



**Brighton & Hove
City Council**

**SPECIAL POLICY & RESOURCES
COMMITTEE
ADDENDUM**

6.00PM, WEDNESDAY, 4 NOVEMBER 2015

THE RONUK HALL, PORTSLADE TOWN HALL

ADDENDUM

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	<i>Contact Officer: Karin Divall</i>	<i>Tel: 29-4478</i>
	<i>Ward Affected: All Wards</i>	

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FINANCIAL MATTERS

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	<i>Contact Officer: Karin Divall</i>	<i>Tel: 29-4478</i>
	<i>Ward Affected: All Wards</i>	

Subject:	Financial Position Update		
Date of Meeting:	4 November 2015		
Report of:	Executive Director of Finance & Resources		
Contact Officer:	Name:	Nigel Manvell	Tel: 29-3104
	Email:	nigel.manvell@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 are that information on measures to address the Month 6 2015/16 financial position were still being collated and finalised.

1 SUMMARY AND POLICY CONTEXT:

- 1.1 Targeted Budget Monitoring (TBM) reports during the early part of the financial year indicated a high forecast overspend risk. While the forecast has improved since month 2 (May), as at month 5 (August) there remained a substantial forecast overspend. This report provides an interim update of the forecast financial position for the General Fund as at month 6 (September).
- 1.2 Month 5 (August) indicated a substantial forecast risk of £7.658m due to continuing and growing pressures across Adults and Children's social care budgets together with increased homelessness costs. As at month 6 (September) the position has improved to £4.751m following a robust review of forecasts across all services which have incorporated the impact of tougher financial controls on recruitment, procurement and spending. This report sets out measures to manage the remaining in-year overspend risk as well as managing ongoing pressures and links to decisions requested elsewhere on this agenda to address underlying issues in Adult Social Care.

2 RECOMMENDATIONS:

It is recommended that the Policy & Resources Committee:

- 2.1 Note the forecast risk position for the General Fund as at month 6 (September), which indicates a budget pressure of £4.751m. This consists of £4.259m on council controlled budgets and £0.492m on the council's share of NHS managed Section 75 services.
- 2.2 Note the improvement targets for each service which must be achieved in full to enable the authority to achieve break-even on its General Fund budget.
- 2.3 Agree the proposals and measures set out in the report and authorise officers to take all steps necessary or incidental to the implementation of the proposals.

3 CONTEXT/BACKGROUND INFORMATION:

General Fund Revenue Budget Performance

3.1 The table below shows an interim forecast outturn for council controlled revenue budgets within the General Fund as at Month 6 (September 2015).

Forecast Variance Month 5 £'000	Directorate	2015/16 Budget Month 6 £'000	Forecast Outturn Month 6 £'000	Forecast Variance Month 6 £'000	Forecast Variance Month 6 %
3,263	Children's Services	55,323	58,045	2,722	4.9%
4,473	Adult Services	60,564	64,467	3,903	6.4%
736	Environment, Development & Housing	37,020	37,310	290	0.8%
(103)	Assistant Chief Executive	15,399	15,252	(147)	-1.0%
(45)	Public Health (incl. Community Safety & Public Protection)	5,114	5,008	(106)	-2.1%
(611)	Finance, Resources & Law	29,493	28,256	(1,237)	-4.2%
7,713	Sub Total	202,913	208,338	5,425	2.7%
(510)	Corporate Budgets	6,376	5,210	(1,166)	-18.3%
7,203	Total Council Controlled Budgets	209,289	213,548	4,259	2.0%

3.2 The General Fund includes general council services, corporate budgets and central support services. Corporate budgets include centrally held provisions and budgets (e.g. insurance). General Fund services are accounted for separately to the Housing Revenue Account (Council Housing). The position shows a significant improvement of £2.944m since month 5 as a result of recovery plan actions and stricter recruitment and spending controls introduced during the year as detailed in paragraph 6.1.

NHS Managed S75 Partnership Performance

3.3 The NHS Trust-managed Section 75 Services represent those services for which local NHS Trusts act as the Host Provider under Section 75 Agreements. Services are managed by Sussex Partnership Foundation Trust (SPFT) and Sussex Community NHS Trust (SCT) and include health and social care services for Adult Mental Health, Older People Mental Health, Substance Misuse, AIDS/HIV, Intermediate Care and Community Equipment.

3.4 These partnerships are subject to separate annual risk-sharing arrangements and the monitoring of financial performance is the responsibility of the respective host NHS Trust providers. Risk-sharing arrangements can result in financial implications for the council should a partnership be underspent or overspent at year-end and hence the performance of the partnerships is reported as a memorandum item under TBM throughout the year. The position as at month 6 is as follows:

Forecast Variance Month 5 £'000		2015/16 Budget Month 6 £'000	Forecast Outturn Month 6 £'000	Forecast Variance Month 6 £'000	Forecast Variance Month 6 %
455	Section 75 NHS Trust managed S75 Services	11,555	12,047	492	4.3%

- 3.5 Due to the short turnaround time for this Special Policy & Resources report, this interim report does not provide the usual appendices containing detailed explanations of variances which will be provided in the next scheduled full TBM report (month 7) for the December Policy & Resources Committee.

Managing the 2015/16 Forecast Overspend

- 3.6 The overspend risk of £4.751m as at month 6 must be addressed and therefore all services have been tasked with improving their forecast position further to achieve break-even. The contribution to an improved position has been determined on a pro rata share of the relative size of service budgets. Based on information from services the following improvement targets have been agreed with the Executive Leadership Team on behalf of all services:

Directorate	Forecast Variance Month 6 £'000	Improvement Target £'000	Revised Outturn Variance £'000
Children's Services	2,722	(987)	1,735
Adult Services	3,903	(1,631)	2,272
Environment, Development & Housing	290	(826)	(536)
Assistant Chief Executive	(147)	(349)	(496)
Public Health (incl. Community Safety & Public Protection)	(106)	(217)	(323)
Finance, Resources & Law	(1,237)	(741)	(1,978)
Corporate Budgets	(1,166)	0	(1,166)
NHS Trust managed S75 Services *	492	0	492
Total General Fund	4,751	(4,751)	0

* No improvement target has been set for S75 arrangements but this overspend risk will continue to be challenged and will form part of funding discussions with health partners.

- 3.7 Many of the measures identified to meet these improvement targets are of a one-off nature and include measures such as:
- Further savings from vacancies;
 - Further controls on agency/sessional work usage;
 - Further one-off funding from other sources where this can be appropriately deployed e.g. Dedicated Schools Grant;
 - The release of one-off Care Act funding and funding discussions with health partners;

- Further restrictions on supplies & services and training budgets;
- Temporary suspensions of planned and reactive property maintenance;
- Deferral of the ICT desktop replacement programme.

