

# Agenda

**Meeting: Care and Independence  
Overview & Scrutiny Committee**

**Venue: The Grand Meeting Room,  
County Hall, Northallerton DL7 8AD  
(See location plan overleaf)**

**Date: Thursday 23 April 2015 at 10.30 am**

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## Business

1. **Minutes of the meeting held on 22 January 2015.**

**(Pages 1 to 4)**

2. **Public Questions or Statements.**

Members of the public may ask questions or make statements at this meeting if they have given notice to Ray Busby Policy & Partnerships (*contact details below*) no later than midday on Monday 20 April 2015, three working days before the day of the meeting. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes);
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

3. **Healthwatch: How It Can Help The Committee** – Presentation by David Ita, Partnership Coordinator, Healthwatch North Yorkshire

4. **Supporting People 2020 Savings** – Report of the NYCC Corporate Director – Health & Adult Services  
**(Pages 5 to 7)**
5. **The Care Act 2014** – Report of the NYCC Corporate Director – Health & Adult Services  
**(Pages 8 to 18)**
6. **Domiciliary Care Contracts** – Report of the Corporate Director – Health & Adult Services  
**(Pages 19 to 21)**
7. **Procurement of Extra Care Framework** - Update Report of the NYCC Assistant Director – (Contracting Procurement and Quality Assurance), Health & Adult Services  
**(Pages 22 to 23)**
8. **Work Programme** - Report of the Scrutiny Team Leader.  
**(Pages 24 to 51)**
9. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

Barry Khan  
Assistant Chief Executive (Legal and Democratic Services)

County Hall  
Nothallerton  
13 April 2015

#### **NOTES:**

- (a) Members are reminded of the need to consider whether they have any interests to declare on any of the items on this agenda and, if so, of the need to explain the reason(s) why they have any interest when making a declaration.

The relevant Corporate Development Officer or the Monitoring Officer will be pleased to advise on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

- (b) **Emergency Procedures For Meetings**

#### **Fire**

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An intermittent alarm indicates an emergency in nearby building. It is not necessary to evacuate the building but you should be ready for instructions from the Fire Warden.

**Accident or Illness**

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# Care and Independence Overview and Scrutiny Committee

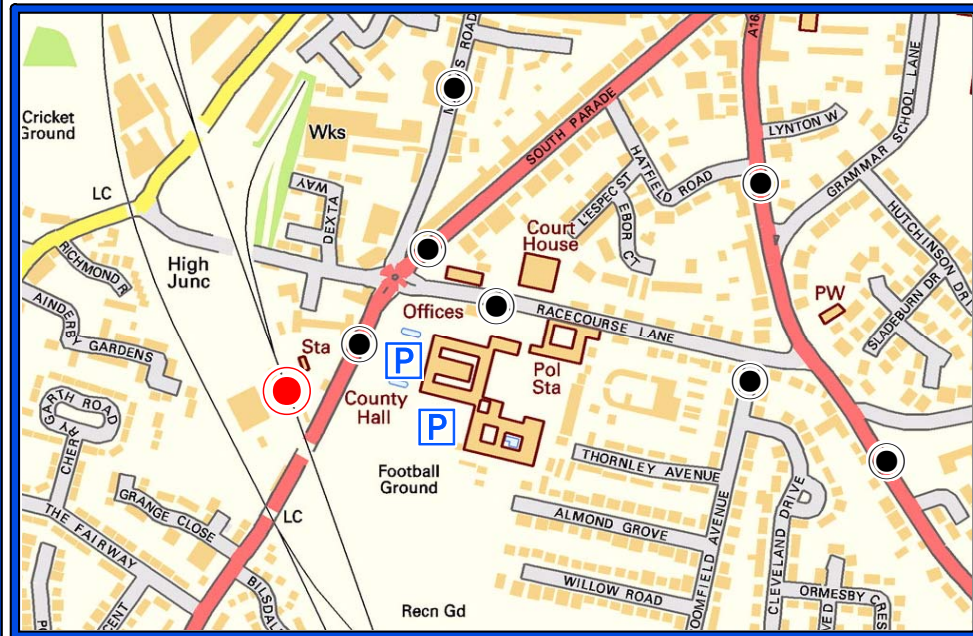
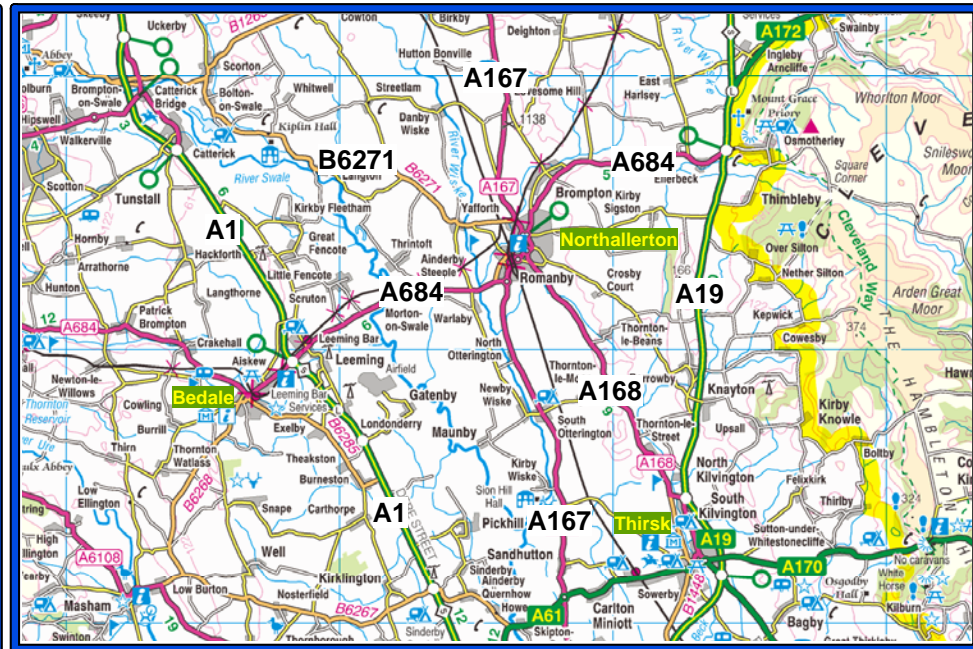
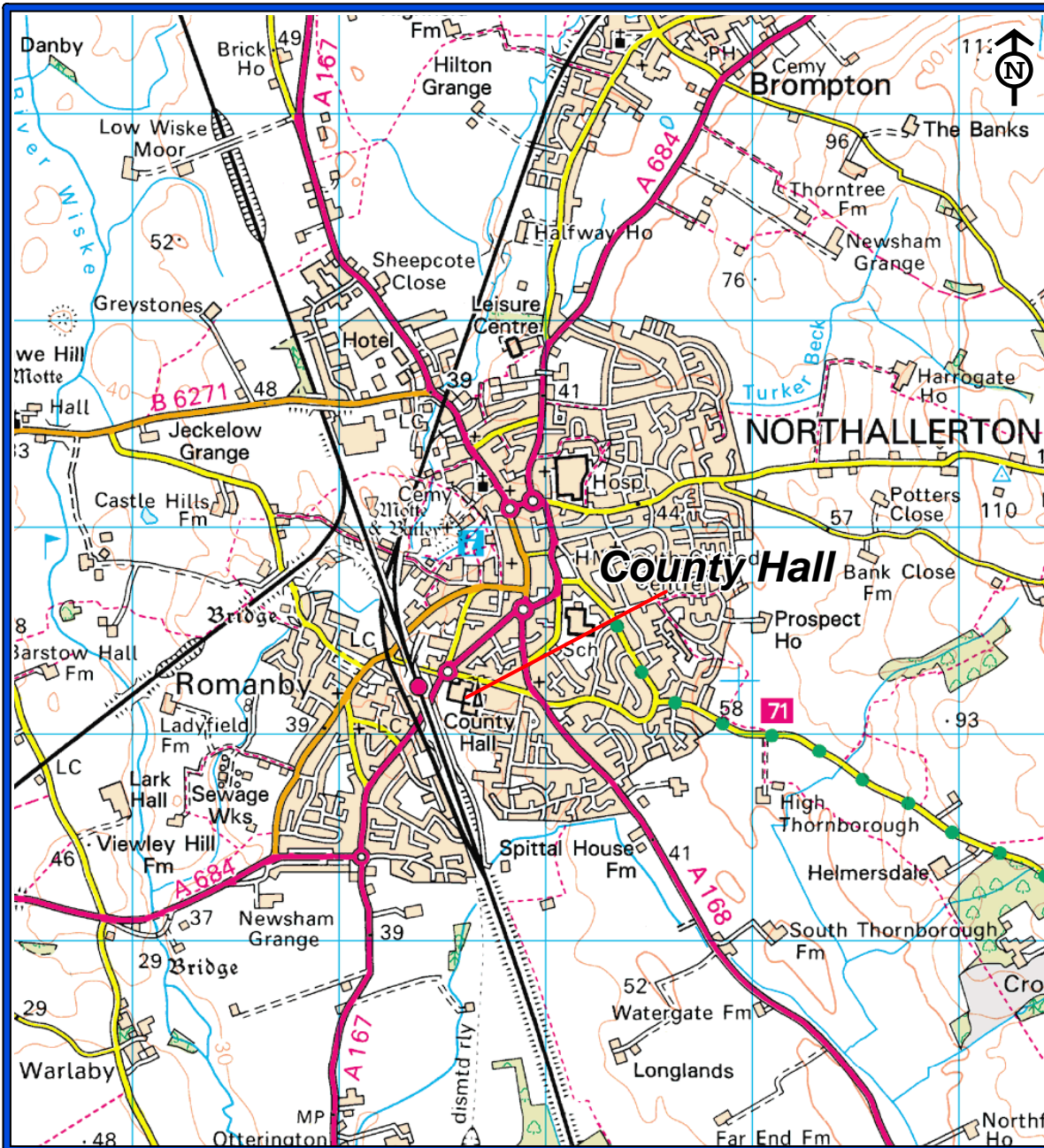
## 1. Membership

