

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

Employment Conditions Committee: 16 October 2006

Report of the Corporate Director, Opportunities Cardiff

Adult Services-Budget Implications

Background

1. At the Executive Business Meeting on 12 October , a report on Adult Services – Financial Matters from the Corporate Director, Opportunities Cardiff was considered. The Executive considered a range of further measures to manage the Adult Services budget position which is currently projecting an overspend of £7m. (A full copy of that report is attached as Appendix A for information). This report highlights the potential employment implications of those measures and recommends that a more detailed report on full proposals is considered by this Committee at its January meeting.
2. The projected overspend is split between both council staffed Direct Services and externally Commissioned Services. Whilst actions have already been taken to tackle the problem areas, they will not fully address the position by the end of the financial year.
3. The current projected overspend will have serious implications for the overall budget of the Council. In summary, 3 areas are specifically affected within Adult Services :-

(a) Direct Services

The projected overspend on this budget provision (in excess of £2.2m) is for Council run residential homes, and relates mainly to expenditure on employees and is the result of the Care Standards Act which has had led to a significant increase in the use of agency staff and that 2006/07 budgets assumed significant savings in relation to the reconfiguration of residential homes and day centres.

(b) Commissioned Services

The overspend in Learning Disabilities is due to a higher cost number of cases in the first quarter of this year and has added significant costs to an area which was already spending well in excess of budget (projected overspend £2.3m). In recent years new clients have been entering the system where previously they would have been looked after by their families. Also people with learning disabilities are living longer which results in highly complex and expensive cases which have to be resourced by the Service Area.

(c) Direct Payments

In addition, there is a projected overspend of £600,00 on the budget for direct payments for clients to organise their own care arrangements. Whilst the budget provided for a certain level of activity, the demand has exceeded expectations.

4. Whilst the decline in numbers has largely occurred in low cost package categories, there has been an actual increase in the number of high cost, highly intensive packages. Spending in this area has increased significantly in recent years and a continuation of this trend is evident in the first quarter of 2006/7.
5. The rise in standards as dictated by the Government's Care Standards Act has increased costs associated with provision of residential and nursing home care. Growth in staffing levels has led to an increase in agency staff required to cover sickness and other absences in order to satisfy the standard.
6. Despite introducing measures to address the overspending, further significant measures are still required to continue progress on reducing the deficit both in the current financial year and in the medium to long term. These further measures will be subject to the necessary consultation process which is proposed to commence following the decision of the Executive in respect of their report.
7. The Executive considered 4 proposals, all of which will have some degree of impact on existing staff resources.

Proposal 1

8. **Reconfigure Day Care Services.**

The continued reconfiguration of day care services to provide only statutory services in a small number of day care centres across the City with the remainder changing use to drop in centres/ luncheon clubs. . The exception to this being the closure of Oldwell Court which will realise savings of £30,000 in the current financial year.

Proposal 2

9. **Increase Charge for Domiciliary Care**

This would generate increased income to offset commissioning expenditure where service users have been means tested and can afford an increased cost within their assessed charge.

Proposal 3

10. **Reconfiguration of in-house Home Care Service**

This refocus would have significant implications for the Home Care service which would result in a substantial reduction in the existing work force. The remaining staff will need to work in a more flexible way to meet the complex and challenging needs of service users and would realise significant savings , potentially £2m anticipated in a full year.

11. Iorwerth Jones Residential Home

There will be a report to the Executive in relation to this home shortly seeking agreement to consult with residents , their families and stakeholders as to its future use.

Issues

12. Proposal 3 ie Reconfiguration of the in-house Home Care Service, if agreed by the Executive, will present a major challenge to the structure of the existing workforce. As Home Care Service is moving away from traditional services in favour of hospital discharge, short term and Elderly Care Assessments Service, this has led to Home Care staff on fixed contracts being paid whilst not working. This is currently being addressed by managers and staff by adopting a more flexible approach to working patterns and better planning and scheduling of workloads. Whilst offering 37 hours per week contracts to home carers and bringing work back in-house have been suggested to try and assist the situation , it is unlikely that these would provide the flexibilities required to deliver services at peak times of service user demands.
13. Work is already underway in looking at potential realigned organisational structures and a review of current working practices is progressing with a view to establishing ways of working that are more flexible and responsive to the needs of service users. Information is being collected from Welsh and English local authorities on their arrangements and this will help to inform any final decisions in relation to new working arrangements within the service. Options which could be considered may include annualised hours which already operates in parts of the Council. Additionally the Care Staff in the Hafod and Statutory Homes are on career grades that are all inclusive (other than enhancements for night work) and these arrangements could be considered for wider application in Adult Services.
14. Whilst terms and conditions can be amended through contractual processes, it is likely that the number of staff required will be substantially less than existing resources. Redeployment and voluntary severance will be available to try and achieve the required level of savings but if this cannot be achieved , other avenues may need to be explored. Consequently , whilst every effort will be made to reduce the impact of any proposed changes, there can be no guarantee that Voluntary Severance or redeployment will be sufficient.
15. Specific proposals eg closure of day centre at Oldwell Court, certain centres retained as luncheon clubs in partnership with external organisations , etc carry employee relations implications and potential costs to the Council associated with redeployment and potential voluntary severance.
16. Refocusing of the Home Care Service as highlighted in this report will have a significant impact as it will inevitably lead to a substantial reduction in overall staffing levels as well as a requirement for remaining staff to adapt to different working patterns and more flexible contracts of employment.
17. Following a detailed review by Scrutiny, a revised Sickness Absence Policy has been implemented from April 2006. Generally, absence rates have improved in some areas but not all. A contributory factor to this has been an increase in long term absence. However, better reporting and monitoring are now also taking place. The SAP workflow which automatically generates prompts and actions for managers has

only recently been implemented across all Service Areas and it has only been operating in Social Care since August.

