary fares payments to continue to be made based on the level of bus travel before the pandemic, subject to any changes required to respond to updated DfT advice.

4.17 It was also agreed that:

- Should local lockdown arrangements be introduced that require the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in an affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced or until it is determined that transport requirements have changed and alternative recommendations are made, whichever is soonest.
- Should a transport operator be unable to fulfil a contracted service due to instruction by an authorised body (such as NHS Test and Trace) that a driver or passenger assistant must self-isolate, then the operator should find a replacement member of staff to cover that service. However, in the extreme circumstance that an entire company has to self-isolate and therefore is unable to provide any contracted services, then payments will be reduced to 75% of the contracted level until such time as normal services are resumed.

4.18 To provide stability to both the Council and contractors, it was felt necessary to maintain these recovery arrangements in place until 31 December 2021.

#### 4.19 **Impacts of Payment Arrangements**

Since the beginning of the first national lockdown in March 2020, the Council has continued to provide vital financial support for transport services in the County. In turn, the transport companies have provided a variety of services on behalf of the Council. Transport companies have demonstrated resilience, community spirit and a willingness to respond to the local COVID-19 efforts. Despite the worsening picture at times, all operators have remained active and many have reacted positively to requests from the Council to adapt or change the services they provide. This has only been possible due to the ongoing support from the Council and, in particular, the Council's action from the outset, maintaining payments to transport providers for contracted services and Gold Card concessions. Over the last eight months, the impact of this policy has been to:

- Maintain payments to local bus operators for over 90 contracted services (budget £3.9 million) and Gold Card concessions (budget £9.5 million) across all public bus services. These payments have been vital in allowing a network of services to be maintained in Derbyshire, ensuring key workers and care staff can continue to get to work, as well as enabling other essential journeys such as food shopping, education and health appointments.
- Maintain payments to operators providing 169 Mainstream Home to School Transport Services (budget £4.5m) and for 665 Special Needs Transport Services (budget £10.5m).
- Maintain payments to operators providing 108 Adult Care Transport Services (budget £3.5m).
- Ensure coach and taxi operators have maintained vital services to schools to ensure vulnerable children, and those of key workers, are able to attend.
- Allow operators and Council officers to work constructively to deliver adapted or additional services to enable greater social distancing and safer travel for children, adults and the wider travelling public.
- Enable minibuses to provide short notice transport for adults with disabilities requiring emergency support.
- Enable taxi and minibus companies to deliver food hampers and supplies to foster families and looked after children.
- Allow taxis to transport care workers on late night shifts.

4.20 However, at this point in the fragile recovery phase, it is important to continue to safeguard the services that the Council requires. Any revised funding arrangements need to carefully reflect the on-going challenges and requirements of the pandemic, alongside continuing to support transport companies and, at the same time, ensuring value for the public purse.

#### 4.21 **Going Forward**

Many of the fundamental concerns which led to the series of decisions made in the 18 months from March 2020 continue to be valid, including:

- The continued probability that transport operators will go out of business without continued support.
- The limited availability of Public Service Vehicle drivers.
- The lack of alternative capacity in the market to allow other operators to pick up additional business within a short timescale.
- The reduced supply in the market, particularly in the taxi and minibus market, as many drivers have gained other employment as a result of the COVID-19 pandemic.

- The continued costs being faced by bus operators to maintain their 'O Licence' which includes maintaining 'financial standing' in their bank account, vehicle insurance and vehicle maintenance.
- The self-employed nature of many taxi drivers which mean they are very vulnerable to the economic shock of COVID-19.

4.22 Whilst the wider effects of the pandemic are anticipated to continue to impact the economy and public transport sector over the medium to long term, a number of other specific changes have occurred since the Cabinet Meeting on 11 March 2021 (Minute No. 45/21 refers) which have impacted on the operation of the Council's contracted transport services including:

- The publication of the Government's National Bus Strategy and the work undertaken by the Council and its partners since the introduction of an 'Enhanced Partnership' arrangement and the associated 'Bus Service Improvement Plan' (BSIP).
- An acceptance by the DfT and the bus industry more generally that passenger numbers are unlikely to return to pre-pandemic levels for a number of years, even with the measures proposed in the National Bus Strategy.
- Changes to the DfT funding provided to support commercial bus services in September 2021.
- Removal of additional funding provided by the DfT and the Department for Education (DfE) for additional school and college transport in July 2021.
- A rapid increase in demand for HGV and delivery drivers that has generated significant wage inflation, which has resulted in significant numbers of Public Service Vehicle and taxi drivers moving jobs into that sector.
- Delays in issuing new taxi licenses due to a COVID-19 backlog of applications with the borough and district councils.
- The extension of Passenger Service Vehicles Accessibility Regulations, (PSVAR), to include School Transport Services which has resulted in a considerable increase in costs as operators are now required to introduce new accessible buses into their fleets for Home to School Services.
- Changes to how adult day care facilities are provided in certain areas, currently subject to review by ASCH department.
- Significant increases in the cost of fuel.

