



RHONDDA CYNON TAF COUNCIL OVERVIEW AND SCRUTINY 2022-2027 COMMITTEE

Minutes of the HYBRID meeting of the Overview and Scrutiny 2022-2027 Committee held on Tuesday, 31 October 2023 at 11.30 am

This meeting was live streamed, details of which can be accessed [here](#)

County Borough Councillors – The following Overview and Scrutiny 2022-2027 Committee Councillors were present in the Council Chamber:-

Councillor J Edwards (Chair)

Councillor B Stephens	Councillor M Ashford
Councillor R Bevan	Councillor J Bonetto
Councillor R Davis	Councillor C Middle
Councillor S Emanuel	Councillor S Morgans
Councillor G L Warren	Councillor M Powell

The following Overview and Scrutiny 2022-2027 Committee Councillors were present online:-

Councillor S Morgans
Councillor M Powell
Councillor J Bonetto
Councillor K Morgan

Officers in attendance:-

Mr P Mee, Chief Executive
Mr C Hanagan, Service Director of Democratic Services & Communication
Mr A Wilkins, Director of Legal Services and Democratic Services
Mr N Elliott, Director of Social Services
Mr R Evans, Director of Human Resources
Mr P Griffiths, Service Director – Finance & Improvement Services

County Borough Councillors in attendance:-

Councillor M Webber
Councillor G Caple
Councillor K Johnson
Councillor C Lises
Councillor K Webb

Apologies for absence

28 Declarations of Interest

In accordance with the code of conduct, the following declarations of interest were received

Councillor G Caple – Personal, my sister works in home care

Councillor J Edwards – Personal, one of the public speakers is known to me

Councillor C Middle – Personal, my wife is a critical care worker for advantage Health Care Limited

Councillor R Bevan – Personal my sister in law is a home carer

Councillor K Morgan – Personal, (*left the meeting when the item was voted upon*) as a signatory to the Call-in

29 CALL IN OF THE CABINET DECISION OF THE COMMISSIONING OF DOMICILIARY HOME CARE SERVICES

The Service Director Democratic Services and Communications presented the report which outlined the procedure for the meeting, as set out in rule 17 of the Overview & Scrutiny Committee Procedure Rules. The Service Director advised that a call-in request was received from County Borough Councillors K Morgan, C Lises and K Johnson within the prescribed timescales on 26 October 2023 which complied with the relevant criteria and considered valid by the proper officer.

The call-in requested that the decision of Cabinet relating to the report of the Commissioning of Domiciliary Home Care Services from the Cabinet meeting held on the 23rd October 2023 be considered by the Overview & Scrutiny Committee.

He advised that the three signatories who signed the call-in form will firstly be invited to address Committee outlining the reasons, supported by the Service Director Democratic Services and Communications, as proper officer for the meeting, given by them in requesting the call-in and why they consider the decision should be referred back to the decision maker for reconsideration. Registered public speakers will then be given the opportunity to address Members before the Director of Social Services and Cabinet Member will then be called upon, to address the comments made by the speakers. The Chair will then invite members of the Overview & Scrutiny Committee to consider the valid reasons set out in the report together with the comments of the Director of Social Services and Cabinet Member as to whether the matter should be referred back to Cabinet to be reconsidered. The Director of Social Services and Cabinet

Member will then be invited to respond to the questions raised by members of the Overview & Scrutiny Committee.

It was confirmed that one of the nominated signatories would have the right to make their final address to the Committee immediately before a roll call vote is taken on whether or not to refer the matter back to the relevant decision maker for reconsideration. It will be for the Director of Legal and Democratic Services to clarify and summarise the effect of the Committee's decision. Councillor K Morgan confirmed that she will make the final address to the Committee and leave prior to the vote being taken.

Councillor K Morgan

Councillor K Morgan advised that she had signed the Call-In form because the Overview and Scrutiny Committee had not been given the opportunity to pre-scrutinise the decision before it was taken. She expressed concern at how the proposal affects service users and staff who were not given any *prior* consultation. She advised that Cabinet were presented with a petition against the proposal but the record does not state that Cabinet had given consideration to the petition prior to making a decision. She added that many service users had expressed their dissatisfaction at private providers, and high satisfaction with the Council's Home Care service, yet, in spite of this, there has been no consultation with service users, their families, staff or Trade Unions. She added that the financial implications provide little detail, despite stating that the proposal is cost effective. The Councillor expressed concern that the tendering process should seek an outcome based approach in line with the Social Services and Wellbeing Wales Act 2014 and that this has not been implemented. She added that whilst the report states that the terms and conditions of staff will be protected under TUPE there is no detail how long this will apply for and whether the staff who transfer over will have to sign new contracts. The Councillor expressed further concern at the potential of losing highly skilled staff to other Local Authorities.

