

NORTH YORKSHIRE COUNTY COUNCIL

CARE AND INDEPENDENCE OVERVIEW AND SCRUTINY COMMITTEE

23 April 2015

WORK PROGRAMME REPORT

1.0 Purpose of Report

- 1.1. The Committee has agreed the attached work programme (Appendix 1).
- 1.2. The report gives Members the opportunity to be updated on work programme items and review the shape of the work ahead.

2.0 Background

- 2.1 The scope of this Committee is defined as:

'The needs of vulnerable adults and older people and people whose independence needs to be supported by intervention from the public or voluntary sector.'

3.0 Botton Village

- 3.1 NYCC received a petition calling for the Yorkshire Coast and Moors Area Committee to receive a report:

"...in preparation for a debate into the welfare and care arrangements of the residents of Botton Village in relation to proposed changes to the care provisions, and to determine what the committee considers is their responsibility to the residents of Botton"

- 3.2 The petition met the relevant criteria, in terms of number of signatures, for it to be considered by the area committee at its meeting on 25 March 2015. In accordance with the NYCC petitions policy, the petition organiser was invited to address the committee. The area committee was also able to review: their report to the area committee regarding petitions (Appendix 2); a statement by Action for Botton (Appendix 3); a response compiled by senior managers from the County Council's Health and Adult Services (HAS) Directorate who have been directly involved over recent years (from an NYCC perspective) with funding for people in the village (Appendix 4). A briefing received from the Camphill Village Trust (CVT), the registered support provider for people who live in Botton (Appendix 5), which whilst intended for the area committee meeting wasn't available on the day, is also enclosed for completeness. The account of the area committee debate is attached as Appendix 6.
- 3.3 This report for the Care and Independence Overview and Scrutiny Committee (C&I OSC) conveys the views reached by the Chairman and Group Spokespersons when they discussed the area committee's suggestion that this

Committee should consider the matters raised by the petition and in the accompanying papers.

- 3.4 This Committee's principal concern is the well-being and safety of residents. The Group Spokespersons noted the long period of high level involvement of HAS officers in the care arrangements of funded residents at the Village, and, more latterly, the position those officers have taken in recent events at the Village regarding employment matters and the legal action. Hearing this confirmed Chairman and Group Spokespersons' confidence in the assurances given by those officers (in their paper): "*..the directorate... [is] working within the village and with CVT to ensure that individuals' needs are being met and their well-being and safety, are, indeed paramount.*"
- 3.5 Given this information, your Chairman and Group Spokespersons concluded that there was no overriding reason for the Committee to undertake any further scrutiny. They noted recent events regarding the on-going dispute between CVT and opponents of the proposed changes the CVT has said it wants to make. Your Chairman and Group Spokespersons see these proposals - especially the role and payment of co-workers - as an internal, business matter for the Trust. Therefore, they could find no reason at all to question the neutral stance the HAS Directorate has adopted in relation to this dispute. More generally, whilst the Committee considers periodic reports on the overall performance of care providers, on no occasion has it taken an interest in either the internal, or operational, or business decisions of a provider, your Chairman and Group Spokespersons could see no reason for NYCC scrutiny to act differently here.
- 3.6 There are two sets of legal proceedings in this matter brought by a number of individuals who do not support the proposed changes. One set of proceedings is a judicial review of CVT's decision and the second set of proceedings is a private law action against CVT from making those changes. The Council is an interested party in the first set of proceedings and has withdrawn from the second set of proceedings on the understanding that a workable interim solution has been agreed between the parties before a final hearing is concluded where both sides of the argument will be presented at Court, presumably later in the year.
- 3.7 The C&I OSC's remit in respect of the protection of vulnerable adults, leads it to centre its interest in the pattern of social care and in the provision of care and care arrangements from a strategic perspective. In so doing, it would not be appropriate, your Chairman and Group Spokespersons believe, to scrutinise the preferred staffing and business arrangements of one particular provider. Therefore, your Group Spokespersons understand and are fully supportive of the directorate's position: "*...not to comment on either the legal action or on the relative merits of one particular model of social care practice or another.*"
- 3.8 When thinking about this Overview and Scrutiny Committee's work programme for the year ahead and particularly when planning your agenda for today, your Chairman and Group Spokespersons decided not to re-order workload priorities in order to take this as a substantive item at your meeting, nor could they recommend that there be any more consideration of the circumstances surrounding the petition - certainly not until the current legal action has run its

full course. Furthermore, because your Chairman and Group Spokespersons believe the current issues relating to Botton Village, which were the subject of the “referral” by the area committee, are in essence local matters, it would not be sensible for this committee - whose focus ought to be strategic and countywide - to take a view on something of such understandable local interest in the absence of area committee consideration.

- 3.9 Summing up, in the light of the above but especially the view that this is an internal, operational issue for the CVT to resolve in terms of how it provides services going forward, and mindful that the legal proceedings have yet to run their full course, your Chairman and Group Spokespersons **RECOMMEND** that the area committee be advised that this Committee intends to take no action on the matter.

4.0 Work Programme

- 4.1 As requested at your last meeting Group Spokespersons considered how what Richard Webb said in his Committee presentation might shape your work programme for the year ahead. The Group Spokespersons also considered the resolution agreed by the County Council at its last meeting that two of the six HAS 2020 savings area targets, those relating to complex needs (HAS 7) and Assessment Re-ablement Pathway (HAS 3/4/15), be reviewed by the Committee. Your Group Spokespersons recommend that you adopt the work programme on the attached Appendix arranged around the following six key themes: prevention; 2020 savings (all of them, however, not just the two referred to in the Council Resolution); health and social care integration; strategies; public health including scrutiny of the public health grant and performance and quality items.