<b>County Councillors (13)</b>							
	<i>Councillors Name</i>	<i>Chairman/Vice Chairman</i>	<i>Political Party</i>	<i>Electoral Division</i>			
1	BURR, Lindsay MBE		* Left the Liberal Democrat Group in February 2015 and has yet to declare her affiliation				
2	CASLING, Liz		Conservative				
3	ENNIS, John		Conservative				
4	GRANT, Helen	Vice-Chairman	NY Independent				
5	JORDAN, Mike		Conservative				
6	McCARTNEY, John		NY Independent				
7	MARSDEN, Penny		Conservative				
8	MARSHALL, Brian		Labour				
9	MOORHOUSE, Heather		Conservative				
10	MULLIGAN, Patrick	Chairman	Conservative				
11	PLANT, Joe		Conservative				
12	PEARSON, Chris		Conservative				
13	SAVAGE, John		Liberal				
<b>Members other than County Councillors – (2)</b>							
<b>Non Voting</b>							
	<i>Name of Member</i>	<i>Representative</i>	<i>Substitute Member</i>				
1	CARLING, Jon	North Yorkshire and York Forum					
2	SNAPE, Jackie	Disability Action Yorkshire					
3	PADGHAM, Mike	Independent Care Group					
<b>Total Membership – (15)</b>				<b>Quorum – (4)</b>			
Con	Lib Dem	NY Ind	Labour	Liberal	UKIP	Ind	Total
8	0	2	1	1	0	0	13 *

## 2. Substitute Members

<b>Conservative</b>		<b>Liberal Democrat</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	MARSHALL, Shelagh OBE	1	
2	CHANCE, David	2	GRIFFITHS, Bryn
3	JEFFELS, David	3	JONES, Anne
4	BACKHOUSE, Andrew	4	
<b>NY Independent</b>		<b>Labour</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	HORTON, Peter	1	BILLING, David
2	JEFFERSON, Janet	2	
<b>Liberal</b>			
	<i>Councillors Names</i>		
1	CLARK, John		





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North  
Yorkshire County Council

## North Yorkshire County Council

### Care and Independence Overview and Scrutiny Committee

Minutes of the meeting held on 22 January 2015 at 10.30 am at County Hall, Northallerton.

#### Present:-

County Councillor Patrick Mulligan in the Chair

County Councillors: Lindsay Burr MBE, Liz Casling, John Ennis, Helen Grant, Mike Jordan, John McCartney, Penny Marsden, Heather Moorhouse, Joe Plant, Chris Pearson and John Savage.

Representatives of the Voluntary Sector: Jackie Snape (Disability Action Yorkshire)

In attendance: County Councillor Shelagh Marshall (Older People's Champion)

Officers: Richard Webb (Corporate Director Health and Adult Services), Mike Webster (Assistant Director, Contracting, Procurement and Quality Assurance (Health and Adult Services)), Kathy Clark (Assistant Director, Health and Adult Services), Joss Harbron (Head of Provider Services, Adult Social Care Operations (Health and Adult Services)), Ray Busby (Scrutiny Support Officer, (Policy and Partnerships))

Apologies: County Councillor Brian Marshall, County Councillor Claire Wood (Executive Member for Adult Social Care and Health Integration), Jon Carling (North Yorkshire and York Forum) and Mike Padgham (Independent Care Group).

