

## BIRMINGHAM CITY COUNCIL

### PUBLIC REPORT

**Report to:** CABINET

**Report of:** Corporate Director Adult Social Care and Health

**Date of Decision:** 31<sup>st</sup> July 2018

**SUBJECT:** ENABLEMENT

**Key Decision:** Yes      **Relevant Forward Plan Ref:** 005138/2018

**If not in the Forward Plan:** Chief Executive approved   
(please "X" box)      O&S Chair approved

**Relevant Cabinet Member(s)** Councillor Paulette Hamilton - Health & Social Care

**Relevant O&S Chair:** Councillor Rob Pocock - Health & Social Care

**Wards affected:** All

#### 1. Purpose of report:

- 1.1 To seek approval for the recommendations in relation to the Enablement Service and the subsequent implementation of the recommendations and to delegate the implementation of the recommendations to Corporate Director for Adult Social Care and Health jointly with the Cabinet Member for Health and Social Care.

#### 2. Decision(s) recommended:

That Cabinet:-

- 2.1 Approves the recommendations in relation to the Enablement Service redesign, see the business case.
- 2.2 Approves the high level implementation plan and key milestones for implementation of the recommendations as outlined in the Enablement Business Case attached as **Appendix 1**.
- 2.3 Notes that staff and Trade Union Consultation conclude on the 27 August 2018 and to approve delegation to the Corporate Director for Adult Social Care and Health jointly with the Cabinet Member for Health and Social Care to amend the implementation plan as a result of the Consultation.
- 2.4 The approval of the recommendations in this report will mean:
- Birmingham's citizens who are older will receive intensive therapy-led services which will develop their confidence and ability to manage daily

living activities and other practical tasks so they can carry out these activities themselves and continue to live at home.

- Birmingham will build a high quality service, based on evidence and best practice improving the outcomes for older adults. A practice and behavioural shift will take place which will focus on outcomes and will subsequently deliver savings across the system.
- Enablement will become one of the Council's main tools for efficiently supporting an ageing population by ensuring that any homecare provided following Enablement is appropriate to older adults needs.
- Deliver the required improvement in Enablement to address the shortfalls identified in the CQC System inspection in January 2018 where Enablement was highlighted as an area of underperformance.
- The Enablement Service will have capacity to support timely discharge from hospital and improve performance in Delayed Transfers of care.
- The Enablement Service will deliver considerable efficiency through the implementation of common working patterns whilst improving both equality in working hours and compliance with the Working Time Directive.

**Lead Contact Officer(s):** **Graeme Betts - Corporate Director  
Adult Social Care and Health**

**Telephone No:** **0121 303 2992**

**E-mail address:** [graeme.betts@birmingham.gov.uk](mailto:graeme.betts@birmingham.gov.uk)

### **3. Consultation:**

#### **3.1 Internal:**

3.1.1 Staff working within the Service were consulted from April 2017 to October 2017 under formal Consultation and have been in informal consultation through focussed staff meetings from November 2017 to date. 105 individual face to face meetings were offered to staff to discuss their concerns with the Head of Service and Team Manager of the Service

3.1.2 All Trade Unions were consulted formally. Unison raised a dispute with BCC in November 2017 and Management have met regularly with them, at least every two weeks through the period. Since the start of consultation, Management has held 20 meetings with UNISON and attended 8 monthly meetings with all Trade Unions. BCC also sought support from ACAS in January 2018 to resolve the dispute. To date Officers and Unison have not reached agreement on how to implement regularised working patterns for staff.

3.1.3 An extensive programme of individual meetings was held with key service representatives from Adult Social Care, Human Resources, Legal and Finance through the last twelve months.

3.1.4 An Enablement Delivery Group was established to implement staff development, management training, changes to systems, procedure and management oversight.

### 3.2 External:

3.2.1 The work undertaken by Newton in October 2017, to review the ability of the system to support hospital flow and hospital discharge as part of the programme of work delivered by the Sustainability and Transformation Plan, considered a whole systems approach to improvements to enablement. This work involved practitioner case reviews of real experiences of Older Adults. The Service redesign allows for the first stages of service changes to meet the recommendations made through this work.

