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**Meeting:** Executive  
**Date:** 22 April 2014  
**Subject:** The Future Management of Central Bedfordshire Council's Residential Care Homes for Older People  
**Report of:** Cllr Carole Hegley, Executive Member for Social Care, Health & Housing  
**Summary:** The report proposes the transfer of the management of the seven residential care homes for older people, owned by the Council, to direct council management at the end of the contract with Bupa.

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**Advising Officer:** Julie Ogley, Director of Social Care, Health and Housing  
**Contact Officer:** Tim Hoyle, MANOP Head of Service  
**Public/Exempt:** Public  
**Wards Affected:** All  
**Function of:** Council  
**Key Decision** Yes  
**Reason for urgency/ exemption from call-in (if appropriate)** Not Applicable

## **CORPORATE IMPLICATIONS**

### **Council Priorities:**

- Promote health and wellbeing and protecting the vulnerable.

### **Financial:**

1. The proposal requests that Executive recommends to Council a budget virement of £3,789,000 between externally contracted care services and directly managed care services as a result of insourcing the management of these homes from 1 August 2014. It also requests that the budget estimate for income from Fees for Residential Care Homes is increased by £302,000.

### **Legal:**

2. Central Bedfordshire Council has duties and powers to provide accommodation and care for vulnerable older people, either directly or by commissioning the service from suitable third parties.

3. The primary source of this is the NHS & Community Care Act 1990 – Section 47(1): The Local Authority has a duty to carry out an assessment of need for community care services where a person appears to be someone for whom community care services could be provided and a person's circumstances may need the provision of some community care services. This includes the provision of residential and nursing home places. The proposals in this report enable to the Council to continue to discharge its duties in this regard.
4. The standards operable in the homes are regulated by the Care Quality Commission (CQC). The standards are set out in the Care Standards Act 2000 and associated regulations and guidance.
5. The transfer of staff proposed in this report will be subject to the requirements set out in The Transfer of Undertakings (Protection of Employment) Regulations 2006 (and subsequently amended in 2009 and 2014). These regulations, normally referred to as 'TUPE', aim to ensure that under normal circumstances the terms and conditions of employment of the staff transferring are not worsened as a result of the transfer.

**Risk Management:**

6. Risks associated with the proposals in this report and the process of the transfer itself are being recorded on the project risk register and managed through the established project management processes. The project will also feature in the Council's strategic risk register and be monitored corporately.
7. The most significant risks associated with these proposals are:
  - Financial risk that the costs of running the homes exceed the amount currently allocated for this purpose.
  - Service delivery risk if the homes transfer in with existing deficiencies (such as staff vacancies or building defects).
  - Service delivery risk specifically around the capacity to transfer in a large number of staff over a short period of time.
  - Risk of not operating homes to meet current registration standards.
  - Risks of failure to discharge statutory responsibilities.
  - Relationship management risks between the Council and Bupa during the transfer period.
  - Reputational risks in relation to the transfer and the running of the homes.
  - Failing to deliver as service that addresses the requirements of residents and families.

Mitigation actions are underway to manage these risks.

**Staffing (including Trades Unions):**

8. Adopting the recommendations in this report will increase the number of employees of Central Bedfordshire Council by around 400 people. This will have an impact on the resources required within Social Care, Health and Housing and the Improvement and Corporate Services directorates. The requirements of TUPE regulations will apply to the staff transferring into Council employment.

**Equalities/Human Rights:**

9. No specific equalities or human rights issues have been identified in the proposals set out in this report as the proposals do not affect the services delivered to residents or the employment circumstances of the staff.

**Public Health:**

10. Not applicable.

**Community Safety:**

11. Not applicable.

**Sustainability:**

12. Not applicable.

**Procurement:**

13. In order for the transfer to be effective the Council will need to contract for the supplies and services currently being provided in the homes by third parties. This will include supplies such as food and cleaning materials. Where the Council does not already have in place suitable arrangements then a procurement process will be required.

