

11 July 2016**Agenda Item:7****REPORT OF SERVICE DIRECTOR FOR STRATEGIC COMMISSIONING,
ACCESS AND SAFEGUARDING****TENDER FOR OLDER PEOPLE'S HOME BASED CARE AND SUPPORT
SERVICES****Purpose of the Report**

1. This report seeks Committee approval to commence the re-tender of home based care and support services and outlines the process and the timescales to be followed.
2. The report seeks Committee approval for the mechanism of establishing a list of accredited providers for home based care and support services through the use of a Dynamic Purchasing System.
3. The report also seeks Committee approval to build in a process for determining and allocating an annual inflationary increase to the home care and support contracts to take into account cost pressures arising from the increases in the National Living Wage over the contract period.

Information and Advice**Background**

4. Members will recall that a report was brought to Committee on 18 April 2016 seeking approval to tender for new home based care and support services during 2016 with a view to awarding new home care and support contracts in January 2017.
5. The Council and the six county Clinical Commissioning Groups (CCGs) have a contract in place with four core providers for generic home based care and support services, each covering a large geographical area based on district council boundaries. The providers are also required to deliver the care and support services within the existing Extra Care scheme/s in their specific areas and in the new schemes that are currently being developed, as and when they open.
6. In addition to the generic home care contracts, the CCGs have a contract with three core providers to deliver complex health care services under Continuing Health Care (CHC) arrangements.
7. The contracts were let for a period of three years, commencing in July 2014, with an option to be extended for up to a further two years.

8. Since the contracts commenced, the home care providers have experienced difficulties in recruiting and retaining care staff. This was exacerbated by the complexities of transferring the existing work and packages of care from the existing providers. A significant proportion of staff members chose to remain with their original employer and not to transfer to the new providers, so fewer staff than anticipated were transferred under TUPE arrangements. In addition many service users decided to take a Direct Payment (DP) and remain with their substantive provider, which meant that less work and fewer staff than expected were passed to the new providers. This in turn created staffing issues and resulted in the core providers struggling to deliver services at the capacity required to meet demand. The Council has therefore had to issue spot contracts to a number of other home care agencies as a means of securing services for individuals in a timely way, but this has been at higher cost in some areas.
9. There are over 150 home care providers currently operating in Nottinghamshire, many of which are small local providers who have not sought a contract with the Council because they focus on delivering services to people that are self-funding or people who arrange and manage their own care through a direct payment.
10. In addition to the above generic home care services, the CCGs have commissioned some targeted services aimed at providing short term support to people who are at risk of being admitted to hospital as a result of a crisis but who do not need medical interventions. These include the crisis response service provided by the British Red Cross, Emergency Department Avoidance Support Service (EDASS) in mid Nottinghamshire and Urgent Community Support Service (UCSS) in Rushcliffe. These services are funded in entirety by the CCGs.
11. In the south of the County, a hospital discharge service has also been jointly commissioned by the Council, Rushcliffe CCG, Nottingham West CCG and Nottingham North and East CCG. This service is called the Interim Home Care Service and it is currently provided by The Carers' Trust.
12. The Interim Home Care Service was initially commissioned on a temporary basis in the summer of 2014 during the time of the transition from the previous home care contracts to the new core provider contracts. The purpose of the service was to avoid people having to remain in hospital longer than necessary whilst home care services were being arranged for them. The Carers' Trust delivers the required level of home care for a period of up to 10 days following discharge from hospital. The provider is able to deliver the service within 24 hours of the service request.
13. It has been the Council's intention that this service would not be required in the longer term once the new core provider contracts had time to become established. As such, the Council has not undertaken a tender for this service. However, lack of capacity from the core providers has meant that the Interim Home Care Service has continued to be needed in order to avoid delayed hospital discharges. Therefore, this service will also be included as part of the wider home care tender process.
14. The Council's financial contribution to this service is £450,000 per annum and the CCGs contribute £306,000 per annum through the Better Care Fund plus £132,000 from Section.256 reserves, bringing the total to £888,000.

