

North Yorkshire County Council

Report for Consideration by the Chief Executive Officer Using Emergency Powers (in consultation with Executive Members)

11th January 2022

Adult Social Care Governance and Prioritisation

1.0 Purpose of the Report

- 1.1 To set out the proposed arrangements for Adult Social Care governance and prioritisation in response to Omicron Covid-19 and the anticipated surge in infections and how that will potentially impact on service delivery across Adult Social Care and the wider health and social care system.
- 1.2 To seek approval from the Chief Executive Officer under his emergency delegated decision making powers to implement additional governance arrangements to support ethical decision making (“the Ethical Decision Making Framework”) in order to assist the urgent prioritisation and delivery of services to the public in a timely and efficient manner and to respond to public need and service delivery within a short timeframe.
- 1.3 To seek a delegation from the Chief Executive Officer (under his emergency delegated decision making powers), to the Corporate Director for Health and Adult Services (as the Council’s statutory director of adult social services) of the power to invoke and implement the measures as set out in this report including taking all decisions necessary to implement the Ethical Decision Making Framework and any other decisions the Corporate Director for Health and Adult Services may deem necessary regarding Adult Social Care Services delivery in light of the continuing Covid-19 pandemic. The Corporate Director for Health and Adult Services may where appropriate consult with the Executive Member for Adult Social Care and Health Integration, Chief Executive Officer, Assistant Chief Executive (Legal and Democratic Services).

2.0 Background

- 2.1 In terms of decision-making within the County Council during the Covid19 pandemic, under his delegated decision-making powers in the Officers’ Delegation Scheme in the Council’s Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee. Following on from the expiry of the legislation permitting committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 (before the expiry of the Regulations) that, for the present time, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue as informal meetings of the committee Members, with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with other Officers and Members as appropriate and after taking into account any views of the relevant Committee Members and all relevant information. This approach has been periodically reviewed since that time and will be further reviewed by full Council at its February 2022 meeting.
- 2.2 The matters raised in this report are therefore being referred to the Chief Executive Officer for decision under his emergency delegated decision-making powers, in consultation with Executive Members.
- 2.3 Following discussions with the Chief Executive Officer on Christmas Eve, the Corporate Director, Health and Adult Social Care, issued interim advice and guidance to managers

and practitioners in the context of rapid changes in the Omicron spread and business continuity issues likely to be faced by social care services during the Christmas holiday period.

3.0 Current Update Omicron Covid-19

3.1 The purpose of this report is to seek appropriate authorisations to be able to appropriately respond to the expected negative impact on workforce levels due to Omicron Covid-19 in Adult Social Care. It is expected that there will be significant operational pressures up until the end of March 2022 and this position will be continually monitored to ensure there is appropriate decision making throughout the coming months. These measures will be continually reviewed and a further report will come to the Executive in June 2022 to consider future arrangements.

3.2 The Government's Scientific Advisory Group for Emergencies (SAGE) issued the following situation report on the 18th December 2021:

- The number of Omicron infections in the UK has continued to increase very rapidly with the doubling time in England currently around 2 days. This is faster than the growth rate seen in March 2020.
- In England it is almost certain that there are now hundreds of thousands of new Omicron infections per day. Levels of Omicron infection are currently highest in London. Reported numbers of confirmed and suspected Omicron infections will only be a small proportion of the actual number. This is because there are lags between people becoming infected, being tested, and getting test results (data lags matter most when growth is very fast); not all tests allow the variant to be identified; and not everyone who is infected is tested.
- Currently observed numbers of Omicron infections admitted to hospital in the UK are probably around one tenth of the true number because the data lags of hospital reporting. The observation that there are apparently not many people being admitted to hospital because of an Omicron infection is therefore misleading. It is currently very unclear how many such people there are.
- In Gauteng, which is ahead of the UK in the epidemic trajectory, high levels of infection are now leading to significant numbers of hospitalisations, despite the young population and high levels of past infection, but this may be slowing. Other parts of South Africa have an epidemic trajectory behind Gauteng and more in line with the UK.
- It is still too early to reliably assess the severity of disease caused by Omicron compared to previous variants. Although recent studies and a preliminary analysis from South Africa suggests that this wave may be less severe than previous waves. Even if there were to be a modest reduction in severity compared to Delta, very high numbers of infections would still lead to significant pressure on hospitals.
- As a result of the very high number of current infections, hospitalisations in UK will reach high levels in about 2 weeks even if transmission is reduced soon, because there are lags between infections, symptoms appearing, and hospitalisation. There are likely to be between 1,000 and 2,000 hospital admissions per day in England by the end of the year. The acceleration of the booster vaccination programme will not affect transmission and severe and mild disease in time to mitigate these hospitalisations for the rest of 2021.
- Without intervention beyond those measures already in place ('Plan B'), modelling indicates a peak of at least 3,000 hospital admissions per day in England. Some scenarios have significantly worse outcomes during the first few months of 2022 but there are many uncertainties.
- Precise vaccine efficacy against severe disease and death from Omicron remains uncertain due to the small numbers of severe outcomes to date. Duration of vaccine efficacy also remains uncertain.

