

Committee Name and Date of Committee Meeting

Cabinet – 17 February 2020

Report Title

To launch a new building based respite offer to replace current provision

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

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Ward(s) Affected

Borough-wide

Report Summary

The Cabinet and Commissioners' Decision Making Meeting dated 21 May 2018 approved the recommendations set out in the report '*The Transformation of Services and Support for People with a Learning Disability*' to move services away from the then existing building based locations to alternative ways of delivering care and support in the local community. The proposed changes included a commitment to improve the support available to carers.

In line with recommendations within the report regarding specific service provision, Cabinet and Commissioners resolved to close the Councils in-house day care centres as well as in-house Learning Disability respite facilities including Treefields by 2019/20 and Quarryhill by 2020/21. These two respite services are set within two six bedroom detached houses.

The decision for the closure of the respite facilities was made on the basis that the outdated fabric of the buildings and lack of access for people with limited mobility meant that they were no longer fit for purpose. The report did not specifically outline how respite services would be provided in the future, instead focusing on the key principles for Learning Disability services in Rotherham.

It is proposed that the Council utilises two newly developed detached properties at Conway Crescent, East Herringthorpe to provide an alternative respite offer for up to eight people per day at any one time. One of the buildings has been developed to be Autism friendly and the other with equipment for people with physical care and support needs e.g. ceiling track hoist. This will provide a more effective and inclusive provision.

The Conway Crescent properties will potentially enable a respite offer to a wider range of people, who previously could not always use the Councils in-house respite facilities due to access issues.

The proposal for Conway Crescent will be part of a range of options that support the principles of *My Front Door*, in offering personalised, flexible care and support to meet individual needs for people with a Learning Disability and/or Autism. The Conway Crescent services will:

- support unpaid carers
- support people in receipt of care and support to have a 'good day'
- enable people in receipt of care and support to realise their potential and develop life skills

Recommendations

1. That the contents of the report be noted and approval be given to the recommended option for the Council to continue to provide a respite service from the new location at Conway Crescent as set out in the report.
2. That the proposed service of notice on the current provider within the terms of the contract to terminate the block contract for Learning Disability residential respite beds be noted.

List of Appendices Included

Appendix 1 Equality Screening Tool

Appendix 2 Equality Analysis

Background Papers

Cabinet and Commissioners Decision Making Meeting 10 July 2017: *Outcome of the consultation and recommendations on the Learning Disability Offer and the future of in house services for Adults with a Learning Disability and or Autism* (Pages 253 - 343)

Cabinet and Commissioners Decision Making Meeting 21 May 2018: *The Transformation of Services and Support for People with a Learning Disability* (Pages 417-587)

Planning Application No: RB2017/0097
Planning Application No: RB2019/1023

Council Approval Required

No

Exempt from the Press and Public

No

To launch a new building based respite offer to replace current provision

1. Background

- 1.1 The Cabinet and Commissioners Decision Making report, 'The Transformation of Services and Support for People with a Learning Disability, 21 May 2018', made the commitment to transform Learning Disability Services in Rotherham including improving the support available to carers.
- 1.2 The Cabinet and Commissioners resolved to close the two existing residential respite services directly delivered by the Council, by 2019/20 (Treefields) and 2020/21 (Quarryhill). Both services are set within 6 bedroom detached houses.
- 1.3 Quarryhill is based in Wath and Treefields in Wingfield. Cabinet and Commissioners approved the proposed closure on the basis that the buildings are not accessible to all people and there are issues with the conditions and maintenance – i.e. they are not fit for purpose. Any alternative provision would need to address the physical environment to ensure inclusivity through fully accessible design and build.
- 1.4 In addition to the primary driver for a new residential respite offer to form part of a range of options that support the principles of *My Front Door*, in offering personalised, flexible care and support to meet individual needs for people with a Learning Disability and/or Autism, given the financial position of the Council, it was identified that there would also be potential for a cost saving from the closures of the in-house residential respite provision that would contribute to the Council's Medium Term Financial Strategy.
- 1.5 A specific saving has historically been attributed to the proposed closure of the two respite facilities. This is referenced in the Cabinet and Commissioners Decision Making Meeting report '*Outcome of the consultation and recommendations on the Learning Disability Offer and the future of in house services for Adults with a Learning Disability and or Autism*' dated 10 July 2017 where it was noted at page 286 that the £245,000 saving for the closure of in-house respite (Quarryhill and Treefields) was originally approved as a budget saving for 2016/17. The paper noted that the slippage on the saving was resulting in a budget pressure and this was re-profiled for 2017/18. This is the directly attributable saving to the respite element of the *My Front Door* savings referenced within the follow up Cabinet and Commissioners Decision Making report 21 May 2018.