5.0 Better Care Funding: Health and Social Care Integration

- 5.1 In his July statement the Chairman referred to the Committee’s consideration of Better Care Funding, making reference to the ambition reflected in the Government’s creation of a £3.8b pool budget for 2015/16, intended to help move care out of hospital and into the community and improve working and integration between health and social care.
- 5.2 The Committee was pleased that, together with health partners, the North Yorkshire Plan set out our three main priorities; to improve health, self-help and independence for North Yorkshire people; invest in primary care and community services; and create a sustainable system. Your Group Spokespersons received an update on progress at their Mid-Cycle Briefing.
- 5.3 Group Spokespersons were reassured at the level of performance monitoring and arrangements for managing performance reporting centrally. Group Spokespersons also reviewed the recently changed structural and governance arrangements relating to the Health and Wellbeing Board. A further update on progress has been requested for the Scrutiny Committee in the autumn.

6.0 Recommendations

- 6.1 The Committee is recommended to consider the attached work programme and determine whether any further amendments should be made at this stage.

BRYON HUNTER
SCRUTINY TEAM LEADER

County Hall,
Northallerton

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14 April 2015

Care and Independence Overview and Scrutiny Committee – Work Programme Schedule 2015

Scope

The needs of vulnerable adults and older people and people whose independence needs to be supported by intervention from the public or voluntary sector

Meeting dates

<p><i>Scheduled Mid Cycle</i> Lead Members of Committee</p>	Thurs, 11 June 2015 at 10:30am	Thurs, 3 September 2015 at 10:30am	Thurs, 3 December 2015 at 10:30am	Thurs, 31 March 2016 at 10:30am
<p><i>Scheduled Committee Meetings</i> <i>Agenda briefings to be held at 9.30am prior to Committee meeting. Attended by Lead Members of Committee</i></p>	Thurs, 2 July 2015 at 10:30am	Thurs, 1 October 2015 at 10:30am	Thurs, 21 January 2016 at 10:30am	Thurs, 21 April 2016 at 10:30am

MEETING	SUBJECT	AIMS/TERMS OF REFERENCE	ACTION/BY WHOM
23 April 2015	Extra Care Procurement	Progress of the procurement process	HAS
	Supporting People (NYCC Savings Target item)	How the relevant savings target is being achieved. How the impact upon service users is being managed.	HAS
	Domiciliary Care Procurement	The current state of the letting of the contract(s) for new 'Framework' agreements for domiciliary care contracts.	HAS
	Care Act	Reprise previous understanding of the implications of the Care Act; examine NYCC state of preparedness and how progress of implementation is monitored. Review the HAS consultation response on Care Cap costs.	HAS

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2 July 2015	Carers	What difference will the Carers Act make for carers and how are we placed as an authority. How do we see our record of encouraging carer involvement in the planning of services, focussing particularly on progress in implementing that part of the Carers Act. How is NYCC working with carers organisations to identify them and consider what support will be needed.	
	Assessment Reablement Pathway (NYCC Savings Target item)	How the relevant savings target is being achieved. How the impact upon service users is being managed, focussing on the customer journey and how independence is maximised.	HAS
	DPH Public Report and Assessing the impact of Public Health on Social Care (possibly moved to October meeting)	To receive the DPH Annual Report but also focus on the extent to which public health initiatives and commissioning arrangements are helping social care directly.	HAS - DPH
1 October 2015	Complex needs (NYCC Savings Target item) Winterbourne Concordat	How the relevant savings target is being achieved. How the impact upon service users is being managed. Update on progress in meeting the Winterbourne Concordat and nature of multi-agency commitment.	HAS
	Adult Substance Misuse Services	Update on progress of new integrated service “North Yorkshire Horizons” and issues encountered one year into contract. Representatives of providers to attend.	HAS-DPH
	Local Account	To agree the final version.	
	Sexual Health Services	Further update regarding the new North Yorkshire sexual health service. Provider to be invited to attend.	DPH
	Safeguarding	Committee to review the Annual Report of the NY Safeguarding Adults Board.	HAS, Chair of Board.
	Stronger Communities and Social Care	How are we making sure solutions will come from not just social care. What resources will be used from across all the authority and, wider still, all public services? How we are working towards promoting local networks and community associations can help people make the most of informal support, and combat loneliness and isolation in particular.	HAS – Stronger Communities

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	Targeted Prevention and Support. (NYCC Savings Target item)	How the relevant savings target is being achieved. How the impact upon service users is being managed, focussing on the evidence regarding the effect of the range of preventative services funded by the council for people who already have low level health and/or social care needs and their carers.	HAS
	North Yorkshire Local Assistance Fund	To update the Committee on activity and trends of usage.	Policy & Partnerships
21 January 2016	Equipment and Telecare (NYCC Savings Target item)	Possible item. How the relevant savings target is being achieved. How the impact upon service users is being managed, focussing on delivering savings through the rationalisation of the current equipment and stores arrangements.	HAS
21 April 2016			

Please note that this is a working document, therefore topics and timeframes might need to be amended over the course of the year.

Additional issues (to those above) which will be picked up at Mid-Cycle Briefings and which may also be brought to the subsequent Committee include:

11 June 2015	Self-Funders, Mental Health, Deprivation of Liberty, START reconfiguration
3 September 2015	Market Management and Provider Failure, Independent Advocacy (Information and Advice), Workforce, Employment of Care Workers
3 December 2015	Market Shaping, Commissioning, Assessment and Enabling, The Care Cost Gap

North Yorkshire County Council
Yorkshire Coast & Moors County Area Committee

25 March 2015

Petition – Botton Village

**Report of the Assistant Chief Executive
(Legal and Democratic Services)**

1.0 Purpose of the Report

- 1.1 To invite the Area Committee to hear from the organiser of this petition, debate the petition, and agree the appropriate course of action.

2.0 Background

- 2.1 A petition containing 1,120 signatures has been submitted to the Assistant Chief Executive (Legal and Democratic Services). The petition calls for “the (Area Committee) to seek a report in preparation for debate into the welfare and care arrangements of the residents of Botton Village in relation to proposed changes to their care provisions, and to determine what the committee considers is their responsibility to the residents of Botton”

3.0 Petitions Procedure

- 3.1 The County Council has a Petitions Scheme (**please see Appendix A to ITEM 4 preceeding**) which sets out the procedure for handling petitions. The Petitions Scheme requires that, if a petition contains signatures from 1% or more of the population of a District (ie, 1,086 signatures in the case of Yorkshire Coast and Moors County Area), and subject to compliance with other criteria within the Scheme, it will be referred to the relevant Area Committee for debate. (The Petitions Scheme provides that petitions containing 30,130 signatures will be debated at a meeting of the full County Council.)

