



Report to Healthier Communities & Adult Social Care Scrutiny & Policy Development Committee

Report of: Laraine Manley, Executive Director, Communities

Subject: Unison petition opposing 'potential privatisation of the learning disabilities service in Sheffield'.

Author of Report: Joe Fowler, Director of Commissioning, Communities

Summary:

- The Unison petition was presented at the Healthier Communities & Adult Social Care Scrutiny Committee on 23 July 2014.
- The petition concerned
 - the plans to de-register nine care homes for adults with a learning disability, and
 - the plans to tender for the supported living provider at the point of de-registration, in particular where the care is currently provided by Sheffield Health and Social Care Trust.
- The Scrutiny committee
 - referred the petition to the Cabinet Member and Executive Director;
 - requested a timeline of the consultation on the de-registration;
 - Asked for an update on the consultation process at the Scrutiny Committee meeting on 17 December 2014.
- Executive Director Laraine Manley reaffirmed the decision on and provided a timeline of the consultation.
- A further e-petition was received and the petitions were presented at Full Council 5 November 2014.
- Full Council referred the petition back to the Scrutiny Committee, and the Committee was directed to take Unison's Ethical Care Charter into account.

This report summarises the Council's position regarding the petition, the issues raised, and Unison's Ethical Care Charter.

Type of item: The report author should tick the appropriate box

Reviewing of existing policy	
Informing the development of new policy	
Statutory consultation	
Performance / budget monitoring report	
Cabinet request for scrutiny	
Full Council request for scrutiny	✓
Community Assembly request for scrutiny	
Call-in of Cabinet decision	
Briefing paper for the Scrutiny Committee	✓
Other	

The Scrutiny Committee is asked to:

1. Consider the petition on learning disabilities, and Unison's Ethical Care Charter as directed by Full Council.
2. Receive an update on the consultation process, as requested by the Committee in July 2014.
3. Make comments and recommendations as appropriate.

Background Papers:

List any background documents (e.g. research studies, reports) used to write the report. Remember that by listing documents people could request a copy.

Category of Report: OPEN

Most reports to Scrutiny Committees should be openly available to the public. If a report is deemed to be 'closed', please add: **'Not for publication because it contains exempt information under Paragraph xx of Schedule 12A of the Local Government Act 1972 (as amended).'**

Report of the Director of Communities Commissioning Service

Unison petition on ‘potential privatisation of the learning disabilities service in Sheffield’.

1. Introduction/Context

- 1.1 The Council is de-registering nine residential homes for people with a learning disability, changing them to ‘supported living’ accommodation. The nine homes are commissioned by the Council which has a contract to manage them with three organisations: South Yorkshire Housing Association, Guinness Northern Counties Housing Association and Dimensions UK.

The care services for residents in the South Yorkshire and Guinness Northern Counties Housing Association homes are provided by Sheffield Health and Social Care Foundation Trust (SHSCT). Dimensions UK provide both the accommodation and support in their four homes.

Location	Housing provider	Current Support provider	Places
Beighton Road	SYHA	SHSCT	18
Cottam Road	SYHA	SHSCT	18
East Bank Road	SYHA	SHSCT	18
Wensley Street	SYHA	SHSCT	30
Handsworth Road	GNCHA	SHSCT	12
Burncross Rd	Dimensions UK	Dimensions UK	12
Frazer Drive	Dimensions UK	Dimensions UK	12
Gleadless Common/View	Dimensions UK	Dimensions UK	12
Station Road	Dimensions UK	Dimensions UK	12

- 1.2 There will be no change to the housing provider in these settings, and no-one will need to move as a result of these changes. People will become tenants of the housing associations once the residential care services have changed to supported living.
- 1.3 At the point of de-registration, the Council’s contract with the Housing Associations will terminate and the Council will have a new contract with a supported living provider to provide the supported living service to the tenants based on their individual needs. No-one will need to move from their current homes as a result of these changes.
- 1.4 Supported living is recognised locally and nationally as a positive model of support for people with a learning disability. Supported living

- helps people to have more control over their daily lives – people have their own tenancy, access to benefits, and a greater say in how their support is delivered;
- provides the kind of support people need to become more independent and take an active part in their local community;
- is less regimented and institutional than residential care.

Younger adults in particular prefer supported living. If we are to make services sustainable into the future we need major changes to make them attractive.

- 1.5 Whilst the care in some of the homes to be de-registered is provided by an NHS Trust, supported living is an adult social care service. The majority of adult social care services for people with a learning disability in Sheffield are provided by Voluntary and Independent Sector organisations. Currently (before de-registration) over two thirds of people with a learning disability receiving supported living services in Sheffield are supported by Voluntary and Independent Sector organisations.
- 1.6 To make sure supported living in Sheffield delivers the best outcomes we have developed a new Supported Living Framework. We worked with people with a learning disability to develop a new specification for supported living services in Sheffield. This sets new high standards for quality and is based on the principles of non-institutionalising, person centred services that promote independence and social inclusion.
- 1.7 We tendered against this specification to establish the Supported Living Framework. This comprises 27 supported living providers, who have demonstrated through a robust evaluation process that they are able to deliver to the high standards required. Users and family carers were involved in the evaluation process. Providers were evaluated on the basis of quality first and foremost. Providers were invited to submit a price with their tender bids: these were considered following completion of evaluation on quality. Both SHSCT and Dimensions are on the new Supported Living Framework.
- 1.8 The Council in contracting services is bound by EU procurement law and the Public Contract Regulations 2006. This requires an open and transparent procurement process that allows all the market to bid. The Supported Living Framework was procured in an open manner. The 'calling off' under this Framework has to be in accordance with its terms and the duty of transparency and fairness.