#### Copies of all documents considered are in the Minute Book

#### 51. Minutes

##### Resolved –

That the minutes of the meeting held on 2 October 2014, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

#### 52. Public Questions or Statements

The Committee was advised that no notice had been received of any public questions or statements to be made at the meeting.

#### 53. 20/20 Challenges and Social Care Issues

Considered -

Presentation by the Corporate Director - Health and Adult Services

Richard Webb gave an overview of national, regional and local issues and what these mean for the County Council and Scrutiny particularly. The presentation would help the Committee fine tune its work programme for the following year around: the Prevention agenda, what the Council is doing for 2020 savings; progress in health and social care integration and particularly the work of the Health and



Wellbeing Board; what strategies will come on stream during the course of the year; and the key role that public health plays and use of the public health grant in promoting social care initiatives. Members agreed that Group Spokespersons should look further at how these might influence the work programme.

Richard also focussed on winter pressures and crisis, and spoke about the implications of the direction of health and social care, particularly integration.

During discussion, Members raised the working relationship between the Scrutiny of Health Committee, this Committee and the Health and Wellbeing Board particularly in relation to mental health. Whilst there was a consensus that some joint consideration of mental health issues was important, in the first instance it was suggested that Scrutiny Board consider how this subject might be tackled so that each of the three committees was appropriately addressing points in relation to their specific responsibilities.

There was some discussion on the difficulties encountered particularly by domiciliary care staff in travelling from client to client and the consequent difficulties faced by providers in recruitment.

**Resolved -**

That Richard Webb be thanked for his presentation and the points raised be discussed by the Group Spokespersons at their Mid-Cycle Briefing in order that recommendations regarding the work programme could be made to the Committee.

**54. Care and Support Where I Live - Feedback from Consultation and Final Draft Strategy**

Considered -

The report of the Corporate Director - Health and Adult Services informing Members of the results of the public consultation in relation to the draft Care and Support Where I Live Strategy and seeking Members' views on the proposed final draft which will be considered by the Council's Executive on 17 March 2015.

Kathy Clark advised that the date of the Executive meeting which would consider the final draft of the Strategy would be 17 March 2015.

Members were encouraged that questionnaires had been received from various people from across the whole county, the highest number from the Scarborough area, the majority from people aged 65 to 74, and the lowest from those aged 18 to 24. Members noted that the majority of people would agree to the ambition to help people to live independently in their homes, but the size of the majority (94%), Members believed, demonstrated that people's priorities are as thought: they want services provided in their own homes with good quality home care; they want help with home adaptations; they want access to good quality information advice, and they want telecare equipment to keep them safe.

Members also noted that there was less support for the replacement of care homes - a majority are in favour of replacement - but the proposal that the Council's elderly person's homes be closed, understandably attracted some concern.

The Committee was reassured to learn that changes to the strategy will be made to reflect concerns that arose during the consultation. Revisions being looked at include:

- Affordability for individuals and for organisations;

- Ensure a care and support model that can meet changing needs;
- The need for quality care homes alongside extra care;
- Developing the options and opportunities for community facilities within schemes; and
- Working closely with partners in health, housing and the voluntary sector to make the best use of expertise and assets.

**Resolved -**

- (a) That the contents and comments on the report be noted.
- (b) The Chairman advise the Executive that the Committee believes that the evidence suggests that the consultation was successful in eliciting areas where changes can be made to reflect the wishes of people and communities, and by bringing forward views in support of the proposals. Therefore the Care and Support Where I Live Strategy has the Committee's full support.

**55. Annual Report of the Older People's Champion**

Considered -

The report of County Councillor Shelagh Marshall, Older People's Champion.

Shelagh Marshall's report detailed the priorities she pursued over the course of the year, the campaign for loneliness and isolation perhaps being the most prominent. But Shelagh also highlighted some of the key activities and initiatives in local communities which successfully contribute to older people's health and wellbeing which the Committee accepts will be crucial if we are to meet that demographic challenge, and the NYCC 2020 programme. The Committee supported Shelagh's view that, as a local authority with responsibility for public health, we have a key responsibility to ensure opportunities for physical, social and educational activities so that social care is delayed and social isolation prevented.

**Resolved -**

That County Councillor Marshall be thanked for her report and her work during the course of the year.

**56. Winterbourne Concordat Review**

Considered -

The report of the Corporate Director - Health and Adult Services providing assurance that the requirements of the Winterbourne Concordat are being met, informing the Committee of the progress made over the last 12 months and highlighting issues for consideration.

Members were pleased see good and substantial progress in each of the Concordat areas: partnership working is effective; there is clear evidence of agency commitment; case management and placements are being reviewed effectively and, most importantly, safeguarding obligations are being observed. Prevention and crisis response is improving with more facilities around Section 136, Place of Safety. The overriding principle that people are appropriately placed with the right care and support in their local communities, near their families and friends, had Members support.



**Resolved -**

- (a) That the position of out of County placements and the progress made on the actions required from the Winterbourne Concordat be noted.
- (b) That the Committee was greatly reassured that the aims outlined in the Winterbourne Concordat are of high priority to Health and Adult Services and partners and that the focus will continue to be that people are appropriately placed, with the right care and support in their local communities near their families and friends be noted.
- (c) That the information the Committee required for future updates be noted and bearing in mind how the Directorate manages these 'complex cases' is one of the 2020 savings areas, the Committee will return to this subject later in the year.

**57. Work Programme**

Considered –

The report of the Scrutiny Team Leader on the Work Programme.

In asking Group Spokespersons to consider the implications of Richard Webb's presentation for the work programme, Group Spokespersons were also requested to consider how terms and conditions for paid workers, who work in the domiciliary care sector could be included in the Committee's work.

**Resolved –**

That the Work Programme be agreed.

The meeting concluded at 12:30 pm.

## NORTH YORKSHIRE COUNTY COUNCIL

## Care &amp; Independence Overview &amp; Scrutiny Committee

23<sup>rd</sup> April 2015Supporting People 2020 Savings**1.0 Purpose of Report**

- 1.1 The report outlines the how the current savings profile for the Supporting People Budget has developed since February 2014.

