

meeting CABINET

date 6<sup>th</sup> July 2011

agenda item number 4

## **REPORT OF THE CABINET MEMBER FOR ADULT SOCIAL CARE AND HEALTH**

### **THE RE-COMMISSIONING OF CARE, SUPPORT AND ENABLEMENT SERVICES TO PEOPLE WITH LEARNING DISABILITIES, MENTAL HEALTH NEEDS AND ASPERGERS SYNDROME**

#### **PURPOSE OF THE REPORT**

1. The purpose of this report is to seek approval for the re-commissioning of care, support and enablement services (supported living and supporting people) for people with a learning disability, mental health needs and Asperger's Syndrome that is currently being delivered in-house by the Direct Services Team. The re-commissioning will be done through an existing framework agreement.
2. The recommendations in this report constitute a key decision as they involve expenditure/savings to the County of more than £1 million and affect the whole of the County of Nottinghamshire. This key decision was first published in the Forward Plan on 13<sup>th</sup> June 2011.

#### **INFORMATION AND ADVICE**

3. On the 6<sup>th</sup> October 2010 Cabinet approved the procurement of community-based support services to adults with learning disabilities under a new framework agreement established from April 2011, following a tender process that established a list of approved providers who are able to bid for individual packages of support through a commissioning process.
4. The intention was for existing work to be brought under the new framework agreement. As part of this process, a Best Value Review was undertaken to negotiate efficiencies on existing business. Where providers were unwilling or unable to negotiate efficiencies, the Cabinet report advised that the department would re-commission existing services using a transparent and open competitive process to deliver efficiencies.
5. One of the providers on the former framework agreement, which ended in March 2011, was the Nottinghamshire County Council's in-house Direct

Services Team. As the service was not able to meet the efficiency requirements of the new framework agreement (in part due to a 20% cost increase imposed following the National Job Evaluation settlement in 2008/09), it did not bid to be included on the new framework. Hence, there is now a requirement to re-commission the services it currently delivers.

6. There are currently a range of providers across the county each having a number of contracts. The County Council direct services represent around 8% of the total market, and are spread across all areas of the county but have a higher presence in Gedling, Rushcliffe and Mansfield districts. This is a historical provision based upon the development of the service following the re-provision of County Council residential care homes from 2002 onwards. In other districts there is a higher proportion of independent provision. The re-commissioning process will involve inviting all providers on the new framework agreement to bid for the following individual lots, currently being delivered by the in-house Direct Services Team, through a series of Expressions of Interest covering each district package:

<u>District</u>	<u>Value over 3 years</u>
Gedling	£2,069,340
Broxtowe	£421,200
Rushcliffe	£1,706,297
Mansfield	£1,200,420
Bassetlaw	£338,520
Mansfield (floating)	£521,040
Newark	£218,400

7. Each District lot comprises a number of individual services contracts (ISC's), each contributing to the total value of the lot. For example, in Gedling there are 15 tenants supported in 4 different properties, whereas in Broxtowe there are 3 tenants supported in a single property. An ISC forms the contract with a provider to deliver an agreed package of support. There are 60 ISC's across the County, ranging in value. The single largest contract for an individual package of care is £82,900 per annum.
8. Each provider will be invited to bid for work by submitting variable pricing for daytime hourly rates and sleep-in shift rates. In addition, as the re-commissioning involves the transfer of around 44 existing Direct Services staff under TUPE regulations (Transfer of Undertakings (Protection of Employment) Regulations 2006), providers must also apply two rates for costs submitted; one at a capped rate as stated in the framework agreement, and one at a non-capped rate for transferring Direct Services staff. It is anticipated that this will lead to increased competitiveness of submitted prices throughout the duration of the 3 year contracts.
9. These prices will be evaluated such that only the most competitive bids are invited to the next stage of the re-commissioning process, which includes an interview involving service users and/or carers wherever possible.

10. It is anticipated that the first Expressions of Interest will be issued towards the end of July 2011, with the final transfer of services taking place in early 2012.

## **STATUTORY AND POLICY IMPLICATIONS**

11. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the report. Members' attention is however, drawn to the following:

### Human Resources Implications

12. All employees of the current providers - i.e. Nottinghamshire County Council - have the right to transfer to the successful tenderer/s and the Transfer of Undertakings Protection of Employment (TUPE) will be deemed to apply. Of the existing employees, at this point in time, 44 have opted to transfer to the new providers and 50 have opted to take voluntary redundancy, as part of the corporate redundancy process, between March 2011 and April 2012. For those transferring to the new provider, TUPE regulations will ensure that they transfer on comparable terms and conditions.
13. Consultation with transferring staff and those seeking voluntary redundancy has taken place. The consultations have involved trade union representatives and a representative from the Council's Human Resources Section. These initial consultations explained the principles and process of TUPE transfer to employees, and will form the basis of consultation once a new provider has been selected. There will be a minimum of thirteen weeks before transfer, once the new provider has been selected, and this will enable detailed consultation with the transferring staff.
14. As the issues in relation to pensions on transfers are complex, an actuary has been commissioned to calculate Local Government Pension Scheme (LGPS) values.

