

Gloucestershire County Council

Notice of call-in

To: Chief Executive

We, the undersigned five Members, give notice of our desire to call-in the following executive decision, notice of which was published on

24/7/2019

Decision wording:

Cllr Roger Wilson, Cabinet Member for Adult Social Care, (Commissioning), sought approval for the proposed closures of Southfield House Care Home, Stroud, and Wyatt House Care Home, Stroud and to undertake consultation on the impact of the closures.

Having considered all of the information, including known proposals, alternative options and reasons for recommendations, Cabinet noted the report and,

RESOLVED to:

1. Approve the closure of Southfield House Care Home, Stroud.
2. Agree that any capital receipts arising from the disposal of Southfield House Care Home will be ring-fenced for future developments for older people in the County.
3. Delegate authority to the Director of Integration, in consultation with the Cabinet Member for Adult Social Care Commissioning, to:
 - i. Consult with residents and families of Southfield House Care Home on the impact of and arrangements for the closure of the care home.
 - ii. Facilitate moving the residents to an alternative care home that will meet their needs.
4. Approve the closure of Wyatt House Care Home.
5. Agree that any capital receipts arising from the disposal of the properties will be ring-fenced for future developments for older people in the County.
6. Delegate authority to the Director of Integration, in consultation with the Cabinet Member for Adult Social Care Commissioning to:

- i) Consult with residents and their families of Wyatt House on the impact of and arrangements for the closure of the care home.
- ii) Facilitate moving the residents to an alternative care home that will meet their needs

The grounds for the call-in are that the following condition(s) are satisfied for the reasons specified:

- 3) In making the decision, the Cabinet, Leader of the Council or Cabinet Member took account of an irrelevant matter or failed to take account of a relevant matter

➤ The relevant matter not taken into account is *:

This decision has failed to comply with the principles of decision making, specifically

Para 7.02.3 They should take proper account of consultation with others;

No formal consultation has taken place with residents, their families, the wider community or other stakeholders. This leaves the County Council open to judicial review and to complaints to the local government ombudsman. Under the Gunning principles consultation must take place when proposals are at a formative stage, but the report indicates limited consultation with residents once the decision to close has been taken. The principles state that “ where people have come to legitimately expect a process of consultation, for example, with local authority budget cuts or healthcare changes, there are grounds for a judicial review should a public consultation not take place”.

The report fails to consider the legitimate expectations to proper consultation under the doctrine of legitimate expectation and take into account the risk of legal challenge.

Para 7.02.8 They should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately.

The report to Cabinet states at para 9 that Cabinet Members should read and consider the Due Regard statement to satisfy themselves as decision makers that due regard has been given. This statement was not included in the published Cabinet Papers or accessible on the County Council Website via the link in the report, nor was it included in the Due Regard Statements Pack 5 days before the meeting. It was published on 24th July. Not only does this mean that it is not possible to be certain that Cabinet members had seen the Due Regard statement before the meeting and had sufficient time to consider it but it also contravenes the rules on

access to information about the County Council's formal business that state that papers must be published 5 full days before the meeting.

Dated 24/7/19

Signed

- 1.) P. A. Hodgkinson
- 2.) [Signature]
- 3.) [Signature] R M SMITH
- 4.) [Signature] EVA WARD
- 5.) [Signature]