2. Conway Crescent Development

- 2.1 Conway Crescent is a new development of 14 properties located in East Herringthorpe, funded via the Housing Revenue Account. The properties are being built as part of the Councils Housing Cluster's house building programme with properties available to rent or purchase via a shared ownership scheme.

- 2.2 Two of the 14 properties are 4 bedroomed semi-detached houses that have been designed and built to a higher specification to support people with a Learning Disability and/or Autism. These are available for rent to Adult Care. The remaining buildings on the development are for general needs family housing.
- 2.3 The proposal for Conway Crescent will be part of a range of options that support the principles of *My Front Door*, in offering personalised, flexible care and support to meet individual needs for people with a Learning Disability and/or Autism. The proposed Conway Crescent services will:
- support Unpaid carers
 - support people in receipt of care and support to have a 'good day'
 - enable people in receipt of care and support to realise their potential and develop life skills
 - be available for use for people from across the whole borough
- 2.4 The two buildings will provide accommodation with access to specialist equipment, for example a ceiling track hoist, wheelchair lift to upper floors, clean washing/storage and dirty washing utility rooms.
- 2.5 At the time of writing the 21 May 2018 Cabinet and Commissioners Decision Making report it was anticipated that the two planned properties on Conway Crescent allocated for Adult Care would be used for supported living when built and ready for handover. Planning permission was sought for this purpose in February 2017 and consultation was carried out with local residents in the immediate area of East Herringthorpe, specifically existing households on Conway Crescent. This comprised of six lamppost notices and a press notice in August 2017. Two written objections were received, but these pertained to the whole site development and loss of green space rather than the specific properties allocated for Adult Care. Planning permission was granted in March 2017.
- 2.6 When originally proposing the closure of the Treefields and Quarryhill respite facilities, it was envisaged that alternative provision may be sought from the independent sector. However, this was not a specific recommendation to Cabinet and Commissioners. The focus for an alternative offer was predicated on the basis that new services will:
- provide high quality care and support to people with a Learning Disability and their families
 - actively promote people's wellbeing, helping them have a good life and be as independent, healthy and well as possible
 - be more diverse so all people with a Learning Disability in Rotherham, whatever their age, background, or level of need, will have more choice in their support.
 - move away from traditional building based or institutional form of support and will focus on support which is personalised, flexible and meets people's individual needs
 - help people work together and pool their personal funds so they can share their support and sustain meaningful and rewarding relationships

- provide the best value for the people of Rotherham

2.7 Soft market testing to identify the appetite from the independent sector to provide an alternative respite service was carried out through a request for expressions of interest via the YORtender portal (April 2019) which was open to all providers; and 1:1 sessions with a range of specialist providers starting from late 2018 continuing into 2019/20.

The soft market testing indicated that many independent sector providers were lukewarm to the proposal of delivering a direct replacement for the Councils respite provision. The providers reticence was based on the:

- Potential for incurring Transfer of Undertakings (Protection of Employment) (TUPE) liabilities for Council staff displaced from Treefields and Quarryhill following the closure and replacement with an alternative independent sector offer. This could potentially be deemed a like for like service meaning that staff are potentially eligible to transfer employment to a new provider.
- The Council would have to undertake a procurement exercise to identify a provider to be transparent and compliant with the Councils own Financial and Procurement Procedure Rules and the Public Contracts Regulations 2015 given the potential contract value. Due to the nature of the Learning Disability market historically being driven by the providers building/developing provision rather than being formally commissioned, a number of providers indicated that they have limited experience of participating in a formal procurement process and there was a nervousness of doing so.