**2.0 Introduction**

- 2.1 As part of the development of the overall HAS savings plan, it was identified as part of the Executive report of **4<sup>th</sup> February 2014** that there would be £1.868m savings from the locally ring-fenced Supporting People budget in 2015/16. This equated to approximately the same level (percentage) of savings expected from HAS as a whole.
- 2.2 At the same Executive meeting, after the consultation on Making Difficult Decisions, a number of changes to the charging policy that will be outlined below, were agreed which impact on the Supporting People savings.
- 2.3 The Supporting People Commissioning Body and HASLT in April to June 2014 undertook a risk based approach to identifying areas where savings could be made and what the priority service areas were:

**3.0 Service Areas and Savings Programme**

- 3.1 The following service areas were identified as high priority and therefore, either no savings or minimal savings:
- All Young Peoples Pathway services
  - Domestic Abuse services
  - Rehabilitating Offenders Service
  - Mental Health Supported housing
  - Home Improvement Agency/Handyperson services
- 3.2 The services below were identified as areas for savings and a savings programme put together:
- Homeless Prevention Services
  - Community Support with Telecare
  - Older Peoples Supported housing

- Floating support for people with mental health problems
- Gypsy and Traveller Support Service

- 3.3 Plans were therefore being put into place regarding the detail of how the savings would be applied across the areas identified for savings.
- 3.4 However, it began to emerge in May/June 2014 that the charging changes as referred to above were having a significant impact on the Supporting People budget
- 3.5 Briefly, people in sheltered or Telecare services used to be eligible for financial assistance through Housing Benefit and Council Tax Benefit. The changes meant that they would undergo a financial assessment through HAS Benefits and Assessment Team.
- 3.6 As the re-assessments of the 6,000 in receipt of financial assistance were started to be carried out, it became clear in the first two months, that 40% of people were being assessed as not being eligible for financial assistance. Forecasting this profile forwards showed a forecast reduction in expenditure of £885k in 2014/15.
- 3.7 Therefore, in late June HAS Executive agreed to re-profile the savings to include this and some base budget savings that had been found. It was also agreed, due to the uncertainty about the eventual outcome of the re-assessments that a cash balancing figure could be used for 2015/16 as a buffer.
- 3.8 This was in order that reductions in services did not have to be made until a more firm figure of savings required was available. However, depending on the eventual outcome of the re-assessments, it is likely that some savings will have to be identified for 2016/17. The previous work on the risk analysis can be used as the basis for decision making as well as other factors.

#### 4.0 Current Savings Profile

As at March 2015	<b>2015/16 (£000)</b>
Base Budget Reductions achieved	115
Forecast savings from charging (SP service only) (subject to on-going review of forecast).	974
Homeless Prevention savings achieved	351

Total	1440
One off Cash Balancing Figure from SP for 2015/16 (subject to on-going review of forecast).	<b>428</b>
<b>Total</b>	<b>1868</b>

- 4.1 The Homeless Prevention savings of 20% had to be implemented for April 2015. These services provide support for those who are experiencing difficulties in their housing situation, or who are in transition from actual or threatened homelessness. They provide support for households in temporary accommodation to speed up move-on. Some also act as authorised agents for the North Yorkshire Local Assistance Fund (NYLAF) as part of a short term intervention service (called triage).
- 4.2 An EIA was undertaken which showed that there would be a reduction in services, but no detrimental impact was evidenced for protected groups. If this proposal was not implemented, it would mean considering savings in other services that are regarded as more important.
- 4.3 Proposals were put together and robust discussions were held with District and Borough Council partners on the Commissioning Body about the formula for applying the reductions in each area and agreement was reached in December 2014.
- 4.4 Discussions are now on-going with service providers to look at the priorities for services within the reduced contract value.

## **5.0 Recommendation**

- 5.1 That the report be noted.

Report Author: Avril Hunter  
Tel: 01609 536898

AD Commissioning: Kathy Clarke

April 2015

Background Documents: None

Care and Independence Overview and Scrutiny Committee

23rd April 2015

The Care Act 2014

**1.0 Purpose of the Report**

1.1 To provide the Committee with an update on the Care Act, including:

- the way that the impact will be monitored; and
- the response to the Department of Health Consultation on the proposals around the introduction from April 2016 of the Care Cap and Care Account, and a new Appeals system.

**2.0 Background**

2.1 The Care Act introduces major reforms to the legal framework for adult social care, the funding system and to the duties of local authorities and rights of those in need of social care. The potential impact on local authorities' finances and working practices is enormous. It consolidates more than a dozen different laws into a single modern framework for care and support and enshrines the principle of individual wellbeing as the driving force behind it.

2.2 The Act is introduced in two stages; reforms to social care took effect from 1<sup>st</sup> April 2015, with funding reforms and a new appeals system being introduced from April 2016.

**3.0 Changes from April 2015**

3.1 The main provisions of the Act that came into effect in April include:

- a broader care and support role for local authorities towards the local community, by providing information and advice to the whole population, and promoting physical, mental and emotional wellbeing in all decisions regarding an individual's care needs;
- more emphasis on prevention, to help reduce or delay someone developing care and support needs. This means moving to a system that focuses on people's strengths and capabilities, and supports them to live independently for as long as possible;
- a new national eligibility threshold - We have already changed our eligibility criteria in anticipation of these national changes so we do not need to review people specifically as part of the Care Act changes - we will apply the new framework as part of routine annual reviews or if people's needs change;
- Unpaid carers will have the same rights as those they care for, so may be able to get more help to carry on caring and look after themselves;
- A duty to provide advocacy for people who have "substantial difficulty" in being involved in discussions and decisions about meeting their social care needs
- Continuity of care when people move to another area; and
- Deferred payments, which North Yorkshire already offer, will become universal. This means people should not have to sell their home in their lifetime to pay for care.

- 3.2 There has been a national implementation programme overseeing preparation for, and implementation of, the Act, the Government has allocated implementation funding to local authorities to meet the additional duties, some of which has been allocated as part of our preparation for example commissioning additional capacity around carers and advocacy, whilst other elements will be used to meet on-going demands as the new duties are implemented. National and local modelling has indicated that the allocations are unlikely to meet the costs associated with the new duties.
- 3.3 The Association of Directors of Social Services (ADASS) has asked all local authorities to collect and report some key metrics which will help to understand whether the additional resources allocated to support Care Act Implementation are sufficient. This will be included as part of an existing quarterly stocktake on implementation of the Care Act that is completed by all authorities, and the results aggregated by the National Programme Management Office to identify key issues for Councils. The metrics will provide information to help understand whether the resources allocated for implementation of the Care Act are sufficient at a national level, as they will form part of the information used as part of negotiations with the Department of Health regarding the next spending review.
- 3.4 In addition to this information, we will collect some additional information to enable us to judge if we have allocated our resources within NYCC in the most effective way. As the new requirements of the Act are embedded in practice, we will review the metrics and the need for any additional ones. Due to the nature of some of the activities that will be recorded, it will take some time for some trends to become apparent. A further report outlining metric levels and a wider update on progress on implementation of the Act will be brought back to this Committee in the autumn. A copy of the metrics is attached at Appendix 1.