#### 4.23 **Proposals**

With the continued uncertainty about the impact of COVID-19 on the long term demand for public transport services and wider Government

policy changes in the bus sector, the Council needs to maintain a level of flexibility and responsiveness in the way bus services are supported, managed and commissioned until the way ahead becomes clearer. Statutory Mainstream School and SEND services also need to be supported and transport to ASCH day centres will also be required. It is a requirement of the Government's COVID-19 Bus Recovery Grant that payments for journeys made by concessionary card holders continue to be maintained at pre COVID-19 levels until at least April 2022. It also seems likely that the Government will reform the current concessionary payments scheme from April 2022, which is another *element of* uncertainty that the industry is facing.

- 4.24 The financial support provided by the Council to the transport operators throughout the pandemic has been invaluable in stabilising the sector and safeguarding the contracted services provided for the residents of Derbyshire. This work has been further enhanced by involvement of the sector in the formal recovery work streams and in regular operator liaison meetings.
- 4.25 The outputs of these discussions are reflected in the Derbyshire Economic Recovery Strategy and demonstrate the critical role that public transport has to play in enabling full and inclusive recovery to the business, retail, learning and visitor sectors across the County.
- 4.26 There is, however, an expectation that as Derbyshire begins to move further into a recovery phase, there will need to be flexibility to alter the current payment arrangements, to take account of changing local circumstances, new national guidance and any further modifications to the Government's existing emergency funding arrangements, as well as gearing up to deliver the aims and objectives of the Council's Enhanced Partnership and BSIP. There will also be a particular need to reassess Adult Care Transport following the completion of the current day care service review, and local bus, mainstream school and Derbyshire Connect services once the DfT indicates what funding will be made available to the Council through the BSIP process.
- 4.27 It is unlikely that all these decisions will be made before the current payment provisions end on 31 December 2021 and, therefore, it is proposed that the following payment funding arrangements are introduced from 1 January 2022:
- Payments for Adult Care Transport, contracted local bus, Derbyshire Connect, Mainstream Home to School, swimming buses and SEND Home to School Services, which continue to operate normally to remain at 100% of contract levels.

- Payments for Adult Care Transport to remain at 75% of the contracted levels for those services which continue not to operate due to the closure of the day care centre concerned.
- Concessionary fares payments to continue to be made based on the level of bus travel before the pandemic, subject to any changes which may be needed in response to updated DfT advice.

4.28 In addition:

- In the event that local lockdown arrangements are introduced that require the withdrawal of any local bus, Derbyshire Connect, Mainstream or SEND Home to School Transport Services or Adult Care Services in the affected area, then payments would be reduced to 75% of the contracted levels for those services until such time as normal services could be reintroduced, or until it is determined that transport requirements have changed and alternative recommendations are made, whichever is soonest.
- Should a transport operator be unable to fulfil a contracted service as a result of drivers or passenger assistants being unavailable due to a positive COVID-19 test, then payments will be reduced to 75% of the contracted level until such time as normal services are resumed.

4.29 It is proposed that these payment arrangements remain in place until 30 September 2022, or until an assessment of ongoing requirements is completed and alternative recommendations are made, whichever is soonest.

## **5. Consultation**

5.1 Consultation on the proposals has taken place with the providers of the various transport services including bus, coach, taxi and community transport operators. Representatives from the Adult Care and Education teams within the County Council have also been consulted. All of these groups have been supportive of the proposals.

## **6. Alternative Options Considered**

6.1 In considering the most appropriate way forward, a number of issues have been taken into account and other options assessed. The Council is firmly and clearly committed to ensuring value for money in everything it does, and this means not normally paying for goods and services that are not due to be received. However, the exceptional circumstances that are being faced nationally, the ongoing advice from Government, the precarious nature of the external market for transport operators, and the changing/unclear forward demands of customers



such as schools and day care centres, means that competing issues have to be balanced and a view taken on how best to protect not only the public purse in the short term, but the economic and social wellbeing of local residents and businesses, as well as retaining a competitive market place for the Council's long term bought in transport needs.

