

- 2.2 That Policy & Resources Committee should endorse the recommendation from the Health & Wellbeing Board.
- 2.3 That Policy & Resources Committee delegate to the Executive Director, Adult Services the re-provision of services.
- 2.4 That Policy & Resources Committee delegate to the Assistant Director; Property & Design the arrangements regarding the transfer or disposal of the lease for Tower House, ensuring best value for money, and for the community.

3. RECOMMENDATIONS FOR HEALTH AND WELLBEING BOARD:

- 3.1 That the Health & Wellbeing Board should read and consider the consultation outcome and equalities impact assessment to inform its decision making; and
- 3.2 That the Health & Wellbeing Board should recommend to the Policy & Resources Committee that Tower House Day Service should close and that appropriate alternative arrangements should be made for service users to ensure their social care needs are met.

4. CONTEXT/ BACKGROUND INFORMATION

- 4.1 Tower House is a council run day service for older people and younger adults with disabilities.
- 4.2 A report was presented to a Special Policy & Resources Committee on 4th November 2015 outlining the need to make efficiencies in the provision of the services at Tower House. The report proposed that the Council should no longer provide Tower House Day Service and that a consultation should commence to inform the way in which services should be delivered in future and to determine what alternative services could be identified to meet service user needs in a more personalised and cost effective way.
- 4.3 This committee agreed to a three month consultation with all service users, and carers as appropriate, currently using Tower House. The purpose of the consultation to explore four options available for meeting the needs of service users in a more cost-effective way.
- 4.4 Policy & Resources Committee agreed that the consultation should include the following options:
 - 1. *To maintain the existing day centre service at Tower House, reviewing options to deliver this in a more cost effective way, including, if necessary, reducing the level of provision;*
 - 2. *That people are supported to receive a personal budget and choose alternative activities if possible;*
 - 3. *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.*
 - 4. *For Council Officers to explore opportunities to cross subsidise the service by using the facility for other uses on evenings and weekends*

- 4.5 This consultation with all service users and their families and carers, where appropriate, was carried out over a three month period and included questionnaires, individual and group meetings. In addition to the consultation, social work staff met with service users on an individual basis to review their social care needs. This work has now been completed and the information collated and this is summarised below in paragraph 6. This report is brought to the Health & Wellbeing Board and Policy & Resources Committee in order for a decision to be made about the future provision for the day service and how best to meet the needs of its service users with a reduced budget.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation has been carried out with service users and their families/carers where appropriate and further details are included in the appendices to this report. In order to protect the personal details and views of the people who were consulted, this information is confidential to the members of the appropriate committees, and not available for wider public view. The consultation included:

- Meetings with service users both in groups and individually.
- Questionnaires were sent out to all service users and carers, where appropriate, and the views expressed in the returned questionnaires are set out in Appendices 7, 8, 9 and 10. These appendices contain personal information and are therefore included within the confidential papers.
- Individual letters and emails were also received during the consultation period and these are appended at Appendix 11, and again these letters are confidential because they concern personal details.
- A care manager from the social work team was based at Tower House during the consultation period and she met with service users and their families to talk about people's individual needs and what is important to them.
- The Federation for Disabled People ran small group sessions for service users and their families so they could find out more about personal budgets. 44 members attended these sessions over a fortnight period, and nine family/carers attended. Further information about this is attached at appendix 3.
- A "What's Out There Fair" was held in February when organisations who run activities in the City came to Tower House and provided information about the community and day services they provide, in order to ensure people had information about alternative services that might be available. The services which attended included: Ralli Hall Day Centre, Barford Court, Crossroads Care, Alzheimer's Society, Carers Centre, Stroke Club, St John's Hop 50+, Its Local Actually and The Fed, Carelink/Living Well. This event was well attended and provided positive feedback from service users who have reported feeling more reassured knowing that there are other activities in the City. Comments from service users included: "I didn't realise what is out there", "I feel reassured knowing there are places to go and activities to do", "What's my actual personal budget and what are the ways I can use it for my

care”, “were going to identify somewhere we can all go together and share a taxi”. Further information is included in Appendix 5.