- 3.2 The Petitions Scheme states:-

“At the meeting the petition organiser will be given five minutes to present the petition and the petition will then be discussed by County Councillors for a maximum of 15 minutes. The County Council will decide how to respond to the petition at this meeting. They may decide:

- to take the action the petition requests,
- not to take the action requested for reasons put forward in the debate,
- to commission further investigation into the matter, for example by a relevant committee.

Where the issue is one on which the County Council Executive are required to make the final decision, the County Council will decide whether to make recommendations to inform that decision.”

3.3 The petition organiser Mr Eddie Thornton, has indicated that, under the terms of the County Council’s Petition Scheme, he or a colleague would like to present the petition to the Area Committee, and for the issues raised to be debated.

3.4 The NYCC Assistant Director Adult Social Care Operations has been notified and has confirmed that she will be in attendance at the meeting.

4.0 Recommendations

4.1 The Area Committee is asked to:-

- invite the petition organiser Mr Eddie Thornton (or a colleague) to speak (5 minutes maximum) to present the petition;
- invite Area Committee Members to debate the petition (15 minutes maximum);
- to decide:-

whether:

(i) to recommend that the Executive take the action the petition requests;

or

(ii) not to take the action requested for reasons put forward in the debate

or

(iii) to commission further investigation into the matter, for example by a relevant committee.

Barry Khan
Assistant Chief Executive (Legal and
Democratic Services)
County Hall, Northallerton

16 March 2015
Author of the report: Josie O’Dowd
Background Documents: Petitions Scheme

A Statement to North Yorkshire County Council: Coast and Moors and Coast Committee 25th March 2015 - Falsgrave Community Centre

THE CAMPHILL MOVEMENT

- **In 1940 Dr Karl Konig, an Austrian refugee from Nazi Germany** established a small community in Scotland for children with learning disabilities at a time when such children were often given up on, shut away and institutionalised.
- **At the heart of Konig's approach** were three core ideas or principles
 - **Shared Living** :
Living life together - learning disabled and co workers - full time - in family style units enabling the building of stable, deep and healing relationships
 - **Shared Working** -
Sharing the work in the community - each according to their ability - without payment enabling all members of the community to feel respected , dignified, purposeful and valued
 - **Sharing a common cultural life** - through celebration of the festivals and through cultural activities such as singing, drama, and movement.
- **This pioneering exploration of what we now call HOLISTIC CARE** was soon recognised by parents and authorities' alike as children, began to grow, blossom and express themselves.
- But as the children grew up, so Konig faced another challenge. How would these children move into adulthood?

THE BIRTH OF BOTTON

CARE FOR ADULTS WITH LEARNING DIFFICULTIES

- The gift by the Macmillan family in 1953 of the core of the Botton Estate provided the seed for what has become the unique and inspiring community that is Botton Village
 - **A Community, where around 200 people including 100 learning disabled** and co-workers live, work and celebrate life together.
 - **A Community which includes**
 - 48 houses
 - biodynamic farms and Gardens
 - World renowned Seed Workshop
 - Bakery & Creamery
 - Craft workshops
 - Waldorf School
 - Church
 - Community Library
 - Cultural and Performance Space
 - **A community which for 60 years** has operated and developed those core principles first practiced by Dr Konig in Scotland
 - Shared Living
 - Shared Working
 - Shared Community
 - **A community which for 56 years** has been managed and governed by the community itself and where every member has the opportunity to be engaged and involved

A JEWEL IN THE CROWN OF NORTH YORKSHIRE

- **Over 60 years Botton has blossomed** into a community which:
 - is now recognised by leading social care researchers as a exemplar of how **'real holistic care'** can be delivered in the future.
 - by its very nature and organisation avoids many of the pitfalls and problems of a system where care has become an industry and caring a commodity.
 - was highly recommended in the Community of Year Award 2008
 - has become the model for a worldwide movement
 - has been visited by delegations from all over the world looking for a more appropriate, effective and caring model of social care.
 - every year hosts 50-60 international Students from all over the world - students who return inspired to their own countries
 - has been appreciated by hundreds of thousands visitors over the years from North Yorkshire and further afield who have come to appreciate the, peacefulness, purposefulness and beauty of Botton Village
 - is a jewel in the crown of not just of North Yorkshire but of the country
 - has until recently had the full and unequivocal support of North Yorkshire County Council.

SO WHAT HAS GONE WRONG

- **In 2011 after receiving continuously positive audits** from CQC (Care Quality Commission) Botton Village received a report which made a number of important recommendations for change.
- **All of these recommendations been met and incorporated** and the most recent CQC audits have been positive and complimentary.
- **In 2011 Camphill Village Trustees concerned about their responsibility** for maintaining care quality appointed for the first time a CEO whose previous experience had involved closing down small residential homes in favour of building an integrated residential care provision in Manchester.
- **Since 2011 Camphill Village Trust have worked to dismantle** all of Camphill's key operating principles.
 1. **Community Management**
CVT have removed the community led management structure in all UK Camphill Communities and replaced it with paid managers living outside the community.
 2. **Shared Living.**
CVT have ended family style living in all Camphill Communities in the UK other than in Botton Village where this has been opposed
 3. **Shared Working**
CVT have removed voluntary co workers from all Camphill Communities in UK except in Botton Village where this has been opposed
 4. **Shared Cultural Life**
The abandonment of shared living and shared working has led to the loss of the rich cultural life in all UK communities and is likely to lead to the closure of the Waldorf School within Botton Village.

