



ADULT SOCIAL CARE AND PUBLIC HEALTH COMMITTEE

Thursday, 3 March 2022

REPORT TITLE:	WIRRAL EVOLUTIONS LIMITED VALUE REVIEW REPORT
REPORT OF:	DIRECTOR OF CARE AND HEALTH

REPORT SUMMARY

Wirral Council conducted a Value review between November 2021 and January 2022, following a request initiated at the Adult Social Care and Public Health Committee on 18th January 2021. The objectives of the review used several criteria to determine value for money, which included, economy, efficiency, stakeholder value and achievability. In addition, stakeholder views were gathered from staff, people accessing the service, their families, carers, and charitable bodies, throughout November and December 2021. Both the value for money report and stakeholder value report are included as appendices to this committee report.

Providing services to support adults with a learning disability supports the delivery of the current Wirral Plan 2021-26 'Active and Healthy Lives' theme: "Working for happy, active and healthy lives where people are supported, protected and inspired to live independently."

The report sets out proposals for the insourcing of the services currently carried out by Wirral Evolutions Limited.

An initial response to the proposals from Wirral Evolutions Limited is included at Appendix 3

This affects all wards. This is a key decision.

RECOMMENDATION/S

The Adult Social Care and Public Health Committee is recommended to:

- (1) authorise the Director of Care and Health to extend the contract to provide services to support adults with a learning disability currently held by Wirral Evolutions Limited for a limited period not exceeding six months from the 1 April 2022 so as to enable the effective implementation of transition of services currently supplied by the company to the Council.
- (2) approve the transition of services which are currently delivered by Wirral Evolutions Limited to an in-house model of delivery by the Council starting as soon as

reasonably practicable with the intention that those services will be fully transferred back into the Council within six months of the 1 April 2022.

- (3) authorise the Director of Care and Health to terminate or allow to expire the contract to provide services to support adults with a learning disability currently held by Wirral Evolutions Limited as soon as practicable after the complete and effective transfer of services currently supplied by the company to the Council.
- (4) establish a Consultative Board with stakeholder and staff membership tasked with oversight of the provision of personalised day services and opportunities for adults with a wide range of learning and physical disabilities, enabling people who access the service and their representatives to have a greater input into the delivery of the service.
- (5) authorise the Director of Care and Health to make all necessary arrangements to insource the services carried out by Wirral Evolutions Limited.
- (6) recommend to the Shareholder Board that the Director of Law and Governance be authorised to progress the necessary steps to transfer Wirral Evolutions Limited's undertaking to the Council, including the cancellation of the current contract with Wirral Evolutions Limited and to consider all appropriate options for the future deployment or disposal of Wirral Evolutions Limited.
- (7) that the Director of Care and Health provide a further report to a future Adult Social Care and Public Health Committee to update on the service transition arrangements.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Wirral Council has conducted a Value review as to whether the contract for day services for people with learning disabilities currently being delivered by Wirral Evolutions Limited offers sufficient added value to the Council to justify the additional costs of running an arms-length company.
- 1.2 The request for the Value review was initiated at the Adult Social Care and Public Health Committee on 23rd September 2021. In July to August 2021, the Council had commissioned an independent expert to meet with Wirral Evolutions to conduct a detailed assessment and review of the cohesiveness and deliverability of Wirral Evolutions' modernisation plans. The outcome of this external review was that there is an absence of detail in Wirral Evolutions documentation to fully assess the deliverability of the proposed service redesign. The Value review commenced in November 2021 and was concluded in December 2021. The Review used eight criteria: economy, efficiency, effectiveness, equity, strategic value, stakeholder value, social value, and achievability.
- 1.3 The Review was conducted by Officers of the Council and culminated in the publication of a Value Review Report (attached as Appendix 1 to this report). The report concluded that the current operating model does not provide value for money. It was expected, as one of the rationales for its formation, that Wirral Evolutions Limited would grow the business, increase activity, and diversify its customer base, however this has not happened, and Wirral Evolutions Limited remains dependent upon Wirral Council financially, through the Adult Social Care budget. This means that Wirral Council carries all the risk with little or no control of any value for money.
- 1.4 The Value Review Report alongside the Stakeholder Survey analysis also demonstrates that while day services are beneficial for people with learning disabilities, the delivery of the contract does not justify the additional costs of running an arms-length company. If Day Services were brought in-house then there would be an anticipated saving in staffing costs and non-staff costs, including management, support/infrastructure functions, head office costs, supplies and the costs of oversight by Council members via the Shareholder Board and Adult Social Care and Public Health Committee.
- 1.5 Transitioning the service to an in-house provision would also provide the Council with more control over how the service is delivered, improve outcomes for the users of the service and provide greater flexibility on how the service is delivered.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Continue with the current services being delivered by Wirral Evolutions Limited as a wholly owned Council company, and develop a longer-term contractual arrangement, re-basing the contract price to reflect current costs of services plus consideration to be given to validated annual inflationary uplifts. Wirral Evolutions Limited would remain dependent upon Wirral Council financially. This would mean that Wirral Council would carry all the risk with little or no control of any value for money. Wirral

Evolutions Limited has not delivered the service within the agreed contract price in any financial year. This option is not recommended.

