

# BATH AND NORTH EAST SOMERSET

## SPECIAL CABINET

These minutes are draft until confirmed as a correct record at the next meeting.

Thursday, 26th May, 2022

### Present:

Councillor Kevin Guy (Ch)	Leader of the Council, Liberal Democrat Group Leader
Councillor Tim Ball	Cabinet Member for Planning and Licensing
Councillor Alison Born	Cabinet Member for Adult Services and Council House Building
Councillor Tom Davies	Cabinet Member for Adult Services and Council House Building
Councillor Manda Rigby	Cabinet Member for Transport
Councillor Dine Romero	Cabinet Member for Children and Young People, Communities
Councillor Richard Samuel	Deputy Council Leader (statutory) and Cabinet Member for Economic Development and Resources
Councillor David Wood	Cabinet Member for Neighbourhood Services

### 1 WELCOME AND INTRODUCTIONS

The Chair, Cllr Kevin Guy, welcomed everyone to the meeting.

### 2 EMERGENCY EVACUATION PROCEDURE

The Chair drew attention to the emergency evacuation procedure as set out in the agenda.

### 3 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Sarah Warren.

### 4 DECLARATIONS OF INTEREST

Cllr Tim Ball declared an interest regarding item 8 as his grandson uses the paediatric services provided by HCRG.

### 5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair stated that there was no urgent business, but that he wished to thank the dedicated HCRG teams for the excellent services they have continued to provide under the extreme pressure of the last two years. He praised the close working relationship between the Council and the CCG which would soon move to an Integrated Care System. He stated that, whilst the CCG decision relating to the HCRG contract had been made earlier in the evening, the Cabinet decision would be made entirely independently. He wished to reassure the public and service users that the collaborative relationship between the two organisations would continue.

## **6 QUESTIONS FROM PUBLIC AND COUNCILLORS**

There were eight questions from Councillors and no questions from members of the public.

Cllr Joanna Wright asked two supplementary questions relating to M1 and M5. Cllr Alison Born confirmed that responses would be provided within five working days of the meeting.

*[Copies of the questions and responses, including supplementary questions and responses if any, have been placed on the Minute book as Appendix 1 and are available on the Council's website.]*

## **7 STATEMENTS, DEPUTATIONS OR PETITIONS FROM PUBLIC OR COUNCILLORS**

The following members of the public and Councillors made statements regarding the HCRG contract extension:

- Pam Richards (Protect our NHS BANES) *[a copy of which is attached to the minutes as Appendix 2 and on the Council's website]*
- Councillor Paul May *[a copy of which is attached to the minutes as Appendix 3 and on the Council's website]*
- Councillor Robin Moss *[a copy of which is attached to the minutes as Appendix 4 and on the Council's website]*
- Councillor Eleanor Jackson (this statement was read out by Cllr Robin Moss as Cllr Jackson was unable to attend the meeting) *[a copy of which is attached to the minutes as Appendix 5 and on the Council's website]*

## **8 HCRG CARE GROUP OPTIONS APPRAISAL**

Cllr Vic Pritchard made a statement in his capacity as Chair of the Adults, Children, Health and Wellbeing PDS Panel. The statement covered the following issues:

- The role of scrutiny is very important in this process. Having discussed this matter at the Adult, Children, Health and Wellbeing PDS Panel no firm conclusion had been reached. There was a balance of views from Panel members between Options 1 and 3.
- Cllr Pritchard gave a brief outline of the background to the Virgin Care contract and highlighted the importance of this decision.
- He praised the excellent service that had been provided by Virgin Care and HCRG throughout the pandemic.

The Chair clarified that the Cabinet had decided to ask the PDS Panel to consider the HCRG contract options appraisal. He also noted that the statement presented by Cllr Pritchard appeared to be made in his capacity as Leader of the Conservative Group rather than as the Chair of the PDS Panel.

Cllr Alison Born, Cabinet Member for Adult Services and Council House Building, introduced the report and made the following statement:

“This Special Cabinet meeting has been called to determine the future of the community health and care services contract. These services were provided by Sirona, a local Community Interest Company until 2017 when a seven plus three-year contract was jointly awarded to Virgin Care by B&NES CCG and Council. The first seven-year period of the contract comes to an end in March 2024 and Commissioners were required to decide whether or not to exercise the three-year extension by March 2022.

An options appraisal process took place during 2021 and in November, both the CCG and the Council took the decision to exercise the three-year extension. This decision was based on the fact that services provided by Virgin Care were generally good, they were seen as a trusted partner, and it was felt that the extension would offer certainty and continuity at a time of great stress and upheaval across the health and care system.