#### **4.0 Proposed Changes from 2016**

- 4.1 Reforms from April 2016 include the introduction of a cap on care costs and care account, and changes to the threshold at which people are eligible for support from local authorities, from the current £23,250 to £118,000. Given the large numbers of self-funders in North Yorkshire, this has considerable financial implications for us. The Government has recently finished a consultation on the details of how this will work, and arrangements are due to be finalised in late Autumn 2015. A copy of the County Council's response to the consultation is attached as Appendix 2.

#### **5.0 Recommendation**

- 5.1 It is recommended that the report be received.

Richard Webb  
Corporate Director, Health and Adult Services

April 2015  
Background Documents: None



## Care Act Implementation - Metrics for Quarterly Collection

DASS metrics	Comment
<b>Carers:</b> Baseline - 14/15 – total number of people carers eligible for council support Total number of carers who are assessed Total number of carers eligible for services	This will include activities carried out within NYCC and by the Carers Resource Centre who will be carrying out some Carers assessments. Contract monitoring is will include those aspects of support including information and advice. Information will be gathered through existing HAS IT systems.
<b>National eligibility framework</b> Baseline - 14/15 – total number of people assessed as eligible for council funded adults social care Total number of people who are assessed for social care Total number of people eligible for services	This can be gathered through existing HAS IT systems.
<b>Self-funders</b> Total number of people who request an early assessment as a self-funder	This information will be recorded as part of a revised data log within CSC. From October, when early assessments of self-funders are due to start, this will be captured through existing HAS IT systems.
<b>Deferred payments</b> Total number of people who request a DPA Total number of people for whom a DPA is agreed	This will be collected through existing HAS IT systems
<b>Prisons</b> (for those councils with one or more prison within their boundary) Total number of prisoners assessed Total number of prisons eligible for services	Not applicable
<b>Advocacy</b> Total number of people for whom an advocate is arranged	This will be collected through existing HAS IT systems and as part of contract monitoring.
<b>Safeguarding</b> Total number of competed enquiries Number of enquiries made by others (enquiries that are caused to be made)	This will be collected through existing HAS IT systems
<b>Proposed Local Metrics</b>	
Number of contacts to CSC and percentage conversion of these into referrals to HAS	This is already collected and reported. It will monitor increased levels of demand and the effectiveness of our Information Advice and Guidance offer
Number of hits to web pages that contain Care Act information	This has been monitored since the start of the national information campaign and will inform our Communications Plan, which can be adapted in line with web activity
<b>Carers</b> Number of Carers Grants	Part of activity and financial monitoring of new duties.
<b>Elearning</b> Completion of mandatory modules by all HAS staff Take up of 2 “strongly recommended” sessions by Health and providers	This will be monitored through the elearning package and linked into supervision and contract monitoring.

# North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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In responding to this document, we believe that the principles of the reforms are right and that the Care Act is a bold and brave change. However, successful implementation is reliant on the Government addressing a number of concerns. This is particularly important for an authority, such as North Yorkshire County Council, that has a large number of self-funders and people who will become eligible for local authority support with the extension of the financial threshold. We also believe that the Relative Needs Formula needs to take greater account of the transactional and delivery costs of providing care and support in remote rural areas. The reforms will need to be fully funded from new, not existing, funding to Local Government. This includes ongoing costs for future years and up-front investment and increased service costs associated with assessments and care accounts. We are already working with the Department of Health and other councils to help model these issues and we would welcome further clarity from the Government about how it intends to address them.

We would stress the need for the final Regulations and Guidance to be issued as soon as possible, as they are integral to successful implementation, particularly around upgrading of ICT systems and the arrangements that need to be made around the early assessments of self-funders from October 2015 onwards.

## Cap on Care Costs

- 1. Do you agree that the draft regulations and guidance will provide a robust framework that will protect the 1 in 8 of us that will face catastrophic care costs? Please state yes or no along with any rationale.**

Whilst we consider that the introduction of a cap on care costs is a positive step forward that will give people more certainty and peace of mind in relation to care costs, we do not believe it provides a robust framework for the following reasons:

- Although the impact of the cap will be limited, the 1 in 8 figure is a national figure, and this will vary from authority to authority, depending on the demographics and wealth of the residents. The framework does not take into account local cost variations in house prices, daily living costs or fees, which will result in wide variations in the time that people with identical needs will take to reach the cap, and could still potentially result in “catastrophic” costs for people with houses in the lower value range.
- The calculation of the Indicative Personal Budget based on average costs for people with similar needs is not in line with a personalised approach to social care, and is potentially open to challenge.

## Measuring what counts towards the cap

- 2. Do you agree that independent personal budgets should generally be set according to an average of personal budgets allocated to people with similar levels of need? Please state yes or no along with any rationale.**

# North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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No, we do not believe that independent personal budgets should be set in the way as stated in the consultation for the following reasons:

- The proposals would add a level of complexity that is over and above the current way of operating through a RAS, and would be bureaucratic to administer.
- The proposed process is not in the spirit of Personalisation, taking no account of personal or community assets that people could use, or the outcomes they would like to achieve. Its lack of transparency could result in authorities being more vulnerable to challenge than a more personalised approach, and the rationale would be difficult to explain to people.
- It is unclear how, when calculating the costs of an average of personal budgets, the process will take account of the contribution of carers who are meeting eligible needs, thus lowering the cost of the Personal Budget.
- If this approach were adopted, there are real challenges to IT systems being able to build in the ability to calculate and update Independent Personal Budgets. This is of particular concern given that the final Regulations and Guidance and early assessments of self-funders are due in October, and implementation in April 2016.
- We do not consider that these proposals mirror the principle of transparency as set out in paragraph 4.21.
- We also believe that this move may lead to confusion for the public if their Personal Budget and consequent contribution to their care, changed only as a result of those with stated average similar needs subsequently changing.

### **3. Is the guidance sufficiently clear as to the principles for calculating independent personal budgets? Please state yes or no along with any rationale.**

No, we do not believe that the guidance is sufficiently clear for the following reasons:

- It is unclear if, in a large county like North Yorkshire, there is the ability to vary costs within areas to reflect the difference in prices within the care market.
- The guidance does not address issues around people with Continuing Health Care (CHC) needs, and how these would be taken into account, particularly around timings of assessments.
- The guidance does not address the challenges around validating or auditing the process for self-assessment or provider assessment if we do not have a contractual relationship with a provider, or of establishing the actual cost to a self-funder of their care, compared to the independent personal budget level.

## **Care Accounts**

### **4. Does the draft guidance provide sufficient clarity about the operation of care accounts to ensure consistency between local authorities and reduce the risk of challenge? Please state yes or no along with any rationale.**

We consider that the guidance as it currently stands leaves too much to interpretation, which will result in a lack of consistency and potential for challenge. One way to

# North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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improve consistency is for Guidance from Government to be more prescriptive. We would welcome clarity on the frequency of statements; paragraph 5.3 of the Guidance says they must be provided “at least annually” and para 6.1(b) of the Regulations say they should be “at intervals of no less than one year”.