Councillor K Morgan stated that pre-scrutiny of this item would support Members gain a better understanding of the potential impact of the proposal, both positive and negative. She stated that the current care provided prevents hospital admissions and supports our older vulnerable residents maintain a quality of life. Given the objections to the proposals, she remained concerned. Without any in house home care provision and losing this infrastructure, she stated that the Council are risking leaving service users even more vulnerable should their needs not be met by private providers. She informed Members that she had been contacted by families whose needs had not been met since the discontinuation of the night home care service and needs are not being met because calls are earlier in the evening and individuals at end of life are being denied the choice to die at home because their needs cannot be met by RCT or private providers. She added that the report fails to consider any other options, except for privatisation of the service.

Councillor C Lises

Councillor Lises stated that Council procedures allow for proposals to be considered before a decision is taken on proposals that are brought forward by this Council. She continued that this approach has benefits such as enabling the involvement and consultation of key stakeholders so as to influence and improve the proposal. Those sitting on Scrutiny Committees can challenge assumptions, consider risks and benefits and assist in creating a more robust proposal. This process she added, is also transparent and gives all members of the public the opportunity to hold decision makers to account and importantly enables the voice of the public and staff to be heard. By following public participation procedures, decisions are properly considered by all and judged to be robust. At a previous meeting she referenced comments by an officer who stated that there needs to be a balance between what decisions should be considered by Scrutiny and that only key decisions would follow this process. She added that the Public Participation Strategy was subject to public consultation and pre-scrutiny, yet this proposal was not, despite the changes to social care being under review in March. Therefore, advance notice and opportunity for the matter to be discussed and included within the relevant Scrutiny Work Programme was available. The Councillor added that submitting a call in, after a decision has been taken should not take the place of being able to pre-scrutinise the decision, before it is taken. The Member did not agree that the report was comprehensive, with little detail on cost savings, and officers stating that savings should be made but no evidence of this. A key reason for the proposal is stated as sustainability but there is no information within the report as to how many of the staff want to transfer into new employment within the private sector. The Councillor added that the Chief Executive stated that he does not believe there will be a reduction in services, but if the staff do not choose to move across, what are the contingencies in place. The Councillor urged that the Council resist transferring the home care service to the private sector and reconsider the decision to retain the trust of its employees and residents

Councillor K Johnson

Councillor Johnson acknowledged the Council is facing significant budgetary pressures which will affect decisions about service changes. However when changes are made, they should be carried out with open consultation and only implemented if significant savings can be identified. The report states that one of the reasons to outsource the remaining 10% of Home Care Services is to achieve best value for the Council, however no clear cost projections are detailed in the proposals. He questioned how a cost saving could be made when the services will be externalised to non-charitable organisations. He continued that throughout the recent Cabinet meeting where Cabinet members asked questions, at no point were there cost savings identified. During the meeting there was also conflicting accounts of Trade Union engagement. He added that the

proposal before Members does not evidence any cost savings, or demonstrate how this will lead to a more efficient service. He continued that there were several key factors not modelled into the potential cost savings such as market pressures and additional costs following TUPE and staff pensions. The Councillor was concerned at the lack of prior consultation with staff, Trade Unions and partners and urged that this decision be re-considered before a final outcome is determined.

Mrs Wendy Gane

Mrs Gane stated that she has been receiving Home Care services for the last 12 years as she is affected with a chronic illness and cannot live without the support of the Council's highly trained and skilled staff. She added that service users and Trade Unions had not been consulted prior to this decision being taken which she felt was in breach of the Social Partnership Policy and was not in line with the Public Participation Strategy. She concluded that the carers had risked their lives working through the Covid-19 pandemic and this left them and the service users feeling upset and worried for their future.

Mr Peter Crews – Trade Union Representative

Mr Crews stated his concern at the lack of consultation with Trade Unions and Service Users and that they should have been engaged at an early stage to discuss potential options of reconfiguring the service to achieve efficiencies. He continued that the report lacks detail of efficiencies that will be achieved following this decision and added that the private sector follows the same regulations as the public sector regarding home care services. He urged Members to refer the decision back to Cabinet so they can reconsider the decision and request further information on how the proposal achieves the efficiencies.

Mr Craig Jones – Trade Union Representative

Mr Jones commented that the financial impact has been cited as one of the reasons for the proposal and that the most cost effective solution is to transfer the services to a private provider. He added that external providers still have the same costs and overheads that the Council has such as management costs and pensions. He urged Members to refer the decision back to the Cabinet to be reconsidered once they have received a better understanding of the cost savings identified.

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The Chairperson thanked all speakers for their submissions and invited the Director of Social Services to respond to the comments that had been made.

