

LONDON BOROUGH OF HARROW

CABINET – 9 MAY 2013

REFERENCE FROM CALL-IN SUB-COMMITTEE – 3 APRIL 2013

**CALLED-IN DECISION – STRATEGIC REVIEW OF LEARNING
DISABILITY ACCOMMODATION**

The Sub-Committee received papers in respect of a call-in notice submitted by seven Members of the Council. As the Committee Procedure Rules did not make provision for members of the public to address the sub-committee, the Sub-Committee agreed to allow family representatives of service users to address the meeting.

The Chairman invited the Member representative of the Councillor signatories to present their reasons for call-in to the committee.

The Member Representative addressed each of the grounds for call-in separately.

Ground a) – inadequate consultation with stakeholders prior to the decision

The Member Representative described the Cabinet meeting on 14 March at which he believed there had been confusion about the nature and status of the decision being taken. The families he had spoken to had not been clear as to what had been decided, and thus he had concerns about the nature of the consultation, and whether the service users had the capacity to fully understand the issues and the consequences.

Ground e) – a potential human rights challenge

The Member Representative considered that if the proposals had not been properly explained to service users in the light of their capacity for understanding, if an independent advocate service had not been provided, and if the Council had not fully met service user needs in these respects, then he believed that the Council would be vulnerable to a human rights challenge.

Ground f) – insufficient consideration of legal and financial advice

The Member Representative made reference to the Equalities Act, and its requirements to eliminate discrimination and advance equal opportunity. He queried if enough had been done to create a 'level playing field' for service users with learning difficulties, both in ensuring that they fully understood the proposals and their implications, and in delivering accommodation and services that best met their needs.

He stated that he had been made aware of the following issues during meetings and discussions with service users and their families:

- whether the integration of services users with differing categories of need was desirable;
- the potential for bullying and harassment of individuals placed among residents with differing needs;
- the disruption for elderly residents and residents with learning difficulties if accommodated together.

He reminded the Sub-Committee that many service users had been resident in their current placements for many years, even decades, and were ill-equipped to deal with change and disruption to their routine. He believed the trauma of removing individuals from their known and secure environment would have an adverse impact and questioned whether the Council had done enough to address concerns.

The Member Representative then queried whether the figures quoted in the report were sufficiently accurate in respect of predicted costs and anticipated savings. He believed that until the level of work required for mitigation was known and individual care plans were drafted, it was difficult to be clear about costs. Furthermore, if figures were based on services for older persons rather than residents with special needs, then they would be too low.

In conclusion, the Member Representative stated that he was concerned, at the timing of emails sent in August 2011 which suggested that plans for the closure of Woodlands may have been in hand prior to the consultation.

The Chair then invited representatives of service users to address the Sub-Committee.

A family representative informed Members that his sister was a resident in one of the units of accommodation. He believed that correspondence dating back 18 months showed that the decision to move residents from the accommodation had been taken some time ago. While service users and their families had been involved, the consultation had been poor and they had not had confidence in the process. He stressed how important it was for residents with long term mental health problems to have a thorough assessment carried out by trained personnel, which he did not think had been the case for his sister, nor did he think it appropriate for those with particular needs to be moved in to a home for older people. His sister had suffered bullying and harassment in institutions in the past, but had prospered at this unit. He did not feel that there had been sufficient debate when Cabinet had taken the decision.

A trustee of Advocate Voice informed the Sub-Committee that his charity had provided advocacy support for only 6 or 7 of the 40 residents affected. He was concerned that others may not have received adequate support, and that this would render the consultation less valid.

A family representative stated that her sister had been resident in one of the units of accommodation. She was alarmed to hear that plans had been in train as far back as 2011 for the closure of Woodlands. She had been told that her sister's move was a client focussed measure, and in her sister's best interest. She stated that the Council had a statutory duty to meet the assessed needs of clients but she believed her sister's assessment had been inadequate and had been conducted on the wrong criteria.

The brother-in-law of a service user at one of the Units of accommodation stated that his sister-in-law had thrived in that accommodation. In his view all that had been achieved through their good work would now be thrown away.