6.2 With this in mind, another funding/support option has been considered and this is set out below:

6.3 **Do nothing and remove all payments for services not operating from 1 January 2022 and revert to concessionary fares payment based on actual travel at the same time** - This is not considered an appropriate option given the significance of the economic and social impact on passengers and local businesses, the difficulties that would be faced in resuming full operations once the crisis has passed and the impact on the bus network caused by the loss of most concessionary fares income straight away. It is also contrary to Cabinet Office advice (PPN 04/20) and would make the Council ineligible for DfT Bus Recovery Grant, which offsets the additional costs to the Council of maintaining the local bus network due to the impact of COVID-19 on use.

6.4 On balance, it is therefore considered that the 'Proposals', as set out above, represent the most appropriate way forward. It is clear what services are being paid for and why. It is hoped that it will be possible to fully return to pre-COVID-19 arrangements sooner than 30 September 2022, however, the extension, until then, provides flexibility if this proves not to be the case.

## **7. Implications**

7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

8.1 None identified.

## **9. Appendices**

9.1 Appendix 1 - Implications.

## **10. Recommendations**

That Cabinet:

- a) Notes the current situation with regard to COVID-19 recovery and public transport services in the County, and the need to maintain flexibility and responsiveness in the adopted approaches.
- b) Approves the proposed payment arrangements to bus, coach and taxi operators for contracted Council transport services and concessionary fares reimbursement from 1 January 2022 until 30 September 2022, or until the completion of the assessment of ongoing transport requirements is completed and alternative recommendations made, or until changes in Government guidance if this is earlier.

## **11. Reasons for Recommendations**

- 11.1 Despite the lifting of most COVID-19 restrictions, demand for transport services and capacity in the market to provide them in the future still remains weak.
- 11.2 Approving the payment arrangements proposed will give stability in the supply of services during what is anticipated be a significant period of change as a result of the National Bus Strategy and alterations in the transport requirements of Council departments.

## **12. Is it necessary to waive the call in period?**

- 12.1 No.

Report Chris Hegarty,  
Author: Joanna Jackson

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## **Implications**

### **Financial**

- 1.1 The Council has a total of around £35m committed expenditure per annum across all transport services. This includes around £9.5m of concessionary fare payments which is a statutory duty. It is important to note that the proposals contained in this report do not incur any additional expenditure beyond planned expenditure in the absence of the COVID-19 pandemic. Any saving against this planned expenditure would be 'windfall', but a wider consideration is the social and economic value of helping bus operators and transport contractors to survive this period of uncertainty, so that service provision can continue to be provided for both vulnerable children and adults and the wider travelling public in Derbyshire.

### **Legal**

- 2.1 Section 63(1) of the Transport Act 1985 places a duty on Derbyshire County Council to secure the provision of '*such passenger transport services as the Council considers appropriate to meet any public transport requirement within Derbyshire which would not, in its view, be met, apart from any action taken by them for that purpose*'.
- 2.2 Under Section 63(8) of the Act, the Council also has a duty to have regard to the transport needs of members of the public who are elderly and disabled when exercising the Section 63(1) duty referred to above.
- 2.3 Under Section 508B and Schedule 35B of the Education Act 1996, local authorities are under a duty to provide free school transport to 'eligible children', and under Section 508A of the Education Act 1996.

### **Human Resources**

- 3.1 The workforce which undertakes these contracted transport services are drivers and passenger assistants who are either employees or sub-contractors of external providers. It should be noted there may be local difficulties with some companies where a number of their driving personnel remain unable to work due to COVID-19. Suppliers have been asked to make the transport teams aware of any difficulties in fulfilling the terms of their contracts due to personnel shortages and this has not presented any insurmountable issues to date.

## **Information Technology**

4.1 None.

## **Equalities Impact**

5.1 Ordinarily, changes relating to home to school transport, SEND transport, adult care transport and local bus service provision are usually the subject of public consultation. However, these temporary measures are considered urgent due to the unprecedented situation caused by the COVID-19 pandemic and its impact on the resumption of safe passenger travel. In addition, the proposals set out in this report seek to continue many of the arrangements which have been in place since March 2020, which have maintained and protected services as much as possible so that any detrimental impact to protected groups is mitigated.

## **Corporate objectives and priorities for change**

6.1 This proposal will help deliver the following Council Plan priorities: Resilient, Healthy and Safe Communities; High Performing, Value for Money and Resident-Focused Services; A Prosperous and Green Derbyshire.