- 3.8 Some of these measures and the ongoing work across adults and children's services to manage demands (see below) carry significant risk of non-achievement and therefore the corporate risk provision of £1.62m has been held back in order to address any shortfall on improvement targets alongside covering other forecast risks and/or under-achievement of savings as normal. The key risk however is that these measures will not address all of the underlying service pressures that have emerged this year and which would therefore place next year's budget at greater risk, particularly in the context of a predicted budget gap of £25m as reported to the July Policy & Resources meeting.
- 3.9 The position clearly demonstrates that the council's financial situation needs to be considered on a longer term basis in order to achieve financial sustainability over the next Comprehensive Spending Review period to 2019/20. The external auditor's Audit Results Report for 2014/15¹ also expressed their view that the council has "not yet made sufficient progress in identifying the actions necessary to demonstrate its ability to secure a stable financial position over the medium term". The auditor therefore issued a conditional opinion concluding that the council has in place arrangements for securing economy, efficiency and effectiveness in the use of its resources 'except for' arrangements for securing financial resilience. The importance of the budget process approved by Policy & Resources Committee in July adopting a 4-year budget strategy supported by 4-year Integrated Service & Financial Plans is therefore re-enforced. However, it is also clear that action needs to be taken now in many areas to address underlying pressures and this is continuing as described below.

Managing Underlying Service Pressures

Children's Services:

- 3.10 There continues to be increased pressure on the children's social care system both within Brighton and Hove and nationally. The number of children who are on Child Protection Plans has increased in line with a 13% rise in referrals leading to assessment; in addition, a small number of young people have required very expensive interventions and placements as a consequence of concerns such as child sexual exploitation. Action has been undertaken to ensure there is effective demand management and that thresholds are met before intervention is considered and that everything has been done to prevent the need for a child to enter the care system. Over recent months there has been a significant reduction in the number of children in care. The actions that the directorate has been taking includes:
- a) A senior officer panel which scrutinises all referrals to ensure evidence based interventions have been attempted to address risk and enable a child to remain within their own family. The panel also monitors and agrees all children who may require care placements. A systematic review of high cost placements is also being undertaken;
 - b) Re-design of the service to address any issue that prevents timely and robust decision-making that may result in further harm through delays. Improving the process can thereby reduce further costs of supporting children in care (CIC) and achieve improved outcomes for the child by

¹ Ernst & Young (EY) Audit Results Report for the year ended 31 March 2015 reported to the Audit & Standards Committee meeting on 22 September 2015

- identifying children which evidence suggests should be taken in care earlier. Consultation on the service design is complete and implementation of the restructure took place in October 2015;
- c) All IFA (Independent Fostering Agency) and residential placements have been reviewed to ensure that they are in the only appropriate accommodation available. An ongoing process has been established for the effective recruitment of 'in-house' foster placements to meet a wide range of needs. Advisers have been commissioned and work is underway to increase the market share of placements from 50% to 65-85%. In order to continue to encourage Residence Order (RO) and Special Guardianship Order (SGO) applicants to offer homes to children there is a need to match the family and friends rate to make this financially viable for carers as this is a cheaper option than foster care as well as a better outcome for the children matched to these carers.
 - d) Exit from care – to ensure that those children/young people who will be safe returning home are enabled to do so; an external audit has been undertaken to review all possible cases;
 - e) A first business case has been submitted and a final business case will soon be submitted for an Adolescent Service to establish alternatives to care for very vulnerable teenagers to reduce CIC and expensive placements (residential and secure) and improve outcomes for young people.
 - f) There are also a range of in-year financial reviews and re-designs across the whole of Children's Services, including reviews of services funded through the Dedicated Schools Grant to reduce expenditure. The directorate is currently consulting on a reduction to the Early Years Partnership Service as a discrete team with a view to support for early years being provided through the Surestart Service.

Adults Services:

- 3.11 The funding of all packages is closely scrutinised to ensure they are cost-effective relative to assessed need and this forms a key part of the savings implementation plan. Adult Services are also using benchmarking information to support the driving down of unit costs but are faced with increased complexity and demand. Through regional and other social care networks we have been looking at best practice in delivering cost effective services in order to influence future direction.
- 3.12 Where practicable, savings plans for 2016/17 are being brought forward to deliver a part year effect in the current financial year. This includes working towards the recalibration of the Resource Allocation System (RAS)² by increasing the savings against personal budgets by an additional 3% for the remainder of the financial year, making better use of community assets alongside a more personalised approach, and opportunities for service redesign within provider services.
- 3.13 The direction of travel for Adult Social Care was recently agreed at the Health & Wellbeing Board in October 2015 and will underpin the development of a 4-year Integrated Service & Financial Planning Strategy. The key drivers for change include the Care Act 2014, which centres on personalisation and giving people more choice and control; the Better Care programme and integration of health and social care; and the challenging financial context and savings of £7.140m this year

² The Resource Allocation System (RAS) is a mechanism for reliably and fairly calculating the amount of funding that should be made available to meet different types of assessed social care needs.

with further savings of around £20m over the next 4 years based on a pro rata share of the predicted budget gaps.

- 3.14 In order to meet these challenges recommendations were made regarding the future delivery of in-house adult social care provision, which has high unit costs. This includes ceasing to provide services in-house where good quality services can be provided more cost effectively by others, subject to appropriate consultation and approval. Health & Wellbeing Board agreed that the service should review with people using services and their families whether their support plans could be provided in a more personalised and cost effective way.
- 3.15 The financial pressures in Adult Social Care include significant unachieved savings from previous years and in-year pressures, alongside the need to deliver further savings as part of the 4-year financial strategy. Therefore, in order to achieve financial sustainability it is recommended that steps are taken now to bring forward plans in order that full year savings can be delivered in 2016/17. The proposal is that consultations on the closure and re-provision of the learning disability accommodation services and Tower House day service should commence as set out in separate reports on this agenda.
- 3.16 It is also proposed that the changes required to deliver the 4-year financial planning strategy in the Independence at Home homecare service are brought forward. This means that consultation with staff and partners will commence to re-design this service to achieve the unachieved savings in 2015/16 and contribute to savings in future years by carrying out a single restructure that delivers a better value for money service. This will avoid carrying out a necessary in-year re-design and then further re-designs in future years.

Environment, Development & Housing:

- 3.17 The main pressure in this area relates to the ongoing need to spot-purchase expensive bed and breakfast accommodation. This reflects growing homelessness and the difficulty of securing affordable private rented homes in the city to meet the council's statutory housing obligations in a period of rapidly rising house and private rent prices. Although 100 new leased properties have been procured it will take some months before these are all available. Other landlords with fewer properties are also being approached with a view to expanding the leased property portfolio. The service is also working with Public Health and Adult Social Care to streamline mental health interventions linked to homelessness.
- 3.18 Across the directorate income generating opportunities are being explored, including commercial opportunities, and fees and charges are being reviewed to ensure full cost recovery as in the case of pre-application advice charges for large scale developments which have recently been increased to reflect the true cost of the service. The devolution initiative is also being pursued to support economic regeneration across the city region and potentially draw in further structure funding. This can benefit the council's revenue position both directly and indirectly through, for example, business rate growth and reduced demands for intervention services.

Public Health:

- 3.19 Public Health funding can be used to support a wide range of preventative activities and services that help to reduce cost pressures in other council services such as social care and therefore further cost reductions in this area can free up funding to support other initiatives. The service will therefore continue to keep under review the wide range of contracted services and look for opportunities to improve value for money across commissioned services wherever possible.