The Budget

15. The Council's total budget for home care and support is approximately £17.3m for 2016/17 with approximately 1,560 service users receiving a service at any one time (figures relate to March 2016) and the delivery of approximately 22,780 hours of service provision by independent sector providers per week. This includes services commissioned from the core providers and from spot contracted providers. It excludes people who arrange and manage their own home care services through the use of a direct payment and £438,000 that the CCGs contribute for the Interim Home Care Service.
16. In summer 2015, the Council completed an open book exercise with home care providers and supported living providers in Nottinghamshire. This was undertaken as a direct result of the lack of capacity from the core providers who stated that the main reason for the lack of capacity was the pay rates of the care workers. Providers stated that pay rates were causing significant recruitment and retention issues and that turnover of staff was noticeably higher in Nottinghamshire than other areas they served across the country.
17. The exercise showed that the cost to providers for the delivery of home care services has increased considerably since the award of the contracts in 2014 and it highlighted concerns about provider viability and their ability to meet increasing demand. The main cost pressures to the providers are directly as a result of increasing staffing costs relating to staff pay and terms and conditions of employment. The open book exercise showed that the average cost of the home care contracts with the four core providers was significantly above their average tendered price.
18. The findings of the open book exercise were outlined in a report to Adult Social Care and Health Committee in November 2015 and resulted in the Committee approving a 10% in-year fee increase to the core providers which was subsequently applied from 1 December 2015. The full-year cost of the increase to the Council for home care is £950,000. In addition to this, at Full Council in February and subsequently at Adult Social Care and Health Committee in April 2016, Members approved a further 6% increase for home care services to be implemented from April to take account of the impact of the National Living Wage.

The commissioning and tender planning process

19. As outlined in the previous report to Committee in April, the Council and five of the county CCGs have completed a review of the existing services and have been planning the re-tender to secure new home care services across the County to commence from September 2017. Bassetlaw CCG has decided to commission its own home care service for people who meet Continuing Health Care (CHC) eligibility criteria and for people who are at the end of life. The City Council and City CCG also have a contract, based on a similar model to the County, and they are also planning to re-tender their home care services. Discussions are underway about the option of undertaking a joint commissioning and procurement process with the City Council and City CCG.
20. The following services are to be included in the tender:

- home care, including dementia care, end of life care and jointly contracted health commissioned services
- hospital discharge provision
- Extra Care
- respite care (non-residential)
- support for people to access community resources
- 24/7 urgent care and crisis/rapid response
- 24/7 social care response to telecare.

21. It is proposed that the services will be commissioned through a Dynamic Purchasing System (DPS). The DPS is a two stage process where during the first stage a wide range of providers are selected as accredited providers of home care and support services. The second stage of the process consists of further competitions for accredited providers who are required to complete Invitations to Tender either as individual organisations or by collaborating to jointly provide services under specific lots.
22. The vast majority of the services will be commissioned through contracts for generic homecare services that are provided to people with eligible needs from the point at which they are assessed through to end of life. This will help to avoid people having to change their care provider as their needs change. In addition to this, it is proposed that separate contracts are awarded for crisis care to avoid hospital admissions, and rapid response services to support effective and timely hospital discharge. Separate services will be commissioned by the CCGs for complex health tasks. It is likely that the CCGs' service requirements will be focused around the health planning areas of South Nottinghamshire, Mid-Nottinghamshire and Bassetlaw, and as such the tender process will need to reflect this.
23. The proposed model of services will include the following:

a) **Generic Home Based Care and Support Services**

This will be the largest contract requirement, and would be jointly commissioned by all partners. The contracts would be split into geographical lots with each lot being awarded to a number of providers based on known service requirement levels in each area. The pricing mechanism is still to be determined but advice from Corporate Procurement colleagues is that the hourly rate is set by the commissioners and this may vary from one lot to another to take into account the relevant factors impacting on supply of care staff such as rurality. It is proposed that within each lot, all of the providers would be paid the same hourly rate as set by the commissioners.

b) **Home care to support hospital discharge**

It is proposed that this service will be jointly commissioned and funded by the Council and the CCGs. It is likely that the services would be configured according to health's planning areas, one covering Mid-Nottinghamshire and the other covering the south CCG areas. Given the requirement for a rapid response and flexible service, covering a large geographical expanse, it is proposed that payment

for this service would be on a block basis with a specified budget and volume of service.

c) **Crisis response service**

It is proposed that a separate service is jointly commissioned to respond to people with health and/or social care needs who are at risk of an avoidable hospital admission and who need support over a few days whilst other services are arranged. Such a service may also help to prevent an admission into short term residential or nursing care.

d) **Complex Continuing Health Care**

This service would be commissioned and funded by the CCGs independently when required on a scheme by scheme basis. A single provider is likely to be awarded the contract for each specific geographical area.