- 2.2 Continue with the current services being delivered by Wirral Evolutions Limited as a wholly owned Council company and develop a longer-term contract at the current contract price with significant service modernisation required to reflect a fixed contract price. This option is not recommended for the reasons outlined in 2.1.
- 2.3 Tender the day services contract in the open market. This is not recommended because it is unlikely that this option would provide value for money or deliver the enhance control of the service delivery sought by the Council.
- 2.4 Continue to provide the service through Wirral Evolutions Limited, the “do nothing” option. This is not recommended for the reasons outlined in the Value Review Report.

3.0 BACKGROUND INFORMATION

- 3.1 The contract to provide services to support adults with a learning disability was first awarded to Wirral Evolutions Limited in December 2015 and has been renewed continuously since then, most recently in accordance with the decision of this Committee of the 23 September 2021.
- 3.2 Wirral Evolutions Limited is generally well regarded by people that use its services, carers and staff. This is born out in the Stakeholder Survey attached as appendix 2 to this report. The Value Review is concerned with the cost of running an arms-length company for day services rather than issues with the quality of provision.
- 3.3 In March 2020, the Council commenced a review of the Contract for Day Services for people with a learning disability held by Wirral Evolutions Limited. This review was paused due to the COVID-19 pandemic and resumed in October 2020.
- 3.4 Wirral Evolutions Limited had a saving proposal in 2020 to 2021 that was delayed by COVID-19 and was presented for public consultation alongside the 2021 to 2022 budget proposals. Council Budget proposals include an expected saving on the Annual Budget for Wirral Evolutions Limited of £0.5m for 2021/22
- 3.5 Wirral Evolutions Limited submitted a proposal to the Adult Social Care and Public Health Committee in January 2021 to bring the operating costs back in line with the contract/budget value. In January 2021, the Adult Social Care and Public Health Committee supported recommendations to continue to contract with Wirral Evolutions Limited for the 2021 to 2022 financial year. To deliver services within the contract value Wirral Evolutions Limited submitted a proposal to the Council to reduce the number of buildings from which Day Services are delivered, develop new ways of working, and the restructuring its workforce to make financial savings. These changes were proposed to both bring the service back in line with the contract for Day Services and to focus on developing a more financially sustainable service model.
- 3.6 Wirral Evolutions Limited presented a progress report in June 2021 to Adult Social Care and Public Health Committee and attended a workshop in July 2021. A further

workshop was held by the Council to discuss Wirral Evolutions Limited in September 2021.

- 3.7 From July to August 2021, the Council commissioned an independent expert to meet with Wirral Evolutions Limited to conduct a detailed assessment and carry out an external review of the cohesiveness and deliverability of Wirral Evolutions Limited' modernisation plans. The outcome of this external review was that there is an absence of detail in Wirral Evolutions Limited documentation to fully assess the deliverability of the proposed service redesign.
- 3.8 The Adult Social Care and Public Health Committee requested that the Director of Care and Health bring a further report back to this Committee following the Director undertaking of a Value Review as to whether Wirral Evolutions Limited offers sufficient added value to the Council in the delivery of the contract for day services for people with learning disabilities to justify the additional costs of running an arms-length company.
- 3.9 Wirral Evolutions have had an opportunity to consider the content of this report and to provide an initial response. Due to publication deadlines and the potential sensitivity of the conclusions presented within this report Wirral Evolutions have had a very short amount of time to put together their response to the recommendations. The initial response has been included at Appendix 3. This response does raise concerns about the level of detail supporting the recommendations and requests that further work is undertaken.
- 3.10 The Value Review and Stakeholder Survey Analysis detail the structure of the review and the feedback from the stakeholder surveys. In conclusion, the rationale for delivering services via the current delivery model and the added value of such a model to the Council and service users is no longer clear. This is in no way a criticism of the quality of services delivered by Wirral Evolutions Limited, the dedication of its staff and management team nor the commitment of the Board of Directors to service users. The focus of the proposal is a change to the delivery model which aims to sustain and improve services for the Council's service users and safeguard staff, whilst seizing opportunities as they emerge in connection with the health and care transformation agenda.
- 3.11 Wirral Evolutions Limited is generally well regarded by people that use its services, their carers and staff. This is borne out in the Stakeholder Survey. The Value review is concerned with the cost of running an arms-length company for day services rather than issues with the quality-of-service provision. Bringing the service currently delivered by Wirral Evolutions Limited in-house will enable a closer correlation between strategy development and operational delivery which will bring additional value to the current delivery arrangements.
- 3.12 Following the Value review of available options, transitioning services in-house is identified as the best means of delivering day care services for adults. Ensuring that people who access the service, parents, carers and other stakeholders are informed and engaged during the transition is absolutely fundamental, to offer them both reassurance and timely information about the proposed changes. Transitioning the service to an in-house provision would also provide the Council with more control

