

By: Oliver Mills, Managing Director, Kent Adult Social Services

To: Graham Gibbens, Cabinet Member, Adult Social Services

Subject: **OUTCOME OF THE FORMAL CONSULTATION ON THE VARIATION OF SERVICE AT WAYFARERS REGISTERED CARE CENTRE, SANDWICH**

Classification: Unrestricted

Summary: This report considers the proposal to sell Wayfarers as a going concern to a private organisation and summarises the responses to the consultation. The report asks the Cabinet member to approve the proposal to sell Wayfarers as a going concern

1. Background

(1) Kent County Council (KCC) is modernising the way older people are supported and cared for in the county.

(2) On Monday 14 June 2010, Kent County Council's Cabinet agreed for Kent Adult Social Services (KASS) to begin a formal consultation on the future of its Older Person's Service Provision. From Monday 21 June 2010, KASS officers met with staff, service users, relatives, trades unions and other key stakeholders to talk about the proposals.

(3) The full consultation covered 11 of the 16 homes owned and managed by KASS.

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| The main drivers for the full consultation are: |
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| <ul style="list-style-type: none">• More people are living longer and living with dementia. People rightly expect more choice in care.• High quality care is a continuing priority. Dignity in care is crucial and more people want care at home.• Residential care should be in high quality buildings. Some KCC buildings have reached the end of their useful life and don't meet expectations or standards for new builds.• Good quality care can be commissioned for less money. The private and voluntary sector is set up to care for more people. |
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(4) The considerations and options evaluated to determine the proposals for each home included:

- a) The range of alternative local services for older people
- b) The opportunity for developments with partners in the local area

- c) The condition of the buildings and likely capital expenditure required to maintain services
- d) The appropriateness of the design of the buildings for the services delivered and required
- e) The need to release money that is tied in to services that could be used to deliver equivalent services to more people

(5) The proposals combined across Kent will generate savings of £1m in 2011/12 and £1.2m in 2012/13.

(6) This report covers Wayfarers Registered Care Centre in Sandwich. The proposal in the consultation is for the home to be sold as a going concern to an independent sector provider.

(7) Wayfarers is a detached, 33-bed unit built in 1983. The home is separated into two distinct wings; Hollyside and Cherry Way. Each has its own dining area and communal spaces. The home is set in a relatively quiet residential area of Sandwich, close to the town centre with good access to local amenities and popular tourist and recreational facilities. The home has been well maintained. Planned redecoration and refurbishment is routinely completed. There are attractive gardens to the rear of the home. The service is provided on a single floor with easy access throughout for all service users. All bedrooms are single occupancy. The home offers a dedicated respite service alongside the residential unit and there is also an integrated day centre.

(8) The building of Wayfarers is freehold and has no known restrictive covenants. The accommodation is registered for older people with general frailty. Wayfarers would not meet the national minimum standards of the Care Standards Act 2000 as regulated by the Care Quality Commission if it were to be built today. There is, however, protection against these standards being applied for as long as significant structural improvements are not required. The building may, soon, require because of its age considerable investment to maintain services and meet future needs and expectations.

(9) The unit cost (gross), based on 100% occupancy, for one bed was £649.55 per week for 09/10. The unit cost (gross) for day care, based on 100% occupancy, was £46.56 per day. The annual gross expenditure for 2009/10 for residential was £1,151,700 and £88,500 for day care, totalling **£1,240,200**.

(10) Wayfarers offers 24 permanent general frailty beds and nine respite beds for general frailty. On 11 November 2010, there were 24 permanent residents. In 2009/10, the building ran at 88% of its residential capacity which made the bed unit cost £736.83 per week. The day care centre has a capacity of 8 people per day and was running at 57% capacity in 2009/10 which made the unit cost £82.29. One day a week a dementia day care service is delivered.

(11) The maximum charge for individuals accessing the beds in the units is currently capped at £407.92 per week. Everyone that accesses residential and respite services is financially assessed for a contribution towards their care in line with the Charging for Residential Accommodation Guide (CRAG). This means that individuals who have savings of more than £23,250 are charged £407.92 per week and anyone with less than £23,250 is assessed against their means to determine their level of payment. A snapshot undertaken in the summer of 2010 indicated at that time there were 51 people living in the in house residential services being charged £407.92 per week.

(12) KASS has a guide price for the independent sector and can buy services in the Dover district at £328.65 per week for standard residential care.

(13) The Care Quality Commission (CQC), in its last inspection in 2009, rated the service as good. There was very positive feedback about the services both from inspectors and service users. CQC commented that the people living in Wayfarers spoke of having lots of choices and of being well looked after by helpful staff. They saw that people really had a say about what goes on in the home and that staff were well trained and competent.