18. The existing situation in Adult Services is exacerbated by high levels of sickness absence (currently running at 12.8% in Home Care) If the current difficult financial situation in Adult Services is to be addressed and the only way forward is to look at terms and conditions, including pay arrangements, the Council will need to enter into local negotiations with the Trade Unions as a matter of urgency. By moving away from national terms and conditions of employment, options that could be looked at may include development of more all-inclusive contracts eg no week-end/overtime enhancements; consideration of more flexible and more client orientated patterns of working
19. This Committee at its meeting on 17th July, 2006 considered, as part of the overall approach to improving the management of sickness absence, a report outlining the core services that the new in-house occupational Health Unit would be providing. Further, a number of future developments were outlined that would maximise the opportunity for the proactive use of the service e.g. periodic health and well being consultations for employees, early access to physiotherapy, sourcing non-NHS diagnostic and treatment services, etc. Committee were also updated on progress of the York City Council Occupational Health arrangement It was subsequently agreed that costed proposals for these future developments should be submitted to a future meeting of this Committee.
20. In order to address the absence issue in Adult Services, other options could be considered , including the York City Council model that Scrutiny reviewed as part of its Sickness Absence investigation. Under their arrangements, staff who are sick are required to contact the OH provider in the first instance .The pilot in York’s Adults Services has resulted in a reduction in sickness. However, if this model were to be adopted here, there would be resource implications as the Council’s in-house Occupational Health would not have the capacity to undertake this additional role. It would also be important to select an appropriate pilot area in Adults which would deliver the financial savings if absence were reduced.
21. A process and timetable will also need to be determined so that Members can be reassured that the organisational changes required to deliver the savings and a more effective client focussed service can be achieved in accordance with employment legislation requirements.

Investment for Reform/Benefit to service user

22. The proposals will mean that a much smaller number of service users will be supported but they will have increasingly complex and challenging. These proposals will ensue that the service to users is cost effective and as focused and flexible as possible to meet required needs.

Council Policies Supported

23. The Council is an authority with powers and statutory duties in respect of welfare services (and child care). In discharging its responsibilities the Council must have regard to statutory guidance. Failure to comply with this approach could be unlawful and corrected by judicial review. The proposals support budget requirements but also contribute to the Council’s key policy theme of “A Healthy City” and will support and contribute to the vitality and opportunity pillars of the Cardiff vision.

Advice

24. This report has been prepared in consultation with relevant Corporate Directors and reflects their advice. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the following advice.

Legal Implications

25. Powers and Duties

The Council is an authority with powers and statutory duties in respect of welfare services (and child care). In discharging its responsibilities the Council must have regard to statutory guidance. Failure to comply with this approach could be unlawful and corrected by judicial review.

This advice does not seek to set out each and every obligation that falls upon the Council in respect of adult welfare services but there are four broad headline responsibilities in respect of those assessed as in need. Some of the functions under these headings merge in practice:-

- Accommodation
- Welfare Services
- Community Care
- Mental Health Services

Below are some key duties and responsibilities but the list is not exhaustive

The National Assistance Act 1948 (as amended by later legislation) set outs powers and duties to provide or arrange for the provision of residential accommodation for people over 18 who because of age, illness, disability or other circumstances are in need of care and attention not otherwise available to them.

The Chronically Sick and Disabled Persons Act 1970 extended the duties under the National Assistance Act. This imposes duties to offer advice and guidance, provide occupational facilities to disabled people to overcome and limitations and to provide home-help facilities. The Council may employ agents to provide welfare facilities.

The National Health Service and Community Care Act 1990 deals with the provision of community care services by authorities. Community care means welfare and accommodation, welfare for elderly people, home help, after care services and after care for mental health patients. The Council has a duty to prepare and publish and keep under review a plan for the provision of these services.

Assessments

The Council must carry out assessments of a persons needs for community care. It is now established law that once a person has been assessed as in need, the Council must provide the service that will meet the need. Lack of resources is not a lawful reason for failure to provide the service. Similarly, in these circumstances waiting lists are generally unlawful. However, resources may be taken into account when establishing the authority's eligibility criteria for the service.

Changing or reducing provision

- The Council must discharge its duties and if it did not so could expect challenge.
- The Council has a discretion to discharge powers but once provision under a power is made it must not cease to make the provision without first undertaking a bona fide consultation exercise with the stakeholders.
- Certain provision must be the subject of a specific prior consultation process and reasonable notice before it may be withdrawn. For example a proposal to close a home would fall into this category. There are competing rights and responsibilities that must be addressed. Human Rights in respect of interference with a persons home must be dealt with sensitively and adequately.

Strategy

The Council's highest priority is to discharge duties and the lowest priority is to discharge powers.

If the Council wishes to undertake a comprehensive review of provision with a view to financial savings the advice is to identify that provision where the Council has:-

- A duty to discharge a function
- A discretion to discharge a function
- A requirement to consult
- A requirement to give reasonable notice so as to delay the impact of any savings

In the case of a duty the focus should be on establishing reasonable and affordable assessment criteria.

