



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**REPORT TO CABINET MEMBER FOR ASCHH**

**13<sup>th</sup> January 2022**

**Report of the Executive Director ASCHH**

**To seek approval to temporarily consolidate day services for people with learning disabilities and for older people onto a reduced number of sites and short term community support services for working age adults to release staff to bolster essential service delivery within Direct Care residential and domiciliary services**

**1. Divisions Affected**

1.1 County Wide

**2. Key Decision**

2.1

Yes.

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 seek approval to:

- i. Consolidate Direct Care learning disability day services to two main sites plus a third smaller site for a period up to 8 weeks.
- ii. Consolidate Direct Care day services for older people across a reduced number of sites for a period up to 8 weeks; and
- iii. Reduce short-term community support services for working age adults for a period up to 8 weeks.

These actions will enable staffing within day services and short-term community support services to be released to enable redeployment to Direct Care residential and domiciliary care services to support those services in responding to the current unprecedented pressures as a result of the current exponential increased Covid-19 infection rates due to the emergence of the Omicron variant.

It is intended to restore these services after 8 weeks (circumstances permitting).

## **4. Information and Analysis**

### **4.1 Background:**

For the last 2 years Adult Social Care has been subject to the ongoing effects of the Covid pandemic. This has both directly and indirectly impacted on all aspects of our operational activity, the impact of which has been felt not only across the adult social care workforce but also on our partners in health and in the Private , Voluntary and Independent (PVI) Sectors. Since November 2021 with the emergence of the Omicron variant of Covid 19 there has been an exponential increase in the level of infection in the general population which has driven the demand for social care particularly to support patient flow through the acute hospitals. The current infection rates in the county and nearly 3 time the level that they were at the previous peak in January 2021. This has had a significant impact on an already weakened Health and Social Care system in a number of ways:

Care providers in both residential and homecare sector are struggling to have sufficient staff to cover the services they have been commissioned to deliver. This is not only due to staff being off sick but also the impact of isolation on those who have been exposed but may have no symptoms. Please note that while the national guidance has relaxed it has been necessary to adopt a more cautious approach (endorsed by health and public health colleagues) due to the vulnerability of the people being supported by our services. This can flex where necessary to balance the risk of infection against the risk of service breakdown

The Local Resilience Forum (LRF) anticipates that the situation will continue to deteriorate with infection rates likely to peak in the next couple of weeks.

ASCHH absence rates across the County, when combined with all sickness reasons, are currently running at 37%.

We have already had instances of homecare agencies having to put contingency plans into effect or providing notice on care packages they are struggling to deliver the commissioned care.

The impact of Covid outbreaks on residential providers has meant that there are now 50% of PVI providers who are unable to accept new placements, temporary or otherwise, due to being under infection control measures.

Those that are not subject to outbreaks are struggling due to significant numbers staff self-isolating.

All DCC Homes for Older people (HOPS) currently are not able to take new referrals due to either outbreaks or staffing issues.

All DCC residential units for people with Learning Disabilities are subject to outbreak control measures and cannot accept new referrals.

The lack of residential placements across the in-house and PVI homes has removed the safety net that we would have otherwise used whilst people wait for care packages to be provided in their own home.

#### 4.2 Steps we have taken to try to try to mitigate the situation include:

Within Direct Care residential care and domiciliary services, the deployment of current individual service business continuity plans to ensure that all measures identified have been taken. Current business continuity plans cover:

- seeking to redeploy staff from other care homes (noting the current requirements around the movement of staff between homes, so the move would ideally need to be semi-permanent, rather than for a single shift and requires SMT sign off).
- seeking support from agency staffing.
- maximising the use of additional hours for current staff.
- exhausting all opportunities to use relief staff.
- reviewing dependency assessments to ensure their clarity on minimum essential care needs for each resident and adjusting down staffing deployment to meet minimum needs.

In addition to those usual business continuity actions, during these unprecedented times, we have also asked managers to have considered and actioned, with senior management approval, the following:

- Asking for designated 'essential care giver' family member presence during the day shift to support individuals where they would make a helpful contribution to the care of their loved ones (this would enable us to minimise the trained carer levels on shift in the day and focus resource in the evening / weekend).
- Reducing staffing levels to focus on delivering minimum safe care standards (in operation with additional on call managerial support for those staff, to support their well-being).