- 3.3 Given the above, there is likely to be a significant peak in cases over the next few weeks. Besides hospitalisations, this will put further pressure on NHS and social care (and other workplaces) due to high levels of expected staff absences. The high community infection rates driven by social transmission will mean that an increased proportion of the working population will be in isolation at any one time (with hundreds of thousands of new cases per day expected). In addition, any outbreaks of COVID-19 in individual workplaces are likely to give acute shortages in individual settings.
- 3.4 The new guidance on ending self-isolation following 2 negative LFDs on day 6/7 and current calls to reduce isolation to 5 days may help alleviate this, but there are still likely to be significant challenges across December and January and organisations have been advised to review their business continuity plans. In North Yorkshire after a period of falling Coronavirus rates the trend is now on an upward trajectory but still behind the national average. Omicron variant is present in North Yorkshire and it expected to be the dominant variant by the end of December 2021.

[Coronavirus data | North Yorkshire County Council](#)

3.5 The Coronavirus Act

- 3.5.1 The Coronavirus Act received Royal Assent on 25th March 2020. Within this legislation, there were provisions to suspend certain requirements under the Care Act 2014 and the Mental Health Act 1983. The regulations brought into force Section 15 and Part 1 of Schedule 12 into force to enable local authorities in England to relax elements of the Care Act and were published on 31st March 2020. During the first two waves of coronavirus during 2020/21 only a small number of Local Authorities exercised these powers. North Yorkshire County Council **did not** request easements under the provisions. Following representations from various disabled groups and other interested organisations and as part of the scheduled review of the Coronavirus Act, Parliament determined that the Care Act easement provisions should be retired and this came into effect from 16 July 2021.
- 3.5.2 Care Act easements **are no longer an option** to North Yorkshire County Council as a means of addressing the anticipated pressures resulting from Omicron Covid-19. It is expected that the County Council should do everything it can to continue to meet its existing duties under the Care Act (2014) to ensure that individuals with care and support needs continue to receive the care that they need and that all individuals within the area are kept safe and well. Even with high levels of vaccination and booster uptake, it is anticipated that the escalating position of the diagnosis and transmission of Omicron Covid-19, could have a significant impact on the workforce across the health and social care system, as well as other sectors of the economy. During December 2021, the Council has already had to take temporary steps to redeploy staff and down-scale or close some services to ensure service continuity in areas of greatest need. The County Council may reach a point where it has to consider how it effectively manages limited resource in light of staff shortages, and how it manages risk to people in receipt of services and determines critical services. In this unprecedented situation, it is essential that the Council is able to make clear and transparent decisions and to be able to prioritise care to those people with the most urgent and acute needs and to have robust processes in place for making and recording such decisions.

3.6 Covid-19: Ethical Framework for Adult Social Care

- 3.6.1 As North Yorkshire moves into the next phase of the pandemic and in response to the anticipated pressures from Omicron infections and impact on the County Council's workforce and that of the wider care sector and the economy, decisions may need to be taken that will impact the way services respond to the County Council's responsibilities for care and support and its statutory functions. There will be a need to ensure clear professional oversight and where relevant, officer and Member sign-off for such decisions. The County Council will also need to know that, as part of this process, due consideration

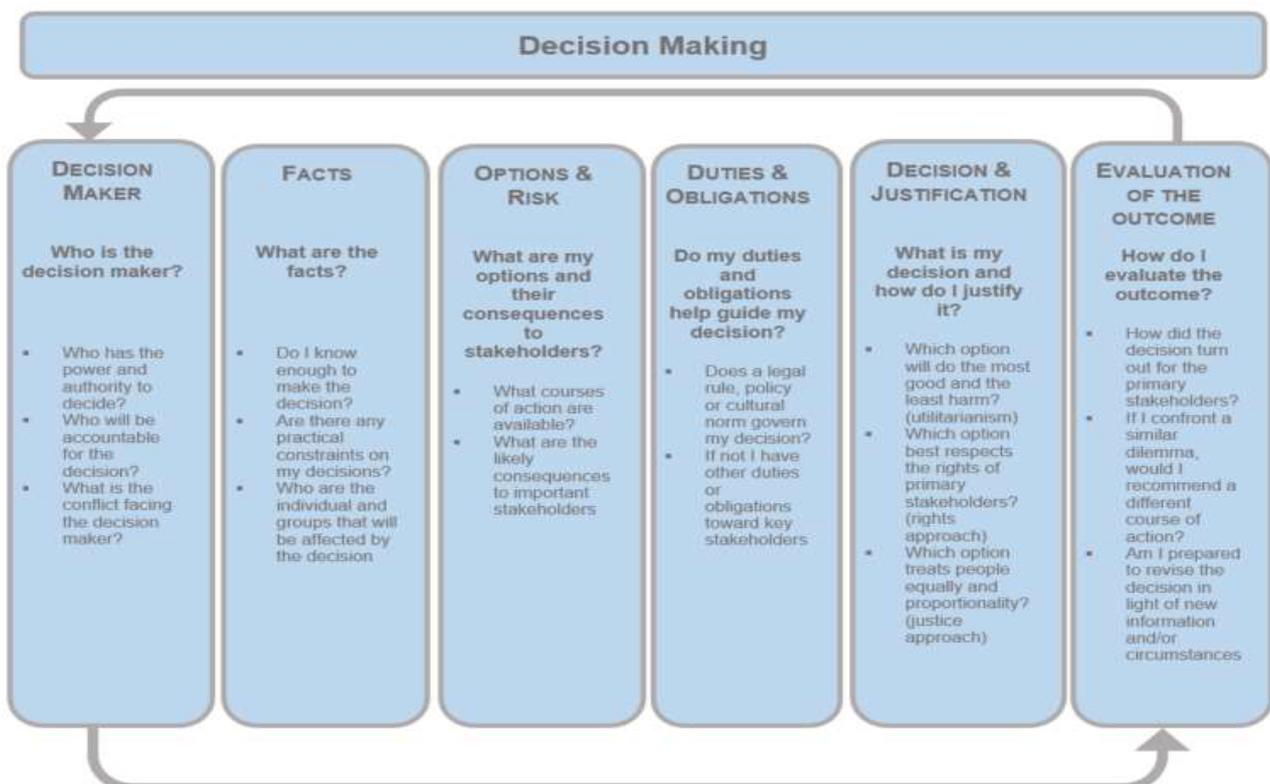
has been given to the unintended consequences of decisions that may be made in exceptional circumstances. However, some of these decisions will need to be made in a timely way to reduce risk of harm. The North Yorkshire Ethical Framework for Adult Social Care provides a structure in which to make decisions at a person-centred or service level about who is most in need of care and who might need to have care and support temporarily reduced or provided in a different way in order to make sure those with highest need are served through the available resource.