Assistant Chief Executive and Finance & Resources and Law:

- 3.20 These services continue to explore alternative delivery options through Modernisation Programmes, for example, the Support Function Review previously reported to this committee and the potential development of a cultural trust to manage the long term future of the Royal Pavilion and Museums. Library Services have already begun service transformation and will continue to develop new ways of delivering the service. There is also a continued focus on income generation across culture, tourism and venues, and city services (life events). Finance & Resources and Law also provide professional enabling support and capacity to the council's Modernisation Programmes, including Value for Money programmes, which will also contribute to efficiencies and economies now and in the future. The Corporate Landlord function will continue to look for opportunities to maximise income or receipts from property assets and to reduce and rationalise the maintenance and running cost of the council's estate.

Investing in Change

- 3.21 Supporting change over the 4-year planning period is likely to require significant investment in order to implement and bring about re-design and changes in models of service delivery. Recognising this, Policy & Resources Committee recently approved £6m investment in the council's digital services programme (Customer First in a Digital Age), but there will be a need to provide a range of project and professional expertise and capacity to support Modernisation Programmes including alternative delivery models, co-operative service developments, and development of a commercial strategy. There will also be a need to provide additional Restructure & Redundancy funds to facilitate service redesign and restructuring and there may be a need for one-off resources to support the lead-in time of savings that cannot be implemented for a full year (i.e. funding for part-year effects). Consideration of investment requirements will be brought to Policy & Resources Committee in December and February alongside 4-year budget proposals.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS:

- 4.1 The forecast outturn position on council controlled budgets is an overspend of £4.259m. In addition, the council's share of the forecast overspend on NHS managed Section 75 services is £0.492m. Any overspend at the year end would need to be funded from general reserves which would then need to be replenished in future years to ensure that the working balance did not remain below £9.000m. Any underspend would release one-off resources that can be used to aid the budget position for 2016/17 or later years.

5 COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 No specific consultation has been undertaken in relation to this report.

6 CONCLUSION AND COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE & RESOURCES (\$151 OFFICER)

- 6.1 TBM reports are now regularly reported to the cross-party Budget Review Group along with recovery plan updates. The TBM reports for the intervening months, since month 2 was reported to Policy & Resources Committee in July, had indicated a general improvement each month but the forecast risk remained substantial. The Executive Leadership Team (ELT) therefore introduced tighter financial controls across the entire organisation as a further measure to mitigate the forecast risk, including:

- A vacancy/recruitment freeze with limited exceptions;
- Restrictions on the use of agency staffing;
- Limitations on all non-essential spending (e.g. stationery, travel, printing and supplies) with lower authorisation levels;
- Reviews of all new contracts including contract extensions and variations;
- Strict controls on spending on consultancy or interims;
- Increased scrutiny of all social care placements and care packages.

6.2 The effect of these measures has now been incorporated into TBM month 6 as far as practicably possible. This has improved the position but even after this, there remains a substantial forecast overspend risk of £4.751m including S75 partnerships. The report sets out agreed improvement targets to address the in-year position but it should be noted that these are largely one-off in nature and that work on addressing underlying pressures is equally as important. Note also that corporate risk provisions will continue to be held centrally to mitigate against any shortfall in achievement of further savings and recovery actions in 2015/16.

7 FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The financial implications are covered in the main body of the report.

Finance Officer Consulted: James Hengeveld

Date: 27/10/2015

Legal Implications:

7.2 Decisions taken in relation to the budget must enable the council to observe its legal duty to achieve best value by securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The council must also comply with its general fiduciary duties to its council tax payers by acting with financial prudence, and bear in mind the reserve powers of the Secretary of State under the Local Government Act 1999 to limit council tax & precepts.

The proposals in the report are consistent with the Council's powers and duties, including the duty of best value and the need to deliver services within the budget framework agreed by Council. The implementation of proposals that impact on services need to be subject to appropriate consultation and equalities impact assessment where required.

Lawyer Consulted: Elizabeth Culbert

Date: 28/10/2015

Equalities Implications:

7.3 There are no direct equalities implications arising from this report. However, as noted in the legal implications, the implementation of measures to address the in-year financial position that impact on services must be subject to equality impact assessment where required.

Sustainability Implications:

- 7.4 There are no direct sustainability implications arising from this report. However, as noted in the report, resolving the in-year position and addressing underlying demand pressures is critical to the long term financial sustainability of the council alongside the development of longer term (4-year) service and financial plans as part of the budget process.

Risk and Opportunity Management Implications:

- 7.5 The Council's revenue budget and Medium Term Financial Strategy contain risk provisions to accommodate emergency spending, even out cash flow movements and/or meet exceptional items. The council maintains a recommended minimum working balance of £9.000m to mitigate these risks. The council also maintains other general and earmarked reserves and contingencies to cover specific project or contractual risks and commitments. A corporate risk provision of £1.620m is held to mitigate in-year financial risks, including any underachievement of approved savings.

SUPPORTING DOCUMENTATION

Appendices:

None.

Documents in Members' Rooms:

None.

Background Documents:

None.

Subject:	Brighton Open Market CIC Loan Request		
Date of Meeting:	4 November 2015		
Report of:	Executive Director Environment, Development & Housing		
Contact Officer:	Name:	Richard Davies	Tel: 29-6825
	Email:	Richard.davies@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended) are that discussions with the CIC directors were ongoing and the report could not be finalised in time for the agenda deadline.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The Brighton Open Market reopened in June 2014 following redevelopment and provides 45 permanent stalls and a market square for temporary stalls, visiting markets and community events. There are approximately 100 jobs at the market as well as 12 workshops at first floor level and it is a key element in the regeneration of the London Road town centre.
- 1.2 The Brighton Open Market Community Interest Company ("CIC") was incorporated by the project partners to take ownership and manage the new market. Establishing the new market has been challenging and it is now experiencing cashflow difficulties. The CIC has drafted a Recovery Plan to continue trading and keep open the market, and this plan is underpinned by a request to the council of a loan of £61,000 to address the cashflow difficulties until it moves into profit.

