

**Minutes of Performance Scrutiny Committee held on Tuesday, 12 April 2016 at 2.00 pm at Conference Room 1a, County Hall, Wynnstay Road, Ruthin, LL15 1YN**

**Present:**

Councillors Raymond Bartley, Meirick Davies, Huw Hilditch-Roberts, Geraint Lloyd-Williams, Barry Mellor (Chair), Dewi Owens, Arwel Roberts, Gareth Sandilands and Joe Welch

**Also Present:**

M Mehmet (Chief Executive), N Stubbins (Corporate Director : Communities), P Gilroy (Head of Community Support Services) and T Ward (Principal Manager, Business Support).

Councillor Joan Butterfield, Councillor Jeanette Chamberlain-Jones, Councillor Ann Davies, Councillor Bobby Feeley (Lead Member for Social Care - Adults and Children's Services), Councillor Alice Jones, Councillor Huw Jones, Councillor Gwyneth Kensler, Councillor Jason McLellan, Councillor Cefyn Williams and Councillor Eryl Williams

**1 APOLOGIES**

Apologies were received from Councillors Colin Hughes and Win Mullen-James (Chair of the Future of Adult In-house Social Care Task and Finish Group).

The Chair paid tribute to the late Councillor Richard Davies, a member of the Committee and of the Task and Finish Group, who had passed away recently. Condolences were conveyed to his family and as a mark of respect all in attendance stood in silent tribute.

**2 DECLARATION OF INTERESTS**

The Scrutiny Coordinator (SC) responded stating that the Task and Finish Group (T&FG) had been established by Performance Scrutiny Committee to undertake a piece of work on its behalf. Its membership was made up of representatives from all scrutiny committees. The T&FG was effectively a sub group of Scrutiny who had been asked to look at the subject of in-house social care in more detail and report their findings back to the full Committee. No decisions had been taken by the T&FG as it did not have decision making powers. It was only reporting its findings, and based on those findings, its recommendations to Performance Scrutiny Committee at the current meeting. The current meeting was the Committee's opportunity to scrutinise the findings and the proposals being put forward prior to formulating recommendations in relation to them for submission to Cabinet for approval in late May 2016.

On the issue of observers at Task and Finish Group meetings, the SC re-iterated that the T&FG was a 'closed group' working on behalf of the scrutiny committees, and therefore it was not normal practice to permit observers to attend.

Councillor Roberts asked to have it noted that he thought this was very unfair.

Councillor Jason McLellan declared a personal interest in business item 4 in relation to his work in the constituency office of Ann Jones AM – a copy of the AM's response to the consultation was included in an appendix to the report which the Committee would be considering.

### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

No items were raised which in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972

### **4 IN-HOUSE CARE SERVICES REVIEW AND CONSULTATION**

Prior to the introduction of the report the Chair advised that there had been some considerable interest in this review, with councillors receiving a high volume of e-mail and other correspondence with respect to it. He explained that for the discussion on this business item he would be permitting Committee members to ask questions first, followed by questions from other non-scrutiny elected members, prior to asking the Committee to formulate recommendations for submission to Cabinet.

Councillor Meirick Lloyd-Davies, past Chair of the Task and Finish Group (T&FG), introduced the report in the absence of the current Chair. Councillor Lloyd-Davies explained that the T&FG was a politically and geographically balanced group that had been asked to examine value for money options for delivering high quality social care in the County. He emphasised that as the process progressed initial assumptions changed based on the evidence analysed.

The Group had met nine times over the preceding two years. It oversaw the planning and implementation of the 'listening and engagement' exercise which resulted in the development of the options for public consultation. On 17<sup>th</sup> March 2016 Officers presented the responses received during the public consultation to the T&F Group. The Group then prepared the recommendations in the report, presented to Committee at the current meeting, for scrutiny and comments prior to their submission to Cabinet on 24<sup>th</sup> May 2016.

The Head of Community Support Services (HoCSS) presented the evidence from the public consultation on the future of Denbighshire's in-house care services. He explained how the consultation had been undertaken in accordance with the 1985 Gunning Legal Principles around consultation to ensure that the Authority complied with legal expectations.