- The Older People’s Council visited Tower House and met with some service users to listen to their concerns. The OPC were also invited to attend the “What’s Out There Fair.”
- The Lead Councillor for Adult Social Care, and the Head of Adult Social Care attended a meeting on 3rd December 2015 with a group of service users to hear their views, and to answer questions. A newsletter was issued to all the service users following this meeting and this is attached at Appendix 4.

6 THE OUTCOME OF THE CONSULTATION AND REVIEWS

- 6.1. 56 of the service users and their families responded to the consultation questionnaire and their responses are set out in the table below. People were asked to rank the options in order of preference (1 for first choice, 2 for second choice etc.)

Preferences- ranked	1	2	3	4	Total
To maintain the existing day centre service at Tower House, reviewing options to deliver this in a more cost effective way, including if necessary reducing the level of provision	43	8	4	0	55
That people are supported to receive a personal budget and choose alternative activities if possible	1	8	21	19	49
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	7	23	11	11	52
For Council officers to explore opportunities to cross subsidise the service by using the facility for other uses on evenings and weekends.	4	14	11	20	49
Answered the question					56
Did not answer the question					2

- 6.2. Tower House is valued by the people who use it, and the majority of people wanted to maintain the existing service including reviewing options to run the service in a more cost effective way.
- 6.3. Of the 72 people currently using Tower House, 36 members attend Tower House to provide carer relief. And of the 72 people, 44 service users require support with transport to attend Tower House.
- 6.4. Within the social work review process that was carried out, 66 members have an identified eligible need around social support, of which:

- 37 could have their needs met by an existing community service. This would be at a lower cost than the cost of providing Tower House.
 - 16 have other support in place which is already meeting their eligible needs. They would not need additional services.
 - 13 people's needs are such that they would require trained staff to support with personal care, continence tasks and monitoring safety. These needs could be met through the use of personal budgets e.g. for PA support to attend day activities, or could be supported to attend a private Day service. These individuals would be at high risk of social isolation if they ceased to attend Tower House and had no other support in place. These people would need a similar service however this could be provided more cost effectively than at Tower House.
- 6.5. Two service users are identified as having no eligible needs around social support. These service users also have other support services in place so there is considered to be low risk to their wellbeing if they cease to attend Tower House. Four members require further assessment in order to assess their eligible needs, however all these service users have other support services in place to meet needs around social support.
- 6.6. Most people therefore could have their needs met through community support, or they are already receiving support that meets their needs, or they do not have eligible needs for a building based day service. Of the 13 people currently receiving services at Tower House who do have a need for a service with trained staff, their needs could be effectively met by receiving a personal budget to directly employ a support worker or carer or to pay for an alternative private day service, or if people have mental health needs they could alternatively attend Wayfield Avenue which is a Council run day service.
- 6.7. Several members have developed close friendship groups and would benefit from a joined-up approach to ensuring their individual needs for social support are met, whilst also maintaining the social networks they have developed through Tower House. This could be achieved by supporting groups of people to use personal budgets either through support from the Council's Day Options Matching Team or through support from the voluntary sector.
- 6.8. Some people have expressed an interest in being supported to attend new activities as a group, but do not wish to explore this further until a decision is made regarding the future provision of Tower house.

7 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 7.1 **Option 1. To maintain the existing day centre service at Tower House, reviewing options to deliver this in a more cost effective way, including, if necessary, reducing the level of provision.** This option was to explore whether savings could be made in the Tower House budget. The work under this option included looking at whether we could reduce the number of times that people attend, and reduce the number of days that Tower House could open. Another option is to stop providing transport.

