

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

18 OCTOBER 2022

REPORT OF THE CORPORATE DIRECTOR SOCIAL SERVICES AND WELLBEING

THE PROVISION OF CARE AND SUPPORT IN THE SECURE ESTATE

1. Purpose of report

- 1.1 The purpose of this report is to update Cabinet on the necessity to change the arrangements for the care and support for prisoners with eligible needs in HMP Parc, in order to meet the Council's duty to meet need under the Social Services and Wellbeing (Wales) Act 2014.
- 1.2 The purpose of the report is also to advise that the Social Services and Wellbeing Directorate will be seeking approval from Cabinet:
 - to transfer the existing care and support provision currently delivered by G4S Health Services (UK) Ltd to the Council noting the TUPE (Transfer of Undertakings (Protection of Employment)) transfer of existing G4S staff;
 - to review the existing contractual arrangements with G4S and enter into a varied or new agreement.

2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:
 1. **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
 2. **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
 3. **Smarter use of resources** – ensuring that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 The Social Services and Wellbeing (Wales) Act 2014 came into force on 6 April 2016, and accordingly changed the Authority's responsibilities towards people in prison.

From 6 April 2016, local authorities have been responsible for assessing and meeting the care and support needs of all adults and children in the secure estate while they are in custody. This has been a significant change and additional responsibility for the Authority as the Act applies equally to those in the secure estate as for those individuals in the community.

- 3.2 Part 11 of the Social Services and Wellbeing Act (Wales) 2014, applies to adults in prisons, approved premises, or bail accommodation in Wales (including those over 18 in youth detention accommodation) and children in youth detention accommodation or bail accommodation in England and Wales. For Bridgend County Borough Council this has meant providing care and support services to all eligible prisoners in HMP Parc, Bridgend.
- 3.3 The responsibilities for the Authority, as required by the Social Services and Wellbeing (Wales) Act, 2014, are as follows:
- Completing care and support assessments for prisoners;
 - Producing care and support plans (with prison and healthcare involvement);
 - Providing care and support services for those with eligible needs;
 - Specialist and moveable items (e.g. walking frames, hoists);
 - When a prisoner is to be released, or transferred to a different prison, to work with the local authority that they are moving to, ensuring continuity of care and support.
- 3.4 All offenders over the age of 18 are deemed to have 'ordinary residence' status and the Council is therefore responsible for meeting the care and support needs of individuals with eligible needs.
- 3.5 The plans of care and support that are currently commissioned by the Council to meet the eligible assessed needs of all adults and children in the secure estate are currently provided by G4S Health Services (UK) Ltd.
- 3.6 G4S Health Services (UK) Ltd is regulated under the Regulation and Inspection of Social Care (Wales) Act 2016, the same statutory framework of all domiciliary care providers in Wales, to deliver the social care element of the service in the prison. Bridgend County Borough Council has commissioned this service from G4S Health Services (UK) Ltd and is invoiced on a quarterly basis for the care and support provided. The team comprises a Registered Manager (who has both health and social care responsibilities) and 10 posts that provide social care commissioned domiciliary care.
- 3.7 From December 2022, Cwm Taf Morgannwg University Health Board (CTM UHB) will directly provide for the health needs of the prison population in HMP Parc. However there will still be a duty for the social care element to be provided/commissioned within the prison. The UHB cannot provide regulated social care without entering into a formal partnership agreement with the Council; and whilst an integrated provision remains a desirable potential option for the future, the deadline for the transfer of care provider prohibits this option at this time, as it is unlikely the time frame could be accomplished as the UHB is not currently a registered care provider for the purposes of the Regulation and Inspection of Social Care (Wales) Act.

3.8 The Council is unable to commission an independent domiciliary company to provide this care due to the constraints within HMP Parc Prison; and the reason for that position was laid out in a previous report to Cabinet on 26 July 2016 which included the very high level of vetting required for anyone working in a secure environment. The report recognised the difficulties in providing services in the prison setting and Cabinet approval was given to approve a waiver under the Contract Procedure Rules from the requirement to seek competitive tenders for the provision of care and support within HMP Parc on the basis that there was technically only one organisation that could deliver the service.