The HoCSS put forward the case for the need to change in-house care services as:

- Although the number of older people was increasing, demand for standard residential care and day services in Denbighshire had been falling for several years, and was continuing to fall;
- Demand for more enabling alternatives to standard residential care (such as Extra Care Housing) was increasing, and there was unmet demand for Extra Care Housing in Denbighshire, as well as for more specialist mental health and nursing homes;
- Research showed that outcomes for people who lived in Extra Care Housing were better compared with outcomes for people who lived in standard residential care;
- The introduction of the Social Services and Wellbeing (Wales) Act required the council to focus on enabling people to remain as independent as possible for as long as possible;
- The cost of running care services in-house was high compared to commissioning services from the independent sector, and compared to the cost of supporting people to live in Extra Care Housing.

At the conclusion of the Task and Finish Group's work the following options had been presented for public consultation:

#### Options presented for Hafan Deg (Rhyl)

1. **The council's preferred option:** The council would enter into a partnership with an external organisation and transfer the building to them, commissioning a day care service within the building and, in addition, enabling 3<sup>rd</sup> sector agencies to provide early intervention activities for older people that reduce social isolation, support independence and promote resilience.
2. To re-provision services at Hafan Deg with the potential that the centre would close and the service users and their families be supported to find suitable alternative provision.
3. The council would consider any other alternative or option put forward that met the demand for day care places and social activities within the available resources.
  - The only alternative option put forward during the consultation was for the council to continue to own run Hafan Deg. This was only explored in any detail within the UNISON response.

### Options presented for Dolwen (Denbigh)

1. **The council's preferred option:** To enter into a partnership with an external organisation and transfer the whole service to them, while registering for mental health care.
2. To lease or sell Dolwen for another purpose. The home would close and the service users and their families be supported to find suitable alternative provision.
3. The council would consider other alternative options put forward that would meet the demands for residential and day care places within the available resources.
  - The only alternative option put forward during the consultation was for the council to continue to own and run Dolwen. This was only explored in any detail within the UNISON response.

### Options presented for Awelon (Ruthin)

1. **The council's preferred option:** To stop new admissions and work with the individuals and their families, at their own pace, to move them to suitable alternatives as appropriate and to enter into a partnership with the owner of Llys Awelon to develop additional Extra Care apartments on the site. However we will not ask any resident to leave Awelon if they do not choose to and their needs can continue to be met there.
2. To work in partnership with a registered social landlord, health services and the 3<sup>rd</sup> sector to develop a range of services, transferring half of the building to develop additional extra care flats, possibly as an extension to Llys Awelon, while using the remainder as a small residential unit which could be used to meet the increasing need for respite care and to ensure that no existing resident would need to move unless they chose to.
3. The council would consider an alternative option that would meet the demands for residential and day care places within the available resources.

Alternative options submitted for Awelon included:

#### **Option 3a** – submitted by Unison:

- The UNISON proposals were explored/explained in detail within the full UNISON response (Appendix K previously circulated), essentially the proposal is for the council to continue to own and run Awelon and for this to be funded with an additional increase in Council Tax.

#### **Option 3b** – suggested by an Elected Member:

- It was suggested that the council could look to build additional Extra Care Housing on one of the potentially vacant school sites in Ruthin (following school re-organisation). This would satisfy the demand for additional Extra

Care Housing in Ruthin, and enable the Awelon site to continue as it currently is.

#### Options presented for Cysgod y Gaer (Corwen)

1. **The council's preferred option:** The council would enter into a partnership with relevant stakeholders (including BCU and the 3<sup>rd</sup> sector) to develop the site into a 'support hub' offering both residential and extra care type facilities as well as an outreach domiciliary care and support service to the tenants of local Sheltered Housing Schemes and the wider population of Corwen and the surrounding area.
2. The council would stop new admissions and work with the individuals and their families at their own pace to move them to suitable alternatives as appropriate and to enter into a negotiations with registered social landlords to develop Extra Care apartments on the whole site.
3. The council would consider alternative options put forward that would meet the demands for residential and day care places within the available resources.

No alternative options for Cysgod Y Gaer were presented during the consultation period.