## **Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 NA.

**PUBLIC**

Agenda Item

**DERBYSHIRE COUNTY COUNCIL****CABINET****THURSDAY, 18 NOVEMBER 2021**

**Report of the Managing Executive Director  
Project Management within Corporate Property  
Cabinet Member for Corporate Services & Budget**

**1. Divisions Affected****1.1 County Wide****2. Key Decision**

- 2.1 This is a key decision because it is likely to result in the Council incurring expenditure which is, or savings which are significant having regard to the budget for the service or function concerned and it is likely to be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

- 3.1 The purpose of this report is for Cabinet to note proposals to change how property related programmes and projects are managed by Corporate Property and Concertus Derbyshire Limited.
- 3.2 A further report titled, 'Project Management within Corporate Property and Business Case', containing information not for publication is to be considered separately in the exempt part of this meeting.

## 4. Information and Analysis

### 4.1 Background

In 2018, a review of Corporate Property was undertaken by Ernst Young as part of the Authority's plans to become an Enterprising Council. The review recommended that a new operating model was required for Corporate Property and in September 2019, as part of the change Cabinet approved the creation of two joint venture companies, Vertas Derbyshire Limited ('VDL') and Concertus Derbyshire Limited. Each company is a joint venture ('JV') owned by the Council and a company owned by Suffolk County Council.

CDL delivers capital project design related services and VDL delivers facilities management services including caretaking, cleaning and grounds maintenance.

In September 2020, the Council's joint venture CDL went live. At that time, the Council's design team was transferred to the JV, with all the existing and proposed capital projects. These projects are referred to as the pipeline of work. Although all projects were included in the pipeline, and the Council made available as much information as it had about these projects it was not possible for Concertus, the Council's JV partner, to undertake the level of due diligence it would have anticipated, as the information was not held by the Council. For example, the time, cost and budget to complete the 'work in progress' projects; the resource to complete these projects and the programme dates to receive new projects.

Also, when CDL went live, a client team was established within the Council with the project and programme managers remaining in house. This client team was larger than ordinarily would be required but reflected the level of understanding of the pipeline, in particular the high volume of low value projects and their different stages of completeness.

Between September 2020 and March 2021, CDL and the Council largely continued to operate in the same way as the Council had prior to transfer. In particular the existing arrangements with respect to project management, project design and delivery, and the procurement of contractors including the Council's internal construction/maintenance teams. This continuation allowed CDL to fully understand the services it had taken over from the Council.

Between January and May 2021, a joint steering group was established with representation from CDL, the Council's Projects and finance teams

and the CDL JV Board. This steering group reviewed processes and procedures and working arrangements between the parties and made some improvements, although, it became apparent to this group that more significant changes were required. Accordingly, CDL was asked by the Council to prepare a more comprehensive Service Improvement Plan.

The CDL Board, which includes the Director of Corporate Property and Assistant Director of Finance from the Council, alongside two other directors and the Chairman subsequently developed a Service Improvement Plan. This is now presented in this report for consideration and approval by the Council. It is important that this is separately considered by the Council, in order that the Council can be satisfied that this Service Improvement Plan meets the Council's needs, both as a customer and as a shareholder and does not simply address those of the CDL company.

References in this report to Programme and Project Management refer to this activity within Corporate Property rather than elsewhere in the Council.

## 4.2 Current ways of working

Corporate Property and CDL have identified a number of opportunities to improve the effective delivery of projects, these include:

- Swifter decision making in the commissioning of projects and programmes. This can occur in several places, including:
  - Departments finalising a brief and budget to proceed;
  - Projects commissioning CDL; and
  - CDL securing instructions and clarifications back from the Projects team and departments.
- Revised procedures and processes, including in the procurement of contractors. The Council does not regularly use frameworks to appoint contractors or package together multiple projects, both of which speed up delivery and can reduce costs.
- Clarify roles and responsibilities of Corporate Property, CDL and how CDL engage with the Council's two-tier client.
- A need to work directly with end clients to speed up decision making.
- The procurement of the Council's internal construction/maintenance services.
- The procurement of third-party contractors.
- Closer alignment with the asset management of the portfolio.

#### 4.3 Council Value For Money

Aligning the available resource within the Council and CDL to the pipeline of capital projects will improve value for money for the Council as a customer and as a shareholder in CDL. Introducing more efficient processes will also contribute to improved value for money.

As a result of establishing CDL, there is greater transparency and therefore a better understanding of the costs and operation of the service and the opportunity to generate savings. For example, with CDL responsible for project management and design, total fees will be reduced. The benefit of which all comes to the Council.