Appendix 3

- **The damaging effects of this policy on the health of residents** in the Communities where family living and Co working has been removed has been graphically illustrated in the report: **Regulation: Unintentional Destruction of Intentional Communities** produced by the Centre for Social Welfare Reform.
- **CVT have consistently argued that they have been forced** to take the action they have i.e.
 - Remove community management
 - Force co workers into employment
 - End family style living

BY:

 - Charities Commission
 - HMRC
 - Care Quality Commission
 - North Yorkshire County Council
- Evidence can be supplied which will show that none of these assumptions are true (see www.actionforbotton.org)
- CVT have continued over the last four years to Gerrymander the membership of CVT to
 - exclude those who most represent its core principles
 - create hundreds of new voting members who support their policy
- **The vast majority of co workers at Botton have opposed** the direct threat on the principles and practice of Camphill clearly set out in its memorandum and articles of association.
- **After many attempts at mediation** Action for Botton, a group local people have supported legal action by co-workers and parents against CVT to stop them acting outside the memorandum and articles of association of the Charity.
- **One injunction has been granted and the second injunction will be heard on Thursday 2nd April.**
- **The Local Esk Valley Community have provided continual and real support for Botton Village** Following eviction notices issued by CVT to co-workers who refuse employment, hundreds of individuals, businesses and church's have offered help in whatever way they can joining the Botton Buddies www.bottonbuddies.org
- The National and International Community have rallied to the aid of this unique community with questions being asked in the House of Lords, an early day motion being prepared for Houses of Parliament and Senior Clergy speaking out on national radio.
- This unique and inspiring community is now asking that you as our County representatives urgently review the course and character of CVT actions and North Yorkshires relationship with CVT in the interests of helping to sustain a social initiative which has pioneered a model which offers real and positive blueprint for all forms of social care into the future.

NYCC RESPONSE TO QUESTIONS RAISED REGARDING BOTTON VILLAGE AT THE YORKSHIRE COAST AND MOORS COUNTY AREA COMMITTEE 25.03.15

Statement

Mike Webster and Anne Marie Lubanski are Assistant Directors with over 4 years direct involvement with Botton. The Council's responsibilities lie with its funding of people within the village. The Camphill Village Trust (CVT) are the registered and contracted provider of care and support.

Botton Village is home to approximately 250 people, of whom 95 are adults with a learning disability. Most of the residents who require care are funded by local authorities, with North Yorkshire County Council providing funding for 70 people at a current cost to the County Council of approximately £1.2m per year.

North Yorkshire County Council has taken, and continues to take, a neutral stance in the dispute between CVT and the opponents of the changes which the Trust proposes. Our paramount concerns are the well-being of the residents of Botton and to ensure that they receive the highest standard of care.

Officers of the County Council's Health and Adult Services directorate are working within the village and with CVT to ensure that individuals' needs are being met and that their well-being and safety are, indeed, paramount.

The Council cannot comment either on the current legal action or on the relative merits of one particular model of social care practice or another.

Question 1 - Eddie Thornton

Botton Village is seen as an internationally renowned example of progressive social care where real relationships are built in family homes, and residents are empowered by the integral part they play in the community. What value do the members of the committee place in this model, and what can they do to protect it?

Response - The Council cannot comment either on the current legal action or on the relative merits of one particular model of social care practice or another.

It supports the development of a vibrant and diverse market for social care, with continuous improvement to meet the changing needs of the population it serves. The current social care economy includes a range of models of care including shared lives, residential care, extra care and domiciliary care all with the aim of supporting people to live independently in their own homes.

Question 2 - Lydia Gill-Waring

The minister of state for Health and Social Care has recently launched his "No voice unheard, no right ignored" programme to strengthen the rights of people with learning disabilities, autism and mental health conditions and ensure that they get the best care possible. Direct payments allow those in receipt of social care funding

APPENDIX 4

to choose and buy the services they need for themselves, instead of getting them from their council. To what extent do the members of this committee recommend that those people with learning disabilities at Botton Village should be able to use direct payments to choose who provides their own care, and in light of the recent High Court injunction awarded to residents of Botton Village, how can the members of this committee ensure that their voices are heard in relation to who provides their care and support and how they wish to live?

Response - The local authority is committed to promoting choice and control for people who have care and support needs.

The local authority's assessment process is person-centred and takes into account the person's care and support needs. The local authority complies with the legislative requirements of the Mental Capacity Act where it is appropriate to do so. At the end of the assessment process the local authority will determine the eligible needs of the person and work with them to agree how these can be best met.

Local Authorities have a duty to offer direct payments. Part of the assessment process will establish a personal budget for the person to meet their assessed eligible needs. This can be taken as a direct payment which the person can use to purchase care and support to meet their assessed needs instead of the local authority arranging services. Usually the direct payment recipient will either employ carers direct or buy a service from a registered provider. The person must be able to consent to a direct payment in order to receive it.

Where the person chooses to employ carers directly they will be responsible for payment of staff, redundancy, holidays and managing returns to the HMRC including tax liability. If the person chooses to purchase care through a registered domiciliary care agency they will agree the hourly rate they are prepared to pay and the agency is responsible for staff related expenditure.

There are a range of expectations which people using direct payments must agree to. These including setting up and managing a separate bank account, submitting returns to the local authority confirming what the money has been used for and evidencing what they have spent money on and retaining receipts.

Local Authorities will review the direct payment to ensure that the money is appropriately spent and that assessed needs are being met in relation to the support plan. Local Authorities have the ultimate decision as to whether an individual can take a direct payment or not based on the above conditions

Question 3 - Kathryn Von Stein

The learning disabled residents of Botton Village have enjoyed the greatest possible degree of Health and Wellbeing as a consequence of stable homes, loving relationships, meaningful contribution, and generally a healthy lifestyle. How will the committee ensure the health and wellbeing of the vulnerable adults as these social determinants of their health and wellbeing are being dismantled, without proper risk or impact assessments being carried out by CVT, and what measures will be taken

APPENDIX 4

to prevent the emotional trauma and bereavement caused by the loss of longstanding relationships?