4. Current situation/proposal

4.1 The CTM UHB will take over the provision of all health services in HMP Parc on the 1 December 2022.

4.2 G4S Health Services have indicated that on terminating their contractual arrangements to provide healthcare in HMP Parc, that they do not wish to remain the provider of social care and have therefore given the Authority formal notice.

4.3 CTM UHB cannot provide social care services as it is not a registered domiciliary care provider in accordance with the Regulation and Inspection of Care (Wales) Act 2016. The Council is a registered provider. There may be a future option for the University Health Board employed workforce to deliver social care on behalf of integrated services under a partnership agreement developed under Part 9 of the Social Services and Well-being (Wales) Act (2014) in line with the policy direction for integrated services. The UHB and the Council are not in a position to complete the necessary collaborative arrangements for an integrated approach within the timescales of the transfer of healthcare from G4S Health Services (UK) Ltd to the University Health Board.

4.4 The provision of care and support to people in the secure estate has proved to be a complex matter to arrange, in terms of the commissioning of services for prisoners and meeting the existing regulatory requirements for the provision of domiciliary care in Wales. In addition, the requirements associated with the high level of security at HMP Parc means that it is not possible to commission care in the usual way.

4.5 The Council is currently securing approximately 100 hours of care a week and are supporting prisoners with a diverse range of needs (e.g. dementia, Huntington's Disease, cancer). There are many challenges to providing care services in the prison environment that would not be the case in the community. For example, access to prisoners can be compromised by security priorities, and prison lock down. There are limited facilities to support people who are disabled and sick and there is not a separate hospital wing whereby prisoners who are particularly unwell or have high levels of need, can be constantly monitored.

4.6 A further limiting factor to commissioning and arranging care, is the requirement by the Ministry of Justice for enhanced security approval to be able to gain access to the prison. Access for outside agency staff would be protracted and not practical, for example, staff would need to park in the car park walk to the prison and then complete the required security checks. This can take more than 30 minutes, with a similar procedure having to be adhered to when leaving the prison. This process would significantly impair the ability of a provider to deliver a timely and flexible response to

individuals within the prison and could present significant risks to those requiring time sensitive calls.

- 4.7 The security regime of the prison also potentially presents a significant risk to outside agencies of not being able to meet their regulatory requirements in regard to 'missed calls' as there would be a number of outside influences that could prevent an agency from attending to a person on time. The delivery of this type of traditional service arrangement by independent providers is not an option as it is unlikely to be delivered safely. It is for these reason that it is therefore recommended that the support team is based permanently within HMP Parc.
- 4.8 Due to the complexity and restrictions of the prison environment, and for the reasons stated above, it is felt unlikely that an outside independent agency would find the prospect of providing care and support within the prison attractive; for example they may struggle to provide replacement staff due to enhance security clearance required when there are unanticipated vacancies, through sickness and absence; and currently their ability to deliver care is further compounded by the shortage of domiciliary care workers nationwide. To mitigate this risk the Council will be able to seek clearance for a number of staff to provide back up to this team in times of planned and unplanned leave.
- 4.9 For the reasons listed above, it is therefore felt that the only viable option available that will enable the Council to meet its statutory duty under the Social Services and Wellbeing (Wales) Act, to provide care and support to prisoners in HMP Parc, is for the Council to take direct responsibility for the social care service currently provided by G4S Health Services (UK) Ltd. Should Cabinet be in agreement with this proposal, the existing contractual arrangements between the Council and G4S will be reviewed.
- 4.10 Initial discussions have taken place with Human Resources and it is proposed that the existing care staff currently employed by G4S would be subject to a TUPE (Transfer of Undertakings (Protection of Employment)) transfer to the Council allowing the retention of existing knowledge and skills. The TUPE regulations place a legal duty on both the existing employer and the new employer to inform and consult with the affected employees and their representatives / trade unions. A transfer consultation with affected employees together with an analysis of the implications on the existing staff structure will take place prior to the agreed date of transfer of the work. The consultation will provide an opportunity for the affected employees to raise any issues, find solutions and have the opportunity to input on the decisions.

5. Effect upon policy framework and procedure rules

- 5.1 There is no effect upon the policy framework and procedure rules.

