

DECISION-MAKER:		Director of Quality and Integration	
SUBJECT:		Learning Disability Residential Homes Future Options	
DATE OF DECISION:		18 th July 2016	
REPORT OF:		Associate Director System Redesign	
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY			
None			
BRIEF SUMMARY			
<p>This paper provides context and explanation of the future options for two learning disability residential care homes. The options are:</p> <ol style="list-style-type: none"> 1. For the homes to deregister and become supported living 2. For the homes to remain as residential care homes and go through a tender process to be re-procured. <p>Option 1 to deregister the homes is the recommended option.</p> <p>The homes are Seagarth Lane and Orchard Mews and are currently registered with the Care Quality Commission (CQC) as residential homes. There are eleven service users in total, within the two homes, all of whom have learning disabilities. There is one void which we are seeking to fill. The service is provided by Dimensions through a block contract with the city council. The total annual spend on the two homes is approximately £920,000 per year.</p> <p>A consultation with service users and their families took place between 5th January 2016 and 22nd April 2016</p>			
RECOMMENDATIONS:			
	(i)	To proceed with the preferred option, in accordance with the Scheme of Officer Delegation 10.9, 10.10 and 10.14 to deregister both of the residential homes into Supported Living schemes.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	<p>Following an analysis of the responses to the consultation and the Equality Impact Assessment the reasons in support of deregistration are:</p> <p>Service users will have increased rights as ‘tenants’ rather than holding a license, which can be terminated within a short period of time.</p> <p>Service users and families will be able to develop a support plan with their social worker which is highly personalised and flexible and embeds the Reach Standards for supported living. This will include increased support to develop skills, to maximise independence and thereby have greater choice and control over their lives.</p>		

2.	Service users will be supported to make more choices, from smaller, day to day decisions to more complex decisions, such as taking a personal budget, which again would offer increased flexibility to meet needs in a more person centred way.
3.	In addition to the benefits to the service user, this change would supports the national and local direction and ambition to shift the focus of care from residential to community based approaches which support and promote greater independence.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
4.	Option Two (for the homes to remain as residential care homes and go through a tender process to be re-procured), is not the preferred option as it does not support the national requirement to increase the focus of services for people with a learning disabilities towards community based options that are more person centred. Our ambition is to move to a position where people will be supported to hold their own tenancy wherever possible and for this to be a default option. Residential care models are limited in the choices that service users can make, due to the restrictions of the regulations.
5.	Residential care is more costly that supported living approaches and although this cannot be the prime or only consideration it needs to be taken into account when designing services within available resources. This solution supports the national direction of travel and is, at the same time, most cost effective.
DETAIL (Including consultation carried out)	
6.	Description and history of services and buildings Seagarth Lane and Orchard Mews are residential homes providing accommodation for adults with complex learning disabilities.
7.	Six people live at Seagarth Lane with around 530 hours of support being provided per week. Five people live at Orchard Mews and there is currently one additional void; around 520 hours of support are provided per week. Dimensions provide the support and are the registered provider with The Care Quality Commission.
8.	The homes were established as part of a resettlement programme from Tatchbury Mount Hospital (institutional setting) in the late 1990's. Radian are the owners of the properties, when purchased they were purpose-built and funding was provided by the (previous) South West Hampshire Health Authority.
9.	The NHS hold a legal charge under a Capital Grant Agreement (CGA). The agreement to the deregistration has been given in principle from NHS England (pending the decision of the proposal and outcome of the consultation) regarding the potential change in designation from residential care to supported living services. They have advised that the current charge on the property would remain but would need to be in the name of NHS England (National Commissioning Board) rather than the Secretary of State. To this effect NHS England will arrange for a new CGA should the properties de-register. There is a service level agreement between Radian and Dimensions the care provider in respect to the various responsibilities for repairs and maintenance.