3.6.2 The council will continue to meet its duties under the Care Act 2014, specifically to meet the care and support of those who are eligible.

3.6.3 The Ethical Framework for Adult Social Care does not relieve the council’s duties under the Care Act 2014, however it will allow the council to prioritise more effectively where necessary. It will only be used where there is evidence to support its use and the relevant process is followed. Where such difficult decisions need to be made, this should always be within the remit of the Department of Health and Social Care’s Ethical Framework for adult social care, and underpins the local authority’s Ethical Framework. [COVID-19: ethical framework for adult social care - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care)

4.0 Adult Social Care Ethical Decision Making Framework

4.1 Teams within the Council’s Health and Adult Services directorate, both Public Health and Adult Social Care, make difficult decisions all of the time. Decisions are made in the context of the issue or problem that needs to be solved. When making decisions the County Council’s constitution determines who can make the decision and whether or not this can be delegated. When making a decision practitioners have to be aware of the relevant facts **known at the time** and understand the options and risks in the context of our duties and obligations. When recording the decision through Adult Social Care’s internal recording, the Directorate will need to evidence how the Service reached its conclusion and its justification and finally it needs to review that decision and evaluate the outcome, underpinned by good practice models similar to the one described below:



- 4.2 It is important that practitioners structure their decision making in order to evidence how a decision has been reached and the reasonable endeavours taken to manage risk and keep people safe. Adopting a robust approach to evidencing this decision making will negate hindsight bias, the tendency to perceive past events as having been more predictable than they actually were. A bad outcome does not constitute evidence that the decision was mistaken rather than all the information was not known at the time hence the need for ethical decision making and defensible recording within the Service.
- 4.3 In the context of Omicron Covid-19 and the expected negative impact on workforce levels due to its high transmissibility and increasing numbers of infections potential increased hospital admissions. Adult Social Care is expecting significant operational pressures from early January through to the end of March 2022. These pressures will vary and range from individual practice decisions on how best to meet need, specific market interventions to ensure that providers can continue to trade, to the potential temporary closure and consolidation of services to meet minimum staff levels to ensure safe services to people. These decisions will need to be made quickly but should also consider wider issues including the longer term impact on people should they need to move service (see Equality Impact Assessment Appendix 2).
- 4.4 Adult Social Care has developed an Ethical Decision Making Framework (see appendix 1b) in which individual people and service level decisions can be made and consistently recorded in line with the national Ethical Framework for Adult Social Care and Human Rights. It also enables escalation to officers or members with appropriate decision making powers within the County Council's constitution. The Adult Social Care Ethical Decision Making Framework considers four areas of risk:
- **Operational** – individual person decisions
 - **Tactical** – multiple people, multi-agency involvement
 - **Strategic** – responding to market and service issues
 - **System** - where decisions will have wider system implications or where system solutions might be required to make safe.
- 4.5 From an **operational** perspective many of these decisions will be recorded in the client database by frontline social workers and assessors. When the solution that is not the preferred choice of the person is challenged an Ethical Decision Making Record (see appendix 1d) will be completed by the local Service Manager. Copy of the decision will be shared with the person and/or their representative and copy placed on the person record. A review date for the care solution will also be set and recorded in the system.
- 4.6 A daily Ethics Group of senior managers will meet to review all Ethical Decision Making Records at an operational and tactical level. The themes and trends from these records will be reported to the Adult Social Care Leadership Team to inform further actions and future commissioning requirements and consider any review decisions.
- 4.7 **Tactical and Strategic** decisions will be reported into the daily HAS Gold arrangements. The presenting officer will complete the Ethical Decision Making Record. Actions and decisions will be recorded and centrally held by the HAS Governance team.
- 4.8 The Health and Adult Services Leadership Team (HASLT) meeting will review the themes and trends from all of the completed Ethical Decision Making Records. A log of all the Ethical Decision Making Records across all 4 risk areas will be kept by the HAS Governance Team they will analyse the themes and trends and present a report to HASLT which will also include any decisions that require a review.
- 4.9 Adult Social Care works as part of the health and care system across North Yorkshire. As such it is recognised that the decisions made could have potential impacts for other parts of the health and care system. Therefore as part of the framework it is recommended that where a decision has a potential impact for the whole **system**, for example, the temporary