2.8 The feedback from the soft market testing and the potential availability of the Conway Crescent properties presented an opportunity for the Council to explore directly delivering a new residential respite service. An options appraisal was conducted to determine the viability of the proposal and to consider a range of alternatives. This is detailed in Section 5 of the report. The methodology used to inform the options was based on the logic model contained with the HM Government Commercial Function *Make or Buy Decision Outsourcing Guidance Note February 2019*.

3. Capacity and Demand

3.1 In anticipation of the possible closure of the Quarryhill and Treefields services the Council increased the capacity from the available commissioned respite provision in the borough from the independent sector during 2019/20. The total independent sector offer for respite residential provision is currently 9 units (bed nights). This is a block contract where the council bears the cost of voids i.e. whether the bed is occupied or not in order to account for emergency, unplanned need.

- 3.2 An assessment of the number of allocated nights has been conducted for 2019/20 covering both the in-house provision at Quarryhill and Treefields and also the externally commissioned provision. This equates to 21 units (the combined in-house and independent sector provision) with a total capacity of 7,581 bed nights.
- 3.3 However, there is significant under-utilisation across the whole stock, with 4,610 bed nights currently allocated for 2019/20 with a projected take-up of 4,337 by the end of the financial year. As a comparison, at year end 2018/19 the final take-up was 4,390 bed nights a usage rate of 75.8%.
- 3.4 The current overall level of provision of 21 units has capacity which significantly exceeds the actual demand. A future bed stock of 14 units would be sufficient. This would provide a total capacity of 5,100 bed nights (14 bed nights x 365 days per annum), covering existing allocations and with some provision for emergency use. This would enable 7 units to be decommissioned. The options outlined at Section 5 of the report are predicated on the future offer being based on a total of 14 units.
- 3.5 Each of the three proposed options in Section 5 of the report involve a change in offer from the current residential respite arrangements. As per commitments contained within the 21 May 2018 Cabinet and Commissioners report, there will be no changes to any individual respite allocations for people currently in receipt of residential respite services unless identified through a formal reassessment.
- 3.6 Opportunities to look at alternative respite arrangements will be available to all who have an assessed need for respite. This can be through the statutory annual reviews; should needs change or upon request. Reviews will consider how eligible needs can best be met, taking into account the principles of *My Front Door* in exploring all options such as home care and support, assistive technology, shared lives or assisted holidays along with the residential provision. Unpaid carers will also have an annual review. These reviews will be carried out simultaneously to ensure that there is a read across and that the appropriate options are taken forward to best meet the respite needs of the individual.
- 3.7 Future capacity within the system will potentially be created by introducing more innovative approaches to meeting needs which may historically have been met by respite care for example:
- the take up of alternative approaches to residential respite
 - the outcome of annual reviews resulting in a reassessment of need and a reduction in the level of allocation for residential respite

4. Existing Provision and Costs

4.1 Quarryhill and Treefields

4.1.1 Quarryhill is based in Wath and Treefields in Wingfield. Cabinet and Commissioners approved the proposed closure of the two residential respite provisions on 21 May 2018 on the basis that the buildings are not accessible to all people and there are issues with the conditions and maintenance – i.e. they are not fit for purpose. It would not be possible to fully address the physical environment to ensure inclusivity due to material building constraints.

4.1.2 The total net budget for Quarryhill and Treefields is currently £839,000. This is for provision of 12 units, though there has been significant underutilisation since 2018/19 and the service has been operating at a reduced staffing capacity accordingly reflecting the position in Section 3 of the report above.