The Principal Manager – Business Support gave an overview of the consultation events held and a summary of the feedback received during the consultation period. He advised that:

- More people responded to the consultation about Dolwen than any of the other 3 consultations.
- The majority of respondents who answered the question regarding their nearest town live in (or near to) Denbigh.
- The majority of those who answered this question to identify their interest classed themselves as members of the public, although many were friends or relatives of current service users.
- The majority of those who responded were over 60 years of age
- The majority of those who answered identified their nationality as Welsh.
- More than a third of those who answered were able to speak Welsh fluently and
- Very few people who responded expressed a preference for any of the options presented. Of those who did select an option, fewer than half selected an option which opposed the councils' preferred options (i.e. either Option 2 or Option 3).

The HoCSS advised that the headline conclusions drawn following the consultation were that:

- There was general opposition from the limited responses received to proposals to change our in-house services.
- With the exception on Cysgod y Gaer, there was little support within these responses for the council's preferred options.
- Many people recognised the benefits of additional Extra Care Housing, but very few respondents believed it could be a viable alternative to standard residential care. Nor did they realise that respite care could be, and increasingly was, offered at Extra Care facilities;
- Many people did not believe that the demand for standard residential care was reducing, and thought that the Council had been refusing entry to in-house services since the review had started.

Alternative proposals submitted included:

- Very few alternative proposals were submitted (over and above "don't change"), and most people who opposed change provided no rationale for this view, and/or no evidence to support their argument.
- Unison submitted alternative options for Dolwen, Awelon and Hafan Deg. These could be summarised (at a very high level) as increasing council tax to enable the council to retain the current services.
- An additional alternative for Awelon was to build Extra Care Housing on a potentially vacant site in Ruthin (following school re-organisation). This would satisfy the demand for additional Extra Care Housing in Ruthin, and enable the Awelon site to continue as it was. This was potentially feasible, but it did not address the issues of cost nor reduced demand for residential care.

Having considered the responses received the Task and Finish Group was recommending to Performance Scrutiny that it endorse the preferred options. The basis of this rationale was that:

- The consultation had not provided the council with any compelling rationale or evidence to justify amending its preferred options.
- There was a strong financial case for the preferred options for Dolwen and Hafan Deg, and an overwhelming financial case in relation to Awelon.
- All potential negative impacts for service users, staff and people who shared protected characteristics, could be mitigated against to some extent.

- All potential alternative proposals submitted during the consultation had been evaluated as less practical and/or sustainable than the council's preferred options.

The Task and Finish Group had concluded that care and support services for older people in Denbighshire would be better, and more sustainable, if the preferred options were implemented, and were therefore seeking the Committee's support for the proposals for submission to Cabinet for approval.

The Chair then invited questions and comments from Committee members.

Councillor Hilditch-Roberts suggested that the recommendations were not the Council's preferred options but Cabinet's preferred options. He applauded the time extension to the consultation period and felt that it had been thorough. Nevertheless, he felt that the subsequent information being reported back was less comprehensive and that an ordinary member of the public could not really put forward an alternative option as they would not have sufficient information and data available to them to substantiate any proposal. Particular information he would have liked more detailed explanation on included:

- what evidence the T&FG had used to make its recommendations;
- blueprints to support the vision of the preferred options;
- considered rationale as to why the other options were not supported;
- assessment of care requirements, had they changed over recent years;
- whether discussions been undertaken between the Authority and Betsi Cadwaladr University Health Board (BCUHB) and GPs; and
- the feasibility of the alternative option put forward for Awelon with potentially additional extra-care facilities located on a separate site or the development of a supersite.

Councillor Welch asked for confirmation as to whether savings was the main consideration when making the recommendation for Dolwen. He also raised the following concerns:

- of the 118 responses to the Dolwen consultation only 7 had expressed a preference for option 1, deducing that 93% of responses were against that recommendation;
- lack of detail supplied with the recommended option 1;
- calculating potential savings to be made against 24 residents rather than that if it were at full occupancy;
- lack of alternative costings versus occupancy;

- was there any evidence available that private providers could take over Dolwen or the other establishments, run them and return a profit on the business; and
- what would happen if an independent provider took over Dolwen and then decided after 12 months that it could not afford to continue with the provision;

Councillor Sandilands enquired on the quality of care for the service user and on the guarantee of provision. He asked for the views of the Health Board and the Community Health Council (CHC) on the proposals, which independent providers had been considered to provide an alternative service and the quality of those providers, and how well other authorities worked with the third sector in the area of social care.