(14) Local commissioners recognise that Wayfarers is the only residential home serving the town of Sandwich and the proposal reflects the uniqueness of the service.

2. Consultation Process

(1) The county council has a duty to undertake formal consultation on any proposed changes to services. The procedure for consultation on modernisation/variation or closure of establishments in KASS was followed as below:

| Process | Date Action Completed |
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| Obtained agreement in principle from the Cabinet Member for Adult Social Services. | 14 June 2010 |
| <p>Cabinet member chaired a meeting to discuss the proposals and information packs were sent to those who were invited and who attended:</p> <p>The Chairman of the Adult Social Services Policy Overview Committee (ASSPOSC) Vice Chairman Opposition spokesman Local KCC member(s) Elected members Responsible member of KCC adult social services Strategic Management Team Heads of Services (updated to reflect new title) Area Personnel Manager</p> | <p>10 June 2010 10 June 2010 10 June 2010 30 June 2010 14 June 2010 10 June 2010 14 June 2010 14 June 2010</p> |
| <p>Stakeholders were informed in writing and invited to comment: -</p> <p>Users, relatives and carers Head of Service Staff Trades Unions Local KCC member(s) District Council Parish/Town Council Relevant NHS bodies Any other relevant person or organisation and the Local MP</p> | <p>Letter sent 14 June 2010. Consultation period ended 1 November 2010 (19 weeks from 21 June 2010).</p> <p>Summary of meetings and correspondence received as a result of the consultation</p> <p>Informed MP and answered questions</p> |

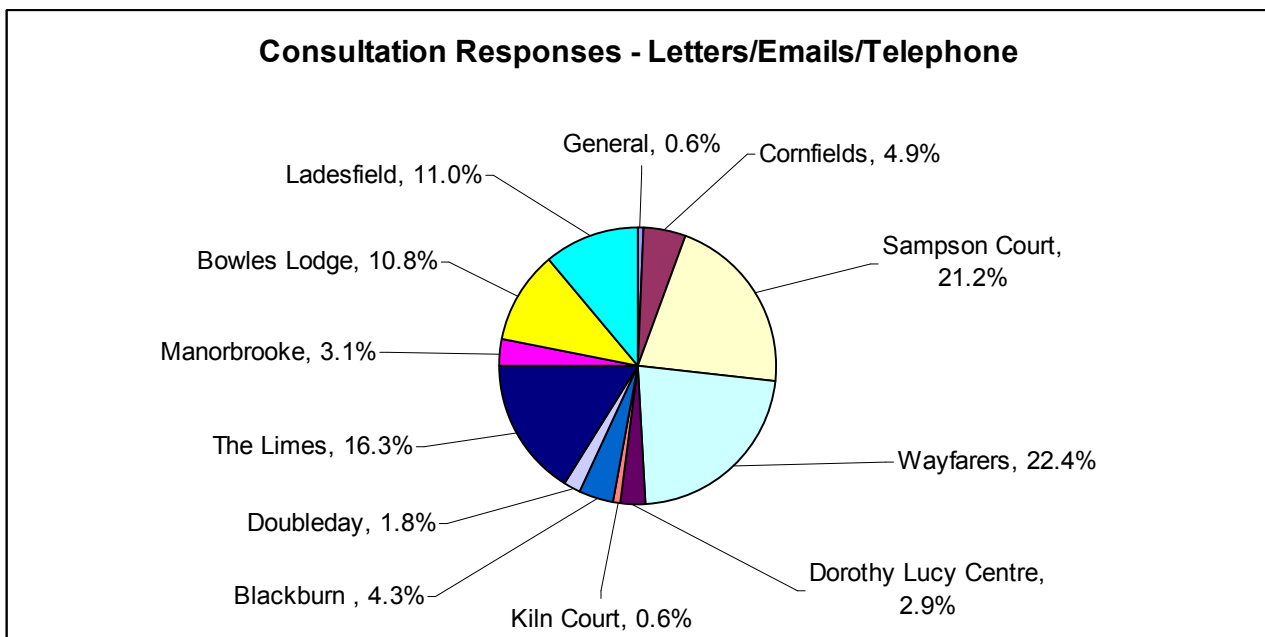
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| | <p>Held individual meetings and group meetings with local councillors, county councillors, MPs</p> |
| <p>Directorate issued a Press Release</p> | <p>The press officer responded to 49 enquiries from the press across the county for all proposals during the consultation period.</p> |
| <p>A wide range of stakeholder meetings were held</p> | <p>Meetings with staff and union representatives held on 1 July 2010.</p> <p>Stakeholder Roadshow held for Dover on 29 October 2010</p> <p>Individual meetings with permanent residents and carers offered but not requested for those accessing Wayfarers</p> <p>Meeting with permanent and respite users and carers on 1 July 2010.</p> <p>East Kent Area Management Team Commissioning Board on 6 September 2010 and 1 November 2010.</p> <p>Presentation at members' briefing on 26 July 2010 on proposals.</p> <p>Presentation to NHS Eastern and Coastal Kent Commissioning Strategy Committee (Swale, Dover and Whitstable PBC) Meeting on 25 August 2010</p> <p>Dover District Voluntary and Community Sector Network on 30 September 2010</p> <p>Adult Social Services Policy Overview and Scrutiny Committee Chair and Vice-Chair visit to Wayfarers on 27 October 2010</p> |