- 7.2 The outcome of this work is that the service could be run in a more cost effective way if the number of days that the service was provided was reduced to fewer days from the current five day service. At Budget council on 25th February 2016, a reduction of £0.150 million to the Tower House budget was agreed. In order to reduce the costs of day services, the service would need to reduce to running one or two days per week to meet this reduction. There would need to be a staff consultation and re-structure, and this would place staff at risk of redundancy.
- 7.3 The outcome of the review process is that there are 13 people who have eligible needs and require the level of service currently provided at Tower House. For this small number of people the cost of opening this service on one or two days per week would increase the unit cost and be far greater than the cost of comparable services in the private sector.
- 7.4 The additional risks with this approach are that the number of people requiring Tower House will continue to reduce over time and there will be little scope to further reduce the costs making this an increasingly expensive service to run per person.
- 7.5 If this approach is agreed then only the 13 people who have an eligible need for this service, and who require the level of service provided at Tower House would continue to attend the service, and other service users would be supported to access more cost effective services.
- 7.6 The costs of providing a service for up to 13 people at Tower House (approximately 20% of current numbers) is unlikely to represent value for money because of the continued running costs of the building, staffing levels required on the days of operation and the reduction in income from charges.
- 7.7 The costs of running a service for 13 people on two days will be greater per person than the current costs and this is estimated that this will cost in the region of £140.00 per person per day. An indicative budget for this service is set out in appendix 12.
- 7.8 The risks with this approach are that the number of people requiring this level of service may fall further, which will lead to both an increase cost per person per day but also the social benefits that people have from attending a day service with other people will diminish.
- 7.9 It is also not the policy or approach of the local authority to provide services that can be provided within the community and voluntary sector, some of which are funded by the local authority to provide similar services, or through use of personal budgets.
- 7.10 Consideration has been given to stop providing transport which would save approximately £0.013 million spent on vehicles per annum. It is likely that most people would still need support with their transport to attend Tower House and this was highlighted during the consultation. And if this was not directly provided then transport to Tower House would need to be funded through use of direct payments. This option would therefore not save the money required.

- 7.11 **Option 2. That people are supported to receive a personal budget and choose alternative activities if possible.** Under the Care Act 2014, everyone with eligible social care needs should be offered a personal budget. A personal budget is calculated according to individual needs and people are supported to choose activities that are affordable within their budget allocation. Most of the people that attend Tower House started attending prior to this legislative change.
- 7.12 During the consultation some people were identified who already receive a personal budget but are not using this to purchase their day service at Tower House. It is therefore recommended that they should be supported to use their budget to access services that meet their needs. During the consultation and social work review programme, some people were also identified who could benefit from receiving a personal budget to purchase alternative services either community activities or day services.
- 7.13 During the consultation, a “What’s Out There Fair” was held when a number of providers attended. These included voluntary sector day services, community services and private sector day services which could be purchased using personal budgets.
- 7.14 There are also potentially groups of friends who could use personal budgets in a pooled way (Individual Service Funds) to purchase services to meet their needs as a group. The Fed (Brighton & Hove Federation of Disabled People) were involved during the consultation and alongside other voluntary sector organisations they could provide support to people who wanted to pursue this option. This approach will ensure that the authority is compliant with The Care Act. It is recommended that where appropriate, people should be supported to receive and use their personal budgets.
- 7.15 **Option 3. 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.** Under this option, people could be supported to move to an alternative day service that meets their needs and can be provided in a more cost effective way.
- 7.16 During the consultation, 59 people were identified who do not need to be at Tower House Day service. These people could all have their needs met in a more cost effective way through the use of personal budgets, or in community services that could be provided closer to people’s homes. Of the people currently using Tower House, 13 people were identified who will continue to need a building based service where trained staff are employed to provide support.
- 7.17 Alternative building based day services are available and are provided by both voluntary sector and private sector organisations. The Council is also continuing to provide a building based day service at Wayfield Avenue for people who have mental health needs including dementia.
- 7.18 The current charge made for the Council’s day services are £35 (this is means tested), plus the cost of transport (£3.60 per day) plus the cost of food. Where people are paying the full cost of the service, they could receive better value and cheaper services in their local community, so the cost effective delivery of services is not only in the interests of the Council, but also in the interests of some individuals.