Councillor Bartley, a member of the T&FG, highlighted that Dolwen had been providing high quality care for 50 years. He wanted Dolwen to remain open and continue to provide care – day care, Elderly Mental Health (EMH) care and residential care in Denbigh. Councillor Bartley sought reassurances that Welsh speaking clients would continue to receive their care in their preferred language and employees' working conditions would remain unchanged.

Councillor Roberts recalled a recent positive experience within his family of local authority residential care and enquired whether care in independent homes was of a comparable standard. He raised concerns that the independent sector was also closing homes due to the financial climate, and expressed a preference for keeping Dolwen and the other establishments in local authority hands.

Councillor Lloyd-Williams referred to the expected Local Authority re-organisation and asked whether the circumstances in neighbouring authorities and possible mergers should have been taken into consideration. He enquired on the number of local authority residential care homes operated by neighbouring authorities. Councillor Lloyd-Williams enquired why – given that Denbighshire had agreed that no more savings needed to be found for the current financial year – could it not collaborate with the Health Board to retain the facilities/ build new facilities and provide the services. Other concerns raised included:

- delayed transfer of care (DToC) from hospitals was already a problem and would therefore get worse if there were fewer residential care places available;
- potential for a bidding war with independent providers;
- was there any evidence that an independent provider wanted to take over Dolwen;
- what would happen if things went wrong and the Authority had to step in

At this juncture the Chair opened the meeting to questions from the floor. Councillor Butterfield asked the following:

- how the Committee could make any recommendations without having supporting documents
- where was the financial information used to make the recommendations
- should raising Council Tax to provide day/residential care be explored; and
- what would happen if new partners could not make their service a successful business - was there a Plan B.

She was also of the view that full Council should discuss the proposals.

Councillor McLellan echoed concerns over the concept of choosing a preferred option without knowing who the partners would be and wondered whether there was any evidence that there was appetite in the private sector to enter into such partnerships. He referred to past Care and Social Services Inspectorate Wales (CSSIW) reports that had flagged up serious concerns in some private homes that were failing to live up to expectations. He felt that being a commissioning only authority had risks associated with it.

The Corporate Director: Communities reiterated that Authority was following the 1985 Gunning Legal Principles around consultation and as such was still in the formative stages of consultation. Consequently it was not yet in a position to approach prospective partners to discuss any terms or conditions, until such time as Cabinet gave its approval to proceed to that stage. The CD:C dispelled assumptions that decisions had been made to close or 'offload' any facility and reassured the Committee that with regard to quality of care and safety of residents that she in her role as the Statutory Director of Social Services was personally responsible for the care and treatment of individuals in care facilities, be they provided by the local authority or commissioned by it.

Councillor A Jones referred to the previously circulated Equality Impact Assessment and the importance of promoting the Welsh language and culture in the adult social care setting. She raised concerns whether independent providers would continue to provide a service focussed in Welsh for those who chose it and requested that a stipulation that Welsh language service be provided be included in the recommendations that went to Cabinet.

Further to the information previously provided the HoCSS responded to the Committee's questions as follows:

- whilst the proposals would potentially realise financial savings for the Council, this was not the main driver for the change. The drivers were new legislation and service-users requirements and expectations;
- he confirmed that Conwy now only owned and managed one residential care facility, an EMH facility, and Wrexham Council was in the process of closing its last remaining care home;

- confirmed that needs assessments criteria for local authority social care do change on a regular basis, based on WG guidance, this is due to service-users' expectations changing;
- the population was now generally living longer due to advances in medical sciences. However, this potentially entailed more complex care needs which needed to be met. The WG had also capped domiciliary care charges at £60 per week;
- Denbighshire had not pre-empted the outcome of the consultation exercise. Feasibility studies had been undertaken on the recommended options. Until such time as Cabinet had approved proposals for further exploration of the preferred options officers nor the T&FG could approach potential partners to explore in detail any potential service models;
- Considering an alternative site for Extra Care Housing in Ruthin whilst keeping the Awelon site operating as it currently operated would not address the decrease in demand for residential care, or realise savings;
- Continuing to run a residential home at Awelon with an occupancy rate of 10 was not viable;
- Amongst other reasons the preferred options were recommended to deliver sustainable services at a lower cost, whilst at the same time deliver the Welsh Government's vision for promoting independence for as long as possible, in line with the requirements of the Social Services and Well-being (Wales) Act 2014;
- The cost of running local authority residential care homes was not the same regardless of the number of residents. An increase in the number of residents would not necessarily reduce costs as there would be a requirement to increase staff numbers.
- Over 90% of social care in Denbighshire was currently provided by independent sector providers. Those independent homes were (and would continue to be) monitored by the Authority and inspected on a regular basis by the CSSIW. A quarterly monitoring report was and would continue to be submitted to the Scrutiny Chairs and Vice-Chairs Group and Partnerships Scrutiny Committee considered the Annual Report on Adult Protection in Denbighshire;
- BCUHB only commissioned residential and nursing care it did not provide care unless there was an underlying medical need;
- If the preferred options were eventually approved staff in Hafan Deg and Dolwen would be transferred to the 'new' provider(s) under Transfer of Undertakings (Protection of Employment) (TUPE) arrangements and would therefore retain their terms and conditions of employment. They would also be providing similar services to what they presently provided;