In the case of a discretion the focus should be whether the function should be carried out at all or in part.

In the case of consultation and notice periods the timeframe to achieve the objective should be established.

Further legal advice will be given as specific proposals are developed.

Staffing and Employment issues

It will be appreciated that contracts of employment are legally binding on both parties and can not be changed unilaterally. Proper process must be followed if the potential for successful challenge is to be minimised. The conventional process to change terms and conditions of employment is either a mutual agreement to change the terms: or termination of the current contract by proper notice with the simultaneous offer of suitable alternative terms. If the employee does not consider the offer as suitable then there could be a claim for breach of contract or unfair dismissal.

As soon as redundancy of staff becomes a possibility (even if remote) in the mind of the employer there is a duty to consult relevant Trades Union and staff.

Financial Implications

26. The month 3 monitoring report presented to the Executive Business Meeting on 14th September showed a projected overspend for Adult Services of £5.9m. Since then however, the position has worsened and an overspend of £7m is now projected. This will be reported upon in more detail when the month 6 figures are presented to the Executive Business Meeting in December.

This report sets out the underlying causes of the overspend and outlines a series of further measures to reduce the projected overspend in the current financial year together with a series of measures that will assist in reducing the budgetary requirement in future years. These measures are subject to decision by the Executive and any necessary consultation. It is vital that progress is made in identifying savings in order that the Council's financial standing is not compromised and in order to reduce the financial burden in future years.

The report details the issues in respect of the in-house Home Care Service including the need for a review of current working practices and the possible reconfiguration of the Service. The potential savings from the refocusing of the service are likely to be significant with budget reductions in the region of £2m anticipated in a full year. This will not impact significantly in the current year, however some in year savings may still be achieved as a result of changes to terms and conditions . The impact of these changes cannot be assessed at this stage. The savings arising from a refocusing of the service will be partly offset in the first year by any costs associated with redeployment and voluntary severance.

The report also identifies the impact of sickness levels on the service and considers potential measures aimed at reducing these levels. The financial impact of these measures cannot be assessed at this stage, however should the York City Council model be adopted this will have resource implications for the Council's in-house Occupational Health Unit which would need to be considered against the potential savings that may be achieved.

Human Resource Implications

27. The majority of the options outlined will have varying degrees of impact on staff within Adults Services with Proposal 3 presenting the biggest challenge from a staffing point of view. Whilst redeployment would clearly be considered, it is unlikely that this would be sufficient if large numbers of staff are involved. Other avenues are already being explored including voluntary severance. All of the options imply a redirection of activity for individuals and groups of staff and the change management implications of this should not be underestimated. All of this is against a background of stringent requirements places on the Authority by CSIW which relates to staffing levels and ratios associated with care provision. The Trade Unions must be consulted at each stage of the process and relevant information provided directly to staff as decisions are made on the future structure and service provision.
28. In relation to timescales, discussions with Trade Unions and affected staff have already commenced , information subsequently confirmed in writing and initial expressions of interest in Voluntary Severance are being sought from Home Care Staff by 20th October, 2006. Once the level and extent of potential take up of Voluntary Severance is established, progress can be made. A working group comprising HR and Adult Services would be established to develop proposals for new organisation and staffing arrangements. The Trade Unions and staff will continue to be consulted throughout this process with detailed proposals in relation to new organisational structure and revised terms and conditions of employment to be considered at the next meeting of this Committee .

Trade Union Comments

29. The Trade Unions expressed deep concerns at the insufficient timescales allowed for consultation on this critical report. They did not agree that staff were inflexible in terms of their approach and queried the extent to which staff were being paid whilst not working. They considered that if it was happening occasionally, it was not the employee's fault as it was the employer's responsibility to provide the work. They firmly rejected any move away from National Terms and Conditions of employment and cited the recent example of cleaners having their sick pay recently reinstated.
30. They requested that before Members made decisions in relation to Home Care, they should have access to accurate information concerning numbers, structures and costs so that they could make an informed decision. In relation to Sickness Absence, they felt that rates across the Council would reflect the services provided and that rates were likely to be higher where manual handling was a fundamental part of the role as in Home Care. Consequently, comparisons across and to other services were not valid due to the nature of the work undertaken.
31. They felt the report to be a decision report rather than a paving report and expressed their bitter opposition to any proposals to undermine National Terms and Conditions currently in place.
32. They stated that if some of the specific proposals proceeded eg the removal of pay for 1st 3 days of absence, they confirmed they would ballot their members for industrial action.
33. They also queried the appropriateness of the York City Scheme to the Cardiff scenario and advised that existing in-house OH resources would be insufficient to cope with additional and different demands that the York Scheme would involve. A preferable approach would be to allow the revised policy time to bed in.
34. The Trade Unions felt that Elected Members minds were made up and that 180 staff would be dismissed ultimately as it was inconceivable that Voluntary Severance and redeployment would be sufficient. They had profound reservations that all the measures put in place would deliver the savings and efficiencies required. Savings could be achieved by not filling the Assistant Chief Executive post and freezing Members allowances.
35. They highlighted their frustration that whilst views and comments may have been sought, they were rarely considered by Officers or Members and that ideas on savings should be sought from frontline staff who would be best placed to respond. Further, the implications of losing 180 staff from Adults Services for other Service Areas would need to be quantified.
36. Overall, they were deeply unhappy with principle of proposals to be considered, would vehemently resist any dilution of pay arrangements and would be firmly opposed to terms and conditions being slashed.
37. The Trade Unions felt that putting out work to the private sector had already exacerbated an already difficult situation and this work should now be brought back in-house.
38. Finally the Trade Unions feel that the Elected Members should be informed of the potential cost implications for equal pay claims including legal costs that would be incurred due to the process having to be dealt with outside the Job Evaluation as the

Trade Unions would have no option but to lodge equal pay claims for any home carers should they be made redundant.