10.	<p>Residential Care & Supported Living Differences</p> <p>Within a residential care home a provider is registered with The Care Quality Commission to provide both the care and the accommodation whilst in Supported Living the care and accommodation functions are separate so that the care provider is registered with The Care Quality Commission as a domiciliary care agency to provide the care. The housing provider is the landlord with each service user having a tenancy agreement. Finally, service users are able to claim more welfare benefits to support their living expenses. For more information regarding differences in both the models of support see the consultation documents in Appendix 1.</p>
11.	<p>Consultation with service users and families</p> <p>The consultation on the proposal was developed in discussion with SCC legal services. Advice was given that the common law duty of fairness applied, due to SCC considering a withdrawal, reduction or change to its services. This brings a duty to consult. A full public consultation was not deemed proportionate, but a ‘full and meaningful’ consultation was necessary with those potentially affected by the proposal. The consultation has been undertaken with advice from legal services to ensure this requirement was met. The consultation proposal was also tabled at SCC’s Research and Consultation Group.</p>
12.	<p>The consultation period ran from 5th January 2016 to 22nd April 2016 with the eleven service users and their families, where relevant. The consultation pack consisted of:</p> <ul style="list-style-type: none"> • A consultation timetable • An information document entitled ‘My Home, My Support, My Money’ • An easy read version of the information for service users • A Frequently Asked Questions document which was updated through the consultation period • A consultation feedback sheet for families and an easy read version for clients <p>These documents are included in Appendix 1 of this report.</p>
13.	<p>The feedback sheet asked service users and families’ eighteen questions about elements such as, what support they had received during the consultation, whether they understood the information, what their preferred option was and additional feedback to SCC regarding the process.</p>
14.	<p>Advocacy support was and remains available from Choices Advocacy for service users or family members to talk independently about the proposals, families have also been signposted to the Southampton Carers service. A dedicated social worker has been, and continues to be available, to commence the reassessment process and offer additional support in meetings with each service user and their families and to discuss the impacts on individuals.</p>
15.	<p>During the consultation, a number of questions were received from families asking for more specific information about the financial impact and how the additional responsibilities of paying bills and applying for benefits would be managed. In response to these questions a supplementary consultation document was put together with more detailed information. This document is included in Appendix 2 of this report. In addition to this, one family requested a ‘families meeting’, which was arranged. On Tuesday 19th April, a session</p>

	was held where all families were invited to meet together with the senior commissioner, social worker, advocacy agency, SCC benefits advisors and Dimensions. The purpose of this was to answer any additional questions from service users and families. Four families attended.				
16.	The consultation period was extended to allow time for service users and families to read the additional information and ask further questions at the meeting				
17.	<p>Consultation Responses</p> <p>A full summary of the consultation responses is within Appendix 3 of this report.</p> <p>A completed feedback form was received from 8 of the 11 families. In addition, one service user completed the easy read form.</p> <p>On the question about people’s preferred option the responses were:</p> <ul style="list-style-type: none"> • The home remaining as a residential care home was preferred by 2 service users and their families • The home transferring to a supported living arrangement was preferred by 3 service users and their families. • No preference – 2 people • Question not answered – 1 person 				
18.	A number of individual comments were received by the families who were in favour of the home remaining as a residential care home. We will be meeting with these families to continue to address their individual concerns and to seek solutions.				