The de-registration process

- 1.9 We started consultation on the de-registration with residents of the care homes and their relatives in March 2010. A report on the consultation is appended to this report. This year we have been talking with residents and relatives about selecting the provider who will provide the supported living service in the future.
- 1.10 In line with the procurement law and regulations set out in 1.8 above, the Council cannot award a contract directly to an existing provider without breaching its duties and obligations for an open procurement process that allows all the market to bid. We have now started the process of detailed working with residents and relatives at each of the care homes to choose the support provider from the Supported Living Framework at the point of de-registration.
- 1.11 The process is being carried out 'home by home' rather than as one overall exercise, in a timescale agreed with the current providers. The aim is to complete this process by June 2015.
- 1.12 This process involves asking providers on the Framework to propose how they would deliver a supported living service to the new standards, particularly taking into account the needs of the individuals. Providers are shortlisted by officers on the basis of their proposals in line with established procurement practice, and based on clear criteria. Cost is taken into account in the shortlisting, however a higher emphasis is placed on the quality of the proposal, including a criterion on added social value.
- 1.13 Council officers then work closely with residents, relatives and advocates to support them in deciding together on the future provider. The final decision on which provider selected is with the residents and relatives themselves, based on the shortlisted providers' proposals and presentations. At the decision making meeting, Council officers are present in a supportive, facilitating role and take no part in the decision making. The Council has a contract with Cloverleaf Advocacy to provide independent advocacy to residents throughout this process.
- 1.14 We are currently at an advanced stage in the process at one of the homes, mid-way through the process at another and at the start of the process for a third. The current care provider (SHSCT) was not shortlisted at the first two homes.
- 1.15 In the event of a new provider being selected we will work with residents, relatives, the current and new care providers and the housing provider to ensure a smooth transition which ensures sufficient time for an

effective changeover, including a period of 'double running', with the current and new providers working alongside each other. The team of Council officers that has been supporting the process will continue to be closely involved in monitoring and reviewing the transition, and will work with residents, relatives and advocates to make sure we have achieved the transformation these changes seek to achieve.

- 1.16 We understand that change can be unsettling for people and we will support them through this. We have a strong track record of helping service users, their families, friends and carers through changes to their care arrangements over recent years. This year we have been through a process of changing the provider in two supported living services for people with a learning disability (not connected with the de-registration process set out in this report). This used the selection process described above. Once the tenants and relatives had chosen their new provider, the existing and new providers worked side by side for a transitional period, so the new providers could get to know each service user well and understand their individual needs. The length of the transitional period depended on each person's individual needs. The change has been well received, and the team, which includes the advocacy service, has been reviewing the support and outcomes for individual service users on a regular basis, and further improving the new service as necessary.
- 1.17 Implementation of our new Supported Living Framework is not confined to the nine care homes being de-registered. The new supported living framework will be implemented across all supported living arrangements in Sheffield and any new packages will be arranged under the new framework.

The Unison petition

- 1.18 The Unison petition was presented at the Healthier Communities & Adult Social Care Scrutiny Committee on 23 July 2014. The petition asked signatories to sign their opposition the de-registration plans, in particular the plans to have an open tender for the new support provider. The Scrutiny committee
- Referred the petition to the Cabinet Member and Executive Director.
 - Asked for a report setting out the timeline on the consultation on the de-registration plans.
 - Asked for an update on the consultation process at the Scrutiny Committee meeting on 17 December 2014.

Executive Director Laraine Manley reaffirmed the decision on de-registration and provided a timeline of the consultation.

- 1.19 A further petition was presented at full council 5 November 2014. The full Council referred the petition back to the Scrutiny Committee on 17 December 2014, and the Committee was directed to take Unison's Ethical Care Charter into account.

