

For publication

Independent Living Service – Transfer of Undertakings (Protection of Employment) (TUPE)

Meeting:	Employment and General Committee
Date:	24 June 2024
Cabinet portfolio:	Housing
Directorate:	Housing
For publication	

1.0 Purpose of the report

1.1 This report informs Employment and General Committee of the changes that have been made to the Independent Living Service in Derbyshire from 1 April 2024, following a recommissioning of the service by Derbyshire County Council.

2.0 Recommendations

2.1 That Employment and General Committee note the changes to establishment that have been implemented following the change in service provider to Citizens Advice Mid Mercia.

3.0 Reason for recommendations

3.1 Chesterfield Borough Council is no longer contracted to deliver the Independent Living Service on behalf of Derbyshire County Council and changes have therefore been made to the Council's establishment in order to meet the Transfer of Undertakings (Protection of Employment) (TUPE) legislation which has been created following a change in service provider.

4.0 Report details

Background

- 4.1 The Independent Living Service (ILS) aims to provide short term, targeted support (not personal care) to enable people to live independently in their own home. It is a county wide service that is commissioned by Adult Social Care at Derbyshire County Council.
- 4.2 Chesterfield Borough Council's Careline Service has been responsible for delivering the Independent Living Service within the Chesterfield district since April 2013. Five staff members have been employed as Independent Living Officers to deliver the service in Chesterfield.
- 4.3 In 2018 and 2019, subsequent agreements were made with Adult Social Care for Careline to deliver the Independent Living Service in the Amber Valley and North-East Derbyshire districts also. Seven staff members were transferred from Futures Housing to Chesterfield Borough Council via a Transfer of Undertakings (protections of employment) to deliver the ILS work in Amber Valley. Chesterfield Borough Council also employed an extra staff member to support delivery of the ILS work in North-East Derbyshire, resulting in a team of fourteen people delivering the Independent Living Service across three districts.

Recommissioning of the Service

- 4.4 During 2023, the Independent Living Service was recommissioned by DCC's Adult Social Care team. The new service offer is known as Low Level Support rather than Independent Living Support and the new contract specification has been updated to be more targeted in approach. It limits the number of people who are able to receive support and also the length of time that support is available for. Adult Social Care were keen to work with a single provider for the new contract and expect it to be developmental in nature, with regular specification reviews built in, to ensure future service delivery meets their needs.
- 4.5 Chesterfield Borough Council did not express an interest in bidding for the new contract as it did not feel able to deliver a county wide service cost effectively.
- 4.6 The contract was tendered during 2023 and following evaluation of bids during the final quarter of the year, the contract was awarded to Citizens Advice Mid Mercia. Responsibility for delivery of the new service began on 1 April 2024. The contract has been let for three years, with a possible extension for a further two years.
- 4.7 In 2022, the Council reshaped the Housing management service in preparation for the introduction of a new regulatory framework, governed by the Regulator of Social Housing. This introduced a number of additional resources, including Housing and Tenancy Support officers, to enable the Council to meet its regulatory responsibilities and future proof the Housing service, including minimising any changes to independent living provision.

Employee impacts

- 4.8 Recognising that the ILS contract would not be delivered by Chesterfield Borough Council from 2024 onwards, the Council has taken several steps to protect the employment of our staff members and to minimise redundancies.
- 4.9 In late 2022, when the Housing Management Service was reshaped, vacant posts were offered to staff members who were based in the Independent Living Service. Following interview, some employees were offered Housing and Tenancy Support Officer roles in the new Housing Management structure. An agreement was made that these employees would remain seconded to ILS until the end of March 2024, and they would transfer to their substantive Housing and Tenancy support roles from 1 April 2024, when the ILS contract ended.
- 4.10 Seven staff members who deliver ILS in Amber Valley are subject to TUPE arrangements by law. Two employees are at retirement age and have decided to retire from the Council rather than transfer to the new employer. The remaining employees have transferred their employment to Citizens Advice Mid Mercia (or a partner organisation) from 8 April 2024 via TUPE transfer regulations.
- 4.11 The ILS post responsible for the provision of service within the North-East Derbyshire district was held as a vacancy.
- 4.12 From 8 April 2024, the posts shown in table 1 below will be deleted from the Council's establishment.

Table 1

Post number	Post name	Notes
2804	Independent Living Officer - North-East Derbyshire	Vacant post
2805	Independent Living Officer - Amber Valley	Retirement of postholder
2806		Retirement of postholder
2804		TUPE applies to postholder
2814		TUPE applies to postholder
2812		TUPE applies to postholder
2803	TUPE applies to postholder	
2807	TUPE applies to postholder	

Table 2 details the posts which will revert to their substantive Housing and Tenancy Support Officer roles.

Table 2

Post number	Seconded role	Notes
2404 2151 2406 2887 2149	Independent Living Officer Chesterfield	All posts revert to their substantive contract of Housing and Tenancy Support Officer.

5.0 Alternative options

5.1 No alternative options have been considered. All postholders who are eligible for TUPE have been transferred to the new provider or have chosen retirement.

6.0 Implications for consideration – Financial and value for money

6.1 The lost income from the Independent Living Contracts ending on the 31st March 2024 will not create any burden upon the HRA budget for 24/25. The savings in staff and operational costs will be net off against the expenditure for the current budget.

6.2 Final invoices will be sent to DCC during the first quarter of 2024.

7.0 Implications for consideration – Legal

7.1 The key legal implications are linked to the Transfer of Undertakings (Protection of Employment) legislation and appropriate legal advice has been sought to ensure the Council's compliance with regulations.

8.0 Implications for consideration – Human resources

8.1 Consultation on TUPE has been undertaken in line with regulations. Five employees transferred to Citizens Advice Mid Mercia or their partner organisations.

8.2 The five employees are subject to 'measure' changes to their terms of employment. These range from area changes to change of pay date and base location changes.

8.3 Trade Union colleagues have been engaged in the consultation process and have supported their members through the process.

8.4 The Council has accepted the request for retirement for two employees.

8.5 Employees with substantive posts of Housing Officer – tenancy support began their roles from 1 April 2024.

9.0 Implications for consideration – Council plan

9.1 The Council has reviewed its Housing Management structure and has increased capacity of tenancy support officers to ensure that we are able to provide adequate support to tenants in Chesterfield who may be struggling to live in their own homes without additional support.

10.0 Implications for consideration – Climate change

10.1 There are no adverse climate impacts generated by the changes in this report.

11.0 Implications for consideration – Equality and diversity

11.1 A preliminary equality impact assessment has been completed. There is not a requirement for a full equality impact assessment to be undertaken by Chesterfield Borough Council. This is the responsibility of Derbyshire County Council who have re-contracted the service.

12.0 Implications for consideration – Risk management

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Stress for employees during the consultation and transfer period	High	High	Team meetings, one to one meetings and regular TU engagement have been undertaken throughout the period. Stress risk assessments have been completed.	Medium	Medium
TUPE may not apply, resulting in the need for redundancies.	High	High	The council has sought guidance from employment lawyers and has reaffirmed its stance that TUPE applies. This was accepted during March 2024.	High	Medium

Disruption to service delivery during the recommissioning process	High	High	Implement the transition quickly, minimising delays. Build positive relationships with the new supplier	Medium	Medium
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Decision information

Key decision number	
Wards affected	All wards

Document information

Report author	
<i>Rachel O'Neil – Service Director, Digital, HR and Customer Services</i> <i>Giles Parkyn – Head of Housing Management and Careline</i>	
Background documents	
These are unpublished works which have been relied on to a material extent when the report was prepared.	
Appendices to the report	
None	