

SPECIAL CABINET MEETING – 26 MAY 2022

STATEMENTS FROM PUBLIC AND COUNCILLORS

1. Pam Richards (Protect our NHS BANES) – HCRG Contract Extension
2. Cllr Paul May – HCRG Contract Extension
3. Cllr Robin Moss – HCRG Contract Extension
4. Cllr Eleanor Jackson – HCRG Contract Extension

QUESTIONS AND ANSWERS - COUNCILLORS

M	01	Question from:	Cllr Joanna Wright
<p>It is not clear in the report how the costs for Option 3 are necessarily additional, as the ongoing costs have not been included in Option 1. Please can a detailed explanation of the costs in Option 1 and costs in Option 3 be given?</p>			
Answer from:			Cllr Alison Born
<p><i>To permit comparison with the other options, the options have been calculated for a 10-year period to 31st March 2027, 10 years being the longest contract term that would apply in the options. The costs in the options are the costs that could be incurred in that 10-year period. The costs in Option 1 are procurement fees which would be incurred during the 10-year period as re-procurement would commence prior to the end of the contract.</i></p> <p><i>The costs in Option 3 are the cumulative costs of insourcing adult social care services for the remaining 3 years, these would be incurred during the 10-year period over which the options are compared and include additional revenue budget costs for the council in applying salary inflation. The same costs are not included in Option 1 as, if they applied, they would be incurred after the 10-year time period being compared.</i></p>			
Supplementary Question			Cllr Joanna Wright
<p>The Council seems to be applying inflation costs to Option 3 to cover increased staffing costs and presumably rising fuel costs. As the HCRG contract for social care has a flat line budget these costs are not included. However, these costs have to be met somehow. It would appear that this has not been flagged as a high-risk factor and costed into your options appraisal.</p> <p>Can you explain how HCRG will fulfil the contract without cutbacks in services or requests for extra funding in the light of rising inflation?</p>			

Answer from:		Cllr Alison Born
<p><i>The response set out below was provided following the meeting.</i></p> <p><i>Option 3 costings reflect the costs of insourcing services and staff. The inflationary assumptions were applied consistently where relevant. The Council will treat HCRG Care Group no differently from any other provider/supplier and would consider varying the contract value where HCRG Care Group can demonstrate additional inflationary pressures as a result of the cost-of-living crisis.</i></p> <p><i>Through existing contract management processes commissioners will have oversight of any proposed changes to the delivery of services and requests from the provider for additional funding. No changes can be made to existing services or funding without agreement and funding approval of commissioners through the contract variation process.</i></p>		
M	02	Question from: Cllr Joanna Wright
<p>HCRG has no track record in providing care and has been essentially a staff procurement company. Can you give a full breakdown of what research has been undertaken to carry out a due diligence report to understand the trustworthiness of Twenty20 Capital, who are presently using the title HCRG in this contract?</p>		
Answer from:		Cllr Alison Born
<p><i>Twenty20 Capital are the new owners of HCRG Care Group. HCRG Care Group have delivered the B&NES locality contract for integrated health social care and public health services since April 2017 as HCRG Care Group is the same legal entity as Virgin Care Service Ltd following the issue of the change of control notice on 2nd December 2021. A full due diligence review was undertaken on the Council's behalf by BDO LLP. Please refer to section 4.2 of the report which covers the areas reviewed.</i></p>		
M	03	Question from: Cllr Joanna Wright
<p>The fastest way to make economies in business is to cut staff costs, therefore has a Performance Assessment been carried out in the six months since HCRG has operated this contract?</p>		

Answer from:		Cllr Alison Born
<p><i>Commissioners have governance structures in place for performance monitoring the contract. Since November 2021 HCRG Care Group have continued to meet their contractual obligations. At the Contract Quality & Performance Meetings (CQPM) HCRG Care Group deliver reports on performance of services, quality, and workforce. The next CQPM meeting is on 15th June 2022. Commissioners take regular reports to the Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel which covers workforce within the provider.</i></p>		
M	04	Question from:
		Cllr Joanna Wright
<p>I have been made aware of staff in IT being dismissed by HCRG in the last 6 months. How many staff have been made redundant during the six months and what is the rate of turnover of staff?</p>		
Answer from:		Cllr Alison Born
<p><i>HCRG Care Group have confirmed their response: As part of our 3-year business plan (22-25) we committed to a review of our corporate back-office scope and size to ensure that we could deliver things in the most efficient way, allowing us to invest in our strategy and in delivering our purpose. As an organisation providing services funded with a flat envelope (Council funded services) against a landscape of rising costs, it is important to seek ways to do things smarter, faster and more efficiently to remain sustainable. As part of this process, we delivered a reduction of less than 1% of roles from our national support functions (42 from 4500). No front line operational or clinical role was in scope. Our national turnover remains in line with the wider health sector c14% although our B&NES contract operates at around c12.5%. Recruitment and retention continue to be a high priority for us as an organisation. Of the 42 staff 5 staff linked to the South West region so not B&NES specific and not all posts full time. During the process a variety of options, including redundancy, were all individually discussed with staff and supported in best interests of individual.</i></p> <p><i>The Council does not comment on operational decisions taken by suppliers or providers relating to Council contracts.</i></p>		
M	05	Question from:
		Cllr Joanna Wright
<p>What legal clauses will be placed in any future contracts that the council creates that will ensure that a company is unable to sell on the</p>		