**Overview and Scrutiny:**

14. This matter has not been considered by Overview and Scrutiny.

**RECOMMENDATIONS:****The Executive is asked to:**

1. **recommend to Council that it approves the transfer of the staff in the homes affected to the employment of Central Bedfordshire Council on 1 August 2014 in accordance with TUPE regulations;**
2. **recommend to Council that it approves the virement from the budget allocated to the Bupa Residential Homes Contract for the period August 2014 to March 2015 of £3,789,000 to a new budget heading of 'Directly Managed Residential Homes for Older People' under the Assistant Director, Adult Social Care, and that the subjective amounts in this budget are as set out in paragraph 45 of this report; and**
3. **recommend to Council that it increases the budget estimate for income from Fees for Residential Care Homes by £302,000 for the period August 2014 to March 2015.**

<i>Reason for Recommendations:</i>	<i>To ensure the continued delivery of services to older people in the seven residential homes for older people owned by Central Bedfordshire Council</i>
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## **Executive Summary**

15. Bupa has given notice of its intention to withdraw from the management and operation of the seven residential care homes for older people owned by Central Bedfordshire Council on 31 July 2014. Since receipt of this notice, work has been underway to examine the Council's options.
16. In the timescale available the only viable option is to take the homes into the direct management of the Council, along with the staff working in them. This option also supports the Council's strategic intention to reprovide the capacity in the seven homes with modern replacements, whilst leaving its options open in the future.
17. In evaluating the options officers have been mindful of the need to provide continuity of care and reassurance to the residents of the homes, who are some of the most vulnerable members of our community and their relatives.
18. The net cost of the transfer of the homes' staffing and management to Central Bedfordshire Council are estimated as broadly neutral although this may need to be revised as issues and costs become more completely known.
19. This report seeks the authority to make the changes to the Council's budget framework to allow for the transfer.
20. Ongoing costs relating to the maintenance and repair of the homes are not the primary focus of this report as the buildings are already owed by the Council. Further work will be done to determine the planned expenditure in this respect, in the light of information about the conditions of the buildings and the likely reprovision timescale.

## **Background**

21. Bedfordshire County Council contracted out the running of its residential care homes for older people to Bupa in 1998. On its formation in 2009 CBC took over the contract with Bupa for the seven homes in Central Bedfordshire. None of the homes meet modern registration standards in terms of their physical environment, or could be modified to meet those standards. The Council's stated intention with respect to the homes is a phased transition away from them into new-build residential homes over the next 6 years. The Council has been seeking to negotiate a contract extension with Bupa on this basis.
22. Bupa has served formal notice on CBC that it intends to cease its involvement with the running of the seven homes on 31 July 2014. Bupa cited their strategic intent to withdraw from operating homes on behalf of other organisations as their reason for this.

23. The seven homes affected are:

Abbotsbury, Biggleswade  
Allison House, Sandy  
The Birches, Shefford  
Caddington Hall, Markyate  
Greenacre, Dunstable  
Ferndale, Flitwick  
Westlands, Leighton Buzzard

An eighth home, Ridgeway Lodge, Dunstable which is part of the block arrangements, is owned by Bupa and will be continue to be operated by them.

24. In total the seven homes affected have capacity for 249 people. Occupancy at the current time is set out in the table below:

<b>Type of placement</b>	<b>Number</b>
Residents placed by Central Bedfordshire Council	190
Residents placed by other local authorities	5
Private residents	21
Vacancies	33
<b>Total</b>	<b>249</b>

25. The seven homes form 37% of the overall capacity of residential care home places in Central Bedfordshire (674), and 19% of the combined residential and nursing home capacity (1,280).

#### **Actions taken to date**

26. In response to this event it was agreed that the overriding priority is the welfare of the residents in the homes who will be affected by this decision. The options available to the Council are set out below:

- (a) Take the homes into the Council's direct management.
- (b) Form an 'arms-length' company to take over their management.
- (c) Contract with an existing organisation to take over their management.

27. In evaluating these options officers were mindful of the relatively short timescale, the current physical state of the homes and the existing strategy to re-provide the homes' capacity in new buildings.

28. Option (a) was identified as comparatively low risk and achievable within the 31 July 2014 timescale. This option also gives the Council more flexibility in taking forward proposals for re-providing the homes as schemes come forward.