39. They also feel that the Elected Members are not being given the whole truth about the situation and consequently are seeking an urgent meeting with the Leader, Executive Member, Economic Development and Finance and the Chief Executive to discuss these critical issues.

RECOMMENDATION(S)

40. It is recommended that:

(i) This Committee notes the proposal of exploring more effective and different ways of delivering a responsive and flexible Home Care service to clients.

(ii) Trade Unions and staff be consulted on with proposals concerning structures and revised terms and conditions of employment for the reconfigured Home Care Service

(iii) Consideration be given to a number of measures including the option of piloting the York City model of dealing with absence in an appropriate area within Adults Services and that a costed proposal of implementing this or other options be submitted to this meeting in January.

(iv) A further report , providing detailed proposals and recommendations and including comments and views of Trade Unions and staff , be submitted to the next meeting of this Committee.

**NEELAM BHARDWAJA
CORPORATE DIRECTOR**

Appendix A

- Adults Services – Financial Matters;
Report of Corporate Director, considered by Executive Business Meeting ; 12th
October, 2006

EXECUTIVE BUSINESS MEETING: 12 OCTOBER 2006

ADULT SERVICES – FINANCIAL MATTERS

REPORT OF CORPORATE DIRECTOR

AGENDA ITEM: 17

PORTFOLIO: HEALTH, SOCIAL CARE & WELLBEING

APPENDIX 1 TO THIS REPORT IS EXEMPT FROM DISCLOSURE PURSUANT TO THE PROVISIONS OF PARAGRAPHS 19, 20, 21 AND 24 OF PART 4 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AS AMENDED.

Reason for this Report

1. To propose measures to assist in managing the projected overspend in Adult Services during 2006-07 and to realign social services to confront effectively the serious budgetary challenges facing Adult Services in 2007-08.

CONTEXT

2. Adult Services in Cardiff, in line with councils across Wales, has difficulties in meeting the increased demand for services. This rising demand reflects pressures generated by a range of factors, including demographic changes, rising citizen expectation of services, and socio-economic impacts that are serving to drive upwards the levels of demand for services that support the most vulnerable in society.
3. In recent weeks, problems have been manifest across Wales. In addition to Cardiff, similar problems are being experienced by the Vale of Glamorgan Council and by other local authorities across Wales. This has prompted the Welsh Local Government Association, acting on behalf of all local authorities in Wales, to call for action and request an urgent meeting with the Health Minister, Dr Brian Gibbons AM. The Association recognises that there is an *“urgent need to find a solution to local government and health, growing tensions around adult services and to identify a way forward where both parties can take a mature approach to resolving the issues”*.
4. In Cardiff, the problem is compounded by city-urban issues that serve to place considerable strain on vital social care and health service provision. The city is home to huge populations living in the most deprived neighbourhoods in Wales. The 2005 Wales Index of Multiple Deprivation highlighted that 56,000 Cardiff residents lived in the worst 10% of income deprivation in Wales. Studies have clearly shown the direct causal link

between income deprivation and poor health for populations of all ages, this is particularly acute for the very young and the very old.

5. The problem is aggravated at a national level by a social care policy and funding regime, developed by the Welsh Assembly Government, which has resulted in a major disconnect between statutory care standards and funding, following the introduction of care standards legislation in 2002.
6. Again, Cardiff's position is adversely affected by a failure of national policy to recognise local circumstances generally and the urban problem in particular. Rising standards of care as prescribed by the WAG and the changes in national funding formulas relating to social care have left base budgets deflated over recent years.
7. In itself these matters would be serious enough for any local authority but they also need to be set against the Council's overall financial position – Cardiff has the second lowest per capita SSA of any local authority in Wales. For Cardiff the difficulties were further exacerbated by the threat of capping in the 2005-06 budget round, which arose directly in response to the Council's efforts to strengthen the budget base of social services. On advice, the Council complied with the capping criteria and the overall budgetary base of the authority was reduced as a result.
8. In contrast to the position of the National Health Service, which is currently experiencing historically high rates of investment, social care services, particularly in Cardiff, have struggled to reconcile demand-led pressures to a severely constrained financial situation, and this has contributed to financial difficulties facing Adult Services at the present time.
9. To illustrate the budget pressures on Adult Services in Cardiff it is important to understand the cost-push factors that are unique in a Welsh context. First, Cardiff has one of the tightest labour markets of any city in the UK – a fact underlined by the recent work of Professor Michael Parkinson. While this reflects the economic success of the city, it has also resulted in inflationary pressures in terms of social care labour that has resulted in certain instances in terms and conditions for staff that are difficult to sustain within the current budgetary environment.
10. Secondly, a buoyant local residential property market has served to reduce capacity in the residential care market and increased its comparative cost. While demand for care has increased, supply has diminished with a consequent increase in care costs provided by the independent sector. The cumulative result of these economic factors has been to mitigate against the containment of cost pressures within the budgetary framework. Yet the current Welsh Assembly Government grant regime has not been geared to reflect these pressures – unlike in many of the UK's core cities where the problem is understood and being addressed.
11. In summary, national financial frameworks have reduced the available funding base to meet growing demands in terms of statutory care provision when set alongside historic spending levels in areas of discretionary care. Increased statutory care obligations have not been supported by a

commensurate increase in resources. The result is an unacceptable strain on adult service budgets – and this in-built problem for social care is now emerging clearly across Wales.