- 7.19 The cost of day services in the independent sector varies from £25.50 in the voluntary sector, to between £40 and £75 per day in the private sector (the latter cost provides a service from 8.30- 19.30 and includes a cooked meal) compared to the council cost of providing the service which is £64 per day.
- 7.20 **Option 4. For Council Officers to explore opportunities to cross subsidise the service by using the facility for other uses on evenings and weekends.** Under this proposal the Council would look at ways of bringing in more income by hiring out the building at evenings and weekends and thereby reduce the cost of the service. Tower House is leased on a peppercorn rent with maintenance and repairs costs of about £50,000 per year. BHCC Property & Design have been in correspondence with the freehold owner. Under the terms of the lease we do not have the right to underlet all the time that the building is in use as a “Day Centre”. The council would be required to ask the freeholder for permission for a change of use and is considered likely that this will be restricted to a residential use as the Tower House Day Centre is located on the ground floor of a residential converted block of flats. The council’s ability to achieve income is therefore severely restricted.
- 7.21 **For an alternative provider to run Tower House as a Day Service.** Whilst not an option that Policy & Resources asked to be explored. During the consultation period, the Council received a proposal from a charity to run Tower House as a service for older people. The proposal from this charity is for a service for older isolated people, using volunteers. If the proposal is to use the building for different activities (or even similar activities if they are using only volunteers) then TUPE won’t apply, and our staff would be redundant if the service was run by a different provider as proposed in this case. This service would not be able to support the 13 people with high needs, nor would it be available for the younger people who currently attend.
- 7.22 We have attempted to discuss options with the freeholder, to see whether having a different day service provider at Tower House would be possible, but we are yet to receive any meaningful response despite chasing on a number of occasions by phone and sending three letters which remain unanswered. Our understanding of the position regarding the leasehold is that so long as Tower House is used as a day centre, under clause 12a of the lease, the ‘Council cannot assign, transfer, underlet or part with possession of the premises’. Therefore using Tower House in this way does not appear to be an option that the Council is able to pursue.
- 7.23 For a third party to use the space for 2/3 days per week. It may be possible for the Council to share the space within the building and licence some or all of the space to a third party. This space would need to be restricted to the same user clause under the lease, so it would not be possible to hire the space to any groups other than for use as a ‘Day Centre’. For a licence to be effective, the Council must retain control in the possession of the premises without permitting any exclusive use. This will restrict the licensee’s use of the premises and may not be viable for operators in the market to take on the cost of using this shared space and these restrictions are likely to reduce any commercial operation at the site. It is unlikely that granting licences would lead to any reduction in the costs of

operating the building and the Council may end up subsidising the licensee's occupation.

8 PROPOSAL

- 8.1 Tower House is valued by the people that use the service, however it is an expensive service to run, and services need to be provided with regard to the appropriate budget. The service currently provides for a number of people who do not need this level of service. The proposal is that options 2 and 3 are agreed and that people should be supported to find alternative community services. A small group of people will continue to need a service with trained staff, and alternative services will be found for them either as a group or individually. Support will be provided to ensure everyone's social care needs are met.
- 8.2 The Tower House Day Centre forms part of the ground floor of a residential block of flats. Under the terms of the lease, if the decision is made to close the day service, the council has two options as described below. Further work is required by Property & Design to consider the options and which represents best value to the council.

Option 1: Seek a change of use & sell our leasehold interest

This option will offer the higher potential return to the council by applying to the landlord for a change of use to residential and then assigning our remaining interest either to a developer or to a housing association to convert to flats. The council's residual lease is 96 years which will ensure that the flats will be mortgageable. As the council's leasehold interest diminishes the value of the council's interest will also decrease.

Lease Conditions: The lease prevents the council from assigning or sub-letting the premises as a day centre but allows us to apply for permission for a change of use which cannot unreasonably be withheld.

Risks: No valuation has been undertaken on the potential capital receipt pending committee decision on closure of the service. Once this decision has been taken, further work will be undertaken by Property & Design to assess the value of the assignment and the costs of securing and maintaining the property while the process described above is carried out. The current property related costs to run the service are approximately £50,000 per annum. On-going costs will be incurred whilst the property is vacant including payment of the service charge, minimal utility charges and additional security but these will be reduced to the minimum level required (estimated at £12,000 per annum) and will be taken into account when assessing the value of the lease and the potential marketability of the property.