## **5. Can more be done to ensure that the care account is a useful tool to support people in planning for care costs?**

We consider that the care account is limited in its ability to support people in planning for care costs. This is largely because the point at which someone has a care account is often too late for meaningful planning to take place; it needs to start earlier. However, we do see that there are benefits to local authorities, particularly around the opportunity for us to engage with self-funders in a way that we have not previously been able to, and to use this information to inform future commissioning to help reduce or delay people’s need for formal support.

## **Cap on Care costs for working age adults**

### **6. Do you agree that the preferred option best meets the principles and priorities identified? Please state yes or no along with any rationale.**

We do not support the preferred option that people under the age of 25 should have a zero cap. This appears to be a discriminatory approach on the basis of age, that does not allow for any review of situations if circumstances change e.g. inheritances from parents. As we have previously commented in the consultation around charging, many people receive financial settlements that include an element of costs to meet social care needs, but this proposal would not allow these to be taken into account. This option will have implications for local authorities in terms of loss of income and, if the Government goes ahead with this option, it must ensure that the formula for the allocation of grants reflects the demographics of people under 25 with social care needs.

We agree with the proposals to bring together the age bands for MIG, and await further information on how this will be implemented.

### **7. What are your views on how people of working age can be supported further to enable them to save and plan?**

Any support to enable people of working age to save and plan will need to be nationally developed and agreed, so that it is consistently applied. Transparency is a key issue, so that people are clear about what would, or would not, count towards the cap.

## **Daily Living Costs**

### **8. Is there evidence to support further consideration of the level and/or approach to daily living costs? Please state yes or no along with any rationale and provide any evidence you may have to support the rationale.**

# North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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Yes, we strongly believe there is evidence to support further consideration of the approach to daily living costs:

- There are large variations in living costs across the country that will have a differential impact on the total level of costs people will need to meet.
- The current guidance does not reflect the lower financial costs of couples who share a room in residential care or other jointly delivered services.
- Clarity is needed on the application of daily living costs in support such as Supported Living or Shared Lives, as the contracting arrangements for these can contain elements that fall within the definition of daily living costs.
- The Guidance is not clear about how daily living costs are calculated in cases where costs are shared with Health; are the costs taken off at the start or after costs have been agreed between health and social care?
- Clarity is needed at a national level as to what is included in Daily Living Costs to help with cost of care exercises. Transparency will be crucial, as there needs to be clarity over the rates payable and the impact on providers, particularly if self-funders are coming through local authorities to arrange their support.
- Further information for the public to improve their awareness of what is included in the daily living costs is needed.

## First Party top-up payments

**9. Do you agree that the extension of the existing requirements for third party top-ups to cover first party top-ups will provide both the local authority and the person with the necessary clarity and protection? Please state yes or no along with any rationale.**

- Whilst the extension will provide clarity and clearer ways of working, it will result in people's assets reducing more quickly, meaning they will require financial assistance from the Local Authority earlier. This increase in costs to the Local Authority should be reflected in funding provision.
- The Guidance needs to address issues around capacity/best interest decisions, which are not currently included.
- The Guidance needs to give consideration and more detail on the treatment of deprivation of assets.
- Because differences between the amounts the Local Authority will contribute towards those costs and the total cost of provision are more explicit, this could lead to downward pressure on the rates paid by self-funders, with a potentially significant destabilising impact on the care market or significant financial impact on LA budgets. This is a particular risk for those Local Authorities such as North Yorkshire County Council with high levels of self-funders.

## **Extension to means-tested support**

- 10. Do you agree that the guidance is clear on how the extensions to the means test will work and that the draft regulations achieve their intended purpose? Please state yes or no along with any rationale.**

The Guidance is clear, however, the additional cost to local authorities needs to be fully recognised within funding allocations. This is a particular issue for authorities, such as North Yorkshire County Council, who have a large number of people who will become eligible for Local Authority funding as a result of the changes.

## **Appeals**

- 11. Do you think there is a need to introduce a new appeals system to allow people to challenge care and support decisions? Please state yes or no along with any rationale.**

No. We consider the existing complaints process is appropriate and accessible. Current complaint regulations give local authorities the opportunity to carry out an appropriate and proportionate investigation into any issues raised. Local Authorities already endeavour to work with complainants to achieve a satisfactory outcome early in the process. Independent review of the Local Authority's actions is provided by the Local Government Ombudsman.

The underpinning rationale of the Care Act is about having a comprehensive, modern, customer-friendly approach: multiple appeals and complaints systems undermine that overall principle.

The current complaints system, with sufficient resources, already does and can continue to deal with people challenging care and support decisions, including those examples given on page 92. The proposals for an appeals system appears to be suggesting a return to pre 2009 three stage complaints handling, which was revised to make the process less bureaucratic and more easily accessible.

Introducing an appeals process would be likely to slow down how complaints and concerns are addressed and add significant costs for the Local Authority. Historical experience suggests that having a three stage approach did slow the redress process and did not significantly reduce the number of complainants approaching the Local Government Ombudsman, or reaching a more satisfactory outcome.

Consideration also needs to be given to how joint NHS/Local Authority complaints are handled. How would a situation be dealt with if the Local Authority part was being considered as an appeal and the NHS part as a complaint? How would the current "duty to co-operate" be amended?

If it is considered that the current complaints process is not effective and does not give sufficient independence, a view we would not support, consideration could be given to



## North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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adding an “independent stage”. This could involve a local early resolution stage, independent investigation stage and then recourse to the Local Government Ombudsman. It would not make the process as bureaucratic as pre 2009, however, would still impact on the length of time taken to respond to a complaint and the added budgetary pressures on the local authority.

Consideration should also be given to the recently published Local Government Ombudsman focus report “Are we getting the best from children’s social care complaints?”, which comments on the three stage process used for handling children’s social care complaints.

**12. Do you think that the appeals reforms are a priority for reforming care and support redress? Please state yes or no along with any rationale.**

No. We do not believe that the case for reforming care and support redress by Local Authorities has been made. There appears too heavy reliance on negative aspects of complaint handling within the NHS. There should be some understanding that a different operating culture remains between NHS and Local Authority complaints handling, despite the 2009 Regulations covering both areas. We believe the current complaints system within Local Authorities operates to a high standard, with a positive, accessible culture.

**13. Do you agree the areas identified should be within the scope of the appeals system? Are there any other areas under Part 1 of the Care Act 2014 that should be included?**

All aspects identified can be dealt with through the proven existing complaints handling Regulations. Complaints/concerns around the areas given on page 92 are already dealt with by the existing complaints system. Complaints/concerns about independent personal budgets can be accommodated within the existing system.