closure of a bed-based service that is utilised to facilitate timely and safe discharge hospital, the Council would refer to the Humber Coast and Vale Ethics Advisory Panel for further advice and review.

- 4.10 The framework does not assume a linear decision making process but rather recognises that decisions will be taken in a dynamic environment which impacts on individuals, groups of people and services. So for example, where a domiciliary care provider is unable to meet the needs of people due to staff illness and all business continuity measures have been exhausted, the County Council will be required to make individual and market decisions. The individual person, or operational decisions will consider how best to meet the person's needs in the absence of the domiciliary provider, and/or tactical/strategic decisions about market intervention to support the provider to continue some aspects of service delivery.
- 4.11 When decisions are made using the Adult Social Care Ethical Decision Making Framework and recorded using the Ethical Decision Making Record appropriate review periods will be set determined by the level risk and taking account of the factors that informed the decision, for example remaining isolation periods for effected staff. The review date can be amended in light of any changing circumstance relating to the decision made.
- 4.12 Within each of the four areas of risk there is an assurance mechanism to oversee and record decisions internally and ensure that decisions are fair and considered in light of the current circumstance, take account of our duties and people human rights and are reviewed in line with the agreed dates. There are also escalation points should circumstances change and the level of risk is increased or further scrutiny is required, for example when considering the redeployment of staff into different service areas, or the closure of service due staffing pressures.
- 4.13 Any Tactical decisions escalated to the HAS Leadership Team or strategic decisions will be reviewed formally every two weeks by the Corporate Director for Health and Adult Services in consultation with the Assistant Director/Chief Social Care Practitioner (or in their absence, the Head of Practice), or their nominated representatives at HAS Leadership Team meeting.
- 4.14 The decision will be reached taking account of the national Adult Social Care Ethical Framework in conjunction with:
- evidence from Public Health about the prevalence of Omicron Covid-19 in North Yorkshire
 - the impact that it is having on adult social care in term of its workforce (both internal and in the independence sector)
 - the ability of adult social care to respond to demand pressures in the community and hospital discharges
- 4.15 The Corporate Director for Health and Adult Services will report back to the Executive Member for Health and Adult Social Care and Health Integration and separately to Management Board on the appropriate decisions made using this process on a monthly basis so that the implementation of this new process can be kept under constant review. In addition, a monthly update will be provided to the Chair of the Independent Safeguarding Board.

5.0 Reasons for Recommendations

5.1 North Yorkshire Demographics

It is recognised that the area which currently has the highest rate of Omicron Coronavirus cases is London, however, as the new variant continues to spread across the country the numbers of cases and associated within North Yorkshire, are expected to increase.

It should also be recognised that North Yorkshire has a higher proportion of older people 85 years plus than many areas of the country, which it is known that this virus disproportionately affects. This is reflected in the make-up of people accessing social care support from the County Council. At present, 61.9% of people in receipt of some form of care and support from the council are 65+, and 38.1% are younger than 65. Given the current situation it is increasingly difficult to source package of support and/or find bed based services. This is largely the result of current workforce pressures across the adult social care market. It is anticipated that Omicron will exacerbate this position. This will likely have negative impacts on the County Council's ability to undertake its statutory duties such as assessment, support planning and review or the nature of support will be reduced in comparison to the usual standards.