4.1.3 The two services are currently accessed by 72 people with either a Learning Disability and/or Autism. The Equality Analysis at Appendix 2 provides a more detailed breakdown of the Protected Characteristics of the wider cohort.

4.2 Current Independent Sector Residential Respite Offer

4.2.1 A Wath based service provides 5 units and there are additional 1-1 hours provided where identified as being required in the individuals support plan.

4.2.2 The service is currently accessed by 27 people with either a Learning Disability or Autism. The Equality Analysis at Appendix 2 provides a more detailed breakdown of the Protected Characteristics of the wider cohort.

4.2.3 A Kimberworth service provides 4 units and there are additional 1-1 hours provided where identified as being required in the individuals support plan.

4.2.4 The service is currently accessed by 13 people with either a Learning Disability or Autism.

5. Options considered and recommended proposal

5.1 The feedback from the soft market testing and the potential availability of the Conway Crescent properties presented an opportunity for the Council to carry out an options appraisal to consider the best possible solution, considering:

- a) whether the service should be run by an independent sector provider
or
- b) the Council should directly deliver residential respite services at Conway Crescent
or
- c) whether the Council should commission all residential respite provision from the independent sector

Under scenarios a) and b) the Council would remain the landlord of the Conway Crescent premises. Option c) would potentially utilise the independent sector providers stock and therefore there would be no requirement for using the Conway Crescent premises.

As per commitments contained within the 21 May 2018 Cabinet report, there will be no changes to any individual respite allocations for people currently in receipt of residential respite services unless identified through a formal reassessment under any of the proposed options.

5.2 Option 1: To outsource the care to an external care provider

5.2.1 This would require a procurement exercise to ensure compliance with the Councils Financial and Procurement Procedure Rules and the Public Contracts Regulations 2015 due to the potential contract value.

5.2.2 As indicated earlier in the report, soft market testing with external providers indicated a reticence from many to participate in any procurement process due to the potential costs of transferring Council staff from Treefields and Quarryhill under TUPE regulations. This could potentially lead to the failure of the procurement process or possibly create a monopoly position within the external market as only one provider indicated an express interest.

5.2.3 Consideration has been given to seeking an exemption from Financial and Procurement Procedure Rules to directly award the contract for this service. Following legal/procurement advice this option is not recommended due to the value of the contract as this would exceed the Social and Other Specific Services ("SOSS") threshold detailed in the Public Contracts Regulations 2015, whereby an Official Journal of the European Union (OJEU) advertised tender must be conducted.

5.2.4 To procure the service externally the timeline for completion will be between 6 and 9 months. The timeline for procurement is well beyond the date the property was transferred to the Council. The earliest it could be ready would be August 2020, but more likely November 2020. There will be cost implications in relation to rent voids and costs for the security of the property whilst it is unused. This will also delay the closure of Treefields and Quarryhill beyond 2019/20 missing the final delivery date specified in the 21 May 2018 Cabinet report.

5.2.5 This option may potentially deliver a saving, but the final service delivery costs and identified savings are unknown. They would only be identified and any savings realised following completion of a competitive tender exercise.