However, within three weeks of this decision being made, Commissioners were informed that Virgin Care had been sold to a private equity group Twenty:20 capital and was being re-branded as HCRG. This was totally unexpected as the Commissioners had been given no prior indication that Virgin Care was for sale. It brought the decision regarding the contract extension into question. HCRG were informed that the extension would be placed on hold whilst commissioners initiated a due diligence process and obtained legal advice. In February 2022, HCRG agreed to an extension of the deadline for exercising the option until the end of June 2022.

A further Option Appraisal has been undertaken, taking into account the change of ownership and the circumstances for that change. Four options were considered and two have been discounted, the two that remain are:

Option 1 – To extend for a further three years

Option 3 – To allow the contract to end with no extension beyond 31 March 2024

There are advantages and disadvantages to either of the options under consideration and it is a finely balanced decision. Officers have recommended Option 1 (that is extending the contract for a further 3 years) on the assumption that it contains the financial and operational risks, it minimises disruption to service provision and allows existing relationships to continue. However, they also recognise that the potential disadvantages of Option 1 include risks relating to the provider selling the business on again without the Commissioners' prior knowledge and reduced flexibility and control.

The remaining option still under consideration is Option 3 (that is allowing the contract to end with no extension beyond 31 March 2024). Officers recognise that this offers the opportunity to align contracts with neighbouring providers; to bring in-house adult social care; to give commissioners greater flexibility to adapt community services to changing needs and priorities (including the potential for greater integration or re-commissioning these services at scale); to streamline IT services (enabling better access to data) and to increase workforce security at a time of significant skills and labour shortages.

Officers identify the potential disadvantages of Option 3 to include, concerns about the scale of activity required within the next 21 months to determine the new service model and to transfer staff and services; with the potential impacts on operational services, on key relationships and on the costs of service provision.

In the paper, the financial implications of the two options look markedly different but Option 1 only includes the estimated costs of the procurement process, necessary to determine provision at the end of the 10-year term of the contract. Any additional costs would be borne outside of the 10-year period so have not been quantified, but they would be significant.

By contrast, Option 3 provides the opportunity to explore bringing services in house with one off mobilisation costs, to determine the new service model and to manage the transition, which would be incurred over a three-year period from 2022 to 2025. Plus, the estimated costs (due to additional pay and pension liabilities) of bringing social care staff back in house; these operational costs would be incurred from 2024-2027 and are estimated to equate to less than one million pounds per year. There would be no procurement costs to the Council for option 3 as social care services would be taken in-house and the services would not be re-procured.

Additional staffing costs would undoubtedly apply at the end of the contract period in Option 1, but they would be bought forward by three years in Option 3. It is also worth noting that the Option 3 figures set out in the paper are estimates before any actions are taken to mitigate. Councillor Samuel will be providing more information on the resource implications when he speaks on this matter.

As the risks and benefits between the two options appear to be so finely balanced, it is important to determine which option is more likely to support the development of innovative community health and social care services that are both robust and agile and are capable of responding to the unprecedented post pandemic demand for services, the challenging workforce environment and the requirements and opportunities of the new Health and Care Act.

My sense is that the partnership needed to deliver this service transformation must be open and transparent with high levels of trust between all parties and providers must be able to respond quickly and flexibly to new ways of working.

I am concerned that a provider that is operating under a contract determined pre-pandemic and which we now know (from the totally unexpected sale of Virgin Care) is compelled to withhold commercially sensitive information and cannot be totally open and transparent, will have limitations. I am also concerned that there is nothing to stop the new owner of HCRG from selling the service on again, so the expectation of continuity afforded by Option 1 may well not be delivered and we could face more disruption in the near future, regardless of whether or not the contract is extended.

It is essential that local community health and care services are of high quality, that they meet the needs of our local communities, and that public money is safeguarded for the provision of front-line services. Disruption caused by changes to provider services is very difficult for both staff and service users and does not support effective service delivery. We are incredibly grateful to our community health and

care staff who have worked throughout the pandemic in the most challenging of circumstances.

While Option 1 appears attractive in the short term, I believe that the certainty provided by Option 3, with the opportunity to bring our social care staff in-house, will provide them with greater security and will support the development of services equipped to address the evolving needs of our residents. I also understand that the anticipated costs can be managed and that there may be advantages in starting the transition away from the current flat cash contract at an earlier stage. I move, therefore that Cabinet supports Option 3.”

Cllr Richard Samuel, Cabinet Member for Economic Development and Resources, seconded the motion and made the following statement:

“In seconding the recommendation to approve Option 3 just moved by Cllr Born I want to focus on the financial aspects of this decision as it goes without saying that the ultimate test of success of this service is the quality of service to residents and the context in which that service operates.

