

Cabinet – 10 September 2014

Joint Procurement of Community Services for Children and Adults

Portfolios:	Councillor Diane Coughlan – Social Care Councillor Barbara Cassidy – Children's Services and Education
Service:	Social Care and Children Services
Wards:	All
Key decision:	Yes
Forward plan:	Yes

1. Summary

- 1.1 Cabinet approved the re-tendering of the Support for Living at Home Services (SLHS) framework for adult personal care and support services in October 2013 when the existing contractual arrangements had put the Council at risk of a legal challenge. The framework implemented from January 2013 encountered operational difficulties which resulted in the continuation of previous arrangements as part of a transitional contract. This had resulted in a material change from the contractual model and the need to re-tender for both the legacy (pre 2013) contracts and the post 2013 contracts.
- 1.2 There have been further delays to the tendering process due to further work needed to build in the anticipated impact of the Care Act 2014 and the Children and Families Act 2014. The result was an interim fee uplift report to Cabinet on April 2014. Therefore, it has been necessary to award 12-month transitional contracts for adult personal care and support services, to allow for a longer term procurement plan for a sustainable market to meet present and future needs.
- 1.3 The aim is to conclude tendering, using joint working arrangements between Social Care and Inclusion and Children Services for commencement of new service provisions by July 2015. The new specification includes cost and volume and well as locality "zones" to improve continuity and cost effectiveness of care delivered.
- 1.4 Children Services will include in these tendering exercises a range of community short breaks, care support within the home, holiday play scheme and activities, and term-time activity groups. These will be targeted at all eligible children with a disability throughout the Borough, and include services for those with Continuing Health Care needs funded by Walsall Clinical Commissioning Group. This will help provide better outcomes for those young people with long term conditions who "transition to adulthood".

2. Recommendations

- 2.1 That Cabinet notes the award of 12 month transitional contracts for 2014/15 (expiring on 30 June 2015) to allow timely procurement processes and award of new contracts by July 2015.
- 2.2 That Cabinet approves a new commissioning approach for adult personal care and support services within the Support for Living at Home Services re-tender incorporating a cost and volume contract.
- 2.3 That Cabinet approves the re-tendering of the Support for Living at Home Services to also include a range of children's community services to incorporate the legislative requirements of both the Care Act 2014 and Children and Families Act 2014.
- 2.4 That Cabinet approves that the re-tender process for SLHS will be inclusive of a framework agreement for a range of Regulated Community Based and Short Break Services, for example:
- Complex Care i.e. Learning Disability/Mental Health/Physical Disability;
 - Continuing Health Care;
 - Reablement;
 - Home from Hospital;
 - Rapid Discharge;
 - Children Short Breaks;
- 2.5 That Cabinet delegates authority to the Executive Director of Social Care & Inclusion in consultation with the Portfolio Holder for Social Care and Inclusion and Health, and the Executive Director of Children Services in consultation with the Portfolio Holder for Children Services, to award, and enter contracts for Regulated Community Based and Short Break Services by using the most appropriate procedures and to sign or authorise the sealing of contracts, deeds or other documents in relation to the provision of Regulated Community Based and Short Break Services, and carry out appropriate consultation with existing users and carers.

3. Report detail

Social Care and Inclusion

- 3.1 The Council's Social Care & Inclusion Directorate commissions approximately 20,000 hours per week of home care services (primarily to older people, and adults with complex conditions), to over 2,000 service users at a total spend of circa £16 million per year.
- 3.2 Work has been progressing for over 12 months by the Joint Commissioning Unit (JCU) to prepare a procurement of the contract arrangements for the full range of personal care and support services (reference Cabinet Report of October 2013). This process will harmonise historical and existing contract arrangements including fee levels within a sustainable and affordable range. The new proposal will incorporate the requirements of the Care Act 2014 and the Children and Families Act 2014.

- 3.3 Market engagement with the sector is continuing as the Council moves from its current contractual arrangement to a framework agreement which will have a cost and volume contract for older persons services based on geographical zones within the borough, an indicative maximum price level, and a reduction in the number of commissioned providers within the sector. This will be beneficial for the Council and will support operational infrastructure developments within the next 12 months for greater efficiencies and effectiveness within Social Care & Inclusion. Those users or their carers who wish continue with existing providers will be able to do so through use of Direct Payments.
- 3.4 There was an urgent need to ensure all providers were providing services subject to contracts in order to adhere to the Council's Standing Orders and Financial and Contract Regulations, while the longer term procurement was undertaken and completed. This required the award of approximately 41 transitional SLHS contracts until 30 June 2015.

Children's Services and CCG Children's Continuing Health Care

- 3.5 The Social Care and Inclusion Directorate has commenced work with Children Services to address the collaborative requirements of the Care Act 2014 and the Children and Families Act 2014. The Clinical Commissioning Group's Children's Continuing Health Care ('CHC') Commissioner and the Council's Children's Commissioning Team have considered the benefits of a joint procurement exercise with the Adult Social Care re-tender of their 'Support with Living at Home Service' for early 2015. This joint procurement will seek community and short break agencies registered to care for children only and also those regulated for both children and adults.
- 3.6 A perceived benefit of this joint approach is to create a single framework where children, when appropriate, can continue with the same care agency providing personal care and support through transition and into adulthood without change of carer or employment (TUPE) issues. This would specifically benefit the more complex CHC disabled child who can then exercise greater choice of provider and increased continuity of provision as they reach adulthood. Many CHC cases will be open to and have children's social care contribution toward costs. Therefore, the CCG would benefit from contributing to the specification of this framework as they will be looking to jointly purchase from the same list of providers.
- 3.7 To allow for greater efficiencies with current resources it is proposed that there be an alignment of all community based service provision (as described in Recommendation 2.4 of this Report) as it can sometimes be the same provider delivering these services with varying price rates and contractual terms and conditions. This new approach will create greater equity of costs, service standards and service-user choice.

4. Council priorities

Sustaining a range of high quality community based personal care and support services will contribute to the Council priorities for:

- Improving health and well being;
- Improving safeguarding, learning and the life chances for children and young people;