24. In order to further support personalisation and to facilitate service user and carer choice and control, it is proposed that Individual Service Funds (ISFs)¹ are introduced. The Dynamic Purchasing System would be used to create an accredited list of providers willing to manage the personal budgets of service users who are not able or willing to have a Direct Payment but do want to have a more active role in directing and managing the service they require. This accredited list of providers may also be made available to service users who have a Direct Payment.
25. The DPS is open throughout its duration allowing new providers to apply to join the DPS and bid for contracts with the Councils and CCGs, thereby allowing new providers to enter the local market and gain a contract with the Councils and the CCGs. This offers greater flexibility to the commissioners in the event that existing providers cannot sufficiently meet demand or in the case of concerns about the quality of the care services. It also allows for small and micro-providers to be registered so encouraging a diverse and more robust market that can respond to small or specific service needs. The DPS will also permit contracts to be awarded with different start and finish dates. It is proposed that the DPS is put in place for a period of 10 years; specific services can then be tendered for as and when required according to the requirements of the Council and partners and also with differing timescales. The DPS will reduce the time it takes to undertake the tender for specific services when they are identified as the initial selection stage is always complete.
26. Providers will be expected to demonstrate how they will work in an integrated way with the local health community teams, to ensure better co-ordination of each individual service user's care and support needs and to ensure efficient and effective use of resources.

¹ Individual Service Fund (ISF) is when someone wants to use their individual budget to buy support to manage their care package from a care provider. ISFs mean that the money is held by the provider on the individual's behalf and the individual decides how it should be spent. The provider is accountable to the individual and commits to spend the money only on the individual's service and on the management and support necessary to provide the management service.

Pre-tender market testing

27. Officers from the Councils and the CCGs have commenced soft market testing and discussion with home care providers to help to inform the service model. During May 2016 a questionnaire was placed on the electronic Due North portal for providers to complete around the proposed service delivery and model as part of the soft market testing approach. Feedback from the providers is summarised below:
- a multi provider Dynamic Purchasing System (DPS) is supported
 - geographical lots to be evenly split in relation to volume and demand
 - a minimum of 3 providers per lot
 - specialist services to be commissioned as separate lots rather than being required as part of the generic home care services
 - services to be commissioned on the basis of agreed outcomes rather than on a 'Time and Task' basis
 - the use of an electronic monitoring system is supported but for the purpose of monitoring quality rather than as a means of determining the payment level
 - use of Individual Service Funds are supported
 - a set hourly rate per geographical lot is supported to include consideration of service delivery in rural areas
 - providers have asked that rates are set at sustainable levels reflecting the UKHCA recommendations.
28. A pre-tender market engagement event was held on 9 June 2016 which was attended by 110-120 providers who represented 82 organisations; this included a range of current and new providers of varying size from micro to large national organisations. The event was facilitated by officers from each of the commissioning organisations. It is anticipated that further provider engagement events will be held during the tender process, focusing on specific aspects of the model and service requirements.
29. The tender is being managed through the Due North portal and all questions and correspondence will be directed through this system.
30. Other engagement activities have been arranged for service users and staff and a lay reference group will be established following these events being held in June 2016. All these activities are being carried out jointly with CCG and City Council colleagues.
31. Work is on-going across the different commissioning organisations as part of the tender planning process with working groups looking at specific aspects of the tender requirements. This includes the establishment of a task and finish group consisting of finance colleagues to consider the pricing framework based on the financial envelope across each organisation for these services.

32. Another aspect of the programme of work includes reviewing the current functions undertaken by the Community Partnership Officers (CPOs) within the Quality and Market Management team whose role includes working directly with the contracted home care providers and in the brokerage of home care services. This may include the deployment of an electronic system or portal and how the CPO role could evolve to support the new home care and support services. This review will also need to take into account ongoing work on direct payments systems and processes as there could be some synergy around the commissioning and brokerage role in both.
33. The commissioning partners are continuing to work to the timescales outlined in the previous report to the Adult Social Care and Health Committee in April, and these are detailed again below. It is anticipated that the transition period will be over a six month period commencing in January through to June 2017 to allow the new contracts to become established.

Stage	Date
Market sounding engagement events with existing and prospective providers	June 2016
Commence the procurement with the publication of the OJEU notice	September 2016
Bidders' day and closure of tender clarification period	October 2016
Closing date of tender submissions	Early November 2016
Evaluation of tenders	November and December 2016
Notify all bidders of the outcomes of their tenders and award contract to successful providers	Early January 2017
Contract award	January – February 2017
Transition from current providers to new providers	January to June 2017
Commencement of new service	September 2017

Other Options Considered

34. The Council has the option of extending the current contract with the core providers for up to a further two years beyond June 2017. However, the Council believes that continuation of the current contract would not provide adequate levels of home care services to meet needs and enable timely hospital discharges. There are also concerns that there is a lack of home care provision to enable timely hospital discharges.
35. As a result of the limited capacity from the core providers, the Council is having to commission a significant volume of home care through spot contracting arrangements and this is at a higher hourly rate than the services delivered through the core provider contracts. The Council has also had to negotiate higher hourly rates where people have

requested a Direct Payment in order to secure more timely home care services and have sought to purchase their home care from non-contracted agencies.