The Ethical Care Charter and development of a Voluntary Code of Practice

- 1.20 In 2012 UNISON produced an "Ethical Care Charter"¹ which was compiled following a large scale survey of home care workers. This highlighted a number of issues concerning the delivery of home care services in England and called for Councils to sign up to the charter. The charter sets out a range of statements on the terms and conditions of home care workers including a commitment to the Living Wage.
- 1.21 Sheffield Council responded in a letter from the Council Leader and Cabinet Member for Health, Care and Independent Living which agreed that "*...the principles enshrined in the Charter are central to a good quality home care service ...[and] that it is in everyone's interest to have a thriving sector with a stable, well-motivated workforce*". The letter stated that the Council is "*...operating in a very challenging financial climate as a result of Government funding cuts, increasing costs, and rising demand for our services...This trend is likely to continue until at least 2018*". As a result it concluded, "*...we are committed to the general principles of the Charter, but our financial constraints prevent us from making a firm immediate commitment.*" It gave a commitment to a voluntary code of good practice for home care, and in 2013 a group was established consisting of council officers, trades unions and home care providers from the in-house and independent sectors.
- 1.22 The group drafted a voluntary code of good practice for home care using some statements from the original Ethical Care Charter, adding and amending points to produce a realistic and meaningful document to which all parties could commit. It includes a commitment to the aspiration in Sheffield's Fairness Commission report² that the Council and providers will move to a position where all care workers in the city receive at least the Living Wage by 2023 at the latest.
- 1.23 The next steps will be to invite all home care providers in the city to sign up to the code, and publicise the code of conduct and the names of the signatories on the Council website.

¹[Ethical Care Charter](#), UNISON, 2012

²[Sheffield Fairness Commission. Making Sheffield Fair](#). January 2013

Matters for consideration

- 1.24 We know that some service users and their relatives are unsettled by the proposed changes. SHSCT staff are also understandably unsettled by the proposed changes. As set out above, we have considerable experience of helping service users, their families, friends and carers through changes to their care arrangements. Any potential change will be managed carefully: every individual resident will have a clear personalised support plan to help them through the process, the right amount of time will be taken, there will be a period of double running between providers and there will be close monitoring and review of any new arrangements
- 1.25 The understandable response to this exercise has led to numerous questions, concerns and, in some cases, misunderstandings. Responses to points raised in the petition and some of the frequently asked questions and concerns are set out below.
- 1.26 Is the process a 'potential privatisation (or outsourcing) of the learning disability service in Sheffield... that has been run by the NHS for over 40 years'?

The Council does not consider the process to be 'outsourcing' or 'privatisation'. We are committed to making sure the new supported living service is fundamentally different to the residential care service currently provided. The current contracts with South Yorkshire Housing Association, Guinness Northern Counties Housing Association and Dimensions UK are external to the Council. At the point of de-registration, these contracts will terminate, the housing providers will become landlords in their own right, and the residents will become tenants of the housing providers. The Council will then enter new contracts with the supported living provider. The Council is following EU procurement law and Public Contract Regulations that require an open procurement process that allows all the market to bid.

All providers on the Supported Living Framework (including SHSCT) are invited to take part in the procurement process on an open and equal basis. SHSCT is already external to the Council, providing services under contract on the open market, and competing with other providers, including other NHS organisations, voluntary and independent sector providers.

Whilst some of the care homes to be de-registered are supported by SHSCT, supported living is an adult social care service, not a healthcare service. Most supported living services to adults with a learning disability in Sheffield are already provided by voluntary and independent

sector organisations. This includes services to people with the most complex needs and challenging behaviours.

1.27 Is the process 'auctioning off to the lowest tender'?

The choice of the new service is from all providers on the Supported Living Framework, which have a range of costs. The potential providers of supported living service on the Supported Living Framework have been evaluated on the basis of quality first and foremost. The process of shortlisting potential new providers places a higher emphasis on quality than on cost. The final choice is based on which provider the service users and relatives prefer.

1.28 Will this change lead to a deterioration in service and put service users at risk?

There are many good quality Voluntary and Independent Sector providers on the Supported Living Framework. It is unfair to assume that the care provided by these organisations is inferior to that provided by public sector organisations. We know from years of experience that the quality of the care provided is primarily driven by the ethos, management and culture of the organisation delivering care and support – not whether the organisation is public, private or voluntary. This can be verified by the Care Quality Commission (the independent regulator) inspection reports of supported living providers.

1.29 Can people with a learning disability make choices about their support?

We are firmly committed to the core principles of personalisation in adult social care. At its heart is the commitment to giving people more independence, choice and control through high-quality and personalised services. We firmly believe that people with a learning disability can and should be supported to make choices in their daily lives and support arrangements. Where people need additional support to make choices, for instance through skilled advocacy support, we will make sure this is provided.

2. What do the changes mean for the people of Sheffield?

De-registration and tendering for support

2.1 People with a learning disability in Sheffield will have access to a wider range of choice of activities as a result of the changes to supported living.

- 2.2 People with a learning disability in Sheffield will have access to a wider range of choice of good quality supported living services whichever organisation provides it in line with national and local policy.

Voluntary Code of Good Practice

- 2.3 Users of home care services in all sectors will be supported by a stable, well-motivated workforce that is employed to consistent good practice standards. All care workers in the city will receive at least the Living Wage by 2023 at the latest.

3. Recommendation

- 3.1 The Scrutiny Committee is asked to:
- Consider the petition on learning disabilities, and Unison's Ethical Care Charter as directed by Full Council.
 - Receive an update on the consultation process, as requested by the Committee in July 2014.
 - Make comments and recommendations as appropriate.