- 5.2 In terms of primary support reasons, 46.8% of people in receipt of some form of care and support are receiving support with personal care, 21.6% due to a learning disability, 9% for mental health support, and 7.2% for memory and cognition issues, with 10.5% for other reasons and 4.8% as support for an unpaid carer. As outlined for older people, above. Evidence points towards this illness having a greater effect on people with certain health conditions and therefore disabled people are likely to be at higher risk, as well as having a greater need for social care support than non-disabled people.
- 5.3 Throughout the pandemic people with learning disability have been disproportionately impacted by Covid-19, as they are already at higher risk of death due to respiratory causes; the most recent North Yorkshire Learning Disability Mortality Review report indicated that in 2018/19, the medical conditions most frequently cited in Part I of the Medical Certificate of Cause of Death were pneumonia (34%) and aspiration pneumonia (25%). These are higher than the nationally reported cases in 2018 of pneumonia (25%) and aspiration pneumonia (16%).
- 5.4 It should however be noted that people will be affected by the need for rapid discharge from hospital whether the reason for their stay is due to Covid-19 or another medical issue.
- 5.5 It is also worth noting that the County Council works with seven main NHS Trusts, three main Clinical Commissioning Groups and over 500 independent and voluntary sector providers, with rurality adding to the complexity of service delivery.
- 5.6 Workforce
Latest national and local figures confirm that despite high levels of vaccination there are very high levels of Covid infections with those who are triple vaccinated. There is growing concern around the infection rates and isolation rates among working age adults which will have a significant impact on workforce disruption ranging from 10-30-50% over the coming weeks/months. Nationally the mandatory vaccination of social care workers in residential settings providing personal care and any visiting professionals to those settings has resulted in significant numbers of people leaving the care sector. Nationally, [Skills for Care figures show that](#), among organisations who have submitted data to its adult social care workforce data set this year, there has been a 3.1% drop in the number of filled posts, from April to October, with steeper declines among care workers (3.6%), for services for older people (3.5%) and in care homes (3.7%).
- 5.7 [At the same time, vacancies have risen](#), from 6.2% in March this year to 9.1% in October, with rates increasing particularly among care workers (up by four percentage points) and registered nurses (up by 6.3 percentage points). In domiciliary care, vacancies reached 12.2% in October, up from 9% in April.
- 5.8 In its [State of Care report last month, the CQC](#) said the phenomenon of rising vacancies and falling numbers of filled jobs showed employers were finding it increasingly difficult to find the right people to fill roles.

- 5.9 In North Yorkshire absence levels have increased over the last quarter, with a workforce tired by the protracted period of the pandemic and the impact of ongoing staff shortages and vacancies.
- 5.10 The impact of mandatory COVID 19 vaccination has meant that 9 County Council staff were dismissed from employment on 10 November 2021, and three staff were redeployed into other NYCC roles. This represents less than 0.5% of the adult social care workforce at NYCC. A further 9 staff are awaiting the outcome of their applications for formal medical exemption (which must be completed before 31 March 22) - 3 staff have had their applications declined and are currently working their notice periods, 2 staff have had formal medical exemption approved. The number lost due to the mandatory vaccination requirement across the sector (approximately 20,000 workers) is around 240.
- 5.11 Vacancy levels across social care services are currently running at 11-26%, when normal operational planning assumptions are based on 7%. Adult social care services are currently recruiting to 1,700 vacant hours (46 fte) across in-house care homes and day services, 264 vacant hours (7fte) in Extra Care and 524 hours (14fte) in reablement.
- 5.12 These same pressures are also affecting NHS colleagues, who are facing challenges with recruitment to community nursing, therapy, and rehabilitation services. When added to the mix of social care vacancies above, the result is that community-based support across health and social care is extremely limited.
- 5.13 Human resource directors across the area are working together to develop co-ordinated actions to mitigate workforce issues. However, this is a national supply issue, rather than a local one, and the care sector across North Yorkshire has seen a 70% drop in job applicants since mid-July.
- 5.14 Provider failure and workforce pressures in the care market are demanding a resource intensive response from the local authority as a commissioner of care services and within the context of its responsibilities relating to market oversight and development. The additional areas of work resulting from provider related issues currently include:
- Working with NHS colleagues to manage the consequences of 5 care setting closures, leading to a net reduction of 106 beds (3% of North Yorkshires total capacity), including 36 beds in Scarborough;
 - Covering the home care services that City of York and North Yorkshire had to in-source in Selby - 1,500 hours/week of care, with insufficient TUPE'd staff to cover those hours;
 - Home care providers handing back packages of care on a routine basis, when, in normal times, one doing so would be a significant event;
 - Reablement teams, which would normally be focused on hospital discharge and admissions avoidance, being diverted to cover routine home care packages across the county; and,
 - Re-deploying and finding alternative sources for as much care as possible, which has included restricting or limiting respite and day services and re-deploying staff to other care services.
- 5.15 The Make Care Matter recruitment campaign is the central element in the response to continuing significant staff shortages for the whole care sector in North Yorkshire. Launched on 12th November, the campaign is looking to secure significant coverage on radio and social media as well as in the press. The campaign is looking to attract applicants to front line roles in care, with a flexible approach to accommodate the needs of candidates in terms of availability, caring responsibilities etc., whilst promoting careers in care, opportunities for career development, significant job satisfaction and making a real difference to people's lives.
- 5.16 Within 10 days of its launch, the campaign website received 808 views, and achieved a social media reach at 26,000 people. This translated into 90 applications within that short

time span, with 2 people already appointed to roles and more going through the recruitment process. Applications have come from people from a variety of backgrounds. Some have previous experience of the sector, having left for reasons such as to raise a family or look after a family member, and they are now looking to come back. Some work in other, disparate sectors and are looking for a career change.

5.17 Demand for Adult Social Care

Activity levels across the customer pathway for adult social care continue to show signs of recovery. The main body of the report provides detail on current trends at key points along the pathway. In summary, most areas of activity are now running at levels very similar to those recorded in 2019/20, pre-pandemic.

5.18 The report identifies sustained hospital discharge activity as a key driver behind the increased social care activity. Discharge activity has remained above 2020/21 levels, it changes little in response to Covid-19 case trends in the community, and remains concentrated on weekdays with surges in activity most weeks.

