

Decision maker:	Cabinet member health and wellbeing
Decision date:	27 December 2017
Title of report:	Redesign and procurement of a countywide Shared Lives Scheme
Report by:	Senior commissioning officer

Classification

Open

Decision type

Key

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose and summary

To approve the redesign and procurement of a countywide Shared Lives Scheme. The scheme currently supports 67 people, the majority of whom have a learning disability, and is managed on behalf of the council by Ategi Limited. The contract commenced on 1 April 2014 and expires on 31 March 2018; therefore alternative arrangements need to be put in place from this date.

Recommendation(s)

That:

- (a) The statutory requirements and day to day management of the Shared Lives Scheme are undertaken by Herefordshire Council from 1 April 2018;**

- (b) the director for adults and wellbeing is authorised to take all operational decisions necessary to implement the above recommendation, including approval, following consultation with the solicitor to the council, of any application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) to staff if applicable within a year 1 budget of £199,908.

Alternative options

- 1 The option to conduct a commercial procurement exercise. This option is not recommended as the soft market test conducted in August 2017 indicates that there is no functioning market for this type of service.
- 2 The option to renegotiate a new contract with the current service provider, Ategi, from 1 April 2018. Ategi has indicated that it would have difficulty continuing to manage the scheme on the current terms and conditions. Furthermore, it has not delivered the required growth in the number of individuals using the scheme and previous commitments to remedy this situation have not produced tangible results.
- 3 The option to delegate the management of the Shared Lives Scheme to another council, in order to secure efficiencies from a larger scale of business. This option is not recommended as preliminary discussions with potential partners have found little evidence of interest on their part for such an arrangement. There is also a risk of the loss of Shared Lives carers to another council and a fragmentation of the Herefordshire scheme.
- 4 The option to directly award the contract to a local organisation of Shared Lives carers. This option is not recommended at this time as the only such body, Hereford Shared Lives, is a recently formed organisation with no track record of managing services. However, the council will continue to explore the opportunities for co-production and the possibility of the scheme becoming self-directed over time.

Key considerations

- 5 The Shared Lives Scheme currently supports 67 people; of those 51 have a learning disability. Service users live as family members in the homes of Shared Lives carers. This provides an inclusive and supportive environment for people who may otherwise be required to reside in more restrictive accommodation which is less suited to their needs. The arrangements are intended to be stable and long term, 44 people have lived with the same Shared Lives carers for over 10 years.
- 6 Shared Lives is a key element of a range of supported accommodation options, as it offers service users independence and choice and control over their lives. Furthermore, it is often more cost effective for the council than alternative models and could be expanded both in terms of the number of people using the scheme and the range of people supported.
- 7 The Shared Lives Scheme is currently managed on behalf of the council by Ategi Limited. The contract commenced on 1 April 2014 and expires on 31 March 2018. The value of the contract is £199,908 per annum.
- 8 The scheme has not flourished under Ategi's management. The performance targets required the scheme to have 80 Shared Lives carers by the end of the contractual term. The current number is instead only 53, which is a 10% reduction from when Ategi took responsibility for the management of the scheme.

