

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Social Services, Housing and Community Safety Board

21st September 2023

Joint Report of the Head of Adult Services - Angela Thomas and the Head of Legal and Democratic Services – Craig Griffiths

Matter for Decision

Wards Affected: Briton Ferry East and West

Delegation under Local Government Legislation to Briton Ferry Town Council regarding the provision of a day service

Purpose of the Report

1. To grant a further delegation to Briton Ferry Town Council pursuant to section 101 of the Local Government Act 1972 and section 19 of the Local Government Act 2000 to the 31st March 2025, to operate a community meals service at Liberty Hall, Briton Ferry in accordance with the Health and Social Services and Social Security Adjudications Act 1983 and Chronically Sick and Disabled Persons Act 1970.

Executive Summary

2. At its meeting of the 10th October 2022, Social Services, Housing and Community Safety Cabinet Board resolved to grant a one year delegation to Briton Ferry Town Council pursuant to section 101 of the Local Government Act 1972 and section 19 of the Local Government Act 2000 to operate a community meals service at Liberty Hall, Briton Ferry in accordance with the Health and Social Services and Social Security Adjudications Act 1983 and that delegated authority be granted to the Head of Adult Services in consultation with the Head of Legal and Democratic Services to enter into a suitable agreement to document this delegation. That delegation expires in November 2023.

3. Neath Port Talbot Council (“NPT”) has now received a request on the 11th July 2023 from Briton Ferry Town Council (“the Town Council”) for a further delegation under section 101 of the Local Government Act 1972 in relation to the provision of a community meals service at Liberty Hall Day Centre.
4. The Town Council are currently providing a subsidised meal service to both the elderly and disabled people of Briton Ferry that they provide from the Liberty Hall Day Centre, Briton Ferry. The Town Council currently meets the salary costs of the members of staff (2 full time and one part time) at the facility (a contribution of £52,000 per year) and meets the cost of food provision (in the sum of £25,000 per year) along with other ancillary expenditure (i.e. utility bills, cleaning materials, equipment).
5. NPT have been informed by the Town Council that they cannot continue to run the day centre unless it can arrange for NPT to delegate statutory powers to it.

Background

6. NPT received a request on the 11th July 2023 from the Town Council for a formal delegation under section 101 of the Local Government Act 1972 in relation to the provision of a community meals service at Liberty Hall Day Centre.
7. The Town Council are currently providing a subsidised meal service to both the elderly and disabled people of Briton Ferry that they provide from the Liberty Hall Day Centre, Briton Ferry. The Town Council currently meets the salary costs of the members of staff (2 full time and one part time) at the facility (a contribution of £52,000 per year) and meets the cost of food provision (in the sum of £25,000 per year) along with other ancillary expenditure (i.e. utility bills, cleaning materials, equipment).
8. Usually, the ability to undertake this activity, from a legal perspective would be covered by the power of well-being under section 2 of the Local Government Act 2000 or section 137 of the Local Government Act 1972. However, there is an annual financial limit to spending under section 137 and the view of the Welsh Government is that spending under the power of well-being is part of that section 137 limit and it would appear the cost of running the day centre is about twice the Town Council’s annual limit under these sections. In those circumstances the Town Council is not able to provide the current service under either of these powers.
9. The General Power of Competence (GPC) is now available to eligible Community Councils but a criteria must be fulfilled to enable Briton Ferry Town Council to utilise the same. If the Town Council has the GPC at some stage then it could run the day centre under that power. Briton Ferry Town Council

have advised that this time they will not be classed an eligible Community Council