When this contract was let by the Conservatives in 2016 it was, even by their standards at that time, an unusual contract. The contract took on services previously provided, as we’ve heard, by the Council’s own arms-length provider Sirona who were a not-for-profit social enterprise. Cllr Pritchard, the lead Cabinet member at the time, decided that the contract should be awarded to Virgin Care, for the reasons he’s explained earlier.

The unusual features of this contract were that the Council component of the shared contract with the CCG was a flat cash contract. This means since its commencement in 2017 that Virgin were required to absorb annual cost rises without receiving any extra payment. Effectively this meant they were required to make savings every year to keep pace with inflationary pressures.

Now from the Council’s perspective of course this was great news. A major service would see no year-on-year cost increase linked to Consumer Price Index movements and that has been the case for the past five years. However, there’s no such thing as a free lunch. When this contract comes to an end, whenever that is, and a new service is procured then the Council can expect to see a hike in costs reflecting the movement of prices over the years of the contract. So, in other words, the full impact of the flat cash contract would be felt at the end of the contract, whether that’s seven years or ten years.

To expand on that point, you need to think about the context. In 2015/16 inflation was low, the labour force was boosted by the presence of EU workers, a number of whom have now left, and social care pressures were growing but they were still contained. In 2022 the polar opposite applies. The labour force has shrunk due to Brexit, inflation is rampant due to the government’s failure to control it, tax rates are their highest for decades and social care pressures are now increasingly unsustainable. The government’s own solution for this has been limp, to say the least.

Against this background the 2016 decision to award this contract looks, unusually, both inept and clever at the same time. Inept because it bequeathed an unsustainable pressure to future Council administrations and fortuitous because it

handed the Tories short term savings, to counter the fact that they were losing control of the Council's finances in 2016/17 and needed to find cash from anywhere they could.

Turning to the financial in this report. In table 5.1 we can see that Option 1 effectively defers the expected movement in costs, that I think several speakers have referred to, until 2026/27 and does clearly save the Council money in the short term; whereas Option 3 brings the increase in costs forward but does have the advantage that were services returned in house in 2024 the Council could build these adverse movements into its budget planning.

The Cabinet should also note the £7.8m set out in the table is, as Cllr Born has said, the unmitigated figure, were the Council to take no action to seek to reduce these modelled costs and it's also a three-year cumulative figure – in other words you divide it by three to get the annual pressure. That annual cost pressure is significant, but it is entirely manageable – the Council of course is unlikely to do nothing and will deal with the pressures against the background of wider budget preparation.

So, my preference is for the Council to plan for a return of these services to direct management in 2024 and that financial and service preparations begin immediately for the repatriation of these services. This enables the Council to reassert control of costs and is aside from any discussions about service configuration which will no doubt take place with health colleagues. I have established that funding exists to establish a transition team and in the event that the Cabinet vote for Option 3, I would like officers to immediately establish such a team and report progress to the September meeting of the Cabinet.

Chair, I have considered the options in this report very carefully and although a ten-year contract may have appeared to be advantageous at the time it was let, that no longer appears a prudent decision. The ever-widening gap between service cost and contract income does inevitably mean that the necessity for any provider to make further future economies will inevitably tend to make services to residents less resilient. I therefore favour Option 3 so that we can begin to prepare as soon as possible.”

Cllr Ball noted that the contract is building up a cost for the future. It is important that services are able to react quickly to changing circumstances and that the Council works closely with its partners. He confirmed his support for Option 3.

Cllr Romero thanked all the HCRG staff for the excellent service they have provide throughout the pandemic. She also confirmed her support for Option 3 for the reasons outlined by Cllrs Born and Samuel in terms of service and financial delivery.

Cllr Davis also thanked officers, Cabinet colleagues, the CCG and professional advisors for the hard work they have undertaken in respect of this contract. The due diligence process that has been carried out since the Council became aware of the change of ownership has been very thorough and professional. Whilst both options contain some element of risk, a range of mitigations can be put in place. Cllr Davis felt that, on balance, Option 3 represents less risk than Option 1. There are opportunities available with Option 3 and the Council would have greater control and he supported this option with both confidence and optimism. He noted that there were just under two years to prepare for the transition and noted that this process would be well resourced and planned going forward.

Cllrs Wood and Rigby both thanked officers for their hard work and, having listened to the debate, expressed their support for Option 3.

**RESOLVED** (unanimously):

- (1) To allow the contract to end with no contract extension beyond 31 March 2024.
- (2) To delegate to Suzanne Westhead, Director Adult Social Care (DASS), in consultation with Cllr Alison Born, Cabinet Member for Adult Services, authority to proceed with the agreed option and to undertake any appropriate risk mitigation.

The meeting ended at 7.15 pm

Chair \_\_\_\_\_

Date Confirmed and Signed \_\_\_\_\_

**Prepared by Democratic Services**