The Portfolio Holder for Adult Social Care, Health and Wellbeing, welcomed the Call-In, stating it was an important decision and it was right that all concerned should take it seriously; she was happy to have an opportunity to explore the decision in more detail. She regretted that families had felt that the Cabinet process had not been thorough. The Cabinet decision had been taken at the end of a lengthy process and all papers had been published in advance. She recognised that while this decision was difficult, and that change would be disruptive for service users, it was important that the Council make the most efficient use of the 6 buildings. Some services were in transition, and when this process had been completed support plans would be prepared for those affected.

The Portfolio Holder noted that Advocacy Voice had been involved with those service users who had requested support, and that others had been supported by their families. In answer to the claim that there had been insufficient consultation, she expressed the view that the Council had gone to great lengths to consult with and support those involved.

The Portfolio Holder stated that she did not believe that there was justification for a human rights challenge. At this stage officers were looking at how best to rationalise the service and estate to ensure the most effective use of resources and improve service delivery. They could then focus on individuals and their needs and preferences, and at this point it would be appropriate to consider if an Independent Mental Capacity Advocate would be required, in accordance with the provisions of the Mental Capacity Act. She stressed that the Council placed great importance on the care of vulnerable people, and while she recognised that the prospect of moving was confusing and unsettling for service users, it would not be possible to identify a placement until an individual care plan had been drafted. The Portfolio Holder added that with so many options still to be decided it was not possible to provide accurate costings.

The Member Representative drew attention to the reference in the report to Winterbourne View, and the implications and guidance arising from the government report. Given that the provision in Woodlands Drive and Gordon Avenue was well established and valued by service users, he asked why it was necessary to remove people from a good environment and incur potentially high mitigation costs in placing them elsewhere.

In response, an officer advised that there was no parallel with the Winterbourne View case, and that the proposals were in line with the guiding principles of care arising from the government report.

The Corporate Director for Community Health and Wellbeing reminded Members that they were not discussing the merits of the proposals but whether there had been sufficient and appropriate consultation with and support for service users, and whether Cabinet had had due regard to advice and consultation in reaching their decision. He was pleased that feedback had shown that residents were happy with the quality of care, and felt that the reorganisation might allow more clients to be cared for closer to home. The review had two purposes – to ensure quality of life and care for eligible service users, and secondly to achieve value for money. In his view, it was correct that no firm costings had been provided as this allowed flexibility and demonstrated that no firm decisions had been taken. He added that the project had been under discussion for some time, and there had been periodic consideration of options at those homes with low levels of occupancy.

The Corporate Director and an officer answered Members' questions on the nature and depth of consultation, and the measures used to facilitate understanding on the part of service users. They also answered questions on the following:

- measures for mitigation;
- cost of mitigation;
- mix of residents in homes;
- potential for the harassment and bullying of residents;
- maintaining friendship groups;
- ratio of staff to residents for different and mixed categories of resident;

The Chair concluded that this had been a difficult decision to take and expressed his thanks for all the contributions to the debate. He accepted that the proposals would involve change, uncertainty and anxiety for some service users, but also accepted that current provision was not ideal, as it included some accommodation which was not fit for purpose, and some facilities with a mix of residents which was not conducive to providing appropriate, targeted care. The Sub-Committee acknowledged that while it was important to provide continuity for service users, it was also necessary to provide improved facilities which could accommodate groupings of residents with similar care needs. They were also aware of the need to achieve savings and provide value for money.

Having examined the report, and having listened to all the submissions and information provided by officers, the Sub-Committee agreed that there were insufficient grounds to refer the decision back to Cabinet. Thus it was

RESOLVED: (unanimously) that

- (1) the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision – not be upheld; however, the Sub-Committee believed that the consultation comprised a limited**

line of questioning which did not provide for a full exploration of consultees' preferences and alternative options;

- (2) the call-in on ground (e) – a potential human rights challenge – not be upheld;
- (3) the call-in on ground (f) – insufficient consideration of legal and financial advice not be upheld;
- (4) **the Cabinet note the concerns of the Sub-Committee in respect of the following:**
 - (i) **the resolution at (1) above;**
 - (ii) **that there was insufficient clarity in the recommendations which lacked detail about future actions in relation to property disposal;**
 - (iii) **that the measures for mitigation, though mentioned, were inadequately captured in the report and recommendations.**

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