**14. Do you think that charging should be part of the adult social care appeals system? Please state yes or no along with any rationale.**

No. We would support charging remaining part of the current complaints process. As outlined above, the existing process already handles complaints around charging issues. Introducing a 3 tier approach could slow down how quickly concerns are addressed. There would also be concerns over the ability to source independent persons with sufficient breadth of knowledge to handle such appeals.

**15. Do you have suggestions as to the expertise, knowledge and person specification for the role of an Independent Reviewer?**

## North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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As above, we believe the introduction of Independent Reviewers would be a retrograde step, lengthening the time it takes to deal with a complaint/appeal and add significant costs for the local authority.

If Independent Reviewers were to be required, there would inevitably be training requirements, particularly around knowledge of the Care Act and ensuring the person had sufficient social care knowledge/experience to effectively review a decision. The recruitment, training and maintenance of people in this role would need to be reflected in any budget allocation.

**16. Do you think the local authority or another body should be appointing the Independent Reviewer? If another body, please specify.**

We consider that the relevant Local Authority should have responsibility for appointing its Independent Reviewers. However, in order to achieve best value for money, it may be possible for a consortia of Local Authorities to work together to have a 'pool' of Independent Reviewers available. We anticipate the Independent Reviewer role to be a more specialist role, which some Local Authorities may struggle to recruit to for geographical reasons, e.g. rurality. It may be appropriate for HealthWatch to be involved in this process to maximise the opportunities for independence.

**17. Do you think a 3 year gap in the Independent Reviewer's employment from the local authority concerned is sufficient to provide independence, or should this period be longer, or should they never have been previously employed by the local authority concerned?**

We consider that the gap should be a maximum of three years. We believe it is too prescriptive to state that an Independent Reviewer should never have been previously employed by the relevant Local Authority, as this may restrict the ability of Local Authorities to recruit suitably qualified and experienced people.

**18. Do you agree that the Independent Reviewer's role should be to review decisions with reference to relevant regulations, guidance, facts and local policy to ensure the local authority's decision was reasonable?**

We agree that the Independent Reviewer role should be able to review decisions and comment on whether the Local Authority's decision was reasonable and has followed the regulations, guidance, facts and local policy. It is not the role of the Independent Reviewer to question professional judgements of Social care staff. However, this relies upon suitably qualified and experienced persons being available to the Local Authority to recruit to the role.

**19. How do you think we can promote consistency in decision making for care and support appeals?**

We consider that there would need to be national framework/guidance/regulations and information for Local Authorities to follow. This should set out the expectations of the

## North Yorkshire County Council Response to Consultation on Cap on Care Costs and Policy Proposals for new Appeals systems

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role, the expectations on the Local Authority to recruit and manage the role, format for reports, guidance on reaching decisions, next step, etc, (similar to guidance issued by the Department of Health in 2006 when the regulations for handling complaints changed). There needs to be a specific framework for all Local Authorities to work towards to ensure a consistency of approach. There should also be a national training regime created to ensure consistency.

**20. Do you think the timescales proposed to process appeals are right? If not, which timescales would be more appropriate?**

Due to their complexity, some appeals/complaints will inevitably fall outside of the required timescales. We consider that item d – five working days to consider the recommendation – is too short and should be a minimum of 15 working days. This is due to the requirement in paragraph 16.47 of involving senior agreement with legal advice where necessary. It is unlikely this could realistically be completed within five working days.

**21. Do you feel that the Appeals system, as set out, will aid the early resolution of disputes and thus help avoid costs and delays associated with challenging decisions in the courts? Please state yes or no and any rationale.**

No. Only by exception do cases end up in legal proceedings. Local Authorities have a good record of resolving complaints at the earliest opportunity. In our case, more than 90% of complaints are resolved at a local level. We do not experience significant legal challenge as the complaints process is able to respond and attempt to resolve concerns at the earliest opportunity. It is generally not necessary for people to embark on a legal challenge against the actions or decisions made by a Local Authority – they can make a complaint and have recourse to the Local Government Ombudsman.

**22. In the accompanying Impact Assessment we have set out the costs to administer the Appeals system. We would welcome your comments on this and any evidence that you are able to provide.**

We believe the estimates quoted in the Impact Assessment are too low. Working from the base of these low figures, we would still expect to see a significant increase in complaints/appeals activity within our Local Authority. Consideration should also be given to the budgetary implications this will have on the Local Authority to ensure it has sufficient staffing, Independent Reviewers, etc, to manage this increase. We would expect this to be funded under the new burdens principal. We would also want to repeat our wish to see recognition of the additional challenges and costs faced by individuals and councils in very remote rural areas.

## NORTH YORKSHIRE COUNTY COUNCIL

## CARE AND INDEPENDENCE OVERVIEW AND SCRUTINY COMMITTEE

## DOMICILIARY CARE CONTRACTS

23<sup>rd</sup> April 2015**1.0 Purpose of Report**

- 1.1. The purpose of this report is to inform members of the Care and Independence Overview and Scrutiny Committee of the outcome of the tender for new Framework Contracts for the provision of Domiciliary Care in Harrogate, Selby and Scarborough.

**2.0 Background**

- 2.1. Health and Adult Services undertook a procurement exercise last year, to introduce new 'Framework' agreements for domiciliary care as Phase 1 of a review of our home care contracts. We are still in the implementation stage of this first phase of a longer project to review our domiciliary care contracts. This report provides an update on progress and further information will be brought to Scrutiny, including an opportunity to hear from the new providers, once the new contracts are established and operational.
- 2.2. The first phase was targeted at care provided in the more populated areas of Harrogate, Selby and Scarborough which have higher levels of demand for support, with a multiplicity of providers and the potential to offer efficiencies in delivery models.
- 2.3. Through the Framework contracts our aim has been to reduce the number of providers we work with, to allow for much closer partnership working in order to improve quality and at the same time reduce transactional costs.
- 2.4. Consultation with people receiving services had highlighted two key areas of concern with home care – timeliness of visits and continuity of care. The new specification enhanced the quality standards for providers including these two key areas.
- 2.5. The new specifications also help us deliver more personalised care, with a requirement that providers work with the customer to deliver the outcomes that people want from their support.

**3.0 Procurement**

- 3.1. The procurement process was undertaken in line with EU regulations. The bids were evaluated through:
- written questionnaires
  - visits to providers' premises
  - face to face interviews and

- financial submissions
- references from other local authorities

This provided assurance that providers could meet our requirements within the price they had submitted. The evaluation criteria gave greatest weight to quality considerations, with the scores for quality and cost balanced at 60/40 respectively.