- Exploring a reduction in the isolation period from 10-7 days to return staff to work as swiftly as is safely possible (using guidance and arrangements already in place including seeking CMT approval before doing so). A generic risk assessment for use in this situation will be circulated next week.
- If all other measures are exhausted consider a request for family members to care for their loved one at home on a temporary basis until the crisis is over where there are no known safeguarding risks in doing so (this would include the care of those on short term placements being returned to family if they were waiting for homecare and long-term residents).
- For those establishments with additional staffing requirements due to fire risk mitigation measures - seek to identify fire warden support from non-care trained staff / other council staff (who are double vaccinated).

In order to monitor, log and audit the introduction and impact of taking any of these measures we would require the following action:

- Unit Managers to take responsibility for taking normal business continuity actions to keep a log of all actions taken and share with their Service Manager / Quality & Compliance team.
- Service Manager to have regular oversight (daily where required) of the position at each home under their responsibility and to provide additional management support as required. To escalate concerns to Group Manager as necessary and ensure all business continuity actions are logged and shared with Quality & Compliance team.
- Unit Managers to identify with Service Managers where actions outside of normal business continuity arrangements are required (such as those listed above).
- Service Managers to provide support to Unit Managers to escalate requirement to do so to Group Managers and to support implement actions once these have been approved.
- Group Manager to escalate to Assistant Directors (or Gold on call at weekends) and request approval for required actions.
- Assistant Director / Gold cover to seek agreement for actions to be taken with Executive Director (DASS) or Director (Deputy DASS) and also report in to Senior Management Team (through SMT Gold) any decisions taken to operate outside of normal business continuity arrangements (clearly identifying actions that may create a breach of regulations/ guidance / normal practice).

Actions being taken by SMT to support these arrangements:

- We are speaking to fire service colleagues, who have offered assistance with low level support through the LRF, to see if they are willing / able to step up to be either additional staff resource on day shifts and or designated fire wardens if necessary.
- Made a request to LRF for assistance to secure a shortfall of 5,000 care hours per week. Unfortunately, due to pressures across the system no additional resources have been forthcoming other than that from the fire service.
- We have put out a call across the wider council for volunteers to assist with low level tasks to free up trained staff time.
- Developed and provided the risk tool attached to this paper to support manager decision making.

4.3 Action taken more generally across the Council:

- Providing information, advice, and signposting to prevent, delay or reduce the need for ongoing funded care.
- Promoting the use of mainstream and universal available services.
- Promoting the use of equipment including assistive technology.
- Promoting strength-based approaches to meet assessed eligible needs to ensure that we are supporting people to deploy their personal and community resources to wherever possible.
- Promoting the use of direct payments to those who are able and willing take up these.
- Reinforcing the need for people to be flexible with times and frequency when offered care calls via brokerage.
- Supporting people and their carers to make informed choices regarding the practicality of returning home with the package of care available which may be lower than they have been assessed for, rather than remaining in hospital or moving into a residential care home (where available; see above).
- Supporting existing recipients of homecare to look at alternative means of meeting their assessed needs (mainstream and universal available services, shopping services, voluntary support etc.)
- Continuing to fund providers at the contracted rate to maintain the viability of service.

- Paying out the workforce retention grant to PVI providers.

#### 4.3 The decision-making process supporting the proposed temporary arrangements

We have asked colleagues in the relevant Day Services and short-term community support services to RAG rate all attendees on the following basis:

- Red: people with complex needs who due to their own or carers circumstances cannot have their attendance at a building-based service or short-term community support service safely reduced or removed for a period up to 8 weeks
- Amber: people with less complex needs where some of their attendance at a building-based service or need for short-term community support service could be safely reduced or removed for a period up to 8 weeks
- Green: people where most or all of their attendance at a building-based service or short-term community support service could be safely removed for a period up to 8 weeks

Initial RAG ratings have been made by the relevant day service or community support service on the basis that they have the most contact with the people they support and have a sound awareness of whether there are elements of a person's package of care that are **essential** and **non-essential**. The relevant day service and community support services are also best placed to react promptly to a change in circumstances.