5.19 As a result, assessment activity was 42%, or 2,859 assessments, higher in Q2 than for the same period in 2019/20 before the pandemic. For frontline social care teams, this means dealing with a sustained, urgent pressure in the form of a high volume of people needing to be moved from hospital into social care. Staff sickness and vacancy levels are adding to this pressure – frontline teams are currently operating with vacancy levels of between 11% and 26% against an anticipated level of 7%. Staff are being redeployed across the directorate's service structures to ensure safe operating levels are maintained.

5.20 The impact of this sustained demand for social care support is also affecting local care markets, which remain fragile. Provider failure continues to be an issue, reducing capacity in the market and creating additional work for the local authority's teams in sourcing alternative provision. Staffing pressures are also a problem in the market, particularly in reducing domiciliary care capacity, with providers returning cases to the local authority. Neighbouring authorities are reporting the same range and extent of pressures in their areas.

5.21 In terms of the local authority's prevention offer and its effectiveness in reducing and/or delaying the need for social care support, improvements started in Q1 have continued:

- Referrals to Living Well in Q2 have been very similar to the same period in 2019/20, with continuing recovery in referrals from health partners; and
- Reablement activity continues to be well below 2019/20 levels. However, analysis of the support being provided through the Covid-19 emergency funding arrangements indicates that the type of short term support usually provided through reablement is being provided in different ways under the current service delivery arrangements.

5.22 Care Market Pressures Providers

The current care market in North Yorkshire is already under significant pressure. Provider failures, staffing pressures and providers handing cases back to the local authority are combining to make it increasingly difficult to service the discharge pathway, moving people from hospital into the social care provision that they require. As a result, the use of short-term placements remains well above position at the end of 2019/20, up by 149% or 253 placements. The number of people receiving short-term, bed-based care increased by 20 between quarters, up from 403 at the end of Q1 to 423 for Q2.

5.23 Residential and Nursing Homes

The tables below demonstrates the current availability across North Yorkshire and should be considered against the profile of increased activity and demand from Covid-19:

Care home vacancies as from Monday 30th March are below:

Residential Care (Placement)	Occupancy	Total No. Vacancies
Harrogate	99%	6
Craven	100%	0
Scarbro Ryedale	95%	58
Hambleton Richmond	96%	17
Selby	97%	10

Nursing Care (Placement)	Occupancy	Total No. Vacancies
Harrogate	99%	14
Craven	100%	0
Scarbro Ryedale	94%	36
Hambleton Richmond	94%	23
Selby	95%	15

5.24 Domiciliary Care Capacity

It is difficult to quantify the availability of domiciliary care as it is dependent on staffing levels, call times and complexity of need, however, based on discussions with providers during the last week, of 72/122 domiciliary care providers who responded:

- 2% had full capacity
- 7% had good capacity
- 32% had limited capacity
- 47% had no capacity.

5.25 Internal Provision

Across the County Council's internal provision, there are significant challenges in recruitment and workforce across all service areas; Care Home settings, Extra Care and within our regulated assessment services, the Reablement teams. Work has been completed to reconfigure services to respond to current staffing pressures and to deploy staff from other services such as day services and respite provision to support those service areas. This will be subject to ongoing review. The profile of the workforce is predominantly aged over 50 with a significant percentage over the age 60 and includes a number of people who have underlying health conditions. This influences absence rates due to ill health.

5.26 Hospital and other NHS referrals

Discharge pathway arrangements

The most recently available data (August 2021) shows that the North Yorkshire and York integrated care system got 93.0% of the people discharged from hospital back home, with social care support at home where they needed it. This compares with a national target of 95%, indicating that local health and care systems are working well in achieving the "home first" priority, and is an improvement on Q1 (92.2%).

The average number of hospital discharges received by adult social had reduced to 15.5 per day at the end of Q2, compared with 18.0 per day at the end of Q1. Weekday activity continues to present a particular challenge. Despite a reduction in the average discharges per day on weekdays, down from 20.9 in Q1 to 18.5 in Q2, there were still 9 weekdays on average per month where discharges reached 20 per day or more.

As a result, the immediate assessment activity of frontline teams remains high, up 42% in Q2, or 2,859 assessments, compared with the same period in 2019/20. Increased levels of

staff sickness and vacancies are adding to the pressure, making it more difficult to sustain the effectiveness of the discharge pathway.

5.27 Admissions and Occupancy Data – 29/11 – 19/12/2021

Admissions (approximate figures)

Hospital	Week beginning 29/11	Week beginning 06/12	Week beginning 13/12
Airedale	420	400	420
HDFT	420	400	400
Scarborough	380	400	390
South Tees	1350	1200	1300
York	975	900	800

Admissions have been relatively stable across all sites; the only sites showing any real significant movement have been South Tees and York. York has seen gradual decrease since the 29/11 and South Tees has seen an increase of approx. 100 more admissions for week beginning 13/12, however this followed a large decrease the previous week and the latest admissions are lower than for week beginning 29/11.