29. Option (b) was identified as feasible but very difficult to achieve in the timescale to which the Council has to work. It is likely that CQC would demand a clear plan from the new company to deliver the improvements in the physical standards in the homes as a condition of its registration as a care provider. The Council is not yet in a position to do this.
30. Similarly option (c) was identified as feasible but very difficult to achieve in the timescale. It was also noted that attempts by Bedford Borough Council to attract an existing organisation had failed following the withdrawal of all potential operators. The risks for a third party organisation in running homes that do not meet current registration standards (in the absence of an agreed programme of re-provision) mean that the chance of successfully attracting a partner would be very low.
31. It is therefore strongly recommended that option (a) is the one to be taken forward at this stage. It should be noted that taking this option now does not preclude pursuing one or both of the other options at a later date.
32. An officer project team has been established to manage the processes associated with the ending of the contract. This consists of representatives of key areas from within Social Care, Health and Housing and Improvement, Finance and Corporate Services Directorates and is lead by the Assistant Director, Adult Social Care. A detailed project plan has been developed. This is designed to ensure that all of the actions required to deliver a safe and effective transfer can be completed prior to 31 July 2014.
33. Meetings have been held with residents, relatives and staff members to advise them of the situation and to hear their views. Representatives of Bupa and the Council attended these meetings. Residents have been given assurances that their welfare remains of paramount importance. They have also been advised the homes will remain in operation after 31 July 2014 and that the existing staff will continue to provide their care.
34. The homes are continuing to operate as normal.

### **Financial Implications**

35. The Council allocated funds in 2014-15 budget for the contract with Bupa to run the seven homes. The total annual budget for the contract for the seven homes is £5,684,000. Expenditure on the contract is based on monthly invoicing based on a daily rate for each home. It is expected that by the end of July 2014 4/12<sup>ths</sup> of the budget will have been expended and 8/12<sup>ths</sup> (£3,789,000) will remain.
36. The other source of income for Bupa in respect of the homes is income from privately-funded customers. In addition to the direct costs of running the homes these sources of income also need to provide for Bupa's corporate overheads and operating profit elements. It is therefore expected that the direct operating costs will be lower than their contract and fee income
37. At the request of officers, Bupa has provided information about the running costs of the homes. It has been supplied on a confidential basis and has been reviewed by the author and the Council's Chief Finance Officer as part of the process of preparing this report.

38. Although existing staff will transfer on their current salaries and other contractual terms and conditions, the Council will need to assess the posts within the homes against its own job evaluation criteria in order to recruit to existing or future vacancies. If the outcome of the evaluations is a significant difference between the terms and conditions of the existing and future staff then this may create difficulties in managing the workforce going forward. It may be possible to avoid this by implementing a one-off improvement in terms and conditions for existing staff. It is not possible to estimate this at present but such changes would be a call on the contingency sum identified in paragraph 41(e).
39. Income from charges for residents placed by the Council are already paid directly to the Council and the budget for 2014-15 was set at £2,310,000. This income will not be affected by the proposals.
40. Income from the 21 privately-funded residents who have contracted directly with Bupa is received by Bupa and the Council does not currently have information about the rates charged and the total income received. Prior to the transfer the Council intends to agree with each of those residents (or their representatives) that they will remain in the home and that from 1 August 2014 they will be charged by Central Bedfordshire Council at the current Full Cost rate for Central Bedfordshire residents for the home in question. The rates for 2014-15 are set out in below:

<b>Home</b>	<b>Weekly Rate 2014-15</b>
Abbotsbury	£461.60
Allison House	£451.33
Caddington Hall	£426.89
Ferndale	£471.89
Greenacre	£465.52
The Birches	£462.00
Westlands	£469.14

Based on an average charge of £460.19 per week it is estimated that income from these residents is would total £453,000 per annum and £302,000 for the period 1 August 2014 to 31 March 2015. It is proposed that the relevant income budget is revised to reflect this.

41. The following on-going budget pressures have also been identified:
- (a) **Ongoing additional pension costs:** The pension situation for staff is complex and will need to involve the pension scheme actuary and Bedford Borough Council (as administrators of the scheme) in determining the additional cost pressures. An estimate of the ongoing pressure has been made based on the Council paying a contribution of 14% of gross salaries and this has been incorporated into the staff costs estimate set out in paragraph 45. There will be further investigations to ascertain if Bupa has liability for any additional pension costs.