ADULT SERVICES: AN OVERVIEW OF THE CURRENT FINANCIAL POSITION

12. The report to the Executive in September 2006 highlighted a projected overspend of £5.9m against the budget of Adults Services for 2006/07 on a net budget of £66 million. The current position has not improved – on the contrary, the service area is currently projecting an overspend of some £7 million despite the management actions that were reported to the Executive in September. This has led to wider management action on a corporate basis to protect the Council's overall financial position during 2006-07, and these are outlined in a separate report to the Executive on the overall financial position of the Council.
13. Spending patterns in the service fall into two categories: those that relate to statutory duties and those that are discretionary and provided under statutory powers. In turn, the projected overspend is distributed between both Council staffed direct services and externally commissioned services. The level of spend carried out under statutory powers (discretionary) is very limited revolving mainly around day care provision for older people and grants to voluntary organisations. Together these total just £2.2m out of the £66m budget, the remainder of the budget relating to services required under statutory duties.
14. Actions have already been taken to tackle both areas but - because of the inevitable delay in generating reduced costs as a result of these measures - they will not rectify the projected overspend for the current financial year. However, the effects of these actions, which include a review of service provision as outlined in proposals in this report, will serve to realign the spending budget of Adult Services to more closely accord with the available resources that the Council establishes as part of the 2007-08 budget process.
15. Although a significant overspend was reported throughout 2005/6, service user data suggested that case numbers were falling. It was considered that this reduction would, at some stage translate into a reduction in costs. It has subsequently become evident that the decline in numbers has largely occurred in low cost package categories whilst there has been an actual increase in the number of high cost, highly intensive packages. This trend has continued in 2006/7 and has contributed significantly to the current projected overspend. Individual packages in the highly intensive care category can cost in excess of £100,000.
16. The rise in standards as dictated by the Government's Care Standards Act has increased costs associated with provision of residential and nursing home care. Growth in staffing levels, linked with failure to recruit has led to an increase in agency staff required to cover sickness and other absences in order to satisfy the standard. High levels of sickness absence in residential care have been a factor in the increased costs. In July 2006,

The Council introduced revised sickness policies to address related absences. However, it is too early to measure the impact of these policies on sickness levels.

17. A proportion of the overspend is also due to the delayed implementation of savings proposals in both 2005/6 and 2006/7 budgets. These delays were mainly due to proposals with health partners not being concluded within the planned timescale.
18. The table below identifies the key over-spending areas based on the reported position for the service area at month 3. This showed a projected overspend of £5.9m, however since then the position has worsened and an overspend of £7m is now projected. This will be reported upon in more detail when a report on the month 6 figures is taken to the Executive Business Meeting in December. The projected overspend has serious implications for the overall budget of the Council in the current year and unless addressed it will also have serious repercussions for the budget setting process in 2007/08.

ADULT SERVICES 2006/7	Budget	Projected Spend	Projected Variance	Variance (%)
	2006/7	2006/7	2006/7	
	£'000	£'000	£'000	
Direct (Council Run) Services				
Residential Homes	7,381	9,593	2,212	30.0
Other Direct Services (Day Care, Home Care etc.)	13,259	13,349	90	0.7
Total Direct Services	20,640	22,942	2,302	11.2
Commissioning and Assessment Services	41,198	44,815	3,617	8.8
Support, Management, Strategy and Supporting People	4,876	4,876	0	0.0
TOTAL ADULT SERVICES	66,714	72,633	5,919	8.9

ANALYSIS OF OVERSPEND

Direct Services Residential Care

19. The projected overspend on this budget provision (in excess of £2.2m) is for council run residential homes. This relates mainly to expenditure on employees and is the result of two factors:
 - Firstly, the Care Standards Act, and an increasing level of need and frequent inspection regime have required a significant increase in staffing levels. The staffing levels in the residential homes are determined by not only the number of residents but also their level of ability which means that the level of staffing in the home could change with the mix of residents. The residential homes are increasingly dealing with residents who are frail and have high needs. Measures had been put forward to reduce the overall burden as part of the

2005/06 budget with the proposed closure of a residential home, namely Rothesay House. A delay in closure, due to a lengthy consultation process with service users, their families, staff and trade unions meant however, that the continued reliance on agency staff could not be avoided. This contributed to a significant increase in the use of agency staff culminating in an unbudgeted agency spend of £1.8m in residential homes in 2005/6. This trend has continued for the first quarter of 2006/7.

- Secondly, the 2006/7 budgets assumed significant savings in relation to the reconfiguration of residential homes and day centres. This includes the Iorwerth Jones Home, which has been delayed due to the protracted rather than planned negotiations with Health partners on the future use of facilities, although these matters are now being progressed. The delayed implementation of some of these savings proposals has further added to the overspend, particularly on employees.

