



# Doncaster Council

## Report

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Date: 4<sup>th</sup> June 2019

### THE CHAIR AND MEMBERS OF CABINET

#### REPORT TITLE Day Opportunities for People with Learning Disabilities and Highly Complex Needs

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Cllr Rachael Blake	All	Yes

### 1. EXECUTIVE SUMMARY

- 1.1 On 4<sup>th</sup> September 2018, Cabinet approved an initiative to transform residential care services provided by Rotherham, Doncaster and South Humber (NHS) Foundation Trust (RDASH) from a Residential to a Supported Living Model to enable people with Learning Disabilities to live a life with greater independence and greater choice.
- 1.2 A formal tender process has been undertaken and in March 2019, Walsingham Support were awarded the contract to provide Supported Living Services to individuals currently living in the nine RDASH residential care homes. This contract is due to commence on the 1<sup>st</sup> July 2019 and Walsingham Support is working positively with residents, families and staff to support the transition from residential care to supported living.
- 1.3 The September Cabinet report also set out that the provision of day services provided by RDASH at the Solar Centre would be reviewed and a further report submitted to Cabinet regarding the future provision of day opportunities at the Solar Centre.
- 1.4 The purpose of this report is to set out proposals regarding the use of the Solar Centre from the end of June 2019, when the current contractual arrangement with RDASH for the provision of day opportunities at the Solar Centre is due to expire.
- 1.5 The SOLAR Centre is a day centre for individuals with a learning disability, some have complex physical disabilities or behaviours that challenge, some individuals also have health needs associated with ageing.

- 1.6 Since July 2017, the number of people attending the Solar Centre has declined by 14 people, predominantly due to alternative provision being identified. In addition referrals from the Council has declined (one in the last 12 months), whereas the CCG advise that the number of people with assessed health care needs who require building based day opportunities has not declined.
- 1.7 19 of the current 43 individuals attending the Solar Centre live in the RDASH Residential homes which are transforming to supported living. Many of these will not need a building based service and Walsingham Support will need a transition period to allow sufficient time to work with individuals/their families/advocates to develop their day opportunities offer. It is likely that this period will be up to nine months to ensure continuity of day opportunities for individuals over the transition period.
- 1.8 At the end of the transition period, it is anticipated that there will be a remaining cohort of approximately 20 individuals (needing a building based service to meet their complex needs), eight individuals have health related needs (CCG responsibility), eight individuals have social care needs (remain the responsibility of the Council) and four individuals have both health and social care needs (will require joint funding).
- 1.9 The Council currently commissions RDASH to provide day opportunities at the Solar Centre on behalf of the Council and the CCG. However, as the CCG has statutory responsibility for the planning and commissioning of health services, the Council propose to transfer funding to the CCG to enable the CCG to commission building based day opportunities on behalf of itself and the Council.

## **2. EXEMPT REPORT**

- 2.1 No

## **3. RECOMMENDATIONS**

- 3.1. For Cabinet to:-
- Delegate authority to agree and sign off a 3 year Section 76 Agreement from 1<sup>st</sup> January 2020, between the Council and the CCG, to the Director of People, or nominated Deputy, in consultation with the Cabinet member for Adult Social Care. The S76 Agreement is the legal mechanism to facilitate the transfer of funds from the Council to the CCG for the provision of day opportunities provided at the Solar Centre for those individuals with an assessed social care need.
  - Note the contract extension of the current arrangements with the Solar Centre for a further period of up to nine months (to 31<sup>st</sup> March 2020) to provide continuity of day opportunities for individuals transitioning from RDASH residential care to supported living.

#### **4. WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

##### **4.1. Doncaster Council and the CCG :-**

- Hold the principle that people with the most complex needs have the same rights as other people.
- Are committed to developing services that are person centred, giving people who use services, as much choice and control as possible about the services and support they receive.
- Are committed to service developments based on assessed needs of the people who will use them. Individuals who require building based day opportunities will continue to receive services and support without disruption to their care provision.

#### **5. BACKGROUND**

- 5.1. The Council currently commissions residential care and day opportunities for individuals with profound learning disabilities and complex needs and behaviours that challenge from RDASH. The day opportunities are provided at the Solar Centre which is owned by RDASH under contractual arrangements.
- 5.2 On 4<sup>th</sup> September 2018, Cabinet approved an initiative to transform residential care services provided by Rotherham, Doncaster and South Humber (NHS) Foundation Trust (RDASH) from a residential to a Supported Living Model to enable people with Learning Disabilities to live a life with greater independence and greater choice.
- 5.3 Reviews of the residents living in the RDASH Residential Care Homes and consultation with families concluded, in the majority of cases, it is in the individuals best interests to remain in their current accommodation with their needs better met and life opportunities enhanced through supported living.
- 5.4 This accords with a key principle agreed by all partners that people with the most complex needs have the same rights as other people; to live in a home of their own and be an active part of their local community. There are already many people with complex needs living safely in supported accommodation in Doncaster with good outcomes being achieved.
- 5.5 Transformation of the RDASH Residential Care Homes will increase citizenship and the extent to which people with more complex needs are active members of their communities and have greater choice and control. Services they receive will be based on need and aspiration
- 5.6 A formal tender process has been undertaken and in March 2019, Walsingham Support were awarded the contract to provide Supported Living Services to the individuals currently living in the RDASH residential care homes. This contract is due to commence on the 1<sup>st</sup> July 2019 and Walsingham Support is working positively with residents, families and staff to support the transition from residential care to supported living.
- 5.7 The September Cabinet report also set out that the provision of day services provided by RDASH at the Solar Centre would be reviewed and a further report submitted to Cabinet regarding the future provision of day opportunities at the Solar Centre.

- 5.8 The purpose of this report is to set out proposals regarding the use of the Solar Centre from the end of June 2019, when the current contractual arrangement with the Solar Centre is due to expire.
- 5.9 During January and February 2019, a review of the assessed needs of people attending the Solar Centre was undertaken by Care Management Social Workers, Continuing Health Care team and Section 117 Nurse from RDASH. Assessments included Assessment of health needs, Care Act and Best interest assessments (where required).
- 5.10 The reviews focussed on individuals who were identified as potentially needing continued access to a building based day opportunity service post implementation of the new supported living contract with Walsingham Support.
- 5.11 The needs assessments were reviewed in collaboration with the individual's family members and/or advocate and supporting health and social care professionals.
- 5.12 Alongside the review, a range of potential options for day opportunities were also explored including soft market testing, development of in house provision, re-commission of the Solar Centre Service.
- 5.13 The outcome of the review and the exploration of options concluded that:-
- Individuals who use the Solar Centre, value it highly,
  - A small number of people will continue to need a building based service to meet their highly complex needs,
  - Alternative day opportunities which better meets the needs of individual should be made available where this has been expressed as a preference by the individual, their family member and or their advocate.
  - The future demand for a building based day service is likely to be health, rather than social care related.
- 5.14 The service provided at Solar Centre will be further developed, with a refresh of the Service Specification, to ensure that the people of Doncaster continue to receive services that are needs and strengths based and enable them to achieve their potential outcomes.
- 5.15 There are 43 individuals attending the Solar Centre during the day, 19 individuals live in RDASH residential homes, 16 live with family and 8 individuals live in other residential accommodation. The individuals all have a learning disability, some have complex physical disabilities or behaviours that challenge, some individuals also have health needs associated with ageing.
- 5.16 The number of people attending the Solar Centre has declined by 14 people since July 2017. The Council has made one referral to the Solar Centre in the past 12 months, which shows that there is a declining number of people with assessed social care needs requiring Solar Centre day care provision. On the other hand, the CCG, has indicated that the number of people with

assessed health care needs who require building based day opportunities has not declined over the past 12 months.

- 5.17 The Council in partnership with the CCG are committed to move to a position where services are more personalised, which means giving people who use services as much choice and control as possible about the services and support they receive. A clear strategic aim for the Council and the CCG is to increase choice, control and independence about the day opportunities individuals choose to receive to improve life outcomes and wherever possible to enable alternative day opportunities for individuals in community settings closer to where people live
- 5.18 Of the 43 individuals attending the Solar Centre, those individuals who do not need a building based service and who reside in Walsingham homes or other residential accommodation will either access day opportunities provided by Walsingham Support or in their community setting. It is recognised that Walsingham will need a transition period to allow sufficient time for them to work with individuals/their families/advocates to develop their day opportunities offer i.e. for those individuals whose preference is to access alternative day opportunities outside of the Solar Centre arrangements. It is proposed that this period should be up to nine months to ensure that we provide continuity of day opportunities for individuals over the transition period.
- 5.19 At the end of the nine months, it is anticipated that there will be a remaining cohort of approximately 20 individuals (assessed as needing a building based service to meet their complex needs), eight individuals have health related care needs, where the CCG is responsible for commissioning healthcare services their behalf, eight individuals have social care needs and remain the responsibility of the Council and four individuals have both health and social care needs and will require joint funding by the Council and the CCG.
- 5.20 The Council currently commissions RDASH to provide day opportunities at the Solar Centre on behalf of the Council and the CCG. However, as the CCG has statutory responsibility for the planning and commissioning of health services, the Council propose to transfer funding to the CCG to enable the CCG to commission building based day opportunities on behalf of itself and the Council.
- 5.21 The new arrangements will be under a 3 year legal Agreement (known as a Section 76 Agreement) under a joint service specification, i.e. recognising that the Council has a diminishing need to commission building based day opportunities for individuals with social care needs and enabling the CCG to continue to provide building based day opportunities to support individuals with complex health care needs.

## **6. FINANCIAL ARRANGEMENTS**

- 6.1. The budget for the Solar Centre provision in 2019/20 is £604,600.
- 6.2. The cost to the Council will reduce as overall numbers of attendees and sessions continue to decline.

- 6.3. Once the S76 is in place, council will fund the service for people with social care assessed and the CCG will fund the day opportunities for those people with assessed health needs through the contract extension period onwards.

## **7. OPTIONS APPRAISAL**

- 8.1 The transformation of Residential Services, coupled with recent needs review of people attending the Solar Centre Service has identified that currently circa twenty people with learning disabilities, complex needs and behaviours that challenge, will continue to need access to a building based day service that:
- a) Provides a range of specialist resources to meet the complex health, behavioural, personal and social care needs of this group of people
  - b) Meets the therapeutic and health needs of this group of people
  - c) Is outcomes based
  - d) Integrates with the wider community day opportunities

## **8. OPTIONS EXPLORED AND CONSIDERED**

- 8.1 During 2018, a range of potential options for day opportunities was explored including soft market testing, development of in house provision, re-commissioning of the Solar Service.
- 8.2 The exploration of options was undertaken in recognition of:-
- The majority of the individuals assessed needs are health related. The CCG is responsible for the planning and commissioning of healthcare services for the local area and is supportive, in fulfilling this function of taking the lead commissioning role for the provision of day care services at the Solar Centre.
  - Future demand for a building based day service is likely to be health rather than social care related
  - Individuals who use the Solar Centre service value it very highly,

## **9. RECOMMENDED OPTION**

- 9.1. Based on the review of the options explored as referred to in paragraph 8, it is recommended that the Council enter into a Section 76 Agreement (as set out in paragraph 3) with the CCG on the basis that this approach:-
- a) Is consistent with the identified needs and choices of the individuals, recognising that the majority of individuals have health based needs
  - b) promotes Doncaster's aspirations to jointly commissioning services as set out in the new Health and Social Care Joint Commissioning Strategy
  - c) Is legally compliant with the NHS Act 2006 (2013 Directions) and does not breach EU procurement legislation
  - d) Is supported by both the CCG and RDASH

## 10. IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	<p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>	<p>This proposals will enable people to have more choice about how they spend their day opportunities.</p>
	<p><b>Doncaster Living:</b> Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> <li>• The town centres are the beating heart of Doncaster</li> <li>• More people can live in a good quality, affordable home</li> <li>• Healthy and Vibrant Communities through Physical Activity and Sport</li> <li>• Everyone takes responsibility for keeping Doncaster Clean</li> <li>• Building on our cultural, artistic and sporting heritage</li> </ul>	<p>Ensures the services are viable and sustainable for the future for younger people coming through transitions with similar needs</p>
	<p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>	<p>This proposal will enable people to have more choice about how they spend their day and have more fulfilling lives with greater levels of opportunities for of independence.</p>

	<p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own homes</li> </ul>	<p>This proposal will enable continuity of quality of care for people with profound complex needs and behaviours that challenge whilst supporting and creating opportunities for greater independence.</p>
	<p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul>	<p>This proposal will ensure a more modern model of service delivery, and will enable the Council/CCG to ensure that future services provide value for money and that they align to the personalisation agenda.</p>

## 11. RISKS AND ASSUMPTIONS OF PREFERRED OPTION

### 11.1 Risks

There is a risk of failure to agree the Section 76 with the CCG or the CCG fail to agree the contract with RDASH for day care provision at the Solar Centre. The Council is currently working with the CCG and RDASH to agree both contracts

### 11.2 Assumptions

- a) That the attendance of the individuals will remain stable and consistent in the long term.
- b) It is anticipated that any future increase in demand will be led by Health, whilst Social Care needs will likely diminish over time as other day opportunity options are identified and explored).

## 12. LEGAL IMPLICATIONS [Officer Initials PC Date 08.05.19]

12.1. Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do.

12.2. The Care Act 2014 sets out the Council's duties in relation to assessing the



need for care and support of service users within its area.

- 12.3. A Letter of Agreement has been put in place with RDaSH to regulate the current service.
- 12.4. Section 76 of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012 and the National Health Service (Conditions Relating to Payments by Local Authorities to NHS Bodies) Directions 2013 permits a local authority to make payments to a Clinical Commissioning Group towards expenditure incurred or to be incurred by that body in connection with the performance by it of prescribed functions.
- 12.5. Doncaster Clinical Commissioning Group is responsible for the planning and commissioning of healthcare services for the local area and is supportive, in fulfilling this function of taking the lead commissioning role for the provision of day care services at the Solar Centre.
- 12.6. Legal Services to be consulted over the drafting of the section 76 Agreement which should incorporate an obligation on the CCG to only use the monies for the stated purpose and provide a power for the Council to take part in contract monitoring and reviews of the service.
- 12.7. Legal Services to also be consulted over extending the Letter of Agreement until such time as a section 76 Agreement can be put in place.
- 12.8. The decision maker (cabinet) must be aware of their obligations under the public sector equality duty ("PSED") in s149 of the Equality Act 2010. It requires public authorities when exercising their functions to have due regard to the need to eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not.
- 12.9. As the decision maker, Cabinet must ensure that they have seen the due regard statement. The duty must be exercised in substance, with rigour, and with an open mind. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider which includes budgetary pressures, economics and practical factors that affect the delivery of the service.

### **13. FINANCIAL IMPLICATIONS [Officer Initials...CE Date...08/05/2019**

- 13.1. The annual cost of the current block contract for the Solar Centre is £656k, which takes account of an agreed £85k reduction applied in 2018/19 due to changes in demand / activity levels.
- 13.2. The Council meets the full cost of this contract; the Doncaster CCG doesn't currently make contributions towards it, The total annual budget held to meet the cost of this contract is £605k. The Council is therefore currently absorbing a cost pressure of circa £51k per annum (based on 2018/19 contract value).

- 13.3. The current contract for the Solar Centre is due to end on 30<sup>th</sup> June 2019. An extension is to be agreed with RDaSH for a further nine months, to allow for continuity of service until a section 76 agreement takes effect. A cost reduction (value still to be agreed) for the Council should be achieved as part of the contract extension due to a decrease in attendance levels of social care clients, but also as a result of the CCG paying their share of the contract cost from 1<sup>st</sup> July 2019; this will help to bring the costs for the Council under budget and so will immediately begin contributing towards the savings targets for Day Opportunities.
- 13.4. Following the review of Service Users' needs, a costing exercise was undertaken to estimate the future cost of specialist building based day opportunities for the 20 individuals who will still require this type of provision in the long term. This exercise considered the current attendance data as well as the current Continuing Health Care (CHC) status of each individual, and applied a sessional cost derived by RDaSH (which the AHWB Commissioning Team judged to be competitive based on the available market test data).
- 13.5. The conclusions drawn from the exercise was that the future provision would cost in the region of £568k per annum. Please note; this figure is underpinned by numerous assumptions, including:
- a) The cost per session being a fair reflection of the true cost of the provision described
  - b) The attendance of the individuals remaining stable and consistent in the long term;
  - c) Doesn't take into account any potential growth / decline in client numbers for these services (it is anticipated that any future increase in demand will be led by Health, whilst Social Care needs will likely diminish over time as other day opportunity options are identified and explored).
- 13.6. The majority share of the estimated cost would relate to Health needs, which the Doncaster CCG would meet following the transfer of the Lead Commissioning role from the Council to the CCG under a section 76 agreement (as per the preferred option specified in this report). The estimated cost share for the CCG is £293k p.a.; the Council would meet the remaining cost of £275k p.a. Any future change to the CHC status of an individual would alter the apportionment of the contract costs.

#### **14. HUMAN RESOURCES IMPLICATIONS [Officer Initials BT Date 08/04/19]**

- 14.1. There are no obvious HR implications as a result of the proposed option to transfer of the lead commissioning of these services currently provided by Doncaster Council to the Doncaster CCG

#### **15. TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 04/04/19]**

- 15.1. There are no anticipated technology implications in relation to this report.

**16. HEALTH IMPLICATIONS [Officer Initials...HC.....Date 09/04/19]**

16.1. The approach should improve and protect health and reduce inequalities, as the preferred option will promote maximum independence and asset based support, whilst still catering for small numbers of people who need a traditional building based model of care. Decision makers will want to be aware of impact of the current approach, and how measuring could be strengthened, including the cost-effectiveness of the approach and any opportunity costs.

**17. EQUALITY IMPLICATIONS [Officer Initials..... Date.....]**

17.1 See Legal Implications Section.

**18. CONSULTATION**

18.1. Throughout 2018/9 Doncaster Council, has undertaken a comprehensive consultation and review of the needs, preferences and best interests of the people using the Solar Centre and their families.

18.2. The consultation, as part of the wider review of RDASH Residential services, included agreed communications from RDASH, Doncaster CCG and Doncaster Council, to the individuals, their families and advocates; and individual consultations undertaken by Social Workers and the wider Multidisciplinary team supporting those clients.

18.3. Staff and service users of the Solar Centre were asked for their views on the benefits, limitations and potential developments of the Solar Centre, with a particular focus on the views of clients and their families and / or advocates.

18.4. 55 clients and their families, and /or advocates where appropriate, were consulted, including:

- 24 people living in RDASH Residential Care Homes
- 16 people living with their family
- 15 people living in the community / other residential care.

18.5. The consultation identified that the majority of people who use the service:

- Value the Solar Centre as it offers a caring and supportive environment for people with Learning Disabilities and a wide range of health and care needs.
- The Building offers specialist resources to meet the needs of a specific group of people with highly complex and challenging needs.
- Value the service as a safe and reliable service that enables them peace of mind, while offering day care respite services for their family member.
- Families and the multidisciplinary team identified that there is a defined group of people with highly complex needs and behaviours that challenge, who will continue to need the Solar Centre or alternative building based day service, to ensure their needs will continue to be met.

- 8 families recognise the potential need for further development of Day Care Services and expressed their interest to participate in any future developments.

## **19. BACKGROUND PAPERS**

4<sup>th</sup> September Cabinet Report titled Transformation of residential care services for people with learning disabilities, provided by Rotherham, Doncaster and South Humber NHS Foundation Trust

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