

Title of report: Registered Services transfer to Hoople Limited

Meeting: Cabinet

Meeting date: Thursday 24 February 2022

Report by: Cabinet member health and adult wellbeing;

Classification

Open

This report is not exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

Decision type

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

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

To agree the council's registered services nominated individual responsibility is transferred over to Hoople Limited.

This report seeks approval from Cabinet for the formal transfer of registered social care provider services to Hoople Care, as part of Hoople Ltd. The services involved in the transfer of registration at this stage are:

- Home First re-ablement service
- Hillside
- Residential services for learning disabled people at Southbank Close and Ridgemoor Road.

It is likely that further services established or in-sourced in the future would be incorporated into Hoople Care's registration and operations, once accepted. The staff currently employed by the council in delivering the services will transfer to Hoople Ltd under Transfer of Undertakings, Protection of Employment (TUPE) regulations.

Recommendation(s)

That:

- a) **Cabinet approves the formal transfer of registered social care provider services to Hoople Care, as part of Hoople Limited and;**
- b) **the transfer of council staff employed in the registered services to the employment of Hoople Ltd under TUPE regulations is approved and;**
- c) **Authority is delegated to the Acting Corporate Director for Community Wellbeing to make all operational arrangements necessary for the implementation of the transfer, including the transfer of staff under TUPE regulations.**

Alternative options

To not proceed with transfer of registration of care services to Hoople Ltd. This option is not recommended because it would potentially allow confusion and inconsistency in the management of registered services and possibly delay or disrupt the development of Hoople Care. The aspiration is to grow and develop Hoople Care to become a credible and tangible provider within local markets.

Key considerations

1. Herefordshire's Market Position Statement 2020-2025 sets out a clear direction for providers on the council's ambitions for the support and care market. The council is clear that where the market cannot meet these challenges and meet the needs of individuals it will consider its role within the market.
2. Hoople Care has been established in order to assume the management of adult social care services that have been in-sourced by the council. The council has recognised that some services cannot be provided in social care markets with the appropriate consistency of quality and value for money. It has therefore taken decisions to in-source or create new services over recent years.
3. The adult care and support market is fragile and challenged due to the ongoing impacts of the COVID-19 pandemic. Market issues that were present prior to the pandemic have been exacerbated and have impacted on care provider's capacity to take complex packages of care.
4. Hoople Care already employs a number of re-ablement staff, as part of Home First. Following a recent decision to align rates to council pay, Hoople launched a recruitment campaign for Home First.
5. As part of decommissioning of residential services for learning disabled people, employment of staff and management of the facilities at Ridgemoor Road and Southbank Close transferred to Hoople in August 2021. The Care Quality Commission (CQC) registration for the service transferred to the council, due to Hoople not being registered as a care provider. Therefore, currently, the council oversees the delivery of care services for those residential services, as it does for Home First re-ablement support.

6. Hoople Limited submitted its application to the CQC in October 2021, in the name of Hoople Care to become the registered provider for all three regulated services. This includes the appointment and acceptance of a senior manager as nominated individual. The transfer of registration will only take place once cabinet has made a formal decision and the council's nominated individual relinquishes the registration. It is anticipated that CQC's registration processes to enable transfer will conclude in February 2022.
7. The proposed transfer of registration will help to implement objectives within Herefordshire's market position statement 2020/2025. This underlines the council's willingness to consider its role in markets where the market cannot meet demand challenges and needs of individuals. Transferring the services to Hoople Care will ensure consistency in regulated service delivery, with one nominated individual to oversee the care and support registered services.
8. The transfer of registered services to Hoople Limited creates the opportunity to procure and deploy a digital call monitoring and scheduling system from within existing funding to provide instant visibility of every care visit, integrated with care planning, and providing clarity and information to service users about the services being delivered.
9. The benefits of visit monitoring are twofold; the council can gain peace of mind that our service users are receiving their scheduled care at the correct time, and Hoople Limited can keep track of lone workers while out on the road. If a care worker does not call or touch-in at the location of a booked visit, the system will flag their absence immediately to the appropriate care manager, who can then carry out required checks.
10. This is not a decision to outsource the services, this is about insourcing in a different way and the benefits are:
 - The vision is for Hoople Care to become a leading care provider and have a strong presence in the market.
 - The establishment of Hoople Care over time is expected to support resilience and stability in the care and support market in Herefordshire.
 - Enhance the Hoople Care model building on the successful insourcing of the residential services for learning disabled people.
 - There may be some potential in the future to developing Hoople to be the council's single provider for care services planning for the recently approved 80-bed care facility
 - Reduced overheads to the council in the medium term due to the lower cost operating model of Hoople Limited
 - Increasing the scope and value of services for the council allowing a spread of overheads across a wider footprint i.e. fixed overhead spread across more services, therefore mitigating costs for the council overall.
 - Opportunity to further combine the council's recruitment and training provider (Hoople) with its care provision to improve and sustain the quality of in-house services.
 - Creating the conditions for Hoople to expand its commercial training, back office and care offer to other providers and neighbouring LA's across borders
 - There is an opportunity to aligning to the council's Talk Community's approach and Hoople connecting people into communities on a strengths based model.
 - Creating the opportunity for the council to expand Hoople's technology expertise with care services to increase productivity and innovation leading to a better customer experience
 - Creating a more partnership model of contract management for provider services via a slightly wider degree of separation between the council and provider services
 - The council will work collaboratively with Hoople Care to improve outcomes and the effectiveness and efficiency of in-house services, as it would with an external provider.
 - Hoople Care will assume responsibility for budgetary management and control for the services transferring over.