10. The Health and Social Services and Social Security Adjudications Act 1983 provides that a County Borough Council such as NPT shall have power to make such arrangements as they may from time to time determine for providing meals and recreation for old people in their homes or elsewhere and may employ as their agent for the purpose of this paragraph any voluntary organisation whose activities consist in or include the provision of meals or recreation for old people.
11. The Chronically Sick and Disabled Persons Act 1970 provides that a County Borough Council such as NPT shall have power to make such arrangements as they may from time to time determine for providing meals for those classed as chronically sick and disabled in their homes or elsewhere.
12. As a result, NPT has the power to run this day centre and it could delegate that power in respect of the day centre to the Town Council under section 101 of the Local Government Act 1972 and section 19 of the Local Government Act 2000. In that case the Town Council would be exercising the power of NPT and any spending would be under that power which has no financial limit. This does, of course, require NPT to agree to delegate the power and there is no requirement for NPT to provide funds for the service.
13. In the circumstances it would appear that at this present time, the Town Council cannot continue to run the day centre unless it can arrange for NPT to delegate the power to it.
14. Consideration to this request has now been made by officers and it is suggested that to enable the Town Council to continue to run this facility, NPT formally grant a further delegation to the Town Council until the 31st March 2025. NPT will work with the Town Council to see what avenues could potentially be open to them to operate without a delegation but the provision of this delegation, will allow the service to continue operating pending more detailed consideration.
15. A suitable delegation agreement will be entered into, on terms agreed by the Head of Adult Services and Head of Legal and Democratic Services which will stipulate that the provision of this delegation is dependent on the Town Council meeting all costs of NPT in the provision of the service and providing a suitable indemnity to NPT against any financial risks that it may incur as a result of the delegation.
16. Any delegation however will be strictly for the provision of meals to the elderly and disabled and is not capable of being utilised for the purpose of trading

more generally and NPT will monitor compliance of the Town Council with this arrangement to ensure that this takes place.

17. It should be noted that NPT have no legal obligation to provide this delegation, but does so on the basis that it will enable the Town Council to continue providing the service at Liberty Hall. In the event that the Town Council determines to cease provision of the service at Liberty Hall, the delegation will come to an end and the service will conclude. NPT will not be obliged to step in and continue providing the service. Such provisions will be considered as part of any formal delegation granted.

Financial Implications

18. All costs associated with the provision of the community meal service at Liberty Hall will be met by the Town Council. NPT will also receive a suitable indemnity to warrant against any additional charges it might face as a result of this delegation being granted.

Integrated Impact Assessment

19. A first stage Impact Assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. The first stage assessment, attached at Appendix 1, has indicated that a more in-depth assessment is not required

Legal Impacts

20. The legal impacts are as set out in paragraphs 7 to 12 of this report.

Risk Management

21. Failure to grant a delegation would mean the provision of a community meal service at Liberty Hall Briton Ferry would come to an end. It should be noted that NPT have no legal obligation to provide this delegation, but does so on the basis that it will enable the Town Council to continue providing the same. In the event that the Town Council determines to cease provision of the service at Liberty Hall, the delegation will come to an end and the service will conclude. NPT will not be obliged to step in and continue providing the service. Such provisions will be considered as part of any formal delegation granted.

Consultation

22. There is no requirement for external consultation on this report

Recommendation

23. It is recommended that, having due regard to the integrated impact screening assessment that Neath Port Talbot County Borough Council grant a one year delegation to Briton Ferry Town Council pursuant to section 101 of the Local Government Act 1972 and section 19 of the Local Government Act 2000 to operate a community meals service at Liberty Hall, Briton Ferry in accordance with the Health and Social Services and Social Security Adjudications Act 1983 and Chronically Sick and Disabled Persons Act 1970 and that delegated authority be granted to the Head of Adult Services in consultation with the Head of Legal and Democratic Services to enter into a suitable agreement to document this delegation.

Reason for Decision

24. Failure to grant a delegation would mean the provision of a community meal service at Liberty Hall Briton Ferry would come to an end.

Implementation of Decision

25. The decision is proposed for implementation after the three day call in period.

Appendices

26. Appendix 1 - Integrated Impact Assessment Screening

List of Background Papers

27. None

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Appendix 1 – Integrated Impact Assessment Screening

1. Details of the initiative

Initiative description and summary: Delegation under Local Government Legislation to Briton Ferry Town Council regarding the provision of a day service
Service Area: Adult Services
Directorate: Social Services, Health and Housing

2. Does the initiative affect:

	Yes	No
Service users	x	
Staff		x
Wider community		x
Internal administrative process only	x	

3. Does the initiative impact on people because of their:

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/How might it impact?
Age	x					The granting of a delegation to Briton Ferry Town Council will enable them to continue providing a day meal service to elderly and disabled users. The purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Disability	x					The granting of a delegation to Briton Ferry Town Council will enable them to continue providing a day meal service to elderly and disabled users. The purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Gender Reassignment		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Marriage/Civil Partnership		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to

						grant a delegation to Briton Ferry Town Council to provide a service.
Pregnancy/Maternity		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Race		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Religion/Belief		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
Sex		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.