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| Report to Cabinet member for decision making on the closure/variation proposal. | This report dated 30 December 2010 |
| The Cabinet member or the Chairman of the Adult Services Policy Overview Committee will decide if a meeting between him/themselves, KCC members and consultees is necessary. | In addition to the extensive consultation, these matters will also be discussed at Adult Social Services Policy Overview Committee on 12 January 2011 |
| Instigate any change programme | From January 2011. |

(2) The 19-week consultation period for the modernisation of our Older Person's Provision concluded on 1 November 2010. Residents, carers, staff, unions and relevant bodies have been involved with meetings and their views have been considered. Clients and their carers were consulted about the alternative options of service provision.

(3) The overall consultation received **490** letters; most were relating to specific units. A number of letters were copied to the local MP, local councillor, Councillor Gibbens and officers within KCC. Each letter was responded to either by a standard acknowledgement or a more detailed letter responding to any queries or inaccuracies in their statements. Of the total number of responses, **22.4%** related directly to Wayfarers.

The chart below shows the responses for all units consulted on.



(4) A petition was received against the proposals containing 351 signatures.

(5) KCC developed a questionnaire as an additional method for people to contribute to the consultation. This questionnaire was available either by responding directly on line, downloading from the website or through a hardcopy with postage paid.

3. Future Service Delivery

(1) The proposal for Wayfarers is for it to be sold as a going concern to the independent sector with an ultimate aim of modernised services. This should secure the future of the service for the residents, service users and staff – and the Sandwich community. Independent sector providers may have access to funding that KCC does not

and therefore may be better placed to ensure the delivery of future maintenance and modernisation.

(2) If the decision is made to go ahead with the sale of Wayfarers as a going concern, the contract will make sure that current residents will not be put at any financial disadvantage.

4. Interest Shown in the sale

(1) In order to explore the possible sale of Wayfarers as a going concern, a market sounding exercise was carried out. This involved writing to all residential care homes in Kent, contacting key housing providers and placing an advert on the South East Business portal and a Prior Information Notice in the official Journal of the European Union to invite expressions of interest.

(2) By the closing date of 26 November 2010 14 expressions of interest were received relating to Wayfarers. This provides adequate assurance that a successful provider could be found to take over Wayfarers as a going concern.

(3) If the proposal to sell Wayfarers as a going concern is agreed, a key element of the criteria for selecting a partner would be their track record of providing care services and their long term plan for providing good quality services for older people. KCC would also expect them to have experience with TUPE and Pension regulations.

(4) If the decision was made to progress the sale of Wayfarers, a formal procurement process would be carried out and all those who have expressed an interest would be contacted with the objective of securing a purchaser and signing a contract during the 2011-2012 financial year.

(5) Appendix One details the list of organisations that have expressed an interest in purchasing Wayfarers. This is a strictly confidential list and is only shared with limited individuals who require it as part of the decision making process.

5. Alternative Proposals

(1) An Evaluation Panel met on 15 November 2010 to review all alternative proposals that had been submitted. The panel had representation from Commissioning, Finance, Contracting and Standards, Provision and Personnel.

(2) There was one alternative proposal submitted from Unison as a generic response to all units covered in the consultation. Unison's feedback called on the county council to withdraw its proposals and retain its role as a direct provider of social care. This has been considered as an alternative proposal and evaluated by a panel of KASS officers. Unison reports that there is extreme difficulty identifying vacancies in independent sector homes of a satisfactory standard. It does not think specialist services should be provided in an untested market and believes KCC should remain a direct provider in order to help set high standards. The comments from Unison state that the buildings are fit for purpose and that quality of care should be considered above the fabric of the building. Unison argues that reducing council provision reduces choice and that "attrition rates for residents remain high for enforced moves". Unison argues that KCC's cost comparisons with the independent sector have not been made like-for-like and do not take into account transaction costs. The submission also stated that an independent sector operator would

drive to reduce costs, that staff would move on and ultimately that quality would be reduced as a result.