The RAG ratings and any additional information from the day service/community support services will be subsequently reviewed in partnership with the Hub social work team to ensure that any additional risk or vulnerabilities are taken account of. This includes consideration of mental capacity, advocacy and representation where needed. This review will then enable us to determine whether there are elements of the person's day care provision that can be reduced, cancelled, or amended. The same activity is being undertaken in relation to people who attend our Older People's day services.

**'Essential'**, in this context refers to support required to sustain life and limb and recognises that within the Care Act 2014 there is no hierarchy of need and all assessed eligible needs should be treated in the same way.

The impact of this decision would be that those people who attend building-based day services who are rated Green and Amber may not be able to attend this element of their day/activities for a period of up to 8 weeks. For those individuals whose care packages are not reduced or cancelled, their usual day service may be closed to allow the day services across the county to be consolidated. These individuals may therefore be required to attend an alternative day service, for a period of up to 8 weeks. It is also likely to result in those people who receive short-term community

support, and are rated Green or Amber, not receiving their usual support packages for a period of up to 8 weeks.

The day centres will continue to offer a digital programme for anyone that would like to access this. The digital offer will be bolstered during the eight weeks of reduced service to provide an enhanced programme with daily activity including social, exercise, educational and independent living skills sessions.

The Hub social work team will review these individuals and support to arrange alternative provision where appropriate utilising our Community Connector service. Our community connector service will prioritise people affected by the reduced services and work flexibly to provide support to those that need it, refer/signpost and connect to alternative services.

Given the progress of the pandemic ASCH and its partners including commissioned services are having to consider the proportionality of our collective response i.e. how we assist people with care and support needs to the extent possible.

This approach will enable us and our providers to target limited resources to support the most vulnerable. It will also enable us to flex the support to better respond to those people who may have the informal elements of their care and support disrupted by the pandemic. This could include the person themselves requiring more support than usual/assessed for due to illness or where an informal carer is hospitalised or has to self-isolate thereby creating a gap in the persons support.

It is anticipated that actions undertaken by residential homes and homecare under their usual business continuity arrangements in isolation will not be sufficient to maintain staff cover should the pandemic continue on its current trajectory. It is therefore crucial that action is taken to deal with the situation across the County as a whole.

Consequently, it is essential to:

- Seek Direct Care staff redeployment from other non-residential establishments (this would be staff from all service types and settings such as Day Care, Shared lives, Community Connectors, Southcroft etc).
- Request support from Prevention and Personalisation staff to support day shift cover.

## **5. Consultation**

- 5.1 The speed of infection rate of the new Covid variant and the associated negative impact upon service delivery is such that we are not able to undertake detailed consultation prior to implementing changes in service.

An Equalities Impact analysis is being completed to inform us in the light of the actions we are taking whether there is any differential impact on people with protected characteristic under the Equalities Act 2010.

In addition, the proposals set out above have been developed in collaboration with both our in-house direct care service residential and homecare providers.

## **6. Alternative Options Considered**

- 6.1 Do nothing – If the Council seeks to continue without taking any additional action, the increasing staff shortages will continue to impact on service delivery and in the circumstances, it will most likely result in those individuals with urgent or acute needs not being met, potentially risking life in respect of those who are most vulnerable or in need of critical care.

Closure of day services – We recognise that there is a relatively small cohort of people with complex needs for which attendance at a building-based day service plays an essential part of their support arrangements. Consequently, we are not seeking closure but rather a consolidation of service on a reduced number of sites. This recognises that there does need to be some building-based provision to support people with complex needs who it would be difficult to support without these services.

We have established that for people with learning disabilities we require at least two of the larger day services plus one smaller service to continue to provide a service to those whose care packages cannot be temporarily reduced.

We are currently working up the proposal for the older adult day services but recognise that many of the attendees may be frailer and may be more likely to continue to require a building-based service.