## 4. **Compliance Issues:**

### 4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

4.1.1 The recommendations of this report are consistent with the Council's Vision and Forward Plan, 2018, and support the priority:

- Health - A great city to grow old in

4.1.2 Health, Priority 2 includes:

- 'Promoting independence of all of our citizens'
- 'Joining up health and social care services so that citizens have the best possible experience of care tailored to their needs'
- 'Preventing, reducing and delaying dependency and maximising the resilience and independence of citizens, their families and the community'

### 4.2 Financial Implications

4.2.1 The Council and partners in Birmingham are facing considerable change, together with shrinking resources, increasing demand and challenging financial savings. The proposals in this report contribute to the cost reductions needed in the Adult Social Care management budget. A person centred approach will prevent and/or delay the need for Adult Social Care services for Older Adults. This management of demand should be further strengthened by robust commissioning which should reduce costs in Home Care and increase efficiencies.

- 4.2.2 The proposed workforce changes to support the new Service Model will further reduce workforce costs and enable Adult Social Care to meet the savings attached to Specialist Care Services in 2018/19 and 2019/20.
- 4.2.3 The service currently has a budget of £8m of which on average only £3m of the current staffing capacity is used in direct care and the remaining is spent in unproductive time as the current working patterns do not fit with service user's need. By introducing consistent and sufficient staffing, achieved by regularising working patterns, throughout the seven day working week all staff capacity can be used in a planned way enabling the downtime in the service to be reduced considerably. This way, more Older Adults can be supported within the current workforce cost.
- 4.2.4 Implementing the part-time rota reduces the staffing budget in the service by a further c£1m. The exact figure for this can only be calculated once the selection process for redundancy is complete. The potential cost of redundancy for 2018 is estimated between £350,000 and £1.1m. 232 staff of the 280 current headcount could potentially be eligible for a partial redundancy payment for the number of contracted hours reduced and this would be a key feature of individual negotiation to retain staff.
- 4.3 Legal Implications
- 4.3.1 The recommendations in the report support the delivery of the Council's duties under the Care Act, 2014 which places a duty on Birmingham City Council to prevent and delay the need for Adult Social Care.
- 4.3.2 There has been extensive consultation with staff and Trade Unions concerning the redesign in accordance with s.188 TULRCA 1992 as amended.
- 4.3.3 The recommendation to move to a new working pattern may create some redundancies and the process will be conducted in a fair and reasonable manner. Staff will be properly consulted and alternatives to dismissal will be considered.
- 4.3.4 The recommendations comply with the requirements of the Working Time Regulations 1998.
- 4.4.1 Public Sector Equality Duty (see separate guidance note)
- 4.4.2 An Equality Analysis has been completed as outlined in **Appendix 2**.
- 4.4.3 The proposals in this report are focused on improving the quality of life for Older Adults and in so doing improve the council's delivery of the equality agenda.
- 4.4.4 Implementation of the proposed changes will result in a further workforce reduction in the Enablement Workforce and will impact on staff working greater than 22.75 hours per week. The Equality Analysis has not shown that this impacts adversely on a particular group of staff with protected rights.

## **5. Relevant background/chronology of key events:**

### **5.1 Trade Union Consultation**

5.1.1 The Enablement Business Case was launched in March 2017 and following revisions to the case, formal Consultation recommenced on the 27<sup>th</sup> July 2017 (date of S188 meeting). Officers met with Trade Union colleagues from GMB, Unite and Unison to discuss the Business Case every two weeks throughout the Consultation Process.

5.1.2 Officers presented the case at the S188 Meeting, the Corporate Consultative Committee on 13<sup>th</sup> and 27<sup>th</sup> June 2018, and Enablement was additionally discussed at monthly Directorate level Trade Union Meetings.

### **5.2 Staff Consultation Meetings**

5.2.1 The complete process involved 38 staff meetings attended by 371 employees and one-to-one meetings offered to all employees. Union representatives were available at all meetings. The meeting on 16<sup>th</sup> October 2017 was held after 101 days of consultation.