- 9 Furthermore, Ategi's approach to scheme management has experienced difficulties and some Shared Lives carers have expressed dissatisfaction with Ategi. There is a risk that any resultant fragmentation of the scheme will create the circumstances where a commercial model of scheme management emerges, as has been experienced in the context of children's fostering at a national level. This could result in the council's access to Shared Lives carers being restricted by a small number of management organisations who will resell the shared lives services back to councils at a higher rate
- 10 Ategi was also commissioned to introduce a Homeshare Scheme in Herefordshire as part of the contract specification. Homeshare is an arrangement where a householder who needs help and companionship offers a room to someone in return for around 10 hours of practical support per week. However, this has not been achieved.
- 11 The majority of councils offer Shared Lives Schemes. Many of these are delivered by councils themselves, as many have experienced difficulties outsourcing. This was reflected in the recent soft market test, as neither of the two responses received were credible.
- 12 In addition to a strategic expansion of the Shared Lives Scheme, it is also envisaged that bringing the management of the scheme back into the council will realise savings as it should be possible to integrate certain scheme management functions and activities with other existing functions. Such arrangements will have regard to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), which might require some staff to be moved from Ategi to the council. The possible impact of this has been built into the anticipated costings and is within the existing Shared Lives budget.
- 13 It is a mandatory requirement of the Care Quality Commission that each Shared Lives Scheme has a registered manager. It is envisaged that this requirement will be met through other roles being reconfigured within the council to prioritise activities that support sustainable growth of the Shared Lives Scheme and the introduction of Homeshare. Priority will be given to raising awareness of Shared Lives, recruitment and retention of carers and training to give carers the skills to meet the needs of a more diverse range of people. Shared Lives carers will also be encouraged and supported to participate and co-produce the development of the scheme. Detailed arrangements for the management of the Shared Lives scheme will be agreed with senior operational managers. It is envisaged that the current registered manager will transfer with the scheme and appropriate management and support arrangements will be put in place to maximise the effectiveness of scheme management.
- 14 Commissioners have meetings scheduled with Ategi and representatives of Shared Lives carers and will work with them service users and their families to ensure that arrangements are in place for a seamless transfer of responsibility on 1 April 2018. An approach to communication will be devised to notify operational staff and stakeholders of the changes

Community impact

- 15 Herefordshire Council's corporate plan has four priorities, one of which is the improvement of the health and wellbeing of people in Herefordshire to 'enable residents to live safe, healthy and independent lives'. The council will be proactive in helping and encouraging people to live healthier lifestyles and developing resources that offer more choice and control in remaining independent, therefore reducing or delaying the need for formal social care. This proposal supports the council's priorities by offering another service choice to residents, which supports them to be as independent as possible.
- 16 The Care Act 2014 articulates the principles of wellbeing and prevention, and the

recognition that an individual, their family, and/or carer must be enabled to make decisions regarding their care. These principles inform the council's delivery of social care services of which this proposal forms a key part.

- 17 The principles of independence and inclusion that underpin Shared Lives will ensure that individuals' outcomes are improved through supporting the sustainability and expansion of the Shared Lives Scheme in Herefordshire. This aligns with the council's health and wellbeing strategy, which underlines how Herefordshire aims to be a vibrant county where good health and wellbeing is matched with a strong and growing economy and the vision for the council's adults wellbeing plan 2017-2020 of 'all adults in Herefordshire live healthy, happy and independent lives within their local communities, for as long as possible with support when they need it.'
- 18 There are no specific implications for the council's role as corporate parent in relation to the recommendations of this report. However, there is some potential for shared approaches between the scheme and the council's supported lodgings service for looked after children in terms of the recruitment, training and promotion of these schemes.
- 19 The council is committed to providing a healthy and safe environment for all individuals affected by the council's activities. Therefore the council endeavours to ensure that the work it and its partners undertake does not adversely affect the health, safety or welfare of service users. Any specific implications for health and safety of the direct management of the Shared Lives scheme will be reviewed as part of the mobilisation of the arrangements.

Equality duty

- 20 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
- 21 A public authority must, in the exercise of its functions, have due regard to the need to –
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 22 The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.
- 23 The equality duty covers the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision does not discontinue any service and has no detrimental impact to eligible service users.
- 24 The impact of the proposed changes is assessed as positive as the expansion of the Shared Lives Scheme will offer greater choice for people with protected characteristics. For further detail refer to appendix 1 - Equality Impact Assessment.