5.3 Option 2: The Council continue to provide the respite service from the new location

- 5.3.1 This option would involve the Council delivering the care within the new Conway Crescent buildings. The Treefields and Quarryhill respite provision would be replaced by fit for purpose, quality, fully accessible accommodation for the respite service to be delivered from – albeit with a reduced capacity from 12 to 8 units. The balance would be supplemented from independent sector provision to ensure sufficiency if needed.
- 5.3.2 Planning permission has been granted to potentially use the two buildings at Conway Crescent to provide residential respite care. A second planning application was submitted for a permitted ‘change of use’ from the original permission sought for supported living and as before, local residents in the immediate area of East Herringthorpe, on Conway Crescent were consulted through lamppost notices and in writing. No objections were received. The ‘change of use’ application was approved in July 2019.
- 5.3.3 It is proposed that one of the Conway Crescent properties will specialise in provision for people with Autism and the other will be for people with a Learning Disability who also have limited mobility.
- 5.3.4 The benefits of having the two properties together mean that the staff team can be shared, but the service provision can be personalised and adapted to the needs of the people receiving respite.
- 5.3.5 The Council will provide the service following the transition to the new location will ensure familiarity and continuity for people using the services and for their Unpaid carers. Further, under the proposal, access would be determined by the Council meaning that there is scope to accommodate complex emergency cases if needed and space is available. This can prove challenging, and costly when looking at independent sector provision if bespoke requirements are needed, especially at relatively short notice. With the Council retaining a ‘foothold’ in the respite market, this provides additional Safeguarding protection for vulnerable people and in the event of market failure the potential for the Council to meet its statutory duties under the Care Act.
- 5.3.6 Recruitment of support workers into the independent sector is challenging and the Council offer may be more appealing for workers with the right values and skills.
- 5.3.7 As this option impacts on existing staff currently employed at Treefields and Quarryhill, there needs to be consideration of the consultation with staff and Union representatives around the new staffing structure required for this new service provision as well as changes in location. A 30 day formal staff consultation would need to be completed prior to staff commencing within this new service. This approach could be facilitated relatively quickly after Cabinet approval enabling the closure of both Treefields and Quarryhill to take place from April 2020 on a phased basis.

- 5.3.8 There is potential for the existing 29 (17.75 FTE) Council staff, who are affected by the closure of the existing directly delivered respite services, to be redeployed into the new service, and therefore avoid a TUPE transfer and reduce redundancies. Staff will be offered redeployment within the new location. There are existing voids within the current staff deployment as a result of the need to staff in accordance with utilisation.
- 5.3.9 The move to new premises will require a new Care Quality Commission (CQC) registration as they will need to inspect and approve the new buildings. The registration cannot passport from the existing provision. This can take up to 12 weeks to facilitate. The service cannot lawfully operate until the registration is in place. There will therefore be a void period from the date of approval of the recommend option until the CQC registration process is completed.
- 5.3.10 The period pending CQC registration will require security considerations. It will, however, allow for testing of the new build, internal fit out (fixtures and fittings/specialist equipment) and engagement with future users/carers prior to opening.
- 5.3.11 The proposed total cost of running both services at Conway Crescent is £809,000 including a revised staffing model, taking into account the reduction in provision to 8 units. This will deliver savings of £30,000 from Adult Care.
- 5.4 Option 3: Commission all residential respite provision from the independent sector**
- 5.4.1 Under this option all provision would be commissioned from the independent sector. There are currently 9 units commissioned and in order to have sufficient capacity across the borough, an additional 5 units would need to be purchased. This option would require a procurement exercise to ensure compliance with the Councils Financial and Procurement Procedure Rules regulations and the Public Contracts Regulations 2015 due to the potential contract value.
- 5.4.2 As indicated under Option 1, soft market testing with external providers indicated a reticence from many of the external providers to participate in any procurement process due to the potential costs of transferring Council staff from Treefields and Quarryhill under TUPE regulations – they would be eligible for transfer under this option also. This could potentially lead to the failure of the procurement process and also potentially create a monopoly position within the external market as only one provider indicated an express interest and they are the incumbent.
- 5.4.3 This option would not require the independent sector to utilise the Conway Crescent properties as they could potentially use their own stock. There is therefore a potential for the Conway Crescent properties needing to be re-purposed as they would not be required for residential respite purposes. The Adult Care Directorate would incur void costs.

5.4.4 This option may potentially deliver a saving, but the final service delivery costs and identified savings are unknown. They would only be identified and any savings realised following completion of a competitive tender exercise.