2. RECOMMENDATIONS:

- 2.1 That the Committee agree to make available a loan of £61,000 to the Brighton Open Market CIC to allow it to continue trading and implement its Recovery Plan as discussed below in paragraphs 4.4 and 4.8 and attached at Appendix 1.
- 2.2 That the Committee grant delegated authority to the Executive Director Environment, Development & Housing and Executive Director Finance & Resources to agree the Recovery Plan with Brighton Open Market CIC prior to releasing the requested loan and authorises the Head of Legal Services to complete all of the required documentation.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The council has been working closely for a number of years with the CIC to build and establish the Open Market on London Road. As part of a community asset transfer initiative, the CIC was established by the project partners, including the market traders, the council, The Hyde Group and Ethical Property Company (“EPC”), to take ownership and manage the new market, which opened in June 2014. An important outcome of the project was contributing to the regeneration of London Road and the market now provides a new shopping destination and employment opportunities for local businesses and market traders.
- 3.2 There are currently 7 directors on the CIC board including the nominated directors of the council (1), Hyde (1), EPC (1) and the market traders (3), and one independent director. There can be a maximum of 11 directors.
- 3.3 The CIC appointed EPC as managing agents for the market in advance of the re-opening in June 2014.
- 3.4 When the market opened the CIC did not have sufficient cashflow to support start-up costs and the initial two year period of establishing the business and moving into profit. Ethical Property Company offered initial financial support by way of a deferred repayment loan to cover these early years. While there has been good take up of permanent market stalls, higher than predicted business rates and lower than expected take up of temporary stalls within the market square have combined to delay the market moving into profit and a further two to three year period is forecast to be required.
- 3.5 In July 2015, EPC reported to the CIC board that lack of cashflow was an issue and if not remedied could lead to the CIC becoming insolvent.
- 3.6 Officers have met with CIC directors to discuss possible support. The CIC has now produced a draft Recovery Plan (appended at Appendix 1) for agreement with the council, which includes a request for £61,000 loan funding required by the CIC to remain solvent and continue trading to the end of this financial year.
- 3.7 If the market were to fail and close due to the insolvency of the CIC it would jeopardise approximately 100 local jobs directly at the market.
- 3.8 The CIC board has struggled to attract independent directors with the range of expertise that would benefit the market and the CIC’s Recovery Plan acknowledges this and notes that greater efforts will be needed to remedy this. If the Committee were to agree to the loan, the council would require the implementation of the Recovery Plan including the strengthening of governance, providing the council with a regular monitoring report and seeking independent expert advice to provide a health check for the market operation.
- 3.9 The council’s Economic Development Team are also proposing to develop a city-wide markets strategy. The number of requests to stage ad-hoc / temporary markets in different parts of Brighton & Hove has increased dramatically over recent years. As the number of requests have risen it has become clear that the current system for the approval or rejection of requests could be improved and could also support channelling markets into the Open Market square.

- 3.10 There is a need to support the Open Market by encouraging greater levels of take up of the temporary market space and attract more footfall to the area. A clear market strategy and agreed process for approving markets will enable the council to help protect the market from the competition that can be created when temporary markets open up in close proximity.
- 3.11 A decision on whether to offer a loan to the CIC was deferred by this Committee on 15 October 2015 and a further report requested. This report addressed issues which led to the deferral.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 EPC, as managing agents of the market, produced a cashflow forecast for the CIC board of directors that showed the level of urgent cash support needed by the CIC to operate for the rest of this financial year as £61,000. If no progress is made by the CIC on the measures to increase income and reduce operating costs as set out in the Recovery Plan by April 2016, then the cashflow projection is that the CIC will require a further £29,000 for 2016-17 and £30,000 for 2017-18 before it moves into profit. If progress is made then these amounts can be expected to reduce. As a new business, the CIC has been obliged to cover start up and early operating costs to establish the market as a going concern without having sufficient cashflow available.
- 4.2 The CIC directors called an urgent board meeting on 21 September 2015 where they agreed unanimously to request a loan from the council for £61,000. Seven directors were present including the three market trader directors and those nominated by the council, Hyde and EPC, and one independent director.
- 4.3 The CIC adjourned AGM took place on the 26th October and discussed the need for a loan. Initially traders had expressed concern that their rents would be increased to pay for the additional loan. However, the CIC would be responsible for repayment of the loan and not the individual traders and from the financial information available to officers the CIC is not intending to increase stall rents other than to account for inflation. Stall rents can only be increased at licence renewal and currently the length of individual licences are for either 1, 3 or 5 years

Recovery Plan

- 4.4 The loan request underpins the CIC's Recovery Plan (attached at Appendix 1), in that it allows time to implement other measures to reduce running costs, increase income and strengthen governance, the details of which are proposed to be agreed with officers. The Recovery Plan aims to improve the CIC's trading position and thereby secure the future viability of the market. This is considered achievable and represents a reasonable risk when seen against the benefits of maintaining the market operation.
- 4.5 Without this loan the CIC is likely to become insolvent within the next two months with the risk that the market will close.

- 4.6 The full cost of the Open market business rates for 2015/16 includes £31,059 for the temporary market stalls, £5,880 for the market office and £3,552 for the public toilets. This is approximately £30,000 per annum above the market business plan forecast, which assumed that business rates costs would remain at a comparable level to the pre-redevelopment rates. The Recovery Plan includes an action to appeal this valuation of the temporary market stalls to the Valuation office Agency.
- 4.7 EPC has also applied to the council for discretionary non-domestic rates relief. In certain limited situations, hardship relief can be granted to ratepayers. The council has agreed that exceptional circumstances apply in this case and that the conditions are met for some temporary help with hardship relief. The charge will be reduced to zero for the period October 15 to March 16. This is worth £15,530 (for the main liability of the temporary stalls), around half of which is funded by central government and the other half by the Local Authority. The Business Rates team has stressed that this is exceptional, based on the merits of the individual case. Further, they say that the award is conditional upon the Recovery Plan resulting in an ability to pay the rates from April 2016. One of the requirements for Hardship Relief is that making an award is in the interests of local Council Tax payers, and it would not be in their interest if there is no likelihood of recovery, and therefore self-sufficiency, in the near future.
- 4.8 Other measures in the Recovery Plan include:
- seeking to vary lease and planning conditions that would allow deliveries, and therefore visiting markets, on Sundays;
 - more focus on providing themed visiting markets during the week to increase footfall and revenue;
 - signage strategy to increase market visibility;
 - the CIC to review the current offer and how well it meets the needs of local people;
 - EPC to review staffing, management fees and operating costs and report to the CIC of its plan to reduce costs;
 - the CIC Board to review existing management contract with EPC;
 - the CIC Board to enact the recruitment of new independent directors;
 - the CIC along with the council to seek support from appropriate consultants to inform future operation of the market; and
 - the CIC to increase community engagement events and activities.

Option A Loan

- 4.9 Making a loan to the CIC is the recommended option. Other options available to the council include;

Option B Do Nothing

- 4.10 Do nothing. In considering the existing information available, this would result in the CIC becoming insolvent within the next two months. The likelihood is that the market would be forced to close as soon as this happens as if the CIC were to

continue trading once insolvent then the CIC directors would become liable for the CIC debts. The CIC's mortgage is approximately £1million and is secured against the market. Triodos Bank, the mortgager, would then decide the market's future and consider whether to sell the market to recoup the mortgage loan.

Option C Exercise Step In Rights

- 4.11 If the CIC becomes insolvent, the council has two routes for step in rights, either to take ownership of the market or to replace Triodos Bank.
- i. The former would involve the council buying the market from the CIC at full market value. Surveyors confirmed the valuation of the market as £2.5m in June 2014 to support the CIC mortgage application. Therefore, the council would have to pay off the mortgage of approximately £1.0 million and pay the CIC the remaining amount when taking into consideration the current market value.
 - ii. The Intercreditor Deed entered into by the council with Triodos Bank and the CIC, provides that the council can step into the shoes of the bank by curing the payment default, which could entail paying off the mortgage of approximately £1M. The council will then be in an ongoing position to decide how it wishes to enforce the security, which would not necessarily entail the ongoing involvement of the CIC as the Option Agreement it has with the CIC provides that the council may require that the property is transferred to another community interest company, albeit subject to the current stallholder arrangements.
- 4.12 If either step in approach were taken then the council may consider;
- i. retaining the CIC to continue to manage the market or seek a different management arrangement with the CIC or another similar organisation. This could be on a temporary basis or until an alternative solution is put in place; or
 - ii. contract out the management of the market to a suitably experienced and proven market operator. The council does not have the capacity or in house experience and expertise to manage and operate the market.