19.	<p>Equality Duties</p> <p>An Equality and Impact Assessment has been completed for both homes. This has been updated throughout the process and is populated by seven key information sources. A summary of key impacts and actions follows.</p> <table border="1" data-bbox="316 1323 1417 2029"> <tr> <td data-bbox="316 1323 699 1872"> <p>Information and Engagement underpinning the equalities analysis</p> </td> <td data-bbox="699 1323 1417 1872"> <ul style="list-style-type: none"> • Feedback forms (provided by one service user and families) • Choices Advocacy Consultation Report • Information sheets placed within the two homes that received comments when visits occurred from families and/or service users shared views • Families meeting (summary notes) • Residential Care Commissioning Project Group minutes • Transforming Care best practice guidance • The Real Tenancy Test and Feeling Settled best practice guidance </td> </tr> <tr> <td data-bbox="316 1872 699 2029"> <p>Key impacts (positive and/or negative) on people with protected characteristics</p> </td> <td data-bbox="699 1872 1417 2029"> <ul style="list-style-type: none"> • Some families said that attitudes to people with learning disabilities are not positive at times, this may help. • All accommodation options for Supported </td> </tr> </table>	<p>Information and Engagement underpinning the equalities analysis</p>	<ul style="list-style-type: none"> • Feedback forms (provided by one service user and families) • Choices Advocacy Consultation Report • Information sheets placed within the two homes that received comments when visits occurred from families and/or service users shared views • Families meeting (summary notes) • Residential Care Commissioning Project Group minutes • Transforming Care best practice guidance • The Real Tenancy Test and Feeling Settled best practice guidance 	<p>Key impacts (positive and/or negative) on people with protected characteristics</p>	<ul style="list-style-type: none"> • Some families said that attitudes to people with learning disabilities are not positive at times, this may help. • All accommodation options for Supported
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		<p>Living are carefully assessed to ensure the safety of service users within the local community.</p> <ul style="list-style-type: none"> • Families have raised a concern that their relative cannot make the choice about having a tenancy. • Families asked how de-registration will this affect their relative • Families raised a concern as to whether their relative will have enough money to live on • Most service users don't have the skills to open their own front door due to limited dexterity, this is important to people, so they know it's their own home • Families have said there will be more work for them to do (as appointees) • Families have raised a concern that the service users will be left on their own without support. • Families have raised a question that their relative cannot be any more independent than they already are, it would not be safe for them, so they are unclear what would change for them. • Families raised a concern that people can lose their tenancy, how is this more secure?
	<p>Changes you have made to the proposal as a result of the EIA</p>	<ul style="list-style-type: none"> • The consultation period was extended in response to families wanting more detailed information. • Agreement to source a key pad system for each home, that can be used by people with complex needs, to open and close their own front door
	<p>Key mitigating actions planned to address any outstanding negative impacts</p>	<ul style="list-style-type: none"> • The support put in place will meet everyone's needs. There is no intention to take support away, we will look at targeting the support in a better way, this will be developed from the social work assessment. Families will be asked to contribute to the assessment. The Council has to make sure that everyone's needs are assessed and those needs are met pursuant to s.9 and s.18 of the Care Act 2014 respectively. • It is difficult to predict exact changes for service users, and will depend on individual circumstances, through the

		<p>assessment process. There will be tailored support plans that take into account the transitional factors for individuals and families (pursuant to section 25 of the Care Act 2014). We expect that there will be more opportunities for choice and independence, appropriate to the needs and strengths of the service users. .</p> <ul style="list-style-type: none"> • For service users that lack capacity regarding the decision to have their own tenancy, a best interest decision will be made pursuant to section 5 of the Mental Capacity Act 2005. As part of this process, service users will have access to an advocate and families will be asked for their views. We will always act in a manner that is compliant with the legislative framework and we will actively support sourcing alternative options, should that be necessary for service users. It may therefore be deemed in a service users best interests to move to an alternative residential accommodation. • Service users will have their own Care Act needs assessments and care and support plan which will set out their eligible needs and how this will be met. This will be person centred and individually tailored to address specific issues. • The Financial Assessment and Benefits team are ready to support in the transition to maximise income. They have also stated there was an opportunity to look at Disability Related Expenses (DRE) and making claims through this route to enhance income. If the assessment demonstrates a negative impact financially, we will would look at how we could mitigate against this. We have found strong evidence that in most cases, a person gains access to more disposable income through a Supported Living scheme. • Everyone is an individual. The principles regarding the change relate very much to being valued and empowered. This means having rights and choices like others without a learning disability have.