Response - The local authority has a statutory duty to ensure that a person's assessed eligible social care needs are met. An assessment of need helps the local authority to identify the outcomes the person wishes to achieve and their care and support needs. As part of that assessment the psychological and emotional needs of the person will also be considered. From 1 April when the Care Act comes into force, the local authority will also have a duty to consider the person's wellbeing and to identify what care and support is needed by the person to achieve their desired outcomes.

A support plan is then developed with the person to look at how best to meet their eligible social care needs and, where appropriate, signpost to the relevant health and other agencies. Where a person lacks capacity or needs additional support to express their views and the person does not have a family member or close friend to advocate on their behalf they can access support through an independent advocacy service. The local authority commissions a range of advocacy services.

Question 4 - Fionn Reid

A group of 35 co-workers at Botton Village envisage forming a registered care provider as part of their plan to achieve operational autonomy from CVT. What does the committee see as the benefits of separating social care provision from the landlord in a supported living situation and what can be done to assure the members of the council that the care provision is robust and compliant?

Response - The Council cannot comment on the specific circumstances surrounding Botton village, however, registration as a care provider undertaking a regulated activity is a matter for the Care Quality Commission.

In order to be considered to deliver any service to a person on behalf of the local authority prospective providers must be able to meet the requirements set by the Council to comply with procurement legislation and the local authority's financial rules. The local authority must satisfy itself that any organisation it is entering a contractual relationship with meets these requirements. These include governance, staffing, financial arrangements and equality and diversity. Once contacted with the local authority evidence that these standards are being achieved will be monitored by performance against the standards.

There are a range of contractual service models which the local authority may use, which are determined by the specific commissioning requirements.

In Summary the Council is neutral regarding the on-going dispute and will not champion any care model above others. Officers have continued to indicate that they have no wish to influence the ethos of Botton but have a responsibility for the wellbeing of residents.

In light of the on-going legal concerns it is recommended the;

APPENDIX 4

The Area Committee note the petition and the concerns that have been raised. A further report is prepared for the next meeting of the Area Committee on the outcomes of the legal process.

Communities with adults, some of whom have special needs, caring about the environment, work, economic and social life and further education.

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Briefing for NYCC public meeting – 25 March 2015

In 2011, following many years of Botton being run by co-workers, the Care Quality Commission intervened due to concerns about the people being supported. They reported that 'it seems Botton is run more in line with the (co-workers') philosophy rather than what the villagers want'.

Also in 2011, North Yorkshire County Council investigated and reported that 'The community... appears to function to the benefit of co-workers rather than the benefit of the people who are in receipt of services.' They identified 100 requirements and recommendations, along with just 2 examples of good practice. Both regulators highlighted that a number of co-workers were resistant to change.

In 2012, the Charity Commission told the trustees to amend the charity's governing document, explaining that the Commission 'requires the independent trustees to be in the majority'. They recognised that the charity had been unable to address the unacceptable level of co-worker benefits due to the influence exercised by co-workers who did not recognise the need for change.

It was these failings, and the introduction of independent trustees and professional management necessary to address them, that changed how Botton Village was run.

Subsequently, in 2014 following advice from our auditors, independent tax advisors and a leading tax barrister, trustees acknowledged that the original non contractual status of co-workers could not be sustained legally and notified the HMRC accordingly. HM Revenue and Customs told us after they undertook their own status review, they considered 'that the CVT co-workers will become employees with effect from 6 April 2015' and that 'the tax agreement (previously relied upon)... cannot apply from that date for those co-workers.' Once again, some co-workers have proven resistant to change and refused to accept this requirement.

The past 60 years has seen significant improvements in the rights of, and opportunities for, people with disabilities. Unlike most Camphill communities, Botton Village hasn't kept up with this change. Despite a group of co-workers wishing to adapt to the new world of care and support, others have actively resisted the necessary changes.

Moving on to today, Camphill Village Trust is registered as the support provider at Botton Village with the Care Quality Commission and North Yorkshire County Council. The latter contract us to provide support to the people who live in Botton Village. We are therefore legally responsible for ensuring those we support are properly supported, have any care needs met and are protected from harm.



Following HM Revenue and Customs review, we have attempted to retain co-workers as the key providers of support by offering employment, genuine volunteering or new models of shared living. Ten have accepted employment and will remain in the community. Others have refused these offers and claimed shared living is no longer an option. This is wrong; as the factsheet 'Shared Lives', available on our website, states, co-workers can 'choose to live within households...and eat and socialise together, with people we support.'

By refusing to consider any of the options available, a number of co-workers have chosen to cease their relationship with the charity. For this reason, and to ensure continuity of care for those we support, we have had to attempt to gradually introduce employed support staff to houses where hostile co-workers currently provide support to provide some stability while reviews led by the local authority and commissioner, North Yorkshire County Council. Unfortunately, this effort has been thwarted as new staff felt intimidated by the organised protests.

Now a temporary injunction to stop changes to living arrangements is in place in respect of three houses until a full court hearing about the human rights of three people we support can take place.

Last week some co-workers and families in Botton sought an injunction to stop changes taking place until a full court hearing can take place about their allegations that the trustees have acted in breach of their legal responsibilities under the charity's memorandum. The court order covers until 31st March when there will be a further hearing about what form of injunction is appropriate until a full court hearing takes place.

We are pleased that the current court order provides some extra comfort about our ability to take steps to protect the safety and welfare of people we support and staff if we need to during this period. It is disappointing that repeated legal action is wasting resources and energy that should be focussed on providing care.

The campaigners believe that Botton Village should return to being run by co-workers. Yet many of the co-workers currently in shared living in Botton, and fighting the charity, were part of the previous co-worker management arrangement. This is the same group who the Care Quality Commission and local authority found to be so clearly letting down those they were meant to be supporting.

The charity's trustees and employees firmly believe those we support have a say about who provides their care and where they live. They must be able to do this without undue influence from other side in this debate. This should be achieved through independent reviews conducted by North Yorkshire County Council and we will continue to work with them to establish this process.