### **5.3 Business Case Changes**

5.3.1 Unison requested permission for staff to have leave from work to attend the staff working group. This was granted and sixteen meetings took place.

5.3.2 Through Consultation, considerable revisions were made to the business case. Elements of the case which were not clear or made general statements were redacted as evidenced in the minutes of Trade Union Consultation.

5.3.3 There were four formal written responses from UNISON and staff in response to the business case which were considered formally in the process as alternative proposals. Written responses were provided to each of these and the key points were outlined in the close of business case meetings which clearly set out what had changed or what had not changed in response to each of these.

5.3.4 In summary, the changes made in response to staff feedback and formal alternative proposals were:

- The original business case proposed that all staff would be compulsory car drivers, this was removed.
- Staff had two choices of rota presented to them and they preferred the rota which included working alternate weekends to the other one. The main factors were having more time off at weekends and working less weekdays in a row. The preferred rota was included in the expression of interest sent to staff on 8<sup>th</sup> November 2017.
- Within this rota further changes requested by staff were made:

- Working day to finish at 10.00pm instead of the proposed 11.00pm
- Reduced number of split shifts in the rota
- Working pattern choices to reflect current contracted hours
- Clarity on break times and appropriate breaks between working days
- Increase break times between split shifts

### 5.3.5 Industrial Dispute with Unison

Unison raised a Trade Dispute through the Collective Procedures on the 31<sup>st</sup> October 2017 on behalf of UNISON members working as enablement assistants. The letter stated that to resolve our dispute the council will need to agree to the following outcomes:

1. That there will be no compulsory redundancies in the enablement service.
2. That the rota being proposed by management is withdrawn and a self-roster system is negotiated with the union and staff.
3. That a joint working group consisting of UNISON and staff from all grades is set up to review the suggested service changes to ensure that the service works for the future

5.3.6 Management met with Unison on the 1<sup>st</sup> November 2017 to seek to resolve the dispute. On the 22<sup>nd</sup> November 2017 UNISON wrote to the Council stating that it intended to hold a ballot for strike action between 19 January and 18 June 2018. "We reasonably believe that ballot papers were despatched on 29 November 2017. The ballot is in relation to a trade dispute over proposed changes to the home care enablement service. The ballot closes 19<sup>th</sup> December". UNISON Members voted for Industrial Action.

5.3.7 Unison Officials have also met with The Leader and Elected Members during the Trade dispute.

5.3.8 To seek to resolve the dispute, Officers have met with UNISON Officials on 13 occasions, released staff for 26 Members meetings, attended ACAS for three facilitated sessions and supported a Self-Roster exercise with considerable staff and management time. UNISON and BCC Officers have failed to reach collective agreement on the implementation of staff rotas that gives sufficient, regular and even capacity through a seven day working week.

### 5.6 Revised Business Case

5.6.1 The Service requires sufficient, regular and even capacity through the week to ensure the maximum number of service users can be supported. i.e. there must be the same number of staff at the same time of the day seven days a week. The Service also requires staff to work seven days a week covering three working patterns:

Morning:	07:00 – 11:00
Lunchtime:	12:00 – 14:30
Evening:	16:00 – 22:00

- 5.6.2 The simplest way to achieve this is to work seven days out of fourteen. This allows for the consistency for Service Users to have the same staff caring for them as it minimises handoffs through the working week (a handoff is when a person has a different carer). This also allows regular whole days off for staff and enables all staff to have regular alternate weekends off.
- 5.6.3 Through the dispute, Elected Members have expressed dissatisfaction with the rota proposed by BCC in July 2017. Although the rota only required staff to work 7 days out of fourteen, for staff who worked over 21 hours they would be required to work two split shifts and staff who worked over 25 hours had to work three split shifts, and for full-time staff they would work three split-shifts on every working day.
- 5.6.4 In order to eliminate the requirement of staff to work in this way, the service must move to part-time working as it is not possible for staff working over 30 hours to be compliant with the working time directive and not work split shifts over a long day and have alternate weekends off. This is a model of Enablement adopted in many other Local Authorities, including those in the Midlands. A revised rota has been produced with three options for staff working patterns of 14, 21 and 22.75 hours. This eliminates the need for working three split shifts, whilst focussing staff capacity on the hours of service user need over the seven day working period.
- 5.6.5 The reduction in working hours of the workforce will in turn reduce the FTE in the service by 55 GR2s, 1,5 GR5s, and 2 GR4s. This would deliver a further workforce efficiency of approximately £1m. This figure will be refined following calculation of associated redundancy and pension costs which will be between £330k and £1.1m.
- 5.6.4 The initial phase for the implementation is outlined in the Business Case (**Appendix 1 - Sub Appendix B**). This would be a redundancy process with an offer of alternative employment. Whilst this approach is not preferable, given the position the service is now in it has become essential to deliver better quality of care for our most vulnerable citizens.

## 6. Evaluation of alternative option(s):

- 6.1 Self-rostering proposed by Unison.
- 6.1.1 Unison proposed self-rostering as a method of agreeing staff working both in terms of the contracted hours staff should work and the times that each member of staff works. The system works by staff negotiating with each other as to agree working times. It is a model that has had limited national discussion. Unison have been unable to provide evidence of services that operate self-rostering either in social care or the NHS to support their claim that it is a tried and effective method of working.

6.1.2 Birmingham City Council supported Unison's request to pilot self-rostering. This was the focus of the times supported by ACAS to resolve the dispute. Unison facilitated a session with staff in one constituency to develop a self-roster. Analysis of the rota found that:

- Capacity is uneven through the working week and working day, and alters between almost every 30 minute period (of service user call times). Such a system makes it difficult to plan a consistent rota.
- Capacity at breakfast time gradually decreases from Tuesday until Saturday. For service users who need a daily call, we would only be able to provide a service according to the minimum supply, which is 10. On most other days, some carers would have no work at these times.
- In more than half of the time slots there would be more carers without work than those with work.
- In the self-rostering system, each time slot has to be catered for separately (because of the uneven supply).
- Unison stated that all staff had rest days together which is not correct. 16 out of the 26 staff do not have their rest days together every week and 10 out of the 26 staff have 3 rest days together and this is usually over a long weekend.
- As there is no pattern to the rota with every staff member doing their own rota pattern this will make agreeing annual leave and attendance at training and meetings more difficult which may disadvantage staff.

6.1.3 Self-rostering therefore does not meet the requirements of the Business Case in terms of productivity and efficiency and it does not meet the requirements expressed by staff in consultation. It is very little departure from the do nothing position.

## 6.2 Reinstate the rota set out in the July 2017 Business Case

6.2.1 This would meet the requirements of the business case, deliver greater efficiency and productivity, and retain the entire current workforce on their existing contracted hours..

6.2.2 Additional workforce efficiency saving potential would not be met (the additional £1m identified), but compulsory redundancy would be completely avoided. .

6.2.3 Staff working over 21 hours would have at least two split shifts and full time staff would work three split shifts on each of their seven working days.

6.2.4 This option has been publicly rejected by Cabinet Members see 5.6.3.

**7. Reasons for Decision(s):**

- 7.1 To improve outcomes for Birmingham Citizens. In particular, Older Adults who require support to regain their independence following hospital admission.
- 7.2 To deliver required workforce efficiency savings as agreed by Cabinet in setting the Council Plan and budget 2017/2018.
- 7.3 To reduce the future demand on Homecare services within the wider context of strategic change in Birmingham, increasing financial pressures and shrinking resources.
- 7.4 Deliver the required improvements identified by the CQC Systems report in January 2018.

**Signatures**

**Date**

Cabinet Member for  
Health & Social Care  
Councillor Paulette Hamilton ..... ..

Corporate Director for  
Adult Social Care & Health  
Graeme Betts ..... ..

**List of Background Documents used to compile this Report:**

**List of Appendices accompanying this Report (if any):**

- 1. Enablement Business Case
- 2. Equality Analysis

**Report Version v4 Dated 05/07/18**