- The council will oversee the contract management for Hoople Care; to ensure it has an optimum level of control over capacity and quality.
- Hoople Care will contribute to, support and develop the health, family support and social care workforce.
- There is potential for collaborative working between the Hoople Care provision and the wider NHS services and the Integrated Care System (ICS).
- Creating the opportunity to procure a digital call monitoring and scheduling system to provide instant visibility of every care visit, integrated with care planning, and providing clarity and information to service users about the services being delivered.

Community impact

11. Care services are necessary for sustaining and improving wellbeing, yet they have an environmental footprint that contributes to environment-related threats to health. Bearing this in mind, improvements can be made by increasing efficiency at a delivery level, through the use of energy-efficient technologies and offering services that don't require the need for transportation and the use of buildings to meet the needs of individuals
12. The transfer of registered social care services for older and disabled adults to Hoople Care contributes to the following County Plan Themes:

Protect and improve the lives of vulnerable people	✓
Build understanding and support for sustainable living	✓
Support communities to help each other through a network of community hubs	✓
Spend public money in the local economy wherever possible, increasing the social value of care delivery	✓
Use the council's land to create economic opportunities and bring higher paid roles to the county	✓
Invest in education and the skills needed by employers	✓
Grow jobs and keep unemployment rates low in all areas of the county	✓

13. There are no health and safety implications associated with the transfer of the registered services and there will be no direct change to the service delivery to service users at this stage of the process.
14. There are no specific implications for the transfer of social care provider services for the corporate parenting responsibilities of the council and its partners.

Environmental Impact

15. In operating, the registered services through Hoople Care the council will endeavour to align to the following success measures in the County Plan.
- Reduce the council's carbon emissions
 - Work in partnership with others to reduce county carbon emissions
 - Improve the air quality within Herefordshire
 - Improve residents' access to green space in Herefordshire

- Improve energy efficiency of homes and build standards for new housing
- Increase the number of short distance trips being done by sustainable modes of travel – walking, cycling, public transport

16. There are plans to request that Hoople Limited undertake a pilot in the use of electric vehicles for care workers, this will help us the council consider future ways to make our the council operations, Hoople operations, care providers and care workers energy efficient, meeting our the council's carbon reduction objectives and without compromising delivery of care to our service users.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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.

18. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.

19. There will be very limited changes made to the way the service is delivered as the functions are to be transferred largely as they are. Following the transfer the Council and Hoople Care will continue to treat service users equitably. If there are future changes to be made to the service, the roles and the processes, it will be the council's responsibility to assess the impact at that time.

20. An Equality Impact Assessment has been carried out to identify the impact of the proposed transfer to Hoople Limited. The Equality Impact Assessment identifies a set of actions aimed at mitigating risks to service users and employees in the protected characteristic groups.

Resource implications

21. There are no direct and immediate financial implications from this decision report.

22. The budgets for the services referred to in this report are included in the current medium term financial strategy (MTFS).

23. Finance and Hoople Limited are in the process of agreeing a Service Level Agreement (SLA); this will confirm the budget for each of the services.

24. The performance of the services will be monitored through a quasi-contractual and commissioning arrangement and will be measured using the Standards for Delivering Quality Care and Support Services Herefordshire's Quality Assurance Framework (QAF). In addition, annual contract review meetings will be held between Hoople Care and Commissioners.