5.4.5 Cabinet are asked to consider and approve the recommended **Option 2 - The Council continue to provide the respite service from the new location at Conway Crescent** on the basis that this:

- the modern purpose built facilities provide access to all people with a Learning Disability requiring residential respite provision, including those with limited mobility
- provides a specialist Autism offer
- enables the Council to have ready access to provision for people with complex needs where it may be difficult to source in the independent sector
- adds to the choices available to users of the service - running alongside the independent sector offer and alternative options such as Shared Lives
- ensures direct control of the quality of the provision
- avoids a TUPE transfer of Council staff and reduces the risk of any redundancies
- facilitates the closure of the two respite facilities within the anticipated timeframe
- contributes towards the anticipated savings

6. Consultation on proposal

6.1 There are four general principles derived from case law as to how consultations should be conducted which are known as the "Gunning criteria":

1. Consultation should occur when proposals are at a formative stage;
2. Consultations should give sufficient reasons for any proposal to permit intelligent consideration;
3. Consultations should allow adequate time for consideration and response;
4. There must be clear evidence that the decision maker has considered the consultation responses, or a summary of them, before taking its decision.

In reaching a conclusion decision makers must satisfy themselves that the consultation exercise complied with the above principles.

In 2017 an extensive consultation exercise was undertaken which considered the closure of the Treefields and Quarryhill residential respite services. The outcome of the consultation exercise was made available to The Cabinet and Commissioners' Decision Making Meeting dated 21 May 2018.

The proposal presented to Cabinet and Commissioners in 2018 was that in place of the existing residential in-house provision the potential need for respite would be addressed in the following ways:

- Through strengths based approach we will develop a range of opportunities
- Expansion of current Shared Lives
- Use of personal budgets, including direct payments to provide support when the carer needs it
- Develop skills for independent living
- More people to have access to their own front door

This approach, which was approved by Cabinet and Commissioners in 2018, remains the Councils plan for the service.

However, given the passage of time and the availability of new, purpose designed properties, the Council now wishes to add to the choices available to users of the service.

The addition of a modernised in-house service means that potential users will be able to use personal budgets to purchase respite from independent providers, to use the new service or consider alternatives to this model of respite such as sitting services.

Although planning permission was sought and granted for the properties at Conway Crescent to be used for supported living an application was subsequently submitted for a 'Change of Use' to permit residential respite care. This was approved in July 2019. The application followed all the requirements set out in legislation for a planning application including posting notices in the local community. Those potentially affected therefore had the opportunity to comment on the proposal. No objections to the application were received.

- 6.2 There will be a requirement for a 30 day HR consultation to take place with Council staff who currently work at Treefields and Quarryhill residential respite service to consider a potential move to an alternative work location at Conway Crescent and any potential changes in terms and conditions of employment i.e. pay and grading as a result of the revised staffing requirement.
- 6.3 The proposal does not mandate a formal public consultation as this has previously been conducted as per the 21 May 2018 Cabinet and Commissioners Decision Making report. However, there will be active engagement with the people in receipt of care and support and Unpaid carers currently using Treefields and Quarryhill and to arrange to view Conway Crescent provision to help them consider their options should the proposal be approved by Cabinet.

6.4 Should the recommendations be taken forward, then Officers will need to serve contractual notice on the independent sector provider to reduce the number of commissioned units by 3 units. There is a requirement under the existing service contract to adhere to a six month notice period. The Council therefore needs to inform the provider of the intention to end the contract.

6.5 It would be pertinent, should the proposal be approved, for relevant Officers to carry out further engagement with the neighbours on Conway Crescent to provide additional reassurance and key points of contact should any issues arise with regard to the buildings, the residents behaviour, parking, access/egress or any other issues that may cause them concern.

7. Timetable and Accountability for Implementing this Decision

7.1 An implementation plan to deliver the proposal, identifying key milestones and activity needed to meet them has been produced to oversee delivery of the project. This has three elements of activity to:

- enable the opening of the Conway Crescent residential respite facilities
- support the decommissioning of the Treefields and Quarryhill residential respite facilities
- facilitate the decommissioning of the 3 units of independent sector provision

7.2 Should the proposal be approved by Cabinet, then it is anticipated that the Conway Crescent service would begin a phased operational plan from April 2020. However, the decommissioning of the Treefields and Quarryhill residential respite facilities will be on a phased basis from April 2020.