- 3.2. As with any major procurement the contracts are only awarded after a formal “stand still” period. As a result of challenges from two providers the Framework contracts for Scarborough area have not been awarded.
- 3.3. This decision has been taken following full consideration of legal advice. The challenges from the two providers relate to the interpretation of wording of one element of the evaluation, with each taking a different and irreconcilable interpretation. To avoid lengthy legal proceedings it is proposed that a fresh approach to the Scarborough contract will now be included in the Phase 2 of the Domiciliary Care Commissioning project.
- 3.4. The issue at the heart of these challenges had no impact on the other two Lots in Harrogate and Selby, and the new framework contracts were therefore awarded in January 2015. The providers for Harrogate are:
  - Mears
  - Castlerock
  - Continued Care

The providers for Selby are:

- Castlerock
  - New Concept Care and Nursing
  - Riccall Carers
- 3.5. Continued Care, Riccall Carers and New Concept Care and Nursing have previously worked in the areas where they have been awarded the new contracts. Mears and Castlerock are new providers to these areas.

#### **4.0 Implementation in Selby and Harrogate**

- 4.1. Implementation in Selby and Harrogate was delayed whilst the first of the two challenges was considered and responded to. This did lead to a short period of uncertainty for providers. In Selby one of the unsuccessful providers started to hand back support packages ahead of the planned transfers. The Council’s in-house START service has provided a much needed contingency for a number of packages, and other alternative arrangements have been made to support people whilst the new providers establish their new services and take on the required support packages.
- 4.2. The implementation phase has been carefully planned as we know this change could be sensitive and unsettling for some people. Some people will see no change because they already receive support from the new Framework

providers. Some packages of care will need to move from current providers to the appointed providers.

- 4.3. 900 people have been contacted because they could be affected by the changes. Our skilled assessment staff have spoken to and visited anyone whose current provider has not been awarded one of the new framework contracts. We have reviewed the support and discussed the options available to each individual person, to enable a smooth transfer of any support packages moving to a new provider.
- 4.4. 140 people have indicated they would like to consider using a Direct Payment in future. This could enable them to stay with their current provider if that provider is willing to offer care at the cost we will be funding in future.
- 4.5. The number of people considering transferring to a Direct Payment has changed some of the initial modeling for the transfer of packages. In Selby this has been compounded by the need to secure support for customers of the unsuccessful provider (as set out in paragraph 4.1) ahead of the planned implementation
- 4.6. This has been a concern for the new providers in particular; however both Mears and Castlerock have been working hard to recruit new staff and are optimistic they will be able to start to pick up work within the next few weeks.
- 4.7. Regular meetings with all of the new Framework providers continue on a weekly basis to plan any changes for individuals, to agree new operating procedures for the new contracts and to monitor implementation progress.
- 4.8. Whilst savings are not the key reason for the changes made to contracts the Domiciliary Care project does form part of the 2020 programme for Health and Adult Services. It is still early in the project but initial indications are that a saving of approximately £450k a year will be made from Phase 1 of the project.
- 4.9. We will continue to work closely with people who need support and with providers to complete the implementation plan. We anticipate that by the autumn a further update will be available to the Committee, which we plan will include information from the new providers.

## **5.0 RECOMMENDATIONS**

- 5.1. The Care and Independence Overview Scrutiny Committee is asked to note the progress made to date and to agree to a further update in the autumn.

RICHARD WEBB  
Corporate Director – Health and Adult Services

Author of report:  
Kathy Clark  
Assistant Director Commissioning – Health and Adult Services  
April 2015



**NORTH YORKSHIRE COUNTY COUNCIL****Care & Independence Overview & Scrutiny Committee****23<sup>rd</sup> April 2015****Procurement of Extra Care Framework - update****1.0 Introduction and background**

- 1.1 In August 2014, Executive gave approval for the procurement of a Framework Contract for the delivery of further extra care housing schemes.
- 1.2 The Framework will allow the County Council to commission extra care housing schemes and associated services through a single process and will need to consist of organisations who have capacity, experience and responsibility (or leading collaborative arrangements with other organisations with responsibility) for site identification and acquisition, design and build, finance and scheme operation and service delivery
- 1.3 The Framework will be:
- Made up of between three and eight suitably qualified and experienced organisations
  - Six years in length with an option to extend for a further four years
  - Available for use by the County Council and other interested contracting authorities (local authorities, health and other public bodies) that are adjacent to North Yorkshire
- 1.4 Once the Framework is established opportunities will then be brought forward through further competition stages of the Framework where we will seek proposals from the appointed organisation to deliver the most economically advantageous solution for extra care housing schemes in specified locations.

**2.0 Current Position**

- Procurement for the extra care housing framework successfully launched on 25 Feb 2015 and the project is currently on track
- Market engagement event held on 13 March 15
- Good level of interest in the opportunity following launch including:
  - 12 Registered Social Landlords
  - 29 Construction/development companies
- Now awaiting Pre-Qualification Questionnaire (PQQ) submissions – deadline is 17 Apr 15
- Work being undertaken to prepare Invitation to Tender (ITT) documentation

### 3.0 Next Steps – Key Project Milestones

Tasks	Target date
Deadline for PQQ submissions	17 Apr 15
PQQ evaluation completed and organisations shortlisted for next stage	8 May 15
Approval and publication of ITT documentation	18 May 15
ITT submission deadline	29 Jun 15
ITT evaluation completed and successful tenderers informed	25 Aug 15
Contract start date	25 Sep 15

#### 1.0 Recommendation

1.1 That the report be noted.

Mike Webster  
Assistant Director Contracting, Procurement & Quality Assurance  
Health and Adult Services

April 2015

Background Documents: None

## 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

<b>Scheduled Mid Cycle</b> Lead Members of Committee	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
<b>Scheduled Committee Meetings</b> <i>Agenda briefings to be held at 9.30am prior to Committee meeting. Attended by Lead Members of Committee</i>	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
<b>23 April 2015</b>	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

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

<b>2 July 2015</b>	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
<b>1 October 2015</b>	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

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

	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
<b>21 January 2016</b>	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
<b>21 April 2016</b>			

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:

<b>11 June 2015</b>	Self-Funders, Mental Health, Deprivation of Liberty, START reconfiguration
<b>3 September 2015</b>	Market Management and Provider Failure, Independent Advocacy (Information and Advice), Workforce, Employment of Care Workers
<b>3 December 2015</b>	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  
25<sup>th</sup> 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.

- **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](http://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 2<sup>nd</sup> 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](http://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

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;

## 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

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- **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?



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  - **All of these recommendations been met and incorporated** and the most recent CQC audits have been positive and complimentary.
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    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.
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- BY:
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- Evidence can be supplied which will show that none of these assumptions are true ( see [www.actionforbotton.org](http://www.actionforbotton.org) )
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## 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.

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**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.