Commissioned Services for Learning Disabilities

20. The largest part of the projected overspend is in the Learning Disabilities Services where the addition of a number of high cost cases in the first quarter of this year has added significant costs to an area which was already spending well in excess of budget (projected overspend £2.3m). Failure to reach agreement with Cardiff Local Health Board on continuing health care cases has contributed to this overspend. In recent years new clients have been entering the system where previously they would have been looked after by their families. Also people with learning disabilities are living longer which results in highly complex and expensive cases, which have to be resourced by the Service Area.

Direct Payments

21. In addition, there is a projected overspend of £600,000 on the budget for direct payments for clients to organise their own care arrangements. Whilst the budget provided for a certain level of activity the demand has exceeded expectations. Spending in this area has increased significantly in recent years and a continuation of this trend is evident in the first quarter of 2006/7. The nature of Direct Payments means that some service users not attracted by the traditional methods of service delivery are now requesting this relatively new method of service provision.

PROPOSALS

22. Having reviewed the position, it is clear that the Council must continue to discharge its statutory duties, albeit with a thorough review of service delivery and that the main area of flexibility lies with those services provided under statutory powers (discretionary). The proposals below are outlined to inform Members of the actions considered necessary and their consequences. In essence the actions address the level of activity that has built into the arrangements for Adult Services over a protracted period when the statutory provision of services were set at a lower level and therefore discretionary services could be provided. The effects of these

actions will only marginally contribute to reduction in projected over expenditure in 2006/7 but will allow the Council to more effectively address the increasing financial pressures in the 2007/08 budget process

- **Proposal 1 – To reconfigure day care services to provide only Statutory Services**

Continue the reconfiguration of day care services across the city. The day centres that are needed to accommodate service users who meet the eligibility criteria will be maintained and the remainder will be retained as luncheon clubs in partnership with external organisations.

However, the decline in numbers attending Oldwell Court, Penylan mean that the centre is under-used, making it an inefficient use of staff and resources. It is proposed to close this centre after consultation with service users. All other centres will remain open as part of the strategy outlined above.

Potential Savings – the savings from this proposal in the current financial year are likely to be £30,000 and relate to the closure of Oldwell Court in Penylan. The savings in a full year will depend on the outcome of the action taken, the number of day centres retained and reconfigured.

Consequences – In line with the 2006/7 Council budget decision three day care centres for older people (Worcester Court, Dalton Street and Moorland Road), are to change use to provide luncheon club facilities at each centre, enabling people to ‘drop in’. Work to identify partner organisations to develop these alternative services is nearing completion.

The executive is recommended to approve the reconfiguration of day care services as outlined above.

- **Proposal 2**

Increase charge for Domiciliary Care

Potential Savings – The saving from this proposal in the current financial year is likely to be £31,000, increasing to £73,000 in a full year.

Consequences – The Proposal would impact upon all service users who are paying the maximum charge. The uplift will result in an increased charge for 492 service users (across the service area).

By increasing the unit cost of domiciliary care from £7.95 to £8.95 per hour across all service areas, increased income would be generated to offset commissioning expenditure where service users have been means-tested and can afford an increased cost within their assessed charge. The current unit cost of £7.95 does not reflect the cost of service delivery and increases applied to the unit cost in recent years

has been a percentage increase only. The figure of £8.95 is based on the lowest weekday rate of domiciliary 'spot' providers.

The executive is recommended to approve the increase in charge for domiciliary care from £7.95 to £8.95 per hour.

- **Proposal 3**

Reconfiguration of In-House Home Care Service

Potential Savings – Changes to contracts of employment will produce savings in the current financial year, however their full impact cannot be assessed at this stage. The refocusing of the Home care Service is likely to produce significant savings with budget reductions in the region of £2m anticipated in a full year.

Consequences.

As a result of changes in the eligibility criteria and the development of the block contract in domiciliary care, the Home Care Service is already moving away from the provision of traditional services in favour of hospital discharge, short-term care and the Elderly Care Assessment Scheme. This has led to Home Care staff on fixed contracts being paid whilst not working and this situation needs to be rectified immediately by changes in contracts of employment. A paving report will go to ECC in October 2006 to agree contractual changes and VS arrangements for staff.

This refocusing of the Home Care Service would result in the existing Home Care Service reducing substantially. This will not have any adverse effect on service users or service delivery but however, staff will be required to work in a more flexible way with people with complex and challenging needs.

There will also be an impact upon the domiciliary market, which will be required to respond to a higher ratio of care packages.

A further report on the proposed structure will be taken to the Employment Conditions Committee in January 2007.

The executive is recommended to approve the reconfiguration of in-house home care services as outlined above.

- **Proposal 4**

Finalise plans for Iorwerth Jones as agreed in budget proposal for 2005/2006 and 2006/07

Potential Savings – The closure of Iorwerth Jones Home may provide a potential saving of £250,000 in the current year with a full year saving of £1,000,000 against current spend. The budgeted saving however, will only be £250,000 in a full year as the budgets were reduced in both

2005/06 and 2006/7 to reflect the proposed reconfiguration of services on the site. Any decision not to close the home will therefore impact on the 2007/8 budget.

Consequences – The Proposal would impact upon residents, relatives and staff at Iorwerth Jones Home.