7.3 Subject to Cabinet approval, the six month notice period to end the existing independent sector block contract for 3 units of residential respite will be served from March 2020. This will enable the decommissioning to be concluded by September 2020 with achievement of a part year saving.

8. Quality Monitoring

8.1 Residential respite care services must be registered with the Care Quality Commission (CQC). The CQC will ensure that any provision is subject to regulation, inspection and their published quality ratings.

8.2 Under both Option 1: To outsource the care to an external care provider; and Option 3: Commission all residential respite provision from the independent sector residential respite services would be subject to additional monitoring from the Councils Adults Contract Compliance function.

- 8.3 It is proposed that if the recommended option, Option 2: The Council continue to provide the respite service from the new location, is taken forward by Cabinet; that the service, though run by the Council would also be subject to additional monitoring from the Councils Adults Contract Compliance function. This will ensure that service quality is consistent and is particularly important from an equity perspective as there will be a mixed residential respite offer with additional units of independent sector provision.

9. Financial and Procurement Advice and Implications

- 9.1 The recommended Option 2: The Council continue to provide the respite service from the new location is expected to deliver savings of £30,000 based on the planned staffing model.

- 9.2 In order for the original saving to be achieved following the decommissioning of Treefields and Quarryhill, 3 units of the independent sector residential respite capacity currently purchased through a block contract will need to be decommissioned. This would leave a total offer of 14 units (8 from the Council and 6 from the independent sector). It should be noted that there is a need to serve the provider with 6 month notice of the intention to decommission as per the contractual terms so the saving will be partially delivered in 2020/21 with full year effect from 2021/22. This is reflected in the proposed budget for Adult Care for 2020/21.

- 9.3 The overall saving that can be potentially achieved from the Conway Crescent proposal under Option 2 is £245,000 when combining the savings from the revised staff model and from the decommissioning of the 3 units from the independent sector. This option fully meets the original 2017/18 respite saving requirement referenced in the Cabinet and Commissioners Decision Making Meeting report '*Outcome of the consultation and recommendations on the Learning Disability Offer and the future of in house services for Adults with a Learning Disability and or Autism*' dated 10 July 2017 page 286.

10. Legal Advice and Implications

- 10.1 The Conway Crescent residential respite proposal is part of the larger programme of reconfiguration that was agreed by the Cabinet and Commissioners at the Decision Making meeting on 21 May 2018 following a programme of consultation in relation to the future delivery of the Council's in-house learning disability and autism provision. There is no legal requirement for a further consultation to take place on the Conway Crescent offer. Local engagement with Customers, their family and carers, is advisable and has been is has been planned.

- 10.2 Engagement will be arranged through letters (also in accessible formats) to Unpaid carers and people in receipt of support advising them of the changes and encouraging them to attend drop-in visits to see the new service and to meet the staff at Conway Crescent. These are to be arranged for late February/March 2020.

11. Human Resources Advice and Implications

11.1 The proposals will impact on 29 staff / 17.75 FTE, which is made up of 20 permanent staff / 10.7 FTE and 9 temporary staff / 6.05 FTE. The current respite services also have 2.38 FTE vacancies.

Option 1 would lead to the potential TUPE transfer of staff to an external provider. This would involve formal consultation on TUPE arrangements with the staff on permanent contracts and staff on temporary contracts who have over 2 years' continuous service

Option 2: The Council continue to provide the respite service from the new location. This would require a new staffing model with a proposed establishment of 17.72FTE. Therefore a 30 day consultation with current staff members on permanent and temporary contracts will need to be undertaken regarding potential changes to their terms and conditions of employment, i.e. changes in banding, hours and location.

Option 3: Commission all residential provision from the independent sector would lead to the potential TUPE transfer of staff to an external provider. This would involve formal consultation on TUPE arrangements with the staff on permanent contracts and temporary staff on temporary contracts who have over 2 years' continuous service.