Resource implications

- 25 Ategi is currently paid £199,908 per annum for managing the Shared Lives Scheme on the council's behalf. The provider's performance was challenged during the contractual term and a realignment of the value to reflect performance was proposed but agreement could not be reached. In common with many similar service contracts, the agreement did not provide for the application of performance related financial penalties. Whilst the potential to take savings from the contract value during the term was explored in depth, this proved impracticable without destabilising the existing provision.
- 26 The council's expenditure on the scheme also includes the cost of the placements provided by Shared Lives carers. The projected total annual expenditure for the scheme, including the management costs, is £1.01m. gross excluding client contributions. The average weekly unit cost of a Shared Lives placement is under £300 per week.
- 27 Shared Lives carers are paid for the placements they provide, and costs are broadly tiered into three bands, ranging between £216 and £310 per week.
- 28 However, these rates have not been uplifted since October 2012. Therefore consideration needs to be given to an increase of up to a maximum of 5%; the estimated cost of which would be around £48,000.
- 29 The overall impact of the proposals for the 2018/19 scheme budget is expected to be cost neutral. The cost of uplifting payments to Shared Lives carers will be offset by savings through in-house management arrangements. A detailed budget for 2018/19, within the overall budget set by the council, will be approved by the director for adults and wellbeing during the mobilisation period. There is no opportunity currently to take savings from this service to contribute to Medium Term Financial Strategy (MTFS) targets owing to the fragility of current arrangements and the changes now required. Future expansion of the Shared Lives Scheme does provide potential to contribute to reducing the cost of adult social care provision, as it offers a cost effective alternative to residential and supported living services. This will be reviewed during 2018/19.
- 30 The implications in respect of IT are limited to four staff requiring access to the council's systems and the performance team undertaking the monitoring of the Shared Lives Scheme.
- 31 As previously indicated it is envisaged that TUPE may apply in principle but not necessarily to all posts. Further advice and guidance will be sought from HR and legal services to ensure a seamless transfer.

Legal implications

- 32 Under the Care Act 2014, the council has a statutory duty to commission a wide range of services to improve the general health and wellbeing of the local population. This includes encouraging a genuine choice of service type. The statutory guidance stipulates that this should involve "not only a selection of providers offering similar services, encouraging, for example, a variety of different living options such as Shared Lives, extra care housing, supported living, support provided at home, and live-in domiciliary care as alternative to care homes".
- 33 With regard to Shared Lives Schemes, the Adult Placement Regulations 2004 require Shared Lives carers to belong to a Shared Lives Scheme and to be registered with the Care Quality Commission. Shared Lives remains a regulated activity in accordance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010.
- 34 The contract with Ategi Ltd commenced on 1 April 2014 and is due to expire on 31 March

2018. The contract will be terminated in accordance with the termination provisions set out in the contract.

- 35 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) apply in circumstances where a “relevant transfer” takes place. A relevant transfer includes a service provision such as described in the report. The transfer will be caught by the Regulations as the activities carried out before the transfer will be fundamentally the same post transfer. Therefore the provisions of TUPE must be complied with in effecting the proposals set out in the report.

Risk management

- 36 If the recommendations described in the report are not approved, it will result in the council not having appropriate arrangements in place to manage the Shared Lives Scheme. This means the council would fail to meet the mandatory requirements of the Care Quality Commission, when the current contract expires on 31 March 2018.
- 37 Discontinuation of the scheme could ultimately result in 67 vulnerable residents requiring more expensive and restrictive accommodation. Over 75% of people in the scheme have a learning disability and, of those, 60% have lived with their Shared Lives carers for over 10 years.
- 38 In addition to the disruption to service users there is a significant financial risk. The average weekly unit cost of a Shared Lives placement is under £300. This is considerably less than the £550 to £750 per week paid for a residential placement for a person with a moderate learning disability.
- 39 Managing relationships with cohorts of Shared Lives carers with different aspirations and expectations will be required if the integrity of the scheme is to be maintained.
- 40 The risk that the required improvement in performance of the service may not be achieved will be mitigated by integrating shared lives with social care assessment team, sharing of ideas and resources with the supported lodgings for children scheme and improved management of the relationship with Shared Lives carers.

Consultees

- 41 Consultation was undertaken with the market via a soft market test exercise in August 2017.
- 42 The political groups were consulted and no objections or comments were received.
- 43 Regular meetings have been conducted with the chair of the local Independent Shared Lives Carers Forum and local carers. These discussions have informed the evaluation of the viability of the current arrangements. They also identified support amongst Shared Lives carers for the council to resume the management of the scheme and the aspirations for the introduction of a self-directed service.

Appendices

- 44 Appendix 1 - Equality Impact Assessment.

Background papers

45 None identified.