## **7. Implications**

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

## **8. Background Papers**

- 8.1 [COVID-19: ethical framework for adult social care - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care)

## **9. Appendices**

- 9.1 Appendix 1- Implications.



9.2 Supporting the Covid response in Adult Social Care

9.3 Risk tool to support manager decision making

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

That the Cabinet Member is asked to:

- i) Approve the temporary consolidation of DCC ASCH building-based day services for people with learning disabilities on two main sites (1 south and one Middle/north of the County) plus a smaller specialist unit with immediate effect, applying the process set out in 4.3 above.
- ii) Approve the temporary consolidation of DCC ASCH building-based day services for older people to a reduced number of sites (to be determined following completion of the process set out in 4.3. above). Once a decision on the number of building-based day services required is made, the Cabinet Member will be updated accordingly.
- iii) Approve the temporary reduction in short-term community services with immediate effect, applying the process set out in 4.3 above.
- iv) Note that the consolidation/reduction will allow for a number of day service workers (DSWs) and support workers to be redeployed to support staffing within both DCC Residential Care Homes and Homecare Services.
- v) Note that this decision is subject to a minimum fortnightly review by senior managers as part of ongoing capacity modelling across the health and social care system in Derbyshire and in response to national guidance.

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

11.1 Despite the considerable efforts already undertaken to manage the impact of the current staffing crisis in home care and residential care provision, we will not be able to continue to meet the assessed needs of local people who require care and support and this will result in a situation where those individuals with urgent or acute needs will not have their needs met, potentially risking life in respect of those who are most vulnerable or in need of critical care.

It is essential that the response to this situation is proportionate and appropriate for the County as a whole and the proposals set out in 4.3 above

provide a framework to implement a risk based approach to directing the limited resources available to where it is most needed.

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

12.1 Yes

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## **Appendix 1**

### **Implications**

#### **Financial**

1.1 There would be zero pay costs for full-time staff redeployed during the day.

There would be some additional costs associated with part-time staff doing additional hours (if required) but these would be at the pay rate for the role undertaken

There may be some additional transport costs associated with travel for some day services attendees rated red in order that they could attend an alternative building- based service.

There would be additional cost associated with providing DSW staff who undertake Care Worker Community (CWC) roles with mobile phones. There are some phones available but additional purchase may be required depending on the numbers

#### **Legal**

2.1 Working with people to look at alternative and creative means of delivering against their assessed unmet eligible needs and outcomes needs is within the scope of the Care Act 2014.

- 2.2 The report outlines how the Council has sought to utilise the flexibilities within the Care Act 2014 and Care Act Statutory Guidance to continue to meet the needs of all service users, as set out within the letter from the Department of Health and Social Care to the Directors of Adult Social Services dated 29/12/21 (Appendix). Whilst there is a great deal of flexibility within the Care Act as to how to meet need, the Council remains under a statutory duty to meet all eligible needs but ASCH report that there are insufficient resources to respond to the unprecedented demand on services, chronic lack of homecare and residential care capacity which has been further compromised by the recent rapid, exponential rise in Covid infections. As the [Care Act easements provision in the Coronavirus Act 2020](#) expired on 16 July 2021, there is no legal framework currently enacted to enable local authorities to focus its resources on meeting the most serious and urgent care needs.
- 2.3 The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 apply a framework of fundamental standards where a provider is carrying out a regulated activity such as the Direct Care residential homes and domiciliary services. These include, amongst others, the requirement to provide safe care and treatment (Regulation 12) and the requirement to provide sufficient numbers of suitably qualified, competent, skilled and experienced staff to meet the needs of the people using the service (Regulation 18).
- 2.4 The Civil Contingencies Act 2004 places responsibilities on Local Authorities to prepare and respond to emergencies and work closely with the emergency services and voluntary organisations in doing so. Category 1 Responders (e.g. emergency services, local authorities, NHS bodies) and Category 2 Responders (Health and Safety Executive, transport, utility companies and the voluntary sector organisations) are required to come together to form 'Local Resilience Forums' (based on police areas) which will help co-ordination and co-operation between responders at the local level.
- 2.5 The Council has powers in accordance with s.1-6 of the Localism Act 2011 to do that which will be to the 'benefit of the authority, its area or persons resident or present in its area.' The proposed benefit of this action is to ensure that resources are used most effectively to address the staffing issues caused by the increased Covid-19 infection rates following to the emergence of the Omicron variant.
- 2.6 Due to the timescales involved it has not been possible to consult widely but direct consultation with effected service users is being undertaken and the suspension is for a time limited period.
- 2.7 An Equality Impact Analysis ('EIA') is being undertaken in respect of these proposals and should be completed as soon as practicable. The decision should be reviewed in light of the EIA, once completed.