The future of Iorwerth Jones Residential Home in Llanishen is the subject of an Executive Report, due for submission in October 2006 requesting agreement to consult with residents and their families on the future use of the Home. It is the intention that residents will be relocated to alternative provision across the city in accordance with assessment of their needs to take advantage of spare capacity.

The executive is recommended to approve consultation on the closure of Iorwerth Jones residential home following appropriate communication with residents and their families.

UPDATE ON OTHER SERVICE ISSUES

Hafod Care Homes – Contractual Arrangements

23. The Executive Business Meeting considered a report on the 11 April 2006 concerning Hafod Care Homes. South Glamorgan County Council concluded a number of contractual arrangements with Hafod Housing Association Limited in respect of Residential Care Homes. The arrangements originally related to long leases in respect of 10 Residential Care Homes, but on Local Government Reorganisation in 1996 two of the homes were transferred to the Vale of Glamorgan and eight passed to Cardiff. Following a review in 2002 the Hazelcroft Home in Cardiff was closed. There are currently 7 Hafod run homes in Cardiff. Since 1996 the Council has made a number of attempts to review and renegotiate the contracts. The report considered by the EBM in April in exempt session set out the full background and issues and resulted in the following recommendations being approved:-

1. “That the Council enters into facilitated mediation with Hafod with a view to negotiating new contractual arrangements on the basis set out in the report;
2. The Corporate Director Opportunities and such offers as she may authorise from time to time, be authorised to conduct the facilitated mediation on the Council’s behalf and to carry out all ancillary matters including requisite consultation with the staff concerned and appropriate Trade Unions;
3. The Corporate Director Opportunities be authorised to determine if the outcome of the facilitated mediation is successful or not and at what point such mediation should be drawn to an end;
4. That if in the opinion of the Corporate Director Opportunities the outcome of the facilitated mediation is successful, the Council

concludes new contractual arrangements with Hafod on the basis set out in option 1 of this report including the disposal of the land referred to;

5. That if in the opinion of the Corporate Director Opportunities facilitated mediation is unsuccessful, the Council terminates the leases and care contracts with Hafod and assumes responsibility for making alternative arrangements for the running of the 7 homes.”

24. It has not been possible to reach an agreement with Hafod and the current legal position is set out in Appendix 1 of the report. Accordingly, formal steps have now been taken to terminate the leases and care contracts in accordance with the decision of EBM on 11 April 2006 as shown in item 5 above.

Consultation

25. The measures proposed in this report will require consultation with service users, trade unions and local Members.

Reasons for Recommendations

26. To note progress on reducing the projected overspends in 2006-07 and to agree the further measures suggested for achieving further savings during 2007-08 and to approve the proposals for formal consultation with all relevant parties.

Legal Implications

Powers and Duties

27. The Council is an authority with powers and statutory duties in respect of welfare services (and child care). In discharging its responsibilities the Council must have regard to statutory guidance. Failure to comply with this approach could be unlawful and corrected by judicial review.

28. This advice does not seek to set out each and every obligation that falls upon the Council in respect of adult welfare services but there are four broad headline responsibilities in respect of those assessed as in need. Some of the functions under these headings merge in practice:-

- Accommodation
- Welfare Services
- Community Care
- Mental Health Services

29. Below are some key duties and responsibilities but the list is not exhaustive:-

- The National Assistance Act 1948 (as amended by later legislation) set out powers and duties to provide or arrange for the provision of residential accommodation for people over 18 who because of age,

illness, disability or other circumstances are in need of care and attention not otherwise available to them.

- The Chronically Sick and Disabled Persons Act 1970 extended the duties under the National Assistance Act. This imposes duties to offer advice and guidance, provide occupational facilities to disabled people to overcome and limitations and to provide home help facilities. The Council may employ agents to provide welfare facilities.
- The National Health Service and Community Care Act 1990 deals with the provision of community care services by authorities. Community care means welfare and accommodation, welfare for elderly people, home help, after care services and after care for mental health patients. The Council has a duty to prepare and publish and keep under review a plan for the provision of these services.

Assessments

30. The Council must carry out assessments of a persons needs for community care. It is now established law that once a person has been assessed as in need, the Council must provide the service that will meet the need. Lack of resources is not a lawful reason for failure to provide the service. Similarly, in these circumstances waiting lists are generally unlawful. However, resources may be taken into account when establishing the authority's eligibility criteria for the service.

Changing or Reducing Provision

31. The Council must discharge its duties and if it did not so could expect challenge.
32. The Council has discretion to discharge powers but once provision under a power is made it must not cease to make the provision without first undertaking a bona fide consultation exercise with the stakeholders.
33. Certain provision must be the subject of a specific prior consultation process and reasonable notice before it may be withdrawn. For example a proposal to close a home would fall into this category. There are competing rights and responsibilities that must be addressed. Human Rights in respect of interference with a person's home must be dealt with sensitively and adequately.

Strategy

34. The Council's highest priority is to discharge duties and the lowest priority is to discharge powers.
35. If the Council wishes to undertake a comprehensive review of provision with a view to financial savings the advice is to identify that provision where the Council has:-

- A duty to discharge a function
- A discretion to discharge a function
- A requirement to consult
- A requirement to give reasonable notice so as to delay the impact of any savings.

36. In the case of a duty the focus should be on establishing reasonable and affordable assessment criteria.
37. In the case of discretion the focus should be whether the function should be carried out at all or in part.
38. In the case of consultation and notice periods the timeframe to achieve the objective should be established.
39. Further legal advice will be given as specific proposals are developed.