If CDL is to continue with the current ways of working, then it will be required to reflect this in its resource and change its method of operation. For example, with an irregular pipeline of work, CDL would reduce its capacity and in times of increased demand would supplement its resource from a third-party supply chain. This will have adverse cost implications for the Council as a shareholder in contributing to the reorganisation within CDL and also as a customer in the procurement of a larger supply chain. The irregular pipeline also has implications for the Council's own construction/maintenance teams with under-utilisation of that resource as there are insufficient projects being passed to the construction/maintenance teams to deliver.

It would be better for all parties if projects were moved more quickly through the design phase into construction. It would also be better if there was a longer term visibility of the future pipeline to provide more work and certainty of work to CDL and the internal construction team. The latter in particular will help to smooth out peak and troughs in the programme of work.

#### 4.4 Service Improvement Plan

Corporate Property has considered the Service Improvement Plan to improve the delivery of projects and proposes the following changes:

- 1) Part of the Council's Projects team will be transferred to CDL (Programme Managers, Project Managers, CDM (Construction Health & Safety), and Quantity Surveying. This will place responsibility in CDL for the full lifecycle of a project. By having project management responsibility for the full lifecycle of a project it is easier for CDL to assist with bringing forward projects more quickly and thus, this increases utilisation for the existing staff. It also enables the fees that are charged to projects to be reduced, a capital expenditure saving that will in its entirety come to the Council.



- 2) CDL will establish direct relationships with the Council departments for commissioning of programmes and projects. This direct relationship with the customer will enable CDL to deliver against the time, cost and quality priorities determined by the end user. In addition, it is proposed that up to two additional Property Business Partners will be recruited and based within the Asset Management team within Corporate Property. These positions will be responsible for addressing the technical aspects in relation to a project commission to CDL. By sitting alongside the other Property Business Partners this will provide a further safeguard for the Council, ensuring that department projects are still in line with all other Council priorities including budget and the Asset Management Framework.
- 3) CDL will take over responsibility for Corporate Property's construction related procurement role. This will initially include reviewing:
  - a. The procurement of subconsultants to support the development and delivery of projects;
  - b. The procurement of construction contractors for all Council construction related projects with the intention that CDL are appointed as Procurement agent for the Council;
  - c. Existing procurement practices including the relationship/ governance of the internal construction teams;
  - d. Establishing a 5-year forward programme required to inform the Asset Management Framework;
  - e. How the Council's SCAPE relationship could operate where the Council is a shareholder; and
  - f. Developing the proposals in collaboration with the Council's corporate procurement team and establishing procurement processes and policies with the appropriate level of governance and control for the Council.

A benefit for the Council from CDL taking over these procurement responsibilities will be CDL being able to assist the Council to reduce construction costs per square metre ('psm'), a capital expenditure saving that will in its entirety come to the Council. Such savings are possible as CDL will have visibility over a longer term programme and each project from start to completion. This will enable economies of scale to be secured with contractors and value engineering efficiencies in design and delivery.

- 4) CDL will establish direct relationships with Corporate Property's Asset Management Business Partners. These Business Partners ensure departments receive property expertise and also work with departments to ensure department's service delivery objectives are reflected in Corporate Property's asset management plans.

- 5) Corporate Property's Head of Estates and Head of Maintenance will engage CDL directly. In addition to removing a level of interface this 'closer to the customer' approach will operate across the Council.
- 6) Corporate Property's Governance, Compliance and Performance team will become the key contact for the CDL contract, overseeing KPI's, budgets, JV compliance and performance management. This team is already transforming how Corporate Property improves against these metrics in its own service and is improving processes and procedures throughout the division.
- 7) CDL will have closer engagement with the Council's five-year financial plan supporting the Asset Management team and providing greater visibility of new pipeline of work.
- 8) The Council has a disability design team supporting ASC&H, CS and the district councils to deliver projects primarily funded by Disabilities Facility Grant. This service will continue to be managed by the Projects team within the Council.

#### 4.5 Service Improvement Benefits

The following benefits will be achieved by implementing these changes:

- 1) Savings of between 5-20% in the overall cost of a construction project. Concertus has achieved similar savings for Suffolk County Council. As indicated above these capital expenditure savings will in their entirety come to the Council. It should be noted that there is currently upward pressure on construction costs per square metre, primarily because of greater environmental efficiency requirements in new buildings. The savings referred to here may therefore be used to offset against the additional construction costs, minimising the further call on the Council's capital budgets.
- 2) Creating better communication between all teams and speaking direct to the client and end users.
- 3) Simplifying client support functions. Currently departments have three touch points with respect to the delivery of capital projects. Asset Management who ensure projects are 'corporate' and support a multiplicity of Council objectives; the projects team who act as an intermediary between the department and CDL and thirdly CDL. Moving to two touch points, simplifies communication for departments and removes cost.
- 4) Standardisation in design and adapting industry best practice / modern methods of construction, to reduce construction costs.
- 5) Reduction in the programmes and projects fees to allow procurement services to be offered cost neutral. CDL will receive a share of the fee currently collected by Corporate Property Projects team for

programme and project management, with a target to reduce this by reducing complexity and handovers.