Option D Assignment of Lease

- 4.13 The council may also seek to nominate a similar company to the CIC to take ownership, which would involve assignment of the lease of the market.. This would involve finding an existing CIC or charity to step in and take on the CIC's liabilities, subject to agreement of Triodos Bank, the CIC's mortgager and Hyde as landlord.

Option E Renegotiation

- 4.14 Seek a revised joint approach or arrangement with the project partners to share liabilities and risk. This would however take time and may not lead to a satisfactory outcome.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council has engaged and met with CIC directors to seek to agree a Recovery Plan, as described in this report, and this dialogue will continue. The requested loan was discussed by the CIC members and market traders at its

AGM on 26 October 2015 and the initial report from the Chair is that this was generally accepted as necessary.

- 5.2 Officers have also initiated internal discussions to explore options and other support that may be available to the CIC, such as business rates relief.

6. CONCLUSION

- 6.1 The CIC is in the early stages of its operation as a new business. If the immediate cashflow problems can be addressed by way of the requested loan there is the opportunity to implement the Recovery Plan and improve the financial position of the CIC and the long term future of the market.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The terms of the requested loan from the council are proposed as a two year repayment deferral. Interest will be charged at the Council's average rate of borrowing, which is currently 4.6%. The loan would be repaid over a three-year period after the two year deferral. In June 2014, the CIC member and managing agent of the market, EPC, gave the CIC an unsecured loan of £50,000 to provide cashflow and enable the market to open on completion of the building works. To date, EPC has not sought repayment of this loan.
- 7.2 In the event that the Recovery Plan is unsuccessful or insufficient it is likely that further cash injections may be required for 2016/17 and 2017/18 of up to £29,000 and £30,000 respectively. The Council will need regular updates and reviews on the progress of the recovery plan during 2016/17 before considering any further course of financial support. Any proposals for further loans from the Council will need approval at P&R Committee.
- 7.3 In the event that the Recovery Plan fails the Council has two routes for step in rights i) to take ownership of the market or ii) to replace Triodos Bank. In order to take ownership of the market the Council will need to buy the market from the CIC at full market value. The value of the market has been estimated at up to £2.5m. The Council will therefore need to pay off the £1.0m mortgage and also pay the CIC the remaining market value of the Open Market. To replace Triodos Bank the Council will need to pay all outstanding liabilities for the remaining £1.0m mortgage. In both cases the Council would need to then consider how to take the market forward. No funding has been identified within the Council's capital strategy if this event were to occur.
- 7.4 Should the 'do nothing' option be followed the CIC will become insolvent. In the event that the Council decides to not take either step in options the market will likely be sold to meet the outstanding mortgage with Triodos Bank.

Finance Officer Consulted: Rob Allen

Date: 26/10/15

Legal Implications:

- 7.5 Should the CIC fail the council has two routes for step in rights, either to take ownership of the market or to replace Triodos Bank as explained at paragraph 4.11.
- 7.6 The options appraisal above notes that the council may consider retaining the CIC to continue to manage the market or seek a different management arrangement with the CIC or another similar organisation.
- 7.7 The preferred option, which is state aid compliant, is to loan the money to the CIC on the basis set out above.
- 7.8 In the interests of transparency officers have put the proposed loan arrangements in the public domain, by way of this report. The required documentation referred to in paragraph 2.2, includes revisions to the sub lease of the market, Triodos consent to the council loan, the form of the loan arrangement and any linked documentation.

Lawyer Consulted:

Bob Bruce

Date: 28/20/15

Equalities Implications:

- 7.9 An Equality Impact Assessment was carried out for the redevelopment of the site when the council approved the scheme. The operation and management of the market is now the responsibility of the CIC. The market provides an accessible retail destination that benefits from excellent public transport links.

Sustainability Implications:

- 7.10 The reopening of the new market on London Road offered considerable social and economic benefits including; a retail outlet for local and regional products and affordable fresh produce that is well served by public transport; a social meeting place that promotes interaction and community cohesion; opportunities for local employment and small business start-ups; and the market's role in promoting and supporting the future of London Road as a town centre and shopping destination.

Any Other Significant Implications:

- 7.11 The key risk is the closure of the Open Market following the insolvency of the CIC if the current cashflow issues are not addressed. If the immediate problem of the cashflow is remedied by way of a loan from the council, then the risk would be that the CIC is unable to increase income and decrease costs and require a further loan to continue trading after April 2016.

SUPPORTING DOCUMENTATION

Appendices

1. Recovery Plan for Brighton Open Market – Draft Summary

A Recovery Plan for Brighton Open Market - Draft

Summary

The clear issues for the Market as it stands include the following:

1. Cashflow shortage
2. Limited weekend operations
3. Insufficient footfall
4. Mismatch between offer and local demographics
5. Unsustainable business rates burden on the plaza
6. Greater efficiency required from management
7. CIC Board weakness
8. Community Engagement

A Recovery Plan will need to address these issues. The development of a recovery plan will need to be carried out very quickly but at the same time garner the support of all the stakeholders in the Market.

It is proposed that a revised cashflow projection is provided as part of this loan request process. However, this cannot be achieved by today, if it is to be of any value. EPC will draft some figures on behalf of the CIC **by 22nd September**.

1. Cashflow shortage

Cashflow is now the critical factor. Without a cash injection the CIC will run out of cash in October. The Directors have a responsibility to ensure that the CIC does not trade in a knowingly insolvent position.

All initial business planning under-estimated the need for cash during the developmental phase of the market. With hindsight the borrowing for the market should have factored this in and loan repayments should not have begun as early in the market's life. All businesses need to have adequate cash reserves in place to see them through the early stages of development.

Once the building was complete, the market could only open because Ethical Property provided an unsecured loan of £50,000 for this purpose. This was offered on a one year basis but the CIC has been unable to pay back any of this sum, which has not proved sufficient to underpin the early stages of business development.

A further injection of cash is vital if the CIC is to survive the current cashflow shortage and for this reason the Council is considering a loan to the CIC to provide this.

If a further cash injection is not provided it is almost certain that the CIC will go into liquidation.

Action 1.1: CIC to request that the Council consider a loan of £61,000 to address the cashflow shortage of the CIC based on a Recovery Plan.

2. Limited weekend operations

The original business planning significantly over-estimated the potential weekday temporary stall business that the market would generate in its development period. Experience has demonstrated that temporary stall based income is largely confined to

weekends. The loading restrictions in the underlease and the planning regulations for the market make Sunday events very difficult. Market promoters will not book events when loading and unloading are unrealistically restrained.