### Financial Implications

15. The work to be re-commissioned is a Part B service and will be re-commissioned in accordance with European Union Regulations for Part B services. This process will ensure that best value is achieved. It is anticipated that services will be re-commissioned at a lower cost.
16. Actual draw down of services and total value will be based on needs and available budgets.

### Equal Opportunities Implications

17. The re-commissioning process involves the delivery of services for and to learning disabled people, people with mental health needs, and people with Asperger's Syndrome, from all sections of the community. Where appropriate, services will be delivered to meet the needs of individuals with protected characteristics (e.g. age, disability, gender, race, religion or belief, and sexual orientation).
18. In November 2010 an Equality Impact Assessment was completed on proposed changes to services for people with mental health and learning disabilities and this was presented as a background paper to Cabinet on 15<sup>th</sup> December 2010. This is available for reference.
19. In June 2011, once a more detailed business plan had been developed, this equality impact assessment was refreshed. The new assessment concluded that as there would be no change to the services being delivered as a result of the re-commissioning process, that there would be no adverse or negative impact for service users with protected characteristics. The assessment also considered the affect of the re-commissioning process on staff, and did not anticipate that staff of any particular protected characteristic would be affected more than any other. A copy of this assessment is available, for reference.

### Implications for Service Users

20. Service users currently receiving support from the in-house Direct Services Team are younger adults (18+), with the majority falling within the age range 18-65. All of the service users have a learning disability. Some also have physical or sensory disabilities and some have associated mental health conditions. There will be no change to the services being delivered to these service users at the time of transfer.
21. Under the framework agreement providers must have in place an equal opportunities policy and diversity policy, and must demonstrate and maintain a properly documented system of quality assurance, which the authority can monitor.

### Crime and Disorder Implications

22. The safeguarding of vulnerable adults and the prevention of crime to disabled people is a feature of the framework agreement and forms a central element of the ongoing contract monitoring process.

### Human Rights Act Implications

23. Under the framework agreement providers must take all reasonable steps to ensure that the systems and procedures that they adopt in the performance of the services comply with the provisions of the Human Rights Act 1998 (where relevant).

### Corporate Property Implications

24. The Direct Services teams have office bases within Lawn View House at Sutton-in-Ashfield and within the County Supplies building at Rolleston Drive. Following the transfer of the services the requirements for these office spaces will cease. It is anticipated that this will be by April 2012.

### **RECOMMENDATIONS**

25. It is recommended that Cabinet approve the re-commissioning of the services outlined in paragraph 6 that are currently being delivered in-house by the Direct Services Team.

### **COUNCILLOR KEVIN ROSTANCE**

**Cabinet Member for Adult Social Care and Health**

### **LEGAL SERVICES' COMMENTS (LMc 09/06/2011)**

26. Cabinet has delegated authority within the Scheme of Delegation to approve the recommendations in the report.

### **FINANCIAL COMMENTS OF THE SERVICE DIRECTOR (FINANCE) (RWK 15/06/2011)**

27. The care, support and enablement services to be re-commissioned currently cost £6.5 million. It is anticipated that the services will be re-commissioned at a lower cost. Any savings arising from re-commissioning those services will contribute towards the savings target of £62.1 million for the Adult Social Care and Health portfolio.

### **BACKGROUND PAPERS AVAILABLE FOR INSPECTION**

28. Report of the Cabinet Member for Adult Social Care and Health, *The procurement of care, support and enablement services to people with learning disabilities, mental health needs and aspergers syndrome*, 6<sup>th</sup> October 2010 Cabinet meeting (previously published).
29. Report of the Deputy Leader, *The Improvement Programme – Progress Report and Recommendations for Action*, 21<sup>st</sup> October 2010 Council meeting (including Appendix B, B56) (previously published).
30. Report of the Leader and Cabinet Member for Finance & Property, *Initial Budget and Capital Programme Proposals 2011/12 to 2014/15*, 15<sup>th</sup>

December 2010 Cabinet meeting (including link to *Community Care Services* Equality Impact Assessment form published on public website) (previously published).

31. Equality Impact Assessment, Reduce Expenditure on Learning Disability and Mental Health Community Care project, June 2011.

**ELECTORAL DIVISION(S) AFFECTED**

32. Nottinghamshire.

CAB328