- 6) By taking control from start to end of project delivery, projects will be delivered more quickly.
- 7) CDL will be responsible for supporting the Council in the procurement of contractors, bringing Concertus' greater industry awareness and relationship management working with construction partners to the JV.

CDL was established by the Council to improve the delivery of capital projects. The changes detailed above fall within the category of continuous improvements and are exactly the kind of improvement the Council was seeking when the JV was created. It is also worth noting that in addition to the benefits for the Council as a customer, the changes are forecast to improve the Joint Venture's profitability to the benefit of both the Council and Concertus as shareholders.

#### 4.6 Service Improvement Financial Implications

Having regard to the service improvement benefits detailed above, a comparison has been undertaken to show the potential savings from the proposal. This has been prepared with the involvement of Concertus. The key variables are:

- A reduction in construction costs;
- A reduction in Project Management costs; and
- A reduction in design fees.

These savings are possible because CDL would have responsibility for the whole design process including project management and therefore able to achieve economies of scope. CDL would become responsible for managing the procurement of contractors and move to a more structured arrangement where economies of scale can be achieved.

Based on an annual capital programme of £30m forecasted capital expenditure savings that would be realised in construction costs, design fees and project management fees of £13.944m over the five-year period 2022-2027. If the capital programme increases or decreases the savings also change. Additional sensitivities have therefore been modelled, based on a 50% reduction in the annual capital programme to £15m and a 50% increase in the annual capital programme to £45m. The total forecasted capital expenditure savings over the period 2022-2027 for these sensitivities would be £6.972m and £20.916m respectively. These capital expenditure savings are significant and all accrue to the Council. Longer programmes of work, packing of projects, use of frameworks, value engineering projects with integrated projects

teams are some of the activities required to drive down construction costs psm.

In addition to reductions in construction costs, the fees to deliver projects will also reduce.

The above savings all fall to the Council, in addition, as this proposal improves the profitability of the JV, the Council as a shareholder in CDL will also receive a 50% share of any dividend.

#### 4.7 Risks associated with the Service Improvement Plan

Whilst the qualitative and quantitative analysis demonstrate the potential benefits from transferring programme and project management responsibility to CDL, the Council has a continuing role to ensure these benefits are realised.

The proposals are predicated on integrated project teams, i.e. the sponsor or budget holder for a project, the design team and contractor all collaborating in project delivery. Through effective collaboration, project issues and risks are addressed to ensure time, cost and quality objectives continue to be achieved. In addition, it is not simply the case of transferring responsibility to CDL, but rather good project management controls are essential, such as good communication, curtailing project scope expansion and careful preparation. These project management controls will be monitored by the Governance, Compliance & Performance team within Corporate Property, for example, client feedback and accuracy of budget estimate to final cost. The latter helps control project scope creep.

Corporate Property's Asset Management team will also play an important part. This team, both support departments with their operational plans, and are instrumental in reviewing the portfolio. Greater collaboration with this team and the Property Business Partners by CDL ensures that the projects delivered for the Council by CDL contribute to the Council's Asset Management Framework.

To mitigate these risks, CDL and the Council have regular mobilisation project meetings that are addressing issues including:

- Key account management – client department engagement;
- Cashflow and invoicing procedures;
- Contractor procurement;
- PR, Marketing & Comms;
- Data transfer and management;
- Staff engagement;

- Value for money demonstration; and
- Performance Management. Within the Services Contract with CDL are performance indicators, best value review requirements. These will need extending to include the additional activities being taken over by CDL.

#### 4.8 Next Steps

A detailed programme has been prepared with the following milestone dates to be noted:

Activity	By Whom	Date
Approval of CDL Service Improvement Plan	CDL Board	27 May 2021
Staff and trade unions engagement	DCC & CDL	July - October 2021
Complete draft of Full Business Case for Service Improvement Plan and staff transfers	DCC	September 2021
Approval of CDL Service Improvement Plan	Cabinet	November 2021
Develop and Implement revised processes & procedures	DCC & CDL	October – November 2021
Commence TUPE Consultation period	DCC	November 2021
New structure implemented and staff transferred	DCC & CDL	1 February 2022

In addition to the transfer of the activity to CDL, it will be necessary for the Council to revise a number of its other processes, including billing and performance management around CDL.