5.28 **Bed Occupancy (approximate figures)**

Hospital	Week beginning 29/11	Week beginning 06/12	Week beginning 13/12
Airedale	93%	95%	94%
HDFT	97%	96%	95%
Scarborough	95%	96%	95%
South Tees	88%	86%	84%
York	90%	94%	94%

General occupancy is high at all sites, with South Tees the only site under 90% across the 3-week period. For much of the last 10 weeks all of the other sites have regularly recorded weekly occupancy above 90%, with South Tees being the outlier, only recording over 90% once. Given the high occupancy levels this is likely to put additional strain into the system to facilitate discharges and access social care resource in the community.

5.29 Risks associated with proposed changes

Even if the powers set out in this report are invoked, then there are further risks that should be noted:

- Inadequate workforce to deal with increased pressure on service provision
- Delays in undertaking assessments
- Delays in discharge service requirements
- There is a risk that the emerging numbers of actual referrals arising from Omicron Covid-19 cases do not reflect those indicated by the modelling – (could be too many or too few). As a consequence, the council may not have the appropriate resources in the right places across the health and care system.
- Demand will outstrip the capacity of the provider market despite the interventions taken.
- Potential financial impact for North Yorkshire County Council.
- The proposals may also have some negative impact as it is likely that assessment, support planning and nature of support will be reduced in comparison to the usual standards
- Potential service closures and redeployment of staff impacting on people who use services and the workforce.

6.0 Steps taken to mitigate those risks and the process for decision-making

6.1 North Yorkshire County Council has taken the following steps to mitigate the risk identified above, using existing Care Act and other, non-emergency, legislation and funding streams:

- Increased investment in adult social care, even during austerity, to the point where it is now around 43% of the Council's total budget, including through the pandemic, when it has secured additional NHS funding as well as made hardship payments to care providers
- Invested in practice teams to support frontline teams, as well as mental health services and more staff for Continuing Health Care work and work with people who are part of the Transforming Care programme and/or have complex life circumstances
- Just approved an additional £6m package for adult social care (£2m of which is recurring) for frontline assessment, review and other staff and hands-on quality improvement support for care providers OFFICIAL
- Worked with the NHS to secure an extra £6m for a pay uplift for up to 16000 care workers across regulated services in North Yorkshire and a further £3m targeted funding for care providers to help with workforce issues
- Built and opened new extra care schemes, even during the pandemic, with at least half a dozen more either being built or planned

6.2 Practical steps that are being taken include:

- Major, ongoing recruitment campaigns for provider services (in-house and independent) and assessment teams - to fill vacancies and increase capacity: www.makecarematter.co.uk
- Maximising the "grow our own" model for social workers (apprenticeships, student to practitioner pathway etc.)
- Widening the scope for recruiting more Social Care Co-ordinators and other community practitioners
- Developing a separate team of review practitioners, to ensure people with long term care needs get regular reviews of their care
- Expanding the Quality Improvement Team, which supports care providers where they are struggling or may need assistance • Improved Induction programmes for new starters.
- Increases in Business Support, where we cannot recruit to social care roles, to enable practitioners to focus on work only they can do
- Managing demand by utilising Agency staff (while we recruit to posts) and procuring outside social work and OT services for specific pieces of work (such as some care reviews and home adaptations work)
- Amending the Deprivation of Liberty Safeguarding rota to give more capacity back to teams OFFICIAL
- Service developments: including more extra care schemes; earmarked funding for grants for family carers; exploration of alternative options for non-regulated services; expanded voluntary sector services (such as Home from Hospital), bringing forward an April 2022 pay uplift for care workers in regulated services; hardship payments to struggling care provider

7.0 Financial Implications

7.1 Care sector pay

In response to the fierce competition within the labour market for the care workforce, nationally and regionally, the NHS, via the Integrated Care Systems (two of which cover North Yorkshire: Humber, Coast and Vale and West Yorkshire), and supported by local CCGs, has worked with Adult Social Care leads to provide additional one-off funding to

support the care workforce via a payment in lieu of bringing forward the national minimum/living wage increase by four months for 2022.

- 7.2 To maximise the impact of additional NHS funding in North Yorkshire, the County Council has identified additional Government grant monies that can match this NHS contribution. As a result, there are two proposals set out below which will support providers and their employees.
- 7.3 The first proposal combines the NHS additional funding and an element of the national Workforce Retention Fund distributed to local authorities by the Government. Eligibility for payment of this grant is that it must be passed to the (up to) 16,000 front line care workers in North Yorkshire providing CQC regulated activity. The local grant will be paid directly to employees within the eligible care workforce via their employers in two stages, one payment in January 2022 and one in March 2022. On-costs to employers, (estimated average 17%), are included, with the remaining grant issued directly to workers via payroll. Eligibility for the grant will be those workers both employed on the 1 December 2021 and who remain employed on 31 March 2022. This element of the grant is to enable employers to bring forward the expected national living wage / national minimum wage (or equivalent average %) pay increase from April 2022 to December 2021 and also includes a “thank you” element payment from North Yorkshire County Council. This sum, paid in two instalments between January and March 2022, should amount, on average to an extra £375 per head gross. Each employer will then need to deduct their National Insurance and any pension contributions before passing on the remainder in full to each employee. For example, if those National Insurance and pension contributions amount to 17%, then the employee would receive approximately £320 (before tax).
- 7.4 Care providers will be required to passport this one-off pay uplift directly to their frontline care workforce. The Council and the NHS will administer it via a grant system and will undertake proportionate audits to ensure that the relevant pay uplift is passed on to frontline care workers.
- 7.5 Additional targeted support to care providers on workforce issues
The second proposed grant combines the remaining Workforce Retention funding and, also, an element of COMF (Contain Outbreak Management Fund) funding allocated to the Council. This funding will be paid directly to all providers delivering regulated social care activity in accordance with Care Quality Commission (CQC) regulations.
- 7.6 The second grant will need to be applied for via the Council, through a simple application process, identifying how the care provider intends to spend the allocation and what outcomes in relation to increasing, or retaining, workforce will be achieved.
- 7.7 Providers will be placed within one of four categories that will set an upper limit on the maximum grant allocated. The four categories are based on the total number of employees each provider employs as follows