Incremental relaxation on restrictions to weekend trading embodied in the underlease and the planning permission are fundamental to the achievement of a sustainable market. Traders and the public clearly support Sunday opening but a focus on Sunday business would be likely to result in a regular weekday closure to ensure traders' working conditions are reasonable.

Action 2.1: CIC to continue to work with Hyde to seek workable solutions to the conditions of the underlease.

Action 2.2: CIC to submit an application for amendment of planning restrictions by end of November 2015.

3. Insufficient footfall

The market is clearly constrained by where it is. Although it is relatively close to shopping streets visited by tourists, it is effectively isolated from this source of visitors. Although the connections between the London Road and the rail station are improving, it is not realistic to imagine that the market can compete with the likes of the North Laine. While a long-term aim maybe to become a destination market, the short and medium term appears to rely on meeting the needs of local people (see below). Footfall may be increased by events, better signage, improved entrances and appropriate marketing but, if the target audience is local communities, then sustainability depends on repeat visits, i.e. local people are getting the goods, service, value and experience that they want.

Greater emphasis will be placed on attracting regular, organised markets to use the plaza. These markets will potentially: increase footfall for existing traders; require less management from market staff; increase marketing effectiveness through their own spend and networks; increase the 'buzz' of the market and create a genuine impression of busyness.

The creation of a successful programme of temporary markets is essential for the success of the market as a whole and for the business success of permanent stallholders.

Action 3.1: CIC to review report on improvements to market produced in February and decide on priority actions for agreement at CIC board meeting in November 2015.

Action 3.2: CIC to review the current offer and how well it meets the needs of local people, including through surveys of local residents and shoppers by end of 2015.

Action 3.3: Signage strategy required to increase signage to the market and market visibility. CIC to agree lead at November board meeting.

Action 3.4: CIC to mandate EPC to develop a programme of temporary markets in line with the objectives and ethos of the Market by end of October 2015.

4. Mismatch between offer and local demographics

The market was always intended to be a contributor to the regeneration of the London Road. The early signs of this regeneration exist within and outside the market, with signs of 'gentrification' visible in the London Road. However, the majority of local

businesses outside the market remain suited to the longstanding demographics of the area. The market's offer may have significantly pre-empted the regeneration of the area. The traders apparently doing the best business are those which carried on from the old market, offering staples at competitive prices: not those meeting the '*zeitgeist*' range of local, ethical and sustainable goods. While the lenders' requirements were for a strong ethical offer, this does not currently match well the needs of the local community.

Action 4.1: CIC to review current mix of traders and to identify gaps based on existing trading environment, supported by surveys as above by end of January 2016.

5. Unsustainable business rates burden on the plaza

The initial business planning was based on the plaza having a rateable value similar to the old market, pre-development (c£10,000). The actual rateable value of plaza in the new market is close to £30,000. While permanent traders pay their own rates (if they do not receive small business relief), the business rates on the plaza fall upon the CIC. Since the temporary stall and events area of the business is well under-budget, these Business Rates cannot currently be recouped.

The rateable value placed on the plaza needs to be appealed and the CIC need to ensure that the Council's view that relief cannot be applied to the rates on the plaza is correct.

The recovery plan will very likely include proposals to gradually increase the permanent stall proportion of the market, turning over areas of the plaza to retail units which will be responsible for their own business rates. We are confident that there is already demand for such units, which are likely to be smaller or similar in size to the current smallest permanent units. While the creation of new permanent units will require investment, EPC's experience in Green Park Station in Bath is that such units can recoup these costs within 12-18 months, without the associated savings in Business Rates that would apply in BOM.

Action 5.1: Informal Valuation Enquiry to be made to Valuations Office Agency (VOA) immediately by Judith and EPC to follow up on behalf of the CIC if an appeal for the rateable value is required.

Action 5.2: Subsequently EPC to commission rating consultants on a day rate basis to advise on relief possibilities.

6. Greater efficiency required from management

Recent experience caused by an enforced absence by a member of market staff has demonstrated the immense value of having a greater presence by more junior staff on the market floor: tackling issues, addressing infringements of market regulations and communicating with traders and visitors. Ethical Property proposes to review the staffing of the market to ensure that this market floor presence is maintained.

EPC will continue to review management costs to ensure that these are minimised, while delivering all of its responsibilities in managing the market.

EPC will continue to provide the CIC with all the appropriate information on the service charges and ensure that these are effectively managed to keep them to a minimum.

Action 6.1: EPC to review staffing and inform the CIC of its plan for staffing of the Market by 10th October.

Action 6.2: EPC to provide a report to the next CIC Board meeting (26th October) re-stating the basis for management fees and service charges, so that these are fully understood by Board members.

Action 6.3: The CIC Board to review existing management contract with EPC as part of the recovery plan by end November 2015.

Action 6.4: One CIC director to attend interviews for new staff.

Action 6.5: CIC to request monthly management reports from EPC.

7. CIC Board weakness

The CIC Board has identified some areas where it would be useful to recruit independent members with particular skills, e.g. business and accounting skills. There are other skill areas which would be of benefit, e.g. marketing. The CIC board members currently input very little between meetings and actions falling to 'the CIC' tend to fall to a council officer or EPC.

CIC Board meetings should focus on the strategic issues and the governance of the CIC. Frequently the meetings spend much time discussing minor operational issues, which should be fully delegated to working groups or staff.

It would be extremely beneficial for the Chair of the CIC Board to be an independent member.

It would be beneficial for new Board members to be provided with an effective induction, so that they are aware of their individual and collective responsibilities, as well as the objectives, history and management responsibilities for the market.

The CIC Board has identified the potential benefits of engaging consultants with expertise in the operation of similar markets and will approach these.

Action 7.1: The CIC Board to enact the recruitment of new directors with immediate effect.

Action 7.2: The CIC Board to develop an appropriate induction for new members by end November 2015.

Action 7.3: The Board will seek to recruit support from appropriate consultants to inform its planning for the market – scope for engagement designed by end November 2015.

Action 7.4: CIC board to be more pro-active in Recovery period to ensure momentum.

8. Community Engagement

Community engagement can increase the market's profile with the local communities and attract new customers into the market, while building stronger links between different communities within the city.

8.1 Increase community engagement events and activities.

Appendix 1 What has the market got right and what needs improvement?

<http://www.pps.org/reference/tencharacteristics-2/>

Project for Public Spaces

The ten qualities of a successful market include:

1. Right vendors
2. Right location
3. Right mix
4. Right mission
5. Right public spaces
6. Right connections
7. Right economics
8. Right promotion
9. Right value
10. Right management

Subject:	Tower House Day Services		
Date of Meeting:	4th November 2015		
Report of:	Denise D'Souza, Executive Director Adult's Services		
Contact Officer:	Name:	Karin Divall	Tel: 01273 294478
	Email:	karin.divall@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended) are that information on measures to address the financial position and options for alternative delivery of services were still being collated and finalised.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Tower House is a council run day service that is used by older and disabled people.
- 1.2 This report sets out the changes to the way that the Council is required to deliver services and the financial implications of continuing to run the current service in response to the need to achieve savings over the next four years.
- 1.3 Adult Social care is facing considerable financial pressure and needs to ensure that all the services it provides and contracts are providing good value for money. Currently Tower House does not provide a cost effective service compared to the voluntary sector.
- 1.4 This report is proposing that the Council ceases to directly provide this day service, and to consult with current service users to inform the way that the services should be delivered in the future and to determine what alternative services could be provided to meet their needs in a more personalised and cost effective way.
- 1.5 This report is brought to Policy and Resources Committee because the service is unable to deliver the required level of savings and a decision is required to enable consultation to begin in order to identify how a more cost effective service could be provided

2. RECOMMENDATIONS:

- 2.1 That the Committee agrees to a three month consultation with all service users, and carers as appropriate, currently using Tower House. The purpose of the consultation will be to explore what alternative services there are available for people who currently use Tower House. The options are:

1. *That people are supported to receive a personal budget and choose alternative activities.*
 2. *That people are supported to move to an alternative day service that meets their needs and can be provided in a more cost effective way.*
- 2.2 That at the end of the consultation period a report is brought back to this committee for a decision as to whether the day service should close, and if so what alternative provision will be arranged for service users.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Tower House is currently used by 92 service users across the week, 55 people use the service just once a week, 29 people twice a week and 8 people three times a week.
- 3.2 The service is expensive to run costing £299,000 per year. The current cost of providing the service is £99 per person per day. Some efficiencies have been made to the service including a change to the way in which the meals are provided, however the service continues to be expensive when compared to similar services provided in the voluntary sector. A day service in the voluntary sector costs £25.50 per day.
- 3.3 The Care Act 2014 became law in April and this requires a more personalised approach to the way we provide services. New service users are now increasingly supported to receive a personal budget and to choose a personalised service rather than Tower House.
- 3.4 Attendance at Tower House has been reducing as more people choose alternative more personalised services, and Tower House operates at about 70% capacity.
- 3.5 There are other alternative more cost effective services available in the City. The Council contracts several building based day services from the voluntary sector for older people and these are available at better value for money than the Council's directly provided services. People could also use personal budgets to fund bespoke services including services in their local communities, for example to attend local lunch clubs or activities.
- 3.6 There have been steps taken to reduce costs including stopping the cooking of meals on site. However the service continues to be more expensive than services provided in the voluntary sector.
- 3.7 Tower House provides an important service for carers and we will ensure that all family carers will be consulted about these proposals and they are entitled to an assessment or re-assessment of their needs to ensure these are met.
- 3.8 Staff are not directly affected by this consultation, however there will be a period of staff consultation in line with the Councils organisational change policy once a decision is made about the future of this service following the consultation with service users.

3.9 The day centre premises are leased to Brighton & Hove City Council on a long lease at a peppercorn rent. If the current service closes then there may be opportunities to use the premises to develop alternative community based activities. Any change in the way that Tower House is used would require appropriate landlords consent.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The service is not operating at full capacity, limited new referrals are being made to the service as people are offered more personalised services and therefore the service will become increasingly expensive to run.

4.2 Doing nothing is not an option as this will not deliver the savings required over the next four years. Options that have been implemented have included stopping the cooking of meals on site, reduced the number of vehicles and reducing the use of agency staff, however these will not deliver significant further savings going forward.

4.3 In order to deliver more personalised services in line with The Care Act we will need to disinvest in buildings and invest more in services in order to support people with personal budgets.

4.4 If we reduced staffing in line with reductions in funding then the service would not be safe to run.

4.5 It is proposed to consult with all the service users, and their carers as appropriate, to determine whether a personal budget will meet their needs, or alternatively whether a building based service in the voluntary or independent sector would meet their needs. Where service users require advocacy support this will be arranged on an individual basis.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 If this report is agreed there will be a period of three months consultation with service users, carers, families, staff, unions and other stakeholders. Staff will not be consulted at this stage but there will be formal staff consultation in the future, if appropriate, in line with the Council's organisation change policy, once the decision has been made by committee following the consultation.

5.2 The outcome of this consultation will be brought back to this committee.

6. CONCLUSION

6.1 Tower House is relatively expensive compared to similar services provided in the voluntary and independent sector, and is not in line with the personalised approach required by The Care Act. The service does not operate at full attendance and value for money will not improve. The service will not be able to deliver savings as required over the next four years.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The unit costs of providing day services at Tower House are high compared to provision within the voluntary sector (£99 per person per day compared to £25 per person per day in the voluntary sector). The net budget for Tower House is £0.299 million(net of client contributions). Undertaking the consultation in 2015/16 and delivering services in a different way should enable the full year effect of proposed savings in 2016/17 estimated at £0.230 million to be achieved, subject to agreement of the four year financial plans by Budget Council.

Finance Officer Consulted: Anne Silley

Date: 26/10/15

Legal Implications:

- 7.2 The reasons for this Report coming to P&R are set out in the body of this report. The Report seeks permission to consult on alternative provision for service users of Tower House Day Service. The consultation process must be transparent and accessible to all potentially affected and interested parties with particular regard paid to the specific needs and abilities of the service users potentially affected; ensuring adherence to any duties arising under the Mental Capacity Act 2005. Any alternative options explored must ensure they comply with the Local Authority's duties and responsibilities under the Care Act 2014.

Lawyer Consulted: Sandra O'Brien Date 23/10/2015:

Equalities Implications:

- 7.3 A new Equalities Impact Assessment is required which will be completed as part of the Consultation process and report back to the committee.

Subject:	Learning Disability Accommodation Service		
Date of Meeting:	4th November 2015		
Report of:	Denise D'Souza, Executive Director Adult's Services		
Contact Officer:	Name:	Karin Divall	Tel: 01273 294478
	Email:	karin.divall@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

Note: The special circumstances for non-compliance with Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended) are that information on measures to address the financial position and options for alternative delivery of services were still being collated and finalised.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report concerns the Council's direct provision of its learning disability accommodation service. This includes registered residential care and supported living services for people within group homes and self-contained flats.
- 1.2 Various changes have been made recently to the way the Council delivers this service to improve value for money; including consolidation and closure of two group homes, changes to the recruitment and deployment of staff to provide more flexible staffing and reduce reliance on agency staff, review of staffing levels including stopping waking night cover in one service, efficiency changes to the management structure and maximisation of income.
- 1.3 Whilst this work has achieved efficiencies and savings, the service continues to be expensive to provide when compared to the independent sector and other local authorities. Whilst the accommodation services remain within the Council, this service will continue to provide poor value for money when benchmarked against other provision.
- 1.4 This report proposes that due to the financial position, that the Council should no longer directly provide an accommodation service for people with a learning disability, but instead people should receive an accommodation service provided by the independent sector through procurement arrangements with the Council.
- 1.5 A report to a joint Children and Young Person's Committee/Health and Wellbeing Board on November 10th 2015 includes the recommendation that there shall be joint work to review the need for supported living arrangements within the city and develop proposals for supported living arrangements accordingly. And that options for re-providing services at better value for money and to a good standard in the community and voluntary sector or the private sector be identified and explored.

1.6 This report is brought to Policy and Resources Committee because the service is unable to deliver the un-achieved savings or the required level of savings going forward, and a decision is required to enable consultation to begin in order to identify how a more cost effective service could be provided.

2. RECOMMENDATIONS:

2.1 That the Committee agrees to a three month consultation with all service users, including their carers and advocates as appropriate, who currently live in the Council's directly provided supported housing and residential care services. The purpose of the consultation will be to look at what alternative options there are to re-provide the care and support so that it meets service users individual needs, provides value for money, and delivers financial efficiencies over the next four years. The options are:

1. *That people are supported to move to alternative accommodation that meets their needs and can be provided in a more cost effective way.*
2. *That people are supported to receive a personal budget and alternative accommodation.*
3. *That people remain in their existing homes and receive their care and support from another provider.*

2.2 That at the end of the consultation period a report is brought back to this committee with recommendations about how the services could be re-provided to achieve the these aims.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The in-house Learning Disability Accommodation Services provide a mix of Residential Care and Supported Living Services. These are primarily in street properties, with two of the services being provided to tenants of self-contained flats. Some of the buildings are owned by the Council and others owned by Registered Social Landlords. The service includes four registered residential care homes accommodating 19 service users, and 8 supported living schemes accommodating 36 service users. Each home ranges from 2-8 service users and comprises of female/male only and mixed accommodation.

3.2 Details of the homes are included within the confidential Appendix 1.

3.3 The cost of the in-house provision is proportionately higher than that provided in the independent sector. The service currently costs £5,433,000 and there are un-achieved savings of £580,000. Retaining the current model of Council provided service will not deliver the un-achieved savings, nor deliver the savings required over the four year financial planning period.

3.4 The Care Act 2014 became law in April and this requires a more personalised approach to the way we provide services. In order to deliver personal budgets and more individually designed services, the Council will need to dis-invest in its building based services and invest in personalised services in the community.

- 3.5 The Independent Learning Disability Review that was completed at the end of 2014 found that the City has a skilled workforce committed to working with people who have a learning disability across all sectors including in-house, voluntary, and independent sectors, and that they were providing good services. However there is a marked difference in the costs of these services; the in-house services are comparatively higher than the other providers.
- 3.6 There are some people who currently live in the Council's directly provided services who could live more independently for example in extra care housing or supported housing where they could choose who they live with, at the same time as being more cost effective.
- 3.7 There are some people for whom group homes whether supported living or residential care are more appropriate whether as a way of enabling people to move onto more independence over time, or as longer term homes. However, this accommodation does not need to be provided by the Council and could be provided more cost effectively in the voluntary and private sector. Where the needs of the existing service users can only be met in their existing accommodation, then one of the options that will be explored during the consultation period is for an independent provider to take over the care and support so that the service users remain living in their current home.
- 3.8 There are a number of independent providers of supported and residential care already providing similar services for people with a learning disability in the City.
- 3.9 There are currently 145 staff employed within this service. They are not affected by the proposals to consult with service users, however they will be involved in supporting the service users during the consultation period. Once decisions have been made then the Council's organisational change policy will be used if applicable and appropriate staff consultation will take place.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Alternative options have been implemented throughout the last few years and efficiencies have been made including consolidation and closure of two buildings, review of services at night, review of staffing levels, and introducing peripatetic staff to give more flexibility and reduce the reliance on agency staff. However these changes to the services have not achieved the scale of savings required and there is £580,000 un-achieved savings from previous years. There is no way to further reduce the costs of the services to the level that will either deliver the un-achieved savings or deliver the scale of savings required going forward over the next four years whilst continuing to provide the current service.
- 4.2 Other local authorities have generally ceased to directly provide in-house accommodation instead focusing on providing more individualised and personalised approaches that provide better value for money.
- 4.3 An independent review of the learning disabilities services was carried out in late 2014 and this found that the service required a more personalised approach based on services rather than provision of buildings. The Health and Wellbeing Board at its meeting of 3rd February 2015 approved "*A Good, Happy*

& Healthy Life”: Adults with Learning Disabilities in Brighton & Hove”; a Strategy for adults with learning disabilities in Brighton & Hove.

5. Proposal.

- 5.1 It is proposed that consultation with service users and carers and advocates takes place on an individual basis to determine their needs for housing and how this need can best be met. Options that will be considered as part of this consultation will include moving to a new home where they can live more independently, remaining in their existing accommodation with a new care and support provider, or using a personal budget to purchase their own care and support. The service users all have learning difficulties, and some may lack capacity, and so independent advocates, support organisations, carers and families will be involved in the consultation as appropriate.
- 5.2 A list of the property addresses and numbers of service users are attached in the confidential Appendix 1.

6 COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 If the recommendations in this report are agreed, there will be a three month period of consultation with service users (supported by advocates where appropriate), carers, families, and other stakeholders.
- 6.2 It is proposed that the consultation will take place on an individual basis. The consultation will look at the implications of people moving to alternative homes and the implications of transferring the care and support to an alternative provider.
- 6.3 The outcome of this consultation will be brought back to this committee.
- 6.4 Staff will not be consulted at this stage but there will be a formal staff consultation in the future, if appropriate, in line with the Council’s organisation change policy, once the decision has been made by committee following the consultation.

7. CONCLUSION

- 7.1 The directly provided accommodation service is expensive compared to other local authorities and to the equivalent services provided in the independent sector, and further efficiencies cannot be delivered whilst the accommodation services remain within the Council. This approach is also not consistent with the requirements for developing personalised models of care as required under The Care Act.
- 7.2 Previous changes to the service have delivered some efficiencies but there remain un-achieved savings. Additional savings are required over the next four years, and these cannot be delivered with the existing in-house model of service provision.

8. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 8.1 The unit costs for the current model of Learning Disability accommodation services continue to be high compared to the independent sector and other local authorities. The service has been unable to contain costs within the 2015/16 gross budget of £5.433 million and despite the savings plans in place have not been able to deliver against unachieved savings from previous years. In order to deliver value for money and the level of savings required over the next four years the model of provision must change. The options under consideration will enable services to be provided more cost effectively. Undertaking the consultation in 2015/16 should ensure that the savings identified for 2016/17 of £0.164 million can be achieved (subject to agreement of the budget plans) and that unachieved savings of £0.581 million can be eliminated by 2018/19.

Finance Officer Consulted: Anne Silley

Date: 26/10/15

Legal Implications:

- 8.2 The reasons for this Report coming to P&R are set out in the body of this report. The Report seeks permission to consult on alternative methods of meeting the care and support needs of people currently residing in Council provided supported living and residential care. The consultation process must be transparent and accessible to all potentially affected and interested parties with particular regard paid to the specific needs and abilities of the service users potentially affected; ensuring adherence to any duties arising under the Mental Capacity Act 2005. Any alternative options explored must ensure they comply with the Local Authority's duties and responsibilities under the Care Act 2014.

Lawyer Consulted: Sandra O'Brien

Date: 23 October 2015

Equalities Implications:

- 8.3 An Equalities Impact Assessment is required which will be completed as part of the Consultation process and reported back to the committee.

Supporting Information

Appendices.

1. Confidential; Schedule of Properties included in the Accommodation service – Exempt Category 2 (circulated to Members only).

Document is Restricted