The Director of Social Services advised that Adult Services will continue to support people to be as independent as possible. The proposal will

support the delivery of better value and a more cost effective and sustainable service without reducing the availability of services provided. He continued by indicating that frontline care jobs will also be protected and TUPE will be applied to any newly commissioned providers.

The Director continued and fed back that Adult Services will ensure that any newly commissioned services will be delivered in new geographical zones to ensure the efficiency of the service and reduce travel time for staff, and that any new service will be provided on personal outcomes basis, rather than time and task. He continued by saying that the change will enable staff, who provide domiciliary care, to work more flexibly, to support individual needs and in doing so support a better quality of life for service users. By tailoring the care requirements to individual needs, he advised that there is evidence that it is possible to reduce the average time spent supporting each person, which will release capacity to support more people in the community. The Director of Social Services advised to mitigate risks to a potential change of care worker or provider due to the procurement exercise, TUPE will mean that eligible staff will transfer to a new provider and help to maintain stability for the individual and continuity of staff support during any the transfer of care package between providers. He also added that support will be offered to individuals and their families to support a smooth transfer of service and address any issues that may arise as was the case when the service was retendered previously. He continued that another risk to manage is increased demand and capacity across the sector which will be mitigated by ensuring that provision for surge capacity is built into the tender process with the approach and capacity scrutinised during this process. He advised that the Authority already works with the independent sector to meet demand based on assessed need and risk and that the capacity of long-term home care will not be reduced and the changes will resulting an increase in capacity that will help us to better deal with the increase in demand in the future. He continued that an Equality Impact assessment (EIA) had been completed which sets out the potential impacts of the proposal on people with protected characteristics along with actions to ensure that their assessed care needs can continue to be met and any negative impact mitigated. He reassured that before any contract is awarded, the service will engage with all affected individuals and their families to address any concerns or questions they may have and the EIA will updated to include any further mitigated risks identified during ongoing engagement activity.. The Director concluded that it was his view that the positive impacts, outweigh the negative impacts, all of which can be mitigated.

The Chairperson invited the Cabinet Member for Social Services to address the Committee.

The Cabinet Member stated that the officer proposals seek to respond to the ever increasing demand for long term home care and address issues of capacity experienced by all providers. The revised approach seeks to obtain a sustainable model that does not reduce the availability of the

service, but rather improve the experience for home care workers and service users. The new approach will support people to continue to be as independent as possible. He continued that it is important to note that the Council currently delivers a small percentage of the long-term home care provision in Rhondda Cynon Tada and the changes proposed will see the remaining 10% transfer to external providers. The Cabinet Member acknowledged that this is a difficult decision and is aware of the concerns that had been raised which he was satisfied had been addressed. He continued that the Council will continue to deliver re-ablement care services in-house and it was the remaining 10% of home care services that the proposals relate. He concluded that he was satisfied with the advice and information Cabinet had received but the financial pressures they are facing meant that difficult decisions had to be made. He was reassured that no compulsory redundancies would take place and staff would TUPE under existing terms and conditions.

The Chair invited the Deputy Leader, Councillor M Webber, to address the Committee.

The Deputy Leader thanked Members for the opportunity to address the Committee and reassured them that all comments and concerns were taken into account by Cabinet before any decision was made. She continued that decisions are taken by a robust and transparent dialogue with colleagues and trade unions. In advance of the proposals being presented to staff the Deputy Leader advised that she met with the Trade Unions, along with the Leader of the Council and Council officers, to explain the rationale for the proposals which were acknowledged by the Trade Unions. She added that reassurance was provided in respect of TUPE for staff and how the next steps would be handled and, in addition, Cabinet also committed to no compulsory job losses as a result of the proposals. The Deputy Leader advised that the proposal does not see a change in the level of service provided to those in long term home care, as 90% of this service is already commissioned and provided by the independent sector; therefore this is not a change in service or policy, this is a tendering and procurement decision which has been presented based on the professional advice of the Director of Social Services.

The Chairperson invited the Service Director Finance and Improvement Services to address the Committee in relation to some of the comments raised about the financial impact of the proposals.

The Service Director Finance and Improvement Services commented that an evidence-based exercise had been undertaken to compare in-house hourly rates with that of the independent sector, to ensure like-for-like hourly rate information was included in the report for Cabinet's consideration. The Service Director went on to feedback that the Cabinet Report sets out the hourly rate differential between the in-house and independent sector, and when applied to the annual number of hours delivered through the in-house long term home care service, this equates to a starting point figure of £1.5M. The Service Director added that there

are currently a number of unknowns, such as the outcome of the retender process and how the independent sector responds to this and the impact of the new geographical zone approach, that make it difficult to project with certainty the financial implications. He noted in this regard that the outcome of the tender process would be built into the Council's medium term financial planning arrangements and would, in effect, represent cost avoidance on the likely basis of the social care budget increasing in future years.