Some of those we support may choose a new or different arrangement than they currently have. We will, of course, respect these wishes and do our very best to accommodate them if this is possible. Our continuing desire is to see those that we support healthy, happy and able exercise choice and control in their lives.

Summary of the Botton Petition Item - Yorkshire Coast and Moors County Area Committee Wednesday 25 March 2015

Petition Title: We call upon the Area Committee to seek a report in preparation for debate into the welfare and care arrangements for the residents of Botton Village in relation to proposed changes to their care provisions, and to determine what the Committee considers is their responsibility to the residents of Botton.

The role of the Area Committee was to hear from a representative of the organisers of the petition, to debate the petition, and to agree an appropriate course of action. Discussion of the item was preceded by advice regarding present legal proceedings issued by Barry Khan, Assistant Chief Executive (Legal and Democratic Services).

The Chairman of the Committee, County Councillor Penny Marsden, explained the format for this item which would be:

- the presentation of the case by Mr James Fearnley on behalf of Action for Botton;
- to be followed by the four public questions which had been submitted relating to this matter;
- Anne-Marie Lubanski and Mike Webster, Assistant Directors Health and Adult Services, to then respond to the points raised;
- Area Committee Members would debate the matter and agree the way forward.

1. Petition presentation from Mr Fearnley – Spokesperson Action for Botton

“THE CAMPHILL MOVEMENT

- **In 1940 Dr Karl Konig, an Austrian refugee from Nazi Germany** established a small community in Scotland for children with learning disabilities at a time when such children were often given up on, shut away and institutionalised.
- **At the heart of Konig’s approach** were three core ideas or principles
 - **Shared Living :**
Living life together - learning disabled and co workers - full time - in family style units enabling the building of stable, deep and healing relationships
 - **Shared Working -**
Sharing the work in the community - each according to their ability - without payment enabling all members of the community to feel respected , dignified, purposeful and valued
 - **Sharing a common cultural life** - through celebration of the festivals and through cultural activities such as singing, drama, and movement.
- **This pioneering exploration of what we now call HOLISTIC CARE** was soon recognised by parents and authorities’ alike as children, began to grow, blossom and express themselves.
- But as the children grew up, so Konig faced another challenge. How would these children move into adulthood?

THE BIRTH OF BOTTON CARE FOR ADULTS WITH LEARNING DIFFICULTIES

- The gift by the Macmillan family in 1953 of the core of the Botton Estate provided the seed for what has become the unique and inspiring community that is Botton Village
 - **A Community, where around 200 people including 100 learning disabled** and co-workers live, work and celebrate life together.
 - **A Community which includes**
 - 48 houses
 - biodynamic farms and Gardens
 - World renowned Seed Workshop
 - Bakery & Creamery
 - Craft workshops
 - Waldorf School
 - Church
 - Community Library
 - Cultural and Performance Space
 - **A community which for 60 years** has operated and developed those core principles first practiced by Dr Konig in Scotland
 - Shared Living
 - Shared Working
 - Shared Community
 - **A community which for 56 years** has been managed and governed by the community itself and where every member has the opportunity to be engaged and involved

A JEWEL IN THE CROWN OF NORTH YORKSHIRE

- **Over 60 years Botton has blossomed** into a community which:
 - is now recognised by leading social care researchers as an exemplar of how **'real holistic care'** can be delivered in the future.
 - by its very nature and organisation avoids many of the pitfalls and problems of a system where care has become an industry and caring a commodity.
 - was highly recommended in the Community of Year Award 2008
 - has become the model for a worldwide movement
 - has been visited by delegations from all over the world looking for a more appropriate, effective and caring model of social care.
 - every year hosts 50-60 international Students from all over the world - students who return inspired to their own countries
 - has been appreciated by hundreds of thousands of visitors over the years from North Yorkshire and further afield who have come to appreciate the, peacefulness, purposefulness and beauty of Botton Village
 - is a jewel in the crown of not just of North Yorkshire but of the country
 - has until recently had the full and unequivocal support of North Yorkshire County Council.

SO WHAT HAS GONE WRONG

- **In 2011 after receiving continuously positive audits** from CQC (Care Quality Commission) Botton Village received a report which made a number of important recommendations for change.
 - **All of these recommendations been met and incorporated** and the most recent CQC audits have been positive and complimentary.
 - **In 2011 Camphill Village Trustees concerned about their responsibility** for maintaining care quality appointed for the first time a CEO whose previous experience had involved closing down small residential homes in favour of building an integrated residential care provision in Manchester.
 - **Since 2011 Camphill Village Trust have worked to dismantle** all of Camphill's key operating principles.
 1. **Community Management**

CVT have removed the community led management structure in all UK Camphill Communities and replaced it with paid managers living outside the community.
 2. **Shared Living.**

CVT have ended family style living in all Camphill Communities in the UK other than in Botton Village where this has been opposed
 3. **Shared Working**

CVT have removed voluntary co workers from all Camphill Communities in UK except in Botton Village where this has been opposed
 4. **Shared Cultural Life**

The abandonment of shared living and shared working has led to the loss of the rich cultural life in all UK communities and is likely to lead to the closure of the Waldorf School within Botton Village.
 - **The damaging effects of this policy on the health of residents** in the Communities where family living and Co working has been removed has been graphically illustrated in the report: **Regulation: Unintentional Destruction of Intentional Communities** produced by the Centre for Social Welfare Reform.
 - **CVT have consistently argued that they have been forced** to take the action they have i.e.
 - Remove community management
 - Force co workers into employment
 - End family style living
- BY:
- Charities Commission
 - HMRC
 - Care Quality Commission
 - North Yorkshire County Council