## 5. Consultation

- 5.1 Should the proposals set out in the report be approved by the Council, the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended (TUPE) will apply to affected employees. Formal consultation will take place at the appropriate point in time with the affected employees and trade unions in accordance with the provisions of the TUPE Regulations.

## **6. Alternative Options Considered**

- 6.1 Alternative Option 1 Do Nothing – Since CDL went live on the 1 September 2020, the Council and CDL have been continuing to operate the processes and procedures that existed within the Council prior to transfer. The Council could continue to operate in the same way. However, this is not recommended, as CDL was established to improve the delivery of services and continuing as is, would not do so, and would not deliver the operational and financial benefits described in the Business Case.
- 6.2 Alternative Option 2 Improve on the current way of working – The Council and CDL could persevere with the current arrangement (Option 1) but seek to introduce some improvements albeit keeping the split of responsibility between the Council's projects team and CDL for project delivery. This arrangement would not enable the reduction in fees that are being proposed for both design and project management which are achieved by combining the activities under CDL. More significantly it would not address the opportunity to reduce construction costs. Best practice recommends integrated project teams as the best way to reduce construction costs, by combining project management with design and with responsibility for contractor engagement, the proposal moves towards this best practice recommendation.
- 6.3 Alternative Option 3 Do Something Different – The Council could transfer responsibility of programme and project management to client departments. This is not recommended, as the Council has previously approved adopting public sector best practice with respect to the management of land and buildings in accordance with a corporate asset management strategy. This leads to centralisation and coordination of property activities, rather than, devolved responsibility which would be the case if department led solutions were adopted. In addition, capital project delivery best practice is for integrated project teams which include the client, and the design and construction supply chains. It is integrated project teams with clear roles and responsibilities that will deliver the operational and financial benefits

## **7. Implications**

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **8. Background Papers**

- 8.1 Report to Cabinet – Review of the Corporate Property Division. 28 February 2019.
- 8.2 Report to Cabinet – Property Asset Management Framework. 21 March 2019.
- 8.3 Report to Cabinet – Corporate Property Future delivery. 11 September 2019.
- 8.4 Report to Cabinet – Implementation and Rebranding of Asset Optimisation through Corporate Landlord Policy. 14 January 2021.

## **9. Appendices**

- 9.1 Appendix 1 – Implications.

## **10. Recommendation(s)**

- 10.1 That Cabinet notes the content of this report.

## **11. Reasons for Recommendation(s)**

- 11.1 Cabinet is being asked to note this report as a further report in the same meeting is being asked to approve the proposals.

## **12. Is it necessary to waive the call-in period?**

- 12.1 No

**Report Author:** Stuart Knight, Interim Change Programme Director

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**Implications****a) Financial**

- 1.1 The financial implications of the proposal as referenced in section 4.6 of this report are detailed in the Business Case.
- 1.2 Under the new operating model, capital expenditure fees will be billed directly to projects from CDL as outlined in Section 4.6 above. Therefore, there are no implications on operational expenditure spend as part of this proposal and no additional funding requirements. The Council has consulted with its external taxation advisors and there are no taxation implications from these changes.
- 1.3 As a consequence of the proposed outsourcing, it is envisaged that a maximum of two additional Asset Management Business Partner posts will be required to help manage the relationship with CDL. These will be funded by an 'asset management fee', being a share of overall project management fees that are currently charged to capital projects.

**b) Legal**

- 2.1 Section 1 of the Localism Act 2011 provides the Council with the power to do anything that individuals generally may do. This power can be used for commercial purposes or otherwise but when it is exercised for a commercial purpose, this must be done through a company. The Council may exercise this power for the benefit of the authority, its area, or persons resident or present in its area.
- 2.2 Accordingly, subject to its Financial Regulations and public law considerations (set out below) the Council has the power to enter into arrangements such as the creation and operation of a Joint Venture company CDL (the 'JV') as described in this report and carry out activities for a commercial purpose through such a JV company.
- 2.3 The JV company will comply with public law, and in particular, the Public Contracts Regulations 2015. In this regard, CDL, for the purposes of this report, has been set up as a 'Teckal' company.
- 2.4 A "Teckal" company is the common name for a company to which a contracting authority or authorities who control it are able to award contracts for works, services or supply without being subject to the



requirements of the Public Contracts Regulations 2015. The “Teckal” exemption from the application of public procurement legislation originated in case law, but is now codified within Regulation 12 of the Public Contracts Regulations 2015.