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		<p>The Care Act needs assessment looks at individual's strengths, their interests, how they want to live their life and what support they need, to get the most from their life. The assessment identifies outcomes (e.g. such as being able to maintain a habitable home environment) that the individual is not able to achieve without support and the cumulative impact on the individual's wellbeing of not being able to achieve the outcomes. The change would offer more flexibility with support so that key areas of development are targeted, for example, shopping and cooking, personal care or community access. These examples are not an exhaustive list.</p> <ul style="list-style-type: none"> • A tenancy agreement gives certain rights to both the tenant and the landlord and also sets out the responsibilities. For example at tenants: <ul style="list-style-type: none"> • Right to stay in your home unless your tenancy is breached • Right that you cannot be moved against your will • The landlord's right to receive rent for letting you live in the property. • The Tenancy agreement will let the tenant know what you can do if you are unhappy with your landlord. • The support we commission under the contract for Supported Living services means that within a deregistration process, Dimensions would continue to deliver the contract, but under the Supported Living contract. The council tested all providers about their quality to deliver Supported Living services, we will also provide ongoing monitoring to ensure this is delivered. Within the requirements of the contract, providers must: <p><i>Support clients where necessary to maintain their tenancy agreement by working proactively with the client and housing provider to manage any risks pertaining to this.</i></p> <ul style="list-style-type: none"> • Training and support from the police
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		<p>helps to raise awareness of community safety issues. There are currently good relationships with neighbours and the provider supports the service users to maintain positive relationships. Under the contract, the provider knows how to support the service users to respond to any potential Hate Crime issues.</p> <ul style="list-style-type: none"> • Support will be offered during the transition process (in applying for benefits and maximising benefits). Families do have the option to cease under taking the appointee role if they wish, a reminder of their role as appointee has been shared with them. Dimensions are able to work with families regarding a plan and process, to ensure that weekly amounts of service user's budget are accessible to meet the identified support needs.
	<p>Potential negative impacts that cannot be mitigated</p>	<ul style="list-style-type: none"> • Potential anxiety from families regarding change. Carers Southampton are able to support family anxieties, as will additional meetings with families that are anxious about potential change, so that good quality information is shared.
<p>A completed copy of the Equality and Impact Assessment is in Appendix 4.</p>		
<p>20.</p>	<p>Arrangements if decision is made to deregister If the decision is made to deregister, then Dimensions will continue to provide the care with the existing staff team however this will be commissioned through the domiciliary care framework rather than a residential block contract. Dimensions are ranked number one on the domiciliary care framework for Supported Living so a direct award can be made to them for the support element should the homes deregister.</p>	
<p>21.</p>	<p>The housing association Radian will retain the landlord function. For service users that lack capacity regarding the decision to have their own tenancy, a best interest decision will be made following the Mental Capacity Act Code of Practice. As part of this process, service users will have access to an advocate and families will be asked for their views. We will always act in a manner that is compliant with the legislative framework and we will actively support sourcing alternative options, should that be necessary for service users. It may therefore be deemed in a service users best interests to move to an alternative residential accommodation.</p>	
<p>22.</p>	<p>A provisional date of 1st November 2016 has been identified for the deregistration to become effective. This would be subject to all necessary support and financial arrangements being in place for clients.</p>	

23.	<p>Arrangements if decision is made to remain as residential care</p> <p>If the decision is made for the homes to remain as residential care then a procurement process will begin as the current contract for the homes is due to expire in March 2017.</p>
<p>RESOURCE IMPLICATIONS</p>	
<p><u>Capital/Revenue</u></p>	
24.	<p>Resource</p> <p>The commissioning resource to coordinate the deregistration process or procurement process (depending on decision) will come from the Integrated Commissioning Unit (ICU). There is dedicated social work capacity, which will remain in place throughout the process, and advocacy resource is funded. When the deregistration or re-procurement is completed, responsibility for reviews and day to day care management will return to the Learning Disabilities team. On-going contract monitoring will be undertaken by the ICU.</p>