12. Implications for Children and Young People and Vulnerable Adults

12.1 There are limited direct impacts on Children and Young People as the residential respite revision is for Adults aged 18 years old in receipt of support from the Adult Care, Housing and Public Health Directorate. However, young people moving from Children and Young people's Services into Adult Care services through the Preparing for Adulthood Pathway would be able to utilise the service if it is assessed as the right solution for them and their Unpaid carers.

13. Equalities and Human Rights Advice and Implications

13.1 The use of Conway Crescent as a residential respite provision, alongside the independent sector offer is intended as a direct replacement for the existing Council run provision at Treefields and Quarryhill. This approach should provide sufficiency. There will also be no changes to respite allocations for the existing cohort until:

- an annual review is conducted for the Unpaid Carer and the person in receipt of support and this identifies the need for a reassessment
- either the Unpaid Carer or person in receipt of support requests a reassessment at any time due to a change in care and support needs.

13.2 There is a commitment within the respite offer to offer choice. This is enshrined within the Care Act 2014 and encompassed in the core principles of Valuing People (2001) and Valuing People Now (2009) for people with a Learning Disability. This promotes the rights of independence and social inclusion. The legislation and guidance reaffirm the principles of personalisation, the use of Personal Budgets and Direct Payments. A cared for person and/or their Unpaid Carer can therefore choose to purchase any type of provision to meet their care and support needs. The proposal of directly delivering residential respite provision from Conway Crescent is therefore an option available to people currently using the Council services at Treefields and Quarryhill, though it is not mandatory and they are free to explore alternative options such as independent sector provision, home care, shared lives or assisted holidays using a Direct Payment.

13.3 An Equality Screening Tool is attached at Appendix 1. A more detailed Equality Analysis specific to the Council's residential respite offer has been completed and is attached to the report as Appendix 2.

14. Implications for Partners

14.1 The proposed residential respite provision at Conway Crescent is for Adults supported by the Adult Care, Housing and Public Health Directorate. There are limited implications for partners from the proposal, though the Rotherham Clinical Commissioning Group (RCCG) may partly or jointly fund some of the care packages for people accessing the respite provision and therefore benefit from the availability of the provision.

15. Risks and Mitigation

15.1. There is a potential risk that the proposed assumption that 14 units of residential respite provision may lead to insufficient capacity should there be additional requirements for this type of care and support from new people requiring care and support and if existing people using the services have escalating needs.

This can however be mitigated by the fact that residential respite is one of a range of options available to individuals and Unpaid carers. There would be the option to exercise choice in relation to the services received, by using personal budgets to purchase residential respite support from independent providers rather than the Council's in-house provision if chosen. They may also wish to consider alternative models of support such as home care and support, assistive technology, shared lives or assisted holidays.

15.2 The staffing requirements for the Conway Crescent facilities may not be met from the existing Council workforce at Treefields and Quarryhill, transferring over to the new service, thereby reducing available units.

15.3 The 30 day HR consultation process will consider staff requirements, contracts of employment and personal circumstances. This process may identify that the new staffing proposals are not suitable for some of the existing staff. These staff may be subject to a redeployment / redundancy process. This may also instigate a recruitment process should vacancies be identified.

15.4 The savings may not be fully realised as a result of the staffing model costing more than anticipated.
A range of options for staffing the Conway Crescent facilities have been considered and benchmarking from other local authorities has been used to inform the optimum staffing model to deliver a transformative, safe and personalised service. The model chosen is within the cost envelope.

16. Accountable Officers

Anne Marie Lubanski, Strategic Director of Adult Care, Housing and Public Health.

Ian Spicer, Assistant Director, Adult Care & Integration

Approvals obtained on behalf of Statutory Officers:-

| | Named Officer | Date |
|--|----------------------|-------------|
| Chief Executive | Sharon Kemp | 03/02/20 |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Judith Badger | 28/01/20 |
| Head of Legal Services (Monitoring Officer) | Bal Nahal | 28/01/20 |

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