- All care providers had a duty to provide service in Welsh when required, in line with the WG's 'Mwy na Geiriau' (More than Words) Strategic Framework for Welsh Language Services in Health, Social Services and Social Care. Language was acknowledged as an important factor in the care of EMH, and its provision was monitored by Denbighshire County Council and the CSSIW. Ensuring Welsh language services were available and supporting Welsh culture and ethos were an inherent part of the Social Services and Well-Being (Wales) Act;
- If the establishments were transferred to external partners they would be contractually obliged to use them for the agreed purpose. Covenants would be written into any transfer agreements stipulating this as well as safeguards that if the partner organisation ceased to provide the specified service the ownership of the assets would transfer back to the Council;
- Whilst the Authority did not have the resources to develop EMH residential care facilities private businesses/third sector organisations could access funding to develop the required services;
- Figures for delayed transfer of care (DToC) across North Wales were low in comparison to the Welsh average, and were usually down to the care establishment of the service-user/family's choice not being available when the person was ready to be discharged, a requirement for specific type of nursing/EMH care or for 'double-handed' domiciliary care.

The Chief Executive thanked the T&FG for the work they had done over the preceding two years. He said that they had fulfilled their brief in reviewing in-house provision of adult care and delivered clear recommendations. It would be interesting to see whether concerns raised could be resolved prior to the recommendations being submitted to Cabinet. He reminded the Committee that Cabinet's next step was not to give the go ahead to find alternative providers but to give approval for the proposals to be explored further, before detailed options and outline business cases could be presented for detailed scrutiny. Members were reminded that changes to service provision was required to meet changing demands and expectations, not necessarily to save money.

He also reminded the Committee that the majority of care already provided in Denbighshire was already delivered by the independent sector and that the quality of that care was rigorously monitored and heavily regulated.

The Committee debated the wording of the recommendations set out in the T&FG's report and following detailed further deliberations the Performance Scrutiny Committee

**Resolved: - to recommend to Cabinet that it approves the following options with respect to each of the four establishments:**

- (i) ***Hafan Deg (Rhyl) – that the Council explores a potential partnership with an external organisation with a view to transferring the building to them,***

- commissioning a day care service within the building and, in addition, enabling 3<sup>rd</sup> sector agencies to provide early intervention activities for older people that reduce social isolation, support independence and promote resilience. The work in relation to this option should include comparative cost, quality of care and Welsh language provision analysis between the current service and any potential future service;***
- (ii) Dolwen (Denbigh) – that the Council explores a potential partnership with an external organisation with a view to potentially transferring the building and the whole service to them, whilst ensuring that Dolwen is registered to provide EMH day and residential care. The work in relation to this option should include comparative costs, quality of care and Welsh language provision analysis between the current service and any potential future service;***
- (iii) Awelon (Ruthin) – that the Council explores in detail the three options put forward in relation to this establishment and that the work in relation to these options include comparative costs, quality of care and Welsh language provision analysis between the current service and each of the three options;***
- (iv) Cysgod y Gaer (Corwen) – that the council explores entering into a partnership with relevant stakeholders (including BCU and the 3rd sector) to develop the site into a ‘support hub’ offering both residential and extra care type facilities as well as an outreach domiciliary care and support service to the tenants of local Sheltered Housing Schemes and the wider population of Corwen and the surrounding area; and***
- (v) that upon completion of the above an analysis of each of the options in relation to each establishment is presented to Performance Scrutiny Committee for examination.***