ownership of a contract to another company without first informing the council?

Answer from:

Cllr Alison Born

The contracts are by their nature, commercial and thus each party must agree the terms of the agreement, and as such it usually not possible to fetter the other party's commercial viability as they simply would not agree to such a term in the contract.

While it may be possible to include a clause in contracts that would allow one party to cancel or rescind the contract upon sale of the business, the reality of such a clause being included in a contract is that a consequence of this could be termination of the contract either effective immediately or within a short period. The result of this approach to contracting with local authorities is that in this event it would impact on the ability for the service to be delivered and the Council would then be left in breach of their statutory duties.

*If a contract is unfair or oppressive to one party in a way that suggests abuses during its formation, a court may find it unconscionable and refuse to enforce it. A contract is most likely to be found unconscionable if both **unfair bargaining and unfair substantive terms** are shown.*

Supplementary Question

Cllr Joanna Wright

Your answer to my question is very worrying. It is possible that Twenty20, as a private equity firm, with a stated aim of achieving 'significant returns in 2-5 years', might put pressure on their newly named subsidiary company HCRG to make savings in its operations, perhaps by reducing staff levels or removing other company assets and the fact that there is one way of preventing another takeover of the contract, could again expose the Council and its residents to the risk of disruption and additional costs. How do you propose to mitigate this risk and in particular reassure staff who may otherwise feel it is better to seek more secure employment elsewhere?

Answer from:

Cllr Alison Born

The response set out below was provided following the meeting:

Through existing contract management processes commissioners will have oversight of any proposed changes to the delivery of services

and requests from the provider for additional funding. No changes can be made to existing services or funding without agreement and funding approval of commissioners through the contract variation process.

M	06	Question from:	Cllr Joanna Wright
----------	-----------	-----------------------	--------------------

What actions will the council be taking in the next few months and years that will allow for the creation of a forward looking, service oriented and service user friendly health and social care contract?

Answer from:	Cllr Alison Born
---------------------	------------------

The system in which B&NES and BSW CCG operates is rapidly changing due to the Health and Care Act. BSW CCG will close down on 30th June 2022 and the Integrated Care Board will come into operation on 1st July 2022.

The development of the integrated care system provides an opportunity to take a more strategic approach to community services. This would encompass working with providers across the system to bring forward and build upon the innovations that will be needed to create a sustainable health and social care model for the future.

B&NES and BCW CCG are committed as joint commissioners to the planning and development of a future community services delivery model that is innovative and delivers the services required by the B&NES population.

M	07	Question from:	Cllr Joanna Wright
----------	-----------	-----------------------	--------------------

Who were the team responsible for the options appraisal?

Answer from:	Cllr Alison Born
---------------------	------------------

The options appraisal was led on behalf of B&NES and BSW CCG by the Council's Head of Strategic Procurement & Commissioning and the Head of Contracting & Performance. From a B&NES perspective project oversight has been provided by the Chief Operating Officer and Director of Adult Social Care. The project was supported by BDO LLP (supply chain risk) and Bevan Brittan LLP (legal).

M	08	Question from:	Cllr Joanna Wright
<p>The way that Virgin Care allowed HCRG to take over a publicly paid for service has angered many residents in our community. What actions will the Council be taking so that public money that is paying for this contract can be properly scrutinised and that any and all profits made from these services is easily understood and this information is put in the public domain?</p>			
Answer from:			Cllr Alison Born
<p><i>Virgin Group made the commercial decision to sell Virgin Health Care. Virgin Care Services Ltd delivered the B&NES contract. Following the acquisition by Twenty20 Capital the name was changed to HCRG Care Group. HCRG Care Group is the same legal entity as Virgin Care Services Ltd following the issue of the change of control notice on 2nd December 2021 Since November 2021 HCRG Care Group have continued to meet their contractual obligations which have not changed. Commissioners will continue to monitor the financial performance through its existing contract monitoring structure and take regular reports to the Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel. Previous reports to the Panel have detailed the funding and financial performance of the contract.</i></p>			