- (b) **Employment of an Area Manager:** it will be necessary to employ a manager to line manage the seven registered managers of the homes. The post has yet to be evaluated but the estimated cost is £58,000 per annum. Subject to the recruitment process it is intended to have this post occupied well before the transfer takes place and the cost for the 2014-15 year is therefore estimated to be £48,000.
- (c) **Additional HR support capacity:** the increase in the number of employees of the council will increase the demand on all aspects of the HR function. This is difficult to estimate ahead of the transfer but an allowance of £175,000 for 2014-15 year is proposed. Requirements in this area will be reviewed following transfer and be incorporated into budget planning for 2015-16.
- (d) **Meeting the on going training needs of staff in the homes:** This capacity may not be transferred as part of the TUPE process. It is understood that two part time trainers currently deliver 'in house' training to staff in the homes. An allowance of £38,000 for 2014-15 year is proposed. Requirements in this area will be reviewed following transfer and be incorporated into budget planning for 2015-16.
- (e) **A contingency** to ensure that the cost of applying relevant Central Bedfordshire Council policies can be met. This would include the cost of any actions taken in relation staff terms and conditions (see paragraph 41). A contingency of £292,000 is proposed for 2014-15. This represents the balance of the existing budget. Any expenditure against this would be incorporated into budget planning for 2015-16.

42. In total these pressures are estimated at £553,000 for the financial year 2014-15.

43. The following 'one-off' budget pressures have been identified to ensure the safe and effective transfer of the homes:

- (a) **'Due diligence' activities prior to transfer:** Due diligence activities to be carried out prior to the transfer are likely to identify expenditure requirements. It is difficult to estimate these at this stage and an allowance of up to £150,000 is proposed to both undertake the activities and to complete any urgent works required as a consequence.
- (b) **Replacement of staff uniforms:** The uniforms worn by the staff in the homes are of Bupa's corporate design and will need to be replaced. Although there is allowance in budgets for replacements due to wear and tear and staff turnover, it is estimate that an additional one off sum of £25,000 will be required.
- (c) **Purchase, installation and connection of IT equipment:** The IT equipment currently in use is the property of Bupa and will need to be replaced with Council equipment and this will need to be connected to the Council's network. A sum of £65,000 is estimated to be required.



- (d) **HR – set up and transfer of staff:** Additional short term staff resources will be required to undertake the processes associated with the transfer of staff, such as the setting up of each of them on corporate systems such as SAP. It is proposed that a sum of up to £25,000 is allowed for this.
- (e) **Replacement of signage:** The current Bupa-branded signage on each home will need to be replaced and a sum of £10,000 is allowed for this.

44. In total these pressures are estimated at £275,000.

45. Based on the preceding paragraphs, the net effect on the Council's budget for 2014-15 is estimated to be as summarised in the table below. All costs relate to the part year August 2014-March 2015.

	<b>£</b>
<b>Current Budget (A)</b>	<b>3,789,000</b>

**Direct Management Costs**

<b>Description</b>	<b>£</b>
Staffing costs	2,600,000
Catering	170,000
Housekeeping	28,000
Medical	25,000
Utilities & Services	250,000
Repairs & Maintenance	120,000
Administration	70,000
<b>Total (B)</b>	<b>3,263,000</b>

<b>Additional Income (C)</b>	<b>-302,000</b>
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<b>Total Variation (D)=(B+C-A)</b>	<b>-828,000</b>
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<b>Additional Costs - Ongoing</b>	<b>£</b>
Area Manager	48,000
Additional HR Capacity	175,000
Staff Training	38,000
Contingency	292,000
<b>Total (E)</b>	<b>553,000</b>

<b>Additional Costs - One-off</b>	<b>£</b>
Due Diligence	150,000
Staff Uniforms	25,000
IT	65,000
HR Resources	25,000
Signage	10,000
<b>Total (F)</b>	<b>275,000</b>

<b>Net Difference (=D+E+F)</b>	<b>0</b>
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46. It is proposed to manage costs set out above incurred by the corporate centre during 2014-15 using virements from the 'Directly Managed Residential Homes for Older People' budget. These will be made at or before year-end to reflect actual expenditure.

47. It should be emphasised that all of these estimates may be subject to change and refinement as the preparations for the transfer proceed. It is also possible that other requirements will emerge.

### **Conclusion and Next Steps**

48. Following approval of the recommendations work will continue to deliver a smooth transfer and to refine further the cost estimates for the current financial year. Members will be kept apprised of progress and outcomes.

### **Appendices:**

None

### **Background Papers: (open to public inspection)**

None