- Evidence can be supplied which will show that none of these assumptions are true (see www.actionforbotton.org)
- CVT have continued over the last four years to Gerrymander the membership of CVT to
 - exclude those who most represent its core principles
 - create hundreds of new voting members who support their policy
- **The vast majority of co workers at Botton have opposed** the direct threat on the principles and practice of Camphill clearly set out in its memorandum and articles of association.
- **After many attempts at mediation** Action for Botton, a group local people have supported legal action by co-workers and parents against CVT to stop them acting outside the memorandum and articles of association of the Charity.
- **One injunction has been granted and the second injunction will be heard on Thursday 2nd April.**
- **The Local Esk Valley Community have provided continual and real support for Botton Village** Following eviction notices issued by CVT to co-workers who refuse employment, hundreds of individuals, businesses and church's have offered help in whatever way they can joining the Botton Buddies www.bottonbuddies.org
- The National and International Community have rallied to the aid of this unique community with questions being asked in the House of Lords, an early day motion being prepared for Houses of Parliament and Senior Clergy speaking out on national radio.
- This unique and inspiring community is now asking that you as our County representatives urgently review the course and character of CVT actions and North Yorkshires relationship with CVT in the interests of helping to sustain a social initiative which has pioneered a model which offers real and positive blueprint for all forms of social care into the future."

2. Public Questions

Eddie Thornton: Botton Village is seen as an internationally renowned example of progressive social care where real relationships are built in family homes, and residents are empowered by the integral part they play in the community. What value do the members of the committee place in this model, and what can they do to protect it?

Lydia Gill-Waring: The minister of state for Health and Social Care has recently launched his "No voice unheard, no right ignored" programme to strengthen the rights of people with learning disabilities, autism and mental health conditions and ensure that they get the best care possible. Direct payments allow those in receipt of social care funding to choose and buy the services they need for themselves, instead of getting them from their council. To what extent do the members of this committee recommend that those people with learning disabilities at Botton Village should be able to use direct payments to choose who provides their own care, and in light of the recent High Court injunction awarded to residents of Botton

Village, how can the members of this committee ensure that their voices are heard in relation to who provides their care and support and how they wish to live?

Kathryn Von Stein: The learning disabled residents of Botton Village have enjoyed the greatest possible degree of Health and Wellbeing as a consequence of stable homes, loving relationships, meaningful contribution, and generally a healthy lifestyle. How will the committee ensure the health and wellbeing of the vulnerable adults as these social determinants of their health and wellbeing are being dismantled, without proper risk or impact assessments being carried out by CVT, and what measures will be taken to prevent the emotional trauma and bereavement caused by the loss of longstanding relationships?

Fionn Reid: A group of 35 co-workers at Botton Village envisage forming a registered care provider as part of their plan to achieve operational autonomy from CVT. What does the committee see as the benefits of separating social care provision from the landlord in a supported living situation and what can be done to assure the members of the council that the care provision is robust and compliant?

3. NYCC officer response to issues raised in 1 and 2

Mike Webster and Anne Marie Lubanski are Assistant Directors with over 4 years direct involvement with Botton. The Council's responsibilities lie with its funding of people within the village. The Camphill Village Trust (CVT) are the registered and contracted provider of care and support.

Botton Village is home to approximately 250 people, of whom 95 are adults with a learning disability. Most of the residents who require care are funded by local authorities, with North Yorkshire County Council providing funding for 70 people at a current cost to the County Council of approximately £1.2m per year.

North Yorkshire County Council has taken, and continues to take, a neutral stance in the dispute between CVT and the opponents of the changes which the Trust proposes. Our paramount concerns are the well-being of the residents of Botton and to ensure that they receive the highest standard of care.

Officers of the County Council's Health and Adult Services directorate are working within the village and with CVT to ensure that individuals' needs are being met and that their well-being and safety are, indeed, paramount.

The Council cannot comment either on the current legal action or on the relative merits of one particular model of social care practice or another.

Question 1 - Eddie Thornton (*Botton Village is seen as an internationally renowned example of progressive social care where real relationships are built in family homes, and residents are empowered by the integral part they play in the community. What value do the members of the committee place in this model, and what can they do to protect it?*)

Response - The Council cannot comment either on the current legal action or on the relative merits of one particular model of social care practice or another.

It supports the development of a vibrant and diverse market for social care, with continuous improvement to meet the changing needs of the population it serves. The current social care economy includes a range of models of care including shared lives, residential care,

extra care and domiciliary care all with the aim of supporting people to live independently in their own homes.

Question 2 - Lydia Gill-Waring *(The minister of state for Health and Social Care has recently launched his "No voice unheard, no right ignored" programme to strengthen the rights of people with learning disabilities, autism and mental health conditions and ensure that they get the best care possible. Direct payments allow those in receipt of social care funding to choose and buy the services they need for themselves, instead of getting them from their council. To what extent do the members of this committee recommend that those people with learning disabilities at Botton Village should be able to use direct payments to choose who provides their own care, and in light of the recent High Court injunction awarded to residents of Botton Village, how can the members of this committee ensure that their voices are heard in relation to who provides their care and support and how they wish to live)?*

Response - The local authority is committed to promoting choice and control for people who have care and support needs.

The local authority's assessment process is person-centred and takes into account the person's care and support needs. The local authority complies with the legislative requirements of the Mental Capacity Act where it is appropriate to do so. At the end of the assessment process the local authority will determine the eligible needs of the person and work with them to agree how these can be best met.

Local Authorities have a duty to offer direct payments. Part of the assessment process will establish a personal budget for the person to meet their assessed eligible needs. This can be taken as a direct payment which the person can use to purchase care and support to meet their assessed needs instead of the local authority arranging services. Usually the direct payment recipient will either employ carers direct or buy a service from a registered provider. The person must be able to consent to a direct payment in order to receive it.

Where the person chooses to employ carers directly they will be responsible for payment of staff, redundancy, holidays and managing returns to the HMRC including tax liability. If the person chooses to purchase care through a registered domiciliary care agency they will agree the hourly rate they are prepared to pay and the agency is responsible for staff related expenditure.

There are a range of expectations which people using direct payments must agree to. These including setting up and managing a separate bank account, submitting returns to the local authority confirming what the money has been used for and evidencing what they have spent money on and retaining receipts.