## Human Resources

- 3.1 DCC contracts with Direct Care worker communities will enable flex of service deployment as required. Every effort has been utilised to seek additional staffing resources by maximising the use of the Council's wider existing workforce, including utilising staff who do not have a DBS check in appropriate supportive non-direct roles allowing support staff to be redeployed to roles providing direct care.
- 3.2 HR advice is that Day Service Workers (DSW) can be asked to provide substitute/back fill care in residential and domiciliary care settings provided that any changes are considered reasonable. This can be mitigated by ensuring DSWs are employed during the day which would release existing Residential care Workers (RCW) to cover shifts in the evening and overnight. Issues such as distance of travel to work and training considerations would also potentially impact, but it is anticipated that these can be managed (details to follow). DSW's are being asked to complete a questionnaire to identify which areas they are able to work in
- 3.3 A review of the training records of DSW's in our day centres for people with a learning disability shows that the majority of staff already meet the required core training requirements for working in registered services. Similarly, it is expected that the staff in day centres for older adults and community support services will also meet these requirements.

## **Information Technology**

- 4.1 Mobile phones will need to be provided to those seconded to our home care services.
- 4.2 Use of IT and Assistive technology will be promoted as part of the wider response to the pressures.

## **Equalities Impact**

- 5.1 This is being undertaken

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

- 6.1

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

Issues of health and safety and risk management have been considered the details of which are set out below.

7.1 Without undertaking the proposals the risk to the individual may include:

- Unsafe care arrangements, though we continue to monitor the staffing levels within all Direct Care residential care homes and homecare services, to ensure that they are able to meet minimum standards and that they are able to meet the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.
- Further staff sickness/absences resulting in non-viable care arrangements and home closures
- The need to move residents to alternate accommodation at short notice
- Death or injury to care home residents or members of the public waiting for homecare
- Increase in safeguarding referrals
- Breakdown of informal/family care arrangements

7.2 Risks associated with the proposals:

- Sustainability of alternative care including familiar care
- Breakdown of informal/family care arrangements

7.2 Risk to the organisation

- Loss of reputation
- Legal action

7.3 Mitigating the risks

By RAG rating the day service clients, we are seeking to minimise risk by ensuring only non-essential care packages/elements of care packages are impacted. This should enable resources to be directed towards those considered most at risk, should their care package be affected.

The approach we have undertaken is underpinned by the values and principles outlined in the Covid 19 Ethical Framework for Adult Social Care:

These are:

1. Respect
2. Reasonableness
3. Minimising harm
4. Inclusiveness
5. Accountability

6. Flexibility
7. Proportionality
8. Community

These have been circulated to all our Prevention and Personalisation staff to ensure that they are reminded of the values and principles of their profession and maintain best practice in engaging with local people and communities and supporting people to make decisions regarding their own care arrangements.

The above decision-making process enables a consideration of individual wellbeing, overall public good and the resources that are available.

The impact of the proposed changes on individuals and their carer's and families will also be subject to a minimum of 2 weekly reviews and may be more frequent depending on the persons and/or their carers circumstances

Attempts to mitigate implementation of the proposals are in line with our business continuity response and are set out above. This includes actions to avoid the need to implement the measures as a staged escalation process. In the light of the projected growth of the pandemic however, and the time likely to be required to deploy any additional resources it is essential that we act now to release a significant number of the workforce from our day services and short-term community support services to enable our Direct Care Residential Service and domiciliary service to be able to continue to provide safe and effective care for our most vulnerable people.