- 2.5 Accordingly, the arrangements with CDL satisfy these requirements and allow the Council to comply with the Public Contracts Regulations 2015 (PCR) Regulation 12.
- 2.6 Regulation 11 of the Transfer of Undertaking (Protection of Employment) Regulations 2006 requires employers to identify transferring employees and provide specified personal information to the new employer. Personal employee information provided in compliance with the provisions of Regulation 11 will be lawfully processed in accordance with UK General Data Protection Regulation (UK GDPR) Article 6(1)(c) as the processing is necessary in order for the Council to comply with a legal obligation. In the event that additional employee information is requested by the JV as part of its due diligence, which is beyond that set out in Regulation 11, usual data protection principles will apply and consideration should be given to the anonymising of such data in order to ensure continued compliance with Data Protection Act 2018 and UK GDPR.
- 2.7 Any confidential information, including personal data, as determined by the Data Protection Act 2018, that is to be transferred to CDL as a result of TUPE (as detailed below) will be protected in accordance with the JV Services Agreement dated 1st of September 2020. The transfer of the services envisaged by this report will be undertaken by a variation to the JV Services Agreement
- 2.8 The current contract terms that are set out in the JV Services Agreement enable the benefits set out in this report to be delivered to the Council. In particular, the JV Services Agreement sets out what can be charged by the JV for the duration of the agreement and there are measures contained within it to address any changes in those costs, including a Best Value obligation. Furthermore, the legal obligations concerning the transfer under this report shall be reflected as a variation to the JV Services Agreement and the Council shall seek additional external legal support as required to facilitate this transfer.
- 2.9 The pensions entitlement of any transferring employees to CDL are covered under the existing JV Services Agreement. The agreement states that eligible TUPE employees shall be offered membership of the Derbyshire Pension Fund upon TUPE transfer and the relevant

Admission Agreement shall be varied accordingly to reflect those admissions.

- 2.10 On this basis, the Director of Legal Services is satisfied that the proposals set out in this report are in accordance with the Council's Constitution and Financial Regulations therein.

### **c) Human Resources**

- 3.1 Should the proposals set out in the report be approved by the Council, the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended (TUPE) will apply to affected employees. This transfer would be classed under the 'service provisions changes' umbrella and an organised grouping of employees, who are dedicated to project and programme management, are in scope to transfer. Formal consultation will take place at the appropriate point in time with the affected employees and trade unions in accordance with the provisions of the TUPE Regulations.
- 3.2 In accordance with the Constitution, Cabinet approval is required to the transfer of the service. Subject to the recommendations in the report being approved, a number of associated staffing decisions are required for which the Managing Executive Director has delegated authority in conjunction with the Director of Organisation Development and Policy, Director of Legal Services and Director of Finance and ICT, and for which a separate report will be prepared.
- 3.3 Corporate Property's Governance, Compliance and Performance team and Asset Management Team will become the key contacts for the CDL, a maximum of two new Property Business partners to support council departments with their property requirements. These additional roles will be graded and resourced in line with Council policies.

### **d) Equalities Impact Analysis**

- 4.1 The proposals have been reviewed to consider and reduce any disproportionate impact on protected groups and an Equality Impact Analysis (EIA) has been completed. The outcome of the assessment is that there is unlikely to be any impact on the service users or workforce following the reorganisation, as the service provision will remain the same, although will be delivered in part through an alternative provider. The policies of Concertus have been considered with respect to protected and non-statutory groups as identified in the

EIA, and the joint venture company will be monitored for compliance during the contract term.

**e) Information Technology**

- 5.1 Building Information Modelling ('BIM') is a process for creating and managing information on a construction project. One of the key outputs is the Building Information Model, which is a digital description of every aspect of the built asset. The model draws on information assembled collaboratively by the design team and contractors and updated at key stages of a project. BIM Level 2 is a minimum requirement for all government projects and Concertus is BIM Level 2 accredited with the appropriate investment in software, hardware and training for its employees.
- 5.2 The Council does not have this accreditation, however through its joint venture with Concertus this level of expertise and the benefits it brings is now available.

**f) Corporate objectives and priorities for change**

- 6.1 The primary purpose of CDL is to support the Council in the improved delivery of the Council's capital programme. Bringing projects forward more quickly, with greater certainty of cost and at an overall reduced cost enables the Council to deliver more projects in support of its corporate objectives and delivers value for money.

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