Reason/s for Recommendation/s

36. The core providers are not currently able to provide the required capacity of home care services. Since the award of the contract in 2014, there have been a number of significant changes, including the introduction of the Care Act 2014, and the implementation of the National Living Wage. Given these significant changes, it would be timely to allow the contract to end without extending it and to re-commission the services. The County CCGs are keen for the home care and support services to be re-commissioned.

Statutory and Policy Implications

37. This report has been compiled after consideration of implications in respect of finance, public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

38. The Council has a statutory duty to ensure there is sufficient provision of a diverse range of services to meet people's social care and support needs. The aim of the tender process is to enable the Council to commission sufficient volumes of home care services and to ensure these services are sustainable and are able to meet current and future needs.
39. It is anticipated that the proposed operating model, through the use of the Dynamic Purchasing System, will enable the Council and the CCGs to accommodate sufficient numbers of home care providers under one contractual framework. This will also enable smaller organisations, including micro-providers to be included in the arrangements to help to support a diverse range of providers who will be able to deliver smaller volumes of services, including in more rural parts of the County.
40. The re-tendering of home care and support services may impact on some people who currently receive home care from the core providers if those core providers choose not to tender for the services or if they do not meet the quality thresholds. If and where this is the case, the Council will work with the providers to ensure that the transition is managed carefully so that service continuity is not disrupted for the people using the services.

Human Resources Implications

41. A review will be undertaken over the next six months of the role and responsibilities of the Community Partnership Officers within the Quality and Market Management team to ensure they are able meet the new model of home care and support services.

Financial Implications

42. As outlined above, the Council's budget for home care services is £17.3m. The average hourly rate across the core provider contracts is currently £14.81 to £15.39 per hour. The hourly rates for services commissioned from providers on a spot contracting basis varies from £12.41 to £16.80 per hour.² At present 71% of work being commissioned with spot providers is at a rate of £15.00 or less and the majority of work being commissioned at the higher rates is done so in the 'harder-to-serve' areas of Rushcliffe and Newark.
43. As part of the tender planning process, detailed consideration is being given to the various options relating to the determination of the hourly rate. This includes consideration of various options including setting a fixed hourly rate based on specific geographical areas and contract lots. This option would enable the Council and the commissioning partners to plan their budgets more effectively as the cost of the provision would not be subject to so many variations arising from the use of different providers all of whom have different hourly rates.
44. In order to ensure the contracted price for the home care and support services remains viable for the duration of the contract and that the providers are able to deliver services to the capacity required, it is proposed that an annual inflationary increase is built into the contract terms and conditions. The annual inflationary increase would need to take account of the anticipated increases in the National Living Wage.

Public Sector Equality Duty Implications

45. The nature of the services to be commissioned mean they will affect older adults and people with disabilities, including people who have multiple and complex health and social care needs. The Council has completed an Equalities Impact Assessment to consider the implications of the tender process on people with protected characteristics and to identify and put in place mitigating action to ensure that these groups of people are not disadvantaged as a result of the tender process.

RECOMMENDATION/S

That the Committee:

- 1) approves the commencement of the re-tender of home based care and support services
- 2) approves the mechanism of establishing a list of accredited providers for home based care and support services through the use of a Dynamic Purchasing System
- 3) approves the proposal to build in a process for determining and allocating an annual inflationary increase to the home care and support contracts to take into account cost pressures arising from the increases in the National Living Wage over the contract period.

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² Prices at 1st May 2016

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Constitutional Comments (SMG 28/06/16)

46. The proposals set out in this report fall within the remit of this Committee.

Financial Comments (KAS 23/06/16)

47. The financial implications are contained within paragraphs 42 to 44 of the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Tender for Home Based Care and Support Services – report to Full Council on 26 September 2013

The Social Care Market: Provider Cost Pressures and Sustainability – report to Adult Social Care and Health Committee on 30 November 2015

Annual Budget 2016-17 – report to Full Council on 25 February 2016

Tender for older people's home based care and support services – report to Adult Social Care and Health Committee on 18 April 2016

Equality Impact Assessment

Electoral Division(s) and Member(s) Affected

All.

ASCH411