(3) The proposal from Unison is largely asking to maintain the status quo, which does not enable KCC to address the four key reasons for change and therefore is not an option that KCC can support. In response to Unisons issues, the panel made the following observations:

- KCC will retain control of the market as a key purchaser of care and standards.
- There are vacancies in homes rated 'good' or 'excellent' in the independent sector.
- The proposal for the specialist enablement beds at The Limes is for them to be provided at Gravesham Place which has previous experience of this service.
- The buildings will require the investment of significant capital funding that KCC does not have access to – and the long term future of the services could be more uncertain, possibly resulting in emergency closure rather than planned closure.
- There is no statutory duty to directly provide residential care. KCC should be directing resources to further enhance the quality monitoring and contract management responsibilities it has in commissioning services – and providing personal budgets for people who meet KASS eligibility criteria.
- It is KCCs stated long term intention to focus on undertaking a commissioning role with services provided by a plurality of independent sector providers.
- Where moves are necessary, KCC has considerable experience of carefully and successfully moving older people. Each case will be managed and supported on an individual basis to ensure their personal needs are met at an appropriate pace for the individual.
- It is acknowledged that purchasing intermediate care/enablement beds in the independent sector would require a premium above guide price however commissioners are confident they could purchase these beds in the independent sector at less than half the gross unit cost of an in-house enablement bed.

(4) If the proposal to sell Wayfarers as a going concern is agreed, a key element of the criteria for selecting a partner would be their track record of providing care services and their long term plan for providing both local and good quality services for older people. KCC would also expect them to have experience with TUPE and Pensions regulations.

5. Issues raised during the consultation

a) Letter/Email responses:

(1) A campaign, driven by the local town council and Friends of Wayfarers, urged people to write to Cllr Leyland Ridings, Laura Sandys MP and Oliver Mills, Managing Director for KCC adult social services. Copies of these letters were forwarded and were registered as part of the consultation. A number of these letters showed that people had misunderstood the proposals and thought Wayfarers would close. It was also thought that services would, instead, be provided at the Dorothy Lucy Centre in Maidstone. Letters of reply were sent to clarify that the proposals was not to close Wayfarers but to sell as a going concern.

(2) **Wayfarers is a 'jewel' and for it to be run by a private provider will just drive up costs for less quality.** KCC acknowledges that Wayfarers is a good service and is valued by the Sandwich community. Care homes, those run by the local authority and by the independent sector, are inspected by the Care Quality Commission against the same standards. Wayfarers is rated a 'good' service by the CQC and there are others in the district at equal ratings or 'excellent' ratings. Not all independent sector providers are profit making organisations. Some of these are not-for-profit organisations. KASS buys 85% of its residential services in the independent sector and has a wide range of mechanisms for monitoring quality and standards – including individual reviews, safeguarding investigations, contract quality and performance monitoring. This is in addition to the CQC independent inspections. KCC should be directing resources on further enhancing the quality monitoring and contract management responsibilities for commissioning services or providing personal budgets for people who meet the KASS eligibility criteria. The contract would make sure current residents are not put at financial disadvantage. Future KCC supported residents would be financially assessed in the same way as current residents are and their contribution determined based on this assessment. Future clients who have capital above the threshold may be required to pay the full cost.

(3) **The staff are excellent at Wayfarers.** The proposals are not a reflection of the quality and performance of the staff. If a sale did go ahead, members of staff would transfer to the new provider with the same terms and conditions.

(4) **If the service is run by the independent sector, what is to stop them from closing the service if it doesn't make a profit?** If the proposed sale did go ahead, the contract for that sale would state clearly that services will need to continue. KCC would only sell Wayfarers to an organisation that could run the service in the long term and could invest money to modernise it and keep it running. KCC has extensive experience of transferring homes to independent sector providers and monitoring contracts thereafter to maintain quality and standards. In order to give enough time for complex negotiations to be undertaken, the transfer (if approved) would not be completed until 2012.