25.	<p>Financial</p> <p>If the decision is made to deregister the two homes, savings to the local authority will be approximately £135,000 per year as a result of these costs transferring to housing/welfare benefit for those clients who are eligible. There is no reduction in hours of support provided.</p>
26.	<p>This figure assumes that the support hours in supported living will remain the same as in residential care. The actual support hours will only be known once social work assessments have been completed so the hours and resultant saving may go up or down. We are using the 'Just Checking' telecare kit (this is an activity monitoring tool) to support the assessment process, which identifies opportunities for independence and we are able to use this intelligence with assessment information to ensure we maximise support hours, which are targeted to provide service users outcomes at appropriate times in the week rather than being based on a residential timetable.</p>
27.	<p>Other one-off costs which will be incurred are: Deprivation of Liberty Safeguards (DoLS) applications to the Court of Protection for each client who lack capacity. This is an application seeking court authorisation to deprive the individual's liberty in supported living. The application fee is £400 per person. If the application is uncontested then there will only be the time and legal costs generated by Legal Services in dealing with the application. It is anticipated that the known caseloads can be dealt with in house. If the case is contested then depending on the complexity legal costs will be incurred where Counsel is instructed which costs approximately £1,500 per hearing</p>
28.	<p>A bulk application to the Court of Protection for the clients who lack the capacity to sign their new tenancies, this will be a one-off cost of £800. These cases are unlikely to be contested and are decided on the papers. Where contested the costs for instructing Counsel are as above. Ongoing resources within Legal Services will be kept under review.</p>
29.	<p>There will also be a one-off capital expenditure of around £20,000 to pay for a new door entry system for both properties, this includes new doors at Seagarth Lane; allowing clients to speak to/let in the person at the front door enhancing their independence. The capital cost will need to be funded from</p>

	any savings realised.
30.	If the homes remain as residential care, a re-procurement will need to be undertaken as the contracts expire in March 2017. This will need to be undertaken within current financial envelope as far as possible but will inevitably be subject to market forces.
31.	Dimensions have already been through a tender for the domiciliary care framework and were ranked number one for supported living so a direct award can be made to them for the support element should the homes deregister.
Property/Other	
32.	The two schemes would become homes for life, and managed under Radian as the landlord and managing agent.
LEGAL IMPLICATIONS	
Statutory power to undertake proposals in the report:	
33.	S (3) 2 of the Care Standards Act 2000 requires establishments to be registered if they provide accommodation “together with nursing or personal care” where this no longer the case the care provider can apply to the Care Quality Commission to deregister.
Other Legal Implications:	
34.	Local authorities must ensure their commissioning practices and the services delivered on their behalf comply with the requirements of the Equality Act 2010, in particular s.149 the Public Sector equality duty.
35.	The Mental Capacity Act 2005 provides the legal framework for the decision making process where the person who will be affected by the outcome of the deregistration process lacks the mental capacity to make decisions in this regard. Further, there is a legal duty under section 39 for the local authority to instruct an Independent Mental Capacity Advocate to support the individual to participate in the decision-making process where there is no person other than one engaged in providing professional care and treatment or for remuneration, to consult with in determining what is in their best interests.
POLICY FRAMEWORK IMPLICATIONS	
36.	Policy The Transforming Care Plan leads the national vision regarding increased housing stock for people with learning disabilities.
37.	The proposal to deregister is in line with the council’s stated commissioning intentions within the ‘Market Position Statement 2015-18: Housing Solutions for people with care and support needs’, namely that: <ul style="list-style-type: none"> <i>Demand for traditional residential care for adults with social care needs is falling and this trend is expected to continue as people increasingly prefer to maintain their independence by receiving care in their own home or within schemes modelled on tenancy-based provision of care and support;</i>

KEY DECISION?	Yes
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WARDS/COMMUNITIES AFFECTED:	The homes are situated in Bassett and Coxford wards.	
<u>SUPPORTING DOCUMENTATION</u>		
Appendices		
1.	Consultation Information Pack	
2.	Supplementary consultation document with more detailed information	
3.	Summary of responses to consultation	
4.	Equality and Impact Assessment	
Documents In Members' Rooms		
1.	None	
Equality and Safety Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Privacy Impact Assessment		
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)		Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None	