The Chairperson thanked the officers and invited Members of the Overview and Scrutiny Committee to ask questions in relation to the Call-in.

A Member asked if the decision was referenced in the Work Programme and how might Scrutiny play a role in the future and how can scrutiny expect to be engaged in a matter of this nature in the future.

The Service Director Democratic Services and Communications advised that Democratic Services provide Members with as much notice as possible in Work Programmes so that a Member has sufficient opportunity to identify a matter for pre-scrutiny. The Service Director continued that the matter has been referenced within the published Work Programme for Cabinet which provides the opportunity for Scrutiny Committees to request pre-scrutiny of this matter of Cabinet business. Pre-scrutiny, can play an important role where the Council is considering a change in policy or a proposal which would see a change in service level to residents which Members have heard will not be the case in this proposal. He added that pre-scrutiny is one mechanism but there is also post-decision scrutiny where Members can challenge the implementation of a Cabinet decision, so a number of opportunities will remain open to Members.

A Member asked if the proposal utilises the independent sector to continue to provide 90% of the long-term home care service, would that require a Member decision.

The Service Director responded it would not be a decision for Members as this would be a retendering process that the Director of Social Services has delegated responsibility for and would take forward as an operational decision.

A Member asked how the proposed change makes such a fundamental difference to the efficiencies of the service and its outcomes.

The Director of Social Services advised that any new commissioned service will be delivered in new geographical zones, which will cut down on travel and time between calls, and support more efficient service delivery. He added that this will also enable resources to be better focussed in areas and help to improve staff recruitment and retention and service user outcomes.

The Chairperson of the Community Services Scrutiny Committee reassured Members that the Community Services Scrutiny Committee is regularly sighted on the challenges facing the Social Services Directorate and she was advised of this matter being brought forward and was also advised on how the Committee will be engaged in the matter in the future. She confirmed she was therefore satisfied that scrutiny around this proposal should not be an area of concern at this time.

A Member raised a number of concerns around the tendering process, TUPE, pensions, the efficiency savings and also why this decision was not considered a key decision when 200 staff are affected by the proposals.

The Director of Social Services replied that the tendering process would be managed in line with the delegated authority of the Director of Social Services, this includes awarding contracts in respect of Adult Services. The Director added that in this capacity, he has provided his professional opinion to the Cabinet in setting out the recommendations included in the report and noted that this included specific regard to the tendering process, and that other relevant officers will be involved to support the process, for example, the Council's Procurement Service. The Director of Human Resources added that TUPE protects terms and conditions of staff employment, including pensions, and it will remain in force for as long as it needs to be. The new provider could offer staff a new contract, but this is the decision of individual staff members if they wish to sign.

A Member asked what difference service users would notice as a result of any changes. The Director of Social Services advised that under the proposals the individual's care packages will be maintained and they will see no change to the level of care and support they receive. The Director went on to say that individuals will be offered support, where required, to ensure a smooth transition and indicated that the transition process will be supported by a dedicated team to provide a consistent and dedicated contact for individuals and their families.

A Member asked what the Authority's statutory responsibility is and will we continue to discharge these responsibilities under the current proposals. The Director of Social Services responded that the proposals will ensure that the assessed needs of individuals will continue to be met in line with the Council's statutory responsibilities.

A Member asked what the costs would be of bringing the service 100% back into the Authority as an in-house service. The Service Director Finance and Improvement Services fed back that the financial implication of this would be additional costs of £12.5M per year based on the current number of hours delivered by private providers. The Service Director added that in the context of the Council facing a budget gap over the next 3 years of £85M, this option was discounted from a financial perspective as unaffordable and not sustainable.

In response to concerns raised by a Member, the Director of Social Services reassured the Committee that a detailed exercise will be undertaken to ensure future service capacity of the in-house re-ablement and intermediate care service and commissioned long-term home care is aligned to meet demand and need. .

The Chair invited the signatory to the Call-In, Councillor K Morgan, to make a final address to the Committee.

Councillor Morgan emphasised that the volume of questions asked by Members demonstrated the requirement for further scrutiny on the matter and one which should, in her belief, have been subject to pre-scrutiny. The weight of public opinion that she had received, opposes the decision and therefore urged Members of the Overview and Scrutiny Committee to refer the matter back to Cabinet for re-consideration and to allow for a full public consultation.

The Chair undertook a roll-call to determine whether or not to refer the matter back to the decision maker for reconsideration.

Following consideration of the issues and in accordance with the Overview & Scrutiny Procedure Rules, it was **RESOLVED** that the matter not be referred back to Cabinet.

30 Urgent Business

None

31 CHAIRS REVIEW AND CLOSE

Mae'r ddogfen hon ar gael yn Gymraeg / This document is also available in Welsh

This meeting closed at 1.15 pm

**Councillor J Edwards
Chair.**