(5) **KCC is disposing of its duty to provide care to the elderly.** KCC does not have a statutory duty to directly provide services. KCC has a statutory duty to make sure that care is provided to those that meet the eligibility criteria and this will remain. KASS has to review how it can best meet growing numbers and growing expectations through commissioning services through the independent sector. KCC already does this for 85% of its service users.

b) Questionnaire:

(6) A questionnaire was developed in August and distributed in September. It was designed as an additional method to generate feedback not only from key stakeholders but also members of the general public. The Questionnaire asked questions both about the proposal and what was important to people in the future should they need to access support services. There were a number of opportunities for people to enter free text in addition to answering the questions. Key areas of feedback from the Questionnaires received on the Future of Older Person's Provision were:

(7) **The proposals:**
42% of people, when asked what they thought of the proposals, answered they had mixed views with 24% responding they thought it was a bad idea and 15% that it was a good idea. In the free text field the greatest number of comments (31) acknowledged that

planning for the future was a good idea with 27 people saying they were against the proposal because of the disruption to the clients. Other common comments included support for extra care housing, emphasising the importance of day care and concerns about the quality of care in the independent sector.

(8) Should KCC run its own homes?

59% of respondents stated that the council should continue to run its own homes with 20% disagreeing. The largest number of comments wanted to know why KCC homes cost double the price KCC can buy it in the independent sector. 22 recommended that KCC should review staff contracts and KCC processes to reduce the cost. Other comments included concerns about the quality of care in the independent sector. 8 people criticised the question as leading.

(9) On what basis should KCC make the decision about the proposals?

80% thought quality of care an essential factor, 75% continuity of care for the residents, and 47% felt keeping some homes in the management of KCC was essential. Fewer people thought value for money (175) and freeing up resources to care for more people (132) were essential although these issues were considered very important by 41.5% of respondents.

(10) Thinking about the future

When asked about their preferred choice of how they would like to receive care most people wanted to be able to live at home for as long as possible followed by a situation similar to extra care housing.

The most important issues to people considering moving into a care home were trained and friendly staff, home cooked nutritious food and being with ones partner. Other factors that were important to people were to remain a respected member of their local community treated with respect and able to exercise choice and control and the ability to have pets.

The top five things that people rated as essential or very important to them when they were older were:

1. help and support available when needed
2. a safe and secure environment
3. being able to maintain links with family, friends and local community
4. ability to remain as independent as possible with own routine and choices
5. accessibility (no steps etc)

6. Personnel implications

(1) The sale of Wayfarers as a going concern will result in the staff transferring to the new employer. The Transfer of Undertakings (Protection of Employment) Regulations (TUPE), protects the transferring employees' terms and conditions of service on the day of transfer. Separate legislation covers certain protections for the pension rights of staff. The new employer may also need to give considerations to issues arising over the "Two Tier Workforce". Where the new employer brings in new recruits to work on the service that transferred they must be employed on "fair and reasonable terms and conditions which are, overall, no less favourable than those of the transferred employees". They must also be offered reasonable pension arrangements.

(2) The staffing information for Wayfarers as at 23 November 2010 is as follows:

| Head count | No. of contracts | No. of Permanent Contracts | No. of Temporary Contracts | No. of Fixed Term Contracts | No. of Full Time Contracts | No. of Part Time Contracts | No. of Relief Contracts | FTE |
|------------|------------------|----------------------------|----------------------------|-----------------------------|----------------------------|----------------------------|-------------------------|-------|
| 47 | 64 | 60 | 4 | 0 | 4 | 39 | 21 | 26.95 |

7. Summary

(1) The proposal for Wayfarers is for it to be sold to an independent provider as a going concern. 14 expressions of interest had been received relating to Wayfarers by the closing date of 26 November 2010. This is enough for the sale process to go ahead to the next stage.

(2) There has been strong local resistance to the proposals to sell Wayfarers to the independent sector. However, if a decision to go ahead with the sale is agreed, local community leaders have indicated they would work with the successful purchaser to help make sure that the long term delivery of services was a success.

(3) An initial screening as part of the Equality Impact Assessment was undertaken prior to the consultation on the modernisation proposals. This identified the need for a full Equality Impact Assessment to be undertaken on each proposal, which has now been done. The assessment confirms that the proposals can be delivered in a way that adequately takes account of the individual needs of existing residents and of other service users.

8. Recommendations

(1) The Cabinet member is asked to **consider** the contents of this report and **agree** that Wayfarers should be sold as a going concern.

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Background Documents

- Government White Paper 'Our Health, Our Care, Our Say' – January 2006
- National Dementia Strategy – February 2009
- Active Lives for Adults 2006-2016
- Closure/Variation Policy for the closure/variation in the service use of a Social Services Establishment
- A Vision for Adult Social Care: Capable Communities and Active Citizens
- Think Local, Act Personal: Next Steps for Transforming Adult Social Care
- Locality Commissioning Strategy