Financial Implications

40. The month 3 monitoring report presented to the Executive Business Meeting on 14th September showed a projected overspend for Adult Services of £5.9m. Since then however, the position has worsened and an overspend of £7m is now projected. This will be reported upon in more detail when the month 6 figures are presented to the Executive Business Meeting in December.
41. This report sets out the underlying causes of the overspend and outlines a series of further measures to reduce the projected overspend in the current financial year together with a series of measures that will assist in reducing the budgetary requirement in future years. These measures are subject to decision by the Executive and any necessary consultation. It is vital that progress is made in these areas in order that the Council's financial standing is not compromised and in order to reduce the financial burden in future years.
42. The Council has to discharge its statutory duties and the first spending priority must be directed to this end. In the light of the overall budgetary position however, any spending made under statutory powers must be subject to review.

Human Resources Implications

43. This report suggests a fundamental review of service provision in a number of key areas where the Council has a significant organisation and staffing commitment.
44. Reducing the level of discretionary service discharged by Adults Services will inevitably lead to either redirection of staff to other areas of work and/or the need to reduce overall staff numbers.
45. Specific proposals eg closure of day centre at Oldwell Court, transfer of other day centres to the voluntary sector and the development of

partnership agreements with the voluntary sector all carry significant employee relations implications and potential costs to the Council associated with redeployment and potential voluntary severance.

46. Refocusing of the Home Care Service as highlighted in the report will undoubtedly have the biggest impact as it will inevitably lead to a substantial reduction in overall staffing levels as well as a requirement for staff to adapt to different work patterns or more flexible contracts of employment.
47. The existing situation in Adult Services is exacerbated by high levels of sickness absence (currently running at 12.8% in Home Care) and staff working on nationally prescribed and antiquated terms and conditions of employment. Whilst these arrangements may have met needs when originally introduced, they may not now be delivering the flexible service to clients that is now required. To address the issue of terms and conditions in home care, we need to put this into the wider context.
48. If the current extreme financial situation is to be addressed and the only way forward is to look at terms and conditions, including pay arrangements, the Council will need to enter into local negotiations with the Trade Unions as a matter of urgency. By moving away from national terms and conditions of employment, options that could be looked at may include development of all-inclusive contracts; no week-end /overtime enhancements; consideration of more flexible and more client orientated patterns of working (e.g. annualised hours, compressed working weeks, self rostering, etc) There are examples in Social Care and other service areas where annualised hours contracts exist and career grade schemes compensate for the loss of national enhancements.
49. In order to address the absence issue, there is a possibility that the current sickness absence arrangements could be amended and options to be considered could include e.g. adopting a policy of no pay for 1st 3 days of absence without medical certificates, setting a ceiling on long term absence, etc. The York City Council option could also be considered which resulted in a reduction in their pilot area of Adults Services. Under those arrangements, staff falling ill are required to contact the OH provider in the first instance. However, if this model were to be adopted here, there would be resource implications as the role of the Council's in-house Occupational Health would not have the capacity to undertake this role.
50. A process will need to be mapped out as a matter of urgency so that Members can be reassured that the organisational changes required to deliver a more effective client focussed service can be achieved in accordance with employment legislation and contractual requirements.
51. Whilst a substantial reduction in numbers is envisaged, the extent of this is not yet known. Every effort will be made via Voluntary Severance or redeployment, to avoid the possibility of compulsory redundancies although this cannot be ruled out at this stage.

Trade Union Consultation

52. The trade unions expressed their dissatisfaction with the proposals. Trade unions raised issue of potential equal pay claims being submitted to protect statutory rights if they were to leave on Voluntary Severance. They also queried the potential costs of funding Voluntary Severance and whether this could be afforded given the overall financial position within Adults Services and the Council. They expressed a willingness to discuss flexibility for Home Care Staff to cover work which according to the Trade Unions, the private sector are doing.
53. In relation to the Hafod contract they supported bringing the service back in house, although raised concerns that this was part of a plan to ask Hafod to take full responsibility for our staff and therefore erode T&Cs for existing members.
54. They sought continuing dialogue throughout this process, however expressed disappointment at the Councils strategy of being the enabler rather than the provider of Adult Services and believe that we were forcing people into Residential Care.

RECOMMENDATIONS

The Executive is recommended:-

1. To endorse the need for the service area to continue to contain costs in the current year and re-position services to enable an improved baseline for 2007/08.
2. To authorise the Corporate Director Social Care and Health to implement the proposals 1 to 4 in this report.
3. The Corporate Director Social care and Health to report further to the Executive on a quarterly basis on to the implementation of these proposals and the budgetary position for the current financial year.
4. These proposals be reflected in the budget proposals for the 2007/08 budget process.

NEELAM BHARDWAJA

Corporate Director
2 October 2006

The following Appendix is attached:-

Appendix 1 – Legal Implications

Appendix 1 Is Exempt from Disclosure Pursuant To the Provisions of Paragraphs 19, 20, 21 and 24 Of Part 4 Of Schedule 12a Of The Local Government Act 1972 As Amended.

The following Background Papers have been taken into account:-

- (1) Health Social Care and Well-being Strategy- 2005-2008, Cardiff Health Alliance
- (2) The Commissioning Strategy for Older People, 2005
- (3) The Commissioning Strategy for Learning Disabilities, 2005.