Sexual orientation		x				There would be no impact on this particular characteristic as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service.
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4. Does the initiative impact on:

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence used) / How might it impact?
People's opportunities to use the Welsh language		x				There is no impact on the opportunity to use the Welsh Language
Treating the Welsh language no less favourably than English		x				There is no impact on treating the Welsh language less favourable than English

5. Does the initiative impact on biodiversity:

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence) / How might it impact?
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To maintain and enhance biodiversity		x				There is no impact on the maintenance and enhancement of biodiversity
To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc.		x				There is no impact on the promotion of the resilience of ecosystems

6. Does the initiative embrace the sustainable development principle (5 ways of working):

	Yes	No	Details
Long term - how the initiative supports the long term well-being of people	x		Failure to grant a delegation would mean the provision of a community meal service at Liberty Hall Briton Ferry would come to an end. It should be noted that NPT have no legal obligation to provide this delegation, but does so on the basis that it will enable the Town Council to continue providing the same. In the event that the Town Council determines to cease provision of the service at Liberty Hall, the delegation will come to an end and the service will conclude. NPT will not be obliged to step in and continue providing the service. Such provisions will be considered as part of any formal delegation granted.
Integration - how the initiative impacts upon our wellbeing objectives	x		Briton Ferry Town Council are currently providing a subsidised meal service to both the elderly and disabled people of Briton Ferry that they provide from the Liberty Hall Day Centre, Briton Ferry. The Town Council currently meets the salary costs of the members of staff (2 full time and one

			<p>part time) at the facility (a contribution of £52,000 per year) and meets the cost of food provision (in the sum of £25,000 per year) along with other ancillary expenditure (i.e. utility bills, cleaning materials, equipment).</p> <p>This will contribute to all wellbeing objectives held by Neath Port Talbot Council</p>
Involvement - how people have been involved in developing the initiative	x		<p>A formal request has been made from Briton Ferry Town Council and discussions have been had with them to identify a solution. Consideration to this request has now been made by officers and it is suggested that to enable the Town Council to continue to run this facility, NPT formally grant a delegation to the Town Council for the duration of one calendar year initially, to be subject to further possible extension.</p>
Collaboration - how we have worked with other services/organisations to find shared sustainable solutions	x		<p>A formal request has been made from Briton Ferry Town Council and discussions have been had with them to identify a solution. Consideration to this request has now been made by officers and it is suggested that to enable the Town Council to continue to run this facility, NPT formally grant a delegation to the Town Council for the duration of one calendar year initially, to be subject to further possible extension. This will enable the Town Council to continue providing the service initially whilst a review is undertaken of additional ways they could continue to provide the service without the need for such a delegation. This could be by exploring ways under the GPC mentioned above or looking at ways to address its expenditure of the subsidy. NPT will work with the Town Council to see what avenues could potentially be open to them in this regard but the provision of this delegation, will in the first instance, allow the service to continue operating pending more detailed consideration</p>
Prevention - how the initiative will prevent problems occurring or getting worse	x		<p>Failure to grant a delegation would mean the provision of a community meal service at Liberty Hall Briton Ferry would come to an end. It should be noted that NPT have no legal obligation to provide this delegation, but does</p>

			so on the basis that it will enable the Town Council to continue providing the same. In the event that the Town Council determines to cease provision of the service at Liberty Hall, the delegation will come to an end and the service will conclude. NPT will not be obliged to step in and continue providing the service. Such provisions will be considered as part of any formal delegation granted.
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7. Declaration - based on above assessment (tick as appropriate):

A full impact assessment (second stage) is not required	x
Reasons for this conclusion	
<p>There would be no impact on particular characteristics as the current service provision focusses on the provision of community meals to the elderly and disabled and the purpose of this report is not to change any service provision on the part of NPT Council but to grant a delegation to Briton Ferry Town Council to provide a service. Failure to grant a delegation would mean the provision of a community meal service at Liberty Hall Briton Ferry would come to an end. It should be noted that NPT have no legal obligation to provide this delegation, but does so on the basis that it will enable the Town Council to continue providing the same. In the event that the Town Council determines to cease provision of the service at Liberty Hall, the delegation will come to an end and the service will conclude. NPT will not be obliged to step in and continue providing the service. Such provisions will be considered as part of any formal delegation granted.</p>	