over how the service is delivered, improve outcomes for the users of the service and provide greater flexibility on how the service is delivered.

- 3.13 The Council as shareholder has entered into a Shareholder Agreement with Wirral Evolutions Limited. This shareholder agreement gives the Council effective and complete control over the company.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The current contract value for Wirral Evolutions Limited is £5.015m. All existing Wirral Evolutions Limited staff will be offered the opportunity to TUPE to Wirral Council therefore this contract value, of which approximately 70% relates to staff, will transfer should the service come back into the Council. All non-staffing costs included within the contract value would be expected to remain unchanged
- 4.2 If some staff do not want to transfer and decide to leave Wirral Evolutions Limited, this might lead to a possibility of the Council undertaking a review of the structure of the delivery service in which that person's post sits, which, in turn, may lead to a reduction in cost. Alternatively, should the transfer of the service lead to a review of the structure of parts of the service there is a possibility that this could result in one off cost implications arising from severance payments
- 4.3 Wirral Evolutions Limited makes pension contributions in respect of those employees who are not in the Local Government Pension Scheme (LGPS) to the National Employment Savings Trust (NEST) pension scheme. There are currently 25 staff within the NEST pension scheme. These staff will be brought in line with the LGPS scheme offered to all Council staff. The remainder of the staff within the Wirral Evolutions pension scheme who transferred in 2015 are costed at an LGPS actuarially assessed rate of 21.8%. As the Council's actuarially assessed rate is lower at 17%, this is anticipated to offset any cost implications of aligning the staff from the NEST scheme to the Council scheme. Estimates identify a nominal favourable variance of £20k. The major area of concern would be if this move affected the Council contribution rate. At present no conversations have taken place with Merseyside Pension Fund which administers the LGPS for the Council regarding the possibility of moving the staff onto the Council's lower contribution band. This will need to be explored at the next stage.
- 4.4 All staff terms and conditions will be aligned to those of the Council. This will mean a minor reduction for staff annual leave entitlement and favourable sickness benefit. It is not expected that this will have a significant impact on the cost of the service.

5.0 LEGAL IMPLICATIONS

- 5.1 The Care Act 2014 signified a shift from existing duties on local authorities to provide particular services, to the concept of 'meeting needs' (set out in sections 8 and 18 to 20 of the Act). This is the core legal entitlement for adults to care and support, establishing one clear and consistent set of duties and power for all people who need care and support.
- 5.2 The concept of meeting needs recognises that everyone's needs are different and personal to them. The Council is required to consider how to meet each person's

specific needs rather than simply considering the service into which they will fit. The concept of meeting needs also recognises that modern care and support can be provided in any number of ways, with new models emerging all the time, rather than the previous legislation which focuses primarily on traditional models of residential and domiciliary care.

- 5.3 The trading activities of Wirral Evolutions Limited as a trading vehicle of the Council are governed by various legislation including the Local Authorities (Goods and Services) Act 1970, the Local Government Act 1999, the Local Government Act 2003 and the Localism Act 2011.
- 5.4 The transfer of the existing employees of Wirral Evolutions Limited to the in-house service delivered by the Council would be governed by the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) which regulate the transfer of personnel from the outgoing provider to the incoming provider. TUPE stipulates that all terms and conditions of employment (apart from existing pension rights) in force immediately prior to the transfer, are protected as is continuity of employment for the transferring employees.
- 5.5 Compliance will be required with the Companies Act 2006 in terms of the closure of Wirral Evolutions Limited as a trading entity, its dissolution and/or reclassification of as a dormant company.
- 5.6 The Council engages with Wirral Evolutions Limited in 4 main ways: -
 - a) as Commissioner of the contract for the provision of adult day care services.
 - b) as landlord of delivery and headquarters buildings used by Wirral Evolutions Limited.
 - c) as provider of background (traded) services such as HR, Data Protection, Procurement, ITC and Legal; and
 - d) as shareholder/owner of the company.