Property & Design have recently received an informal enquiry from a developer on our future use of the property.

Option 2: Surrender the lease back to the landlord

This option will offer a lower return to the council but will allow us to dispose of the building and on-going liabilities. Given the location and nature of the building it is likely that the landlord will seek to convert the day centre to residential before selling the leaseholds.

Risks: This option offers the lowest return to the council. The potential surrender value has not yet been undertaken pending committee decision on closure of the service. Once this decision has been taken, further work will be undertaken by Property & Design to assess the value of the surrender. The landlord has the right to refuse the surrender in which case the council will need to revert to option 1 above.

Property & Design recommendation is to pursue Option 1 and to undertake the necessary additional investigation outlined above to ensure the council achieves best value for money if the decision is taken to close the day service. This should minimise the risks associated with a vacant building and on-going costs will be minimised wherever possible pending disposal.

9. CONCLUSION

- 9.1 Whilst the service could be run within its reduced budget, this would be achieved by reducing the service to one or two days per week, with a smaller staff group employed to deliver a service to those people who have eligible needs. However this would not be a good use of the building which would then be left empty five or six days per week, would only provide a service for 13 people, and would work out more expensive per person than the existing service and alternative comparative services in the independent sector.
- 9.2 Under the terms of the lease, the building could not be leased out on the days that it is not in use and the cost of running the service pro rata per person on one or two days would greatly increase. Demand for the service from people who have eligible social care needs is likely to continue to reduce, as more people receive personal budgets.
- 9.3 Retaining the service as it is, is simply not possible as we have to make savings in the provision of this service. We have also seen a fall in demand for Tower House following implementation of the Care Act in early 2015. Since November 2015 all new referrals to the Council run day services have been scrutinised to ensure that people are offered personalised services to meet their assessed needs in line with the Care Act. Because people have been offered alternative individual services in line with the Care Act, there have been no new referrals to Tower House during this period. And consequently as people have moved on from Tower House due to changing needs or moving from the area during this period the number of people using Tower House has reduced from 90 in November 2015 to 72 currently. As we will continue to focus on providing individual budgets and offering individual choice to people there is unlikely to be a significant increase in the numbers of people using Tower House in the future.
- 9.4 Tower House could provide 30 service user places per day but it is not operating at full capacity with occupation levels as follows:

Monday; 50%
Tuesday; 73%
Wednesday; 70%
Thursday; 83%
Friday; 66%

- 9.5 The outcome of the consultation and social work reviews is that everyone currently receiving services at Tower House could have their needs met in a more cost effective way and it is therefore proposed that Tower House should close and alternative arrangements should be made with individuals, and their carers where appropriate, or with friendship groups, so that everyone continues to have their needs, and those of their carers met.
- 9.6 There are 14 staff currently employed at Tower House (9.8 FTE) including 3.6 FTE on scale 3, and 4.2 FTE on scale 4, and 2FTE on SO1/2. If the decision is made to close Tower House then a period of staff and union consultation will commence. All staff will be at risk of redundancy and we will carry out a consultation with staff to include redeployment and voluntary severance.
- 9.7 All the time that the building is used as a day centre, the council cannot assign, transfer, underlet or part with possession of the premises. However we can ask the freeholder for permission for a change of use to residential at which time we would have the right to sub-let. If the decision is made that the Council should cease to provide a day service at Tower House, then further work would be required by Property & Design to look at Option 1 detailed in 8.2 above for disposal of our leasehold interest in the building to ensure best consideration for the council..

10. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 10.1 Within the Council's budget for 2016/17, Adult Social Care has been set a savings target of £6 million in order for the Council to deliver savings of £19 million in the context of a predicted budget gap of £68 million over 4 years. The Adult Social Care precept will generate funding of £2.300 million which will contribute towards the additional demands from demographic growth, increase in complexity of care, supporting the independent sector to pay care workers a living wage, and the increased costs of safeguarding.
- 10.2 The planned revenue saving against Tower House Day Services is £0.150 million in 2016/17 reducing the net budget available for the provision of day services to £0.155 million (after income and before overheads).
- 10.3 It is anticipated that the re-provision of day services will deliver efficiencies and enable this saving to be delivered.
- 10.4 The service at Tower House is expensive to provide compared to provision in the independent sector – in 2014/15 the estimated cost was £72 per client per day compared to £29 per day per client for services provided by others. In 2015/16 the estimated unit cost reduced to £64 per client per day. The gross cost of providing the service in 2014/15 was £0.545 million (including overheads) for an estimated 7,496 days. In 2015/16 gross cost is estimated at £0.428 million (including overheads) for an estimated 6,623 days- the number of days provided reduced by 12% whereas costs reduced by 21%. The re-provided services are expected to be at a lower unit cost as a result of the personalised approach.

- 10.5 If the proposals are not approved then alternative savings measures would need to be identified by Adult Social Care in order to deliver the agreed budget.

Finance Officer Consulted: Anne Silley

Date: 25/03/16

Legal Implications:

- 10.6 The Health & Wellbeing Board is responsible for the oversight, monitoring and decisions concerning Adult Social Care. Decisions concerning disposal of assets requires a decision by Policy & Resources Committee.
- 10.7 In considering its statutory duties the Local Authority must be mindful of the resources available. The Care Act 2014 requires the Local Authority to assess and meet the needs of adults with care and support needs. As described in the body of this report the approach required by the Act (and associated Guidance) is personalised and meeting needs can be achieved in a variety of ways within the personalised approach; the Local Authority is not required to be the provider of the services to meet identified need. A full consultation process has been undertaken to inform the respective committees' decision making and along with the EIA must be read and taken in to account by members.
- 10.8 With reference to the lease dated 17th August 1988 the Council does not have the ability to assign or underlet or part with possession of the premises whilst its use is as a day centre. If the Council were minded to retain legal possession of the premises it could share occupation of the premises and grant licences only to other occupiers. Any licence would need to comply with the user clause under the terms of the lease namely as a centre offering care activities and catering facilities for elderly persons or persons having a mental or physical handicap and the Council would need to ensure that no greater interest than a licence is created. As has been noted at paragraph 7.23 of this report the option of a licence may not be commercially viable. In the alternative, the Council could apply to the Landlord for a change of use, if consent is granted the Council could then assign or underlet or could itself use the premises for a different purpose. If the landlord were to refuse consent to the Council's proposed change of use the Council does have the option under clause 12(c) of the lease to seek the Landlord's consent to assign or underlet the premises. With reference to the option to surrender the lease this would be a consensual arrangement between the landlord and the Council and as noted in the report, the Landlord does not have to agree to the surrender.

Lawyer Consulted:
23/03/2016/15/04/2016

Name Sandra O'Brien/Joanne Dougnaglo

Date:

Equalities Implications:

- 10.8 An Equalities Impact assessment is attached at Appendix 6.

SUPPORTING DOCUMENTATION

Appendices:

1. Letter advising of consultation
2. Questionnaire blank copy
3. Personal budget sessions – letter, leaflet, dates and number attending
4. Newsletter
5. What's out there event- list of providers attending
6. Equalities Impact assessment

The following appendices are excluded from publication because of the nature of the information contained therein and therefore excluded under Exempt Category 3.

7. Summary of completed questionnaires- service users (confidential circulated to Members only)
8. Copies of all completed questionnaires- service users (confidential circulated to Members only)
9. Summary of completed questionnaires- family carers (confidential circulated to Members only)
10. Copies of all completed questionnaires- family carers (confidential circulated to Members only)
11. Letters received and replies (confidential circulated to Members only)
12. Financial Assessment- provision of service for 13 people (confidential circulated to Members only)

Documents in Members' Rooms

None

Background Documents

None

