



<u>Committee and date</u>
Council
8 May 2014

<u>Item No</u>
15.2
Public

BACKGROUND REPORT TO MOTION 15.2 **JUDICIAL REVIEW – CLOSURE OF DAY CENTRES**

Responsible Officer Stephen Chandler
Email: stephen.chandler@shropshire.gov.uk Telephone: (01743) 253704

This short report provides some factual background to assist members in debating the Motion at Agenda item 15.2.

Following approval from Cabinet in June 2011, a detailed consultation process was undertaken relating to transformation of Adult Social Care within Shropshire entitled "Live Life Your Way".

In March 2012, Cabinet considered a report "Personalisation of Adult Social Care Services in Shropshire – Next Steps" and gave approval to a further Consultation process to be undertaken. In April and May further consultation events were held throughout Shropshire relating to "Live Life your Way" - transformation of Adult Care. Throughout this process the aim was always to try and empower vulnerable adults and to give them greater choice in the way they spend their time.

The conclusions of that consultation process were considered on 1st August 2013 at a Portfolio Holders Decision Making Meeting – Adult Services. A report was submitted to the Portfolio Holder by the Director of Adult Services entitled Day Service Reconfiguration and the recommendations therein were approved, one of which was to close Hartley's Day Centre. This decision was called in and debated at Scrutiny Committee later that month in terms of a proposal to establish a commission to look into the question of consultation. This proposal was rejected.

On 19th September 2013, the Council received notice of a proposed claim for Judicial Review from solicitors with respect to the proposed closure of Hartley's Day Centres. This was responded to within a week and a formal letter before action was then submitted by the solicitors on behalf of their clients - service users at Hartley's Day Centre as well as the Mayfair (Church Stretton Day Centre). This was followed by a formal claim to the High Court for Judicial Review. In addition an application for so-called "interim relief" was made with a view to halting any closure of Hartley's. This latter application was dismissed by the High Court.

Further proceedings were issued in the High Court for Judicial Review into the proposed closure of Sabrina Court Day Centre and Innage Lane Day Centre but these proceedings were stayed pending the outcome of the original proceedings.

On 14th November in Manchester High Court, the original judicial review proceedings were heard. Later than month the Court delivered its judgement. The Learned Judge held that the claim in terms of the Mayfair Centre was premature because no decision had been made to close it. The claim in respect of Hartley's was also dismissed because the Court found that the Council's consultation process had not been unlawful and nor was it in breach of its obligations with respect to the Public Sector Equality Duty. An application was then sought to appeal these decisions to the Court of Appeal.

The permission hearing took place of 15th January 2014 in the Court of Appeal. Permission was granted in respect of Hartley's but not the Mayfair Centre. An expedited hearing in front of the Court of Appeal took place on 20th and 21st March. The Court found that in favour of the Appellant to the extent that the Council was in breach of its duty to consult the users of Hartley's Day Centre and their carers prior to its closure. However, the Court did make some positive comments about the actions of the Council. In the leading judgement, Lord Justice Longmore, said he acknowledged that Shropshire Council had carried out a lot of consultation work into the future of adult social care, and it was with some "regret" that he had to hold this particular aspect of the process to be unlawful. He said:

"...it is clear that Shropshire has taken a great deal of trouble to explain its reconfiguration of adult day care and, in particular, the application of personalised budgets. The consultations undertaken in that respect were, as I have said, wide-ranging and, no doubt expensive and time-consuming to conduct.

"It has only mistaken its obligations at the last stage but, in the light of the law as I understand it to be, my own conclusion is that the omission to consult the users and relatives on the closure of Hartley's Day Centre before it was decided to close it was indeed unlawful."

Finally, in relation to the claim that users and their carers are suffering great and ongoing distress, each person who has been subject to the changes in the day centres have been subject to a review in which issues are considered and resolved. Each person will also continue to be reviewed on a planned basis.