Agreement to the matters set out in the Recommendations set out in this Report will: -

- a) sanction the termination of the contract for the provision of adult day care services.
 - b) sanction the acceptance of a surrender of the premises leases.
 - c) sanction the cessation of delivery support services to Wirral Evolutions Limited.
 - d) alert Shareholder Board to the impending redundancy of Wirral Evolutions Limited; and
 - e) enable all appropriate officers to make relevant provision to implement the recommendations and Shareholder Board to make appropriate provision for the onward deployment/disposal of Wirral Evolutions Limited.
- 5.7 The Council as Shareholder has entered into a Shareholder Agreement with Wirral Evolutions Limited. Wirral Evolutions Limited has ongoing supply contracts with miscellaneous providers of goods and services The Shareholder Agreement gives the Council effective and complete control over the company including all steps necessary to effectively transfer the undertaking of Wirral Evolutions Limited to the Council.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Council provides a variety of services to Wirral Evolutions Limited under service level agreements. It is envisaged that similar services and equipment will be required by an in-house service and any surplus or shortage will be insignificant.
- 6.2 TUPE will require the transfer of all eligible staff. Existing non-executive directors do not have contracts of employment and whilst they may seek compensation for loss of office, they are not employees and should not be entitled to any severance compensation under the terms of their service agreements.
- 6.3 Employees of Wirral Evolutions Limited, who are identified as 'in scope' will transfer from the employment of Wirral Evolutions Limited to the Council on a date to be appointed on their existing terms and conditions. As a general rule, variations to the terms and conditions of transferred employees are not permitted under TUPE. The purpose of TUPE is to protect employees' rights and ensure they do not suffer a detriment as a result a transfer. However, provided the transferring employees agree to move on to the Council's terms and conditions and the changes are entirely beneficial from the employees' perspective then the Council should be able to vary their contracts.
- 6.4 Formal consultation with the staff of Wirral Evolutions Limited will take place at the appropriate time. Relevant trades union will be briefed and actively engaged throughout.

7.0 RELEVANT RISKS

- 7.1 The risks of continued budget challenges under the present arrangements would be reduced if the recommendations of this report were accepted.
- 7.2 There is no risk that the Council will fail in its statutory duty to meet needs of people requiring services due to the contents and recommendations in this report
- 7.3 There is the potential for reputational risk to the Council if stakeholders are not adequately consulted on the proposed changes. A formal consultation will be required if the proposal is accepted which will mitigate this risk.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Three stakeholder surveys have taken place to consider the views of staff, people who access the service, their families, carers and charitable bodies. The results of this work have been pulled together into the Stakeholder Survey Analysis to create a specific report relating to stakeholder value.
- 8.2 Formal consultation will be required if Members support the recommendations included in the report
- 8.3 Consultation with the Trades Union will be required on the TUPE transfer.

8.4 The Council has engaged with Wirral Evolutions Limited and their initial response to the recommendations has been attached in appendix 3.

9.0 EQUALITY IMPLICATIONS

9.1 None of the proposed recommendations will result in the services currently being provided, being removed.

9.2 An Equality Impact Assessment has been completed and is available via the following link: [Equality Impact Assessments since January 2021 | www.wirral.gov.uk](https://www.wirral.gov.uk/equality-impact-assessments)

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The content and/or recommendations contained within this report are expected to have no impact on emissions of greenhouse gases.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 Services are provided for people with a learning disability, and these provide opportunities for local employment for people.

11.2 Learning disability day services support resilient local communities, through enabling greater independence and engaging the local community in supporting people.

11.3 Partners and providers who work closely to support people with a learning disability have requirements to meet in relation to protecting the environment, minimising waste and energy consumption and using other resources efficiently, within providers' own organisations and within their supply chain.

11.4 It is not anticipated that the content and/or recommendations contained within this report are expected to have any negative impact on Community Wealth.

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APPENDICES

Appendix 1 Value for Money report
Appendix 2 Stakeholder Survey Analysis
Appendix 3 Wirral Evolutions Limited Initial Response

BACKGROUND PAPERS

Workshops in July and September 2021
Wirral Evolutions Plan for Service Modernisation 18 August 201

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
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Adult Social Care and Public Health Committee: Wirral Evolutions Limited	18/01/2021
Adult Social Care and Public Health Committee: Wirral Evolutions Limited Ltd: Progress Update Against Approved Savings Proposal	07/06/2021
Adult Social Care and Public Health Committee: Review of Day Services Contract for People with a Learning Disability Delivered by Wirral Evolutions Limited Ltd	23/9/2021
Health and Wellbeing Board	13/11/2019