No of Employees	Maximum Grant Allocation
0 to 9	£1,000
10 to 19	£5,000
20 to 49	£10,000
50 to 99	£20,000
100 plus	£40,000

- 7.8 All considerations for allocation of eligibility will be made in liaison with the Independent care Group (the umbrella organisation for most care providers in North Yorkshire and York) for transparency.
- 7.9 The financial implications for each proposal are set out below:

- 7.9.1 Grant to providers based on number on employees
- with instruction to providers that other than an amount for on-costs, full amount must be passed on to employees
 - £3m from NHS plus matched funding from Workforce Recruitment and Retention Grant
 - assume 16,000 employees
 - works out as £375 per head, which means that the amount to each employee (before tax) should be at least £300 once employer on-costs, National Insurance and tax are deducted
 - pay in two instalments: half now and the remainder in March (to reward retention)
- 7.9.2 Grants for which providers can bid – up to £40k
- £1.6m from Workforce Recruitment and Retention Grant
 - £1.6m matched funding from COMF

7.10 Summary:

All figures £000	Funded by			
	NHS	WRRF	COMF	Total
Payment to employees	3,000	3,000		6,000
Grants to providers		1,600	1,600	3,200
	<u>3,000</u>	<u>4,600</u>	<u>1,600</u>	<u>9,200</u>

8.0 Equalities implications

8.1 See attached Equality Impact Assessment (Appendix 2). The Executive Members and the Chief Executive are asked to read this appendix in totality which considers, amongst other things, the impact on individuals with protected characteristics on the decision to be taken. The purpose of this report is to provide an appropriate process to protect the most vulnerable in case it is needed due to the impact of Omicron Covid-19.

9.0 Legal Implications

- 9.1 The council will continue to meet its duties under the Care Act 2014, specifically to meet the care and support of those who are eligible. This report identifies the decision making framework that may be needed during times of additional strain on Adult Social Care due to the predicted additional temporary impact of Omicron Covid-19 on individuals involved in providing care and support.
- 9.2 A local authority must also have regard to “The Ethical Framework for adult social care” to assist local authority decision making when responding to COVID 19.
- 9.3 The County Council Ethical Framework for Adult Social Care does not relieve the council’s duties under the Care Act 2014, however it will allow the council to prioritise more effectively where necessary. It will only be used where there is evidence to support its use and the relevant process is followed. Where such difficult decisions need to be made, this should always be within the remit of the Department of Health and Social Care’s Ethical Framework for adult social care, to which the local authority must have regard.

10.0 Recommendations

10.1 For the reasons set out in this report and in order to assist the urgent prioritisation and delivery of services to the public in a timely and efficient manner, in light of the Covid-19 pandemic and the rising rates of the Omicron variant, Executive Members are asked to recommend to the Chief Executive Officer that using his emergency delegated powers, he:

- (i) Approve, invoke and implement the proposed Adult Social Care Ethical Decision Making Framework.
- (ii) Delegate to the Corporate Director for Health and Adult Services (as the Council's statutory director of adult social services) the power to invoke and implement the measures as set out in this report including taking all decisions necessary to implement the Ethical Decision Making Framework and any other decisions the Corporate Director for Health and Adult Services may deem necessary regarding Adult Social Care Services delivery in light of the continuing Covid-19 pandemic. The Corporate Director for Health and Adult Services may where appropriate consult with the Executive Member for Adult Social Care and Health Integration, Chief Executive Officer, Assistant Chief Executive (Legal and Democratic Services).
- (iii) Instruct the Corporate Director for Health and Adult Services to present a monthly report to the Executive Member and to Management Board on the appropriate decisions so they can be reviewed.
- (iv) Approve that review of the framework in April 2022

Report Author: Richard Webb, Corporate Director for Health and Adult Services &
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7 January 2022

Background Documents: Projected hospital referrals, Equality impact assessment

Appendices:

Appendix 1 - Interim Guidance 24.12.21

Appendix 1a - ASC Pressures Interim Advice from Corporate Director Health & Social Care

Appendix 1b - Ethical Decision Making Framework

Appendix 1c - Ethical Decision Making Framework – Summary of Principles

Appendix 1d - Ethical Decision Making Record

Appendix 2 - EIA - Ethical Decision Making