6. Equality Act 2010 implications

- 6.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh Language have been considered in the preparation of this report. As a public body in Wales, the Council must consider the impact of strategic decisions, such as the development or the review of policies, strategies, services, and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report, if approval to proceed is agreed.

6.2 The proposal to develop a directly delivered care and support team in HMP Parc will enable the Council to meet its statutory obligations under the Equality Act and the Social Services and Wellbeing (Wales) Act; however failure to discharge the duty to deliver care and support to people with protected characteristics, for example those who are sick and disabled, could present a potential reputational risk for the Council.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The implementation of the duties and responsibilities of Part 11 of the Social Services and Wellbeing Act (Wales) 2014, for the adult population living within the secure estate, in turns supports the promotion of two of the seven goals of the Well-Being of Future Generations (Wales) Act 2015 within the County Borough of Bridgend. That is by promoting a healthier Bridgend and Wales, by promoting an environment in the secure estate that maximises people's physical and mental well-being; and supporting a more equal Wales for people within the secure estate, supporting them to fulfil their potential no matter what their circumstances.

7.2 The Act provides the basis for driving a different kind of public service in Wales, with 5 ways of working to guide how the Authority should work to deliver for people. The following is a summary to show how the five ways of working to achieve the well-being goals have been considered in this report:

- **Long Term** – There is a challenge in trying to predict and meet the needs of people in the longer term in the secure estate, because the population mix within the prison is determined by the Ministry of Justice and can change at any time. The secure estate population, and service, needs to be kept under review to ensure that people can access their rights and entitlements under the Social Services and Wellbeing (Wales) Act when they are needed.
- **Prevention** – the implementation of the Secure Estate Teams Service has enabled the Authority to work with individuals providing information advice and assistance including life skills and support to people in the prison as well as those preparing for a release; this has enabled the Authority to take a preventative approach, anticipating future problems for people particularly for those who need care and support in the prison and support on release.
- **Integration** – The provision of the Authority Secure Estate Team service is delivered in partnership with the UHB and G4S and the probation and rehabilitation services and supports the maximisation of people's physical and mental well-being.
- **Collaboration** – This collaborative approach is managed and monitored through the Prison Health and Care Partnership where there is cross sector stakeholder representation, and where the pressures and challenges of delivering services within the prison are shared and mitigated to deliver the best possible intervention within the limitations of delivering services within the secure estate.
- **Involvement** – from inception there has been a collaborative approach to developing the Secure Estate Team; the Authority has worked with public bodies collaboratively, in terms of developing the Secure Estate Team Service, as well as supporting training on the requirements of the Social Services and Wellbeing Act. In addition there has also been considerable engagement with prisoners to ensure they understand the role of the service and how to access it; this has been achieved through the provision of accessible information,

advice, and publications for prisoners that have been made available to individuals through the prison systems.

8. Financial implications

- 8.1 The final configuration of the service provision will be determined following the TUPE transfer consultation and analysis of the implications on the existing staff structures. The service provision will be inclusive of weekends and bank holidays but will not include nights because the prison is in lockdown at night, and it is not possible to provide overnight services. Any urgent overnight needs are provided by the healthcare team, who can access cells with prison guard escorts.
- 8.2 There is an existing £72,790 budget for the G4S contract, however the cost of care in the prison can fluctuate year on year depending on the mix of prisoners at any given time in HMP Parc. Any difference between the final configuration of the service provision and the current available budget will be met from within existing Homecare budgets within Adult Services.

9. Recommendations

It is recommended that Cabinet:

- 9.1.1 Note the information contained in this report and the responsibilities for the Council under the Social Services and Wellbeing (Wales) Act 2014;
- 9.1.2 Approve the transfer of the care and support service provision at HMP Parc to the Council noting the TUPE implications as outlined at paragraph 4.10;
- 9.1.3 Delegate authority to the Director of Social Services and Wellbeing in consultation with the Chief Officer – Legal and Regulatory, Human Resources and Corporate Policy and the Section 151 Officer to continue negotiations with G4S and finalise and enter into a varied or new agreement with G4S.

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Background documents: None