Legal implications

25. Part 1 The Care Act 2014 sets out the local authority functions and responsibilities for care and support. The Care Act allows local authorities to delegate some but not all of their care and support functions to other parties. As with all care and support, individual wellbeing should be central to any decision to delegate a function. The local authority retains ultimate responsibility for how the functions are carried out.
26. Hoople Limited is a company owned by the council, Wye Valley NHS Trust and Lincolnshire County and therefore benefits from the provisions of Regulation 12 of the Public Contracts Regulation 2015, which means that the council is not required to undertake a procurement exercise when awarding contracts to Hoople Limited.
27. From an employment law perspective, the regulations governing business transfer/service provision changes are the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
28. TUPE will apply to the transfer of the service delivery of care services from Herefordshire Council to Hoople Limited. As such, the employees of the council in the service which is being transferred will have their employment transferred to Hoople Limited and will transfer on their existing terms and conditions. The council, as the outgoing employer must by law inform the effected employees and consult with them in good time before the transfer, this should be done via staff representatives. A failure to consult could result in a complaint to an Employment Tribunal.
29. The council will also have a duty, as the outgoing employer to provide Hoople Limited with written details of the transferring employees, including identity, age, particulars of employment, disciplinary and grievance records, employee claims and collective agreements, as well as all associated rights and liabilities that will transfer. This information must be provided no less than 28 days before the transfer.
30. It is not possible to contract out of TUPE and any dismissals connected with the transfer either before or after the transfer may be automatically unfair. Hoople are also subject to certain statutory consultation and information obligations in relation to the transfer of employees from the council to Hoople Limited.

Risk management

31. Below are the key risks which could have impact the transfer of the registered services to Hoople Limited:

Risks/Opportunity	Mitigation
Care Quality Commission (CQC) may reject the application for Hoople Limited to become the nominated individual.	Unlikely and advance warning would be received if this were to happen, so enabling a re-submission to ensure acceptance.
The timeline may slip beyond January 2022	There is close monitoring and regular liaison with CQC on this matter. Such a delay is considered very unlikely. If this were to occur, there would be an adjustment to the timing of implementing the decision.
Two nominated individuals in Hoople Care and Herefordshire Council	Discussion with CQC will inform timescales regarding the transfer of registration. This will be co-ordinated by CQC to ensure alignment of handover, so there will only be one nominated individual/registered provider at any time in the process.
Some staff may have reservations about the transfer to Hoople Care.	Staff will be provided with the reassurance regarding the benefits of the transfer.
Insufficient staffing levels to deliver the services	A workforce recruitment plan is in place and is regularly updated. There is an ongoing recruitment drive to fill any vacancies as they arise. There is funding available to support the workforce recruitment and retention.

Consultees

32. A Project Board has been set up to oversee the transfer of the registered services to Hoople Limited, this includes:
- Fortnightly meetings to ensure the registration transfer and governance processes are on track.
 - Updates and progress on the Hoople Care nominated individual responsibility for Ridgemoor Road, Southbank, Hillside Care Home and Home First
33. Members of the council have been consulted via political groups. Members have expressed the following:
- Provision should be made to review Hoople Care's performance on a regular basis by the council, not just the CQC, to ensure that the outcomes we were aiming for in our Market Position Statement are realised for those receiving such services from Hoople Care.
 - As a condition of any new contract awarded by Herefordshire Council and in line with our commitment to Carbon zero by 2030, new vehicles purchased in connection with work Hoople is carrying out for Herefordshire Council, should no longer be fossil fuel. It would seem that Hoople has been purchasing new vehicles recently on the back of contracts awarded by Herefordshire Council, which are fossil fuel. This is one area in which we have a measure of control in view of the fact Hoople Limited is effectively owned by Herefordshire Council.

- 34. Members have been consulted on the transfer to Hoople Care.
- 35. Staff will be consulted as required by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

Appendices

- 1. Workforce Recruitment Plan
- 2. Equality Impact Assessment

Background papers

None applicable

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Sarah Buffrey	Date 26/11/2021
Finance	Kim Wratten	Date 24/11/2021
Legal	Alice McAlpine	Date 26/11/2021
Communications	Luenne Featherstone	Date 25/11/2021
Equality Duty	Carol Trachonitis	Date 19/11/2021
Risk	Paul Harris	Date 26/11/2021

Approved by	Click or tap here to enter text.	Date	Click or tap to enter a date.
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[Note: Please remember to overtype or delete the guidance highlighted in grey]

Please include a glossary of terms, abbreviations and acronyms used in this report.