Local Authorities will review the direct payment to ensure that the money is appropriately spent and that assessed needs are being met in relation to the support plan. Local Authorities have the ultimate decision as to whether an individual can take a direct payment or not based on the above conditions

Question 3 - Kathryn Von Stein *(The learning disabled residents of Botton Village have enjoyed the greatest possible degree of Health and Wellbeing as a consequence of stable homes, loving relationships, meaningful contribution, and generally a healthy lifestyle. How will the committee ensure the health and wellbeing of the vulnerable adults as these social determinants of their health and wellbeing are being dismantled, without proper risk or impact assessments being carried out by CVT, and what measures will be taken to prevent the emotional trauma and bereavement caused by the loss of longstanding relationships?)*

Response - The local authority has a statutory duty to ensure that a person's assessed eligible social care needs are met. An assessment of need helps the local authority to identify the outcomes the person wishes to achieve and their care and support needs. As part of that assessment the psychological and emotional needs of the person will also be considered. From 1 April when the Care Act comes into force, the local authority will also have a duty to consider the person's wellbeing and to identify what care and support is needed by the person to achieve their desired outcomes .

A support plan is then developed with the person to look at how best to meet their eligible social care needs and, where appropriate, signpost to the relevant health and other agencies. Where a person lacks capacity or needs additional support to express their views and the person does not have a family member or close friend to advocate on their behalf they can access support through an independent advocacy service. The local authority commissions a range of advocacy services.

Question 4 - Fionn Reid (*A group of 35 co-workers at Botton Village envisage forming a registered care provider as part of their plan to achieve operational autonomy from CVT. What does the committee see as the benefits of separating social care provision from the landlord in a supported living situation and what can be done to assure the members of the council that the care provision is robust and compliant?*)

Response - The Council cannot comment on the specific circumstances surrounding Botton village, however, registration as a care provider undertaking a regulated activity is a matter for the Care Quality Commission.

In order to be considered to deliver any service to a person on behalf of the local authority prospective providers must be able to meet the requirements set by the Council to comply with procurement legislation and the local authority's financial rules. The local authority must satisfy itself that any organisation it is entering a contractual relationship with meets these requirements. These include governance, staffing, financial arrangements and equality and diversity. Once contacted with the local authority evidence that these standards are being achieved will be monitored by performance against the standards.

There are a range of contractual service models which the local authority may use, which are determined by the specific commissioning requirements.

In Summary the Council is neutral regarding the on-going dispute and will not champion any care model above others. Officers have continued to indicate that they have no wish to influence the ethos of Botton but have a responsibility for the wellbeing of residents.

In light of the on-going legal concerns it is recommended the;

The Area Committee note the petition and the concerns that have been raised. A further report is prepared for the next meeting of the Area Committee on the outcomes of the legal process.

Note re CVT participation: It had been hoped that the representative from Camphill Village Trust (CVT) would attend and speak at this point in the meeting, however advice had been received just before the meeting that this was not the case. A briefing which had been prepared by the organisation was circulated after the meeting to all Members and the representatives of Action for Botton.

4. Having listened to the information presented at 1, 2 and 3, Members commented as follows:

- ◆ The reluctance of CVT to attend public meetings held on this issue was noted, even those held in the immediate locality of Danby.
- ◆ Sympathy with the situation was expressed but it was noted that there was little that the Area Committee could do in light of the on-going legal action. Of course assurances were wanted that those for whom the County Council funds care are well looked after, and whilst the Area Committee was not in a position to look at any individual cases, it could take on board the broad overview.
- ◆ Sensitivity needs to be exercised in dealing with this matter and in recognition of this, the suggestion was made that recommendation (iii) be pursued via a referral to the County Council's Care and Independence Overview and Scrutiny Committee. The request was made that the information shared by officers on this matter officers be circulated to all present.

- ◆ Speaking as a Danby resident, a Member noted the very positive and encouraging environment provided within Botton Village. The approach adopted by CVT was felt to be inappropriate and "too blunt". There was speculation that there was a severe misunderstanding which had led to the present situation and the lack of engagement by CVT was felt to be hindering resolution. Disappointment was expressed that the present circumstances had arisen and it was felt to be a great shame that an impasse appeared to have been reached.
- ◆ Another Member familiar with the history of Botton Village explained that he had first visited the site in 1960 and he had had a close association as a child as his parents ran Upsill Hall - he had been brought up in that environment. He did not dispute the value of the care given but stressed the paramount concern was the care of vulnerable adults. He felt that the timing of the submission of the petition was unfortunate and that the matter would have been better discussed after the Court case.
- ◆ Anyone who had visited the facility could not help but be impressed and the Member felt that as long as the County Council was satisfied with the standard of care, the Area Committee should not be directly involved at this stage but await the outcome of the legal process, when a report should come back to a future meeting of the Area Committee.
- ◆ Again concern was expressed about the absence of CVT at the meeting and support was expressed for the proposal to refer the issue to the Care and Independence Overview and Scrutiny Committee perhaps involving Members of the Area Committee, and inviting CVT to participate. The key aspects of safeguarding and value for money were also acknowledged.

Anne-Marie Lubanski advised that meetings were on-going with Action for Botton and CVT, several had taken place over the preceding fortnight.

Members went on to further comment:

- ◆ Care and Independence is the most appropriate place for this matter to be further discussed, and it was noted that the issue could have wider implications.

- ◆ Following the conclusion of the present legal action, the suggestion was posed that perhaps the next meeting of the Area Committee could take place in Botton Village.

Barry Khan confirmed that the next meeting could certainly receive an update of the legal position on this matter.

- ◆ A number of Members confirmed they would like to attend the forthcoming meeting of Care and Independence on 23 April 2015 if it considered this matter.

It was clarified that the injunction hearing was due on 31 March and so the legal action would still be on-going at the time of the next meeting of Care and Independence.

Resolved -

To commission further investigation into the matter, via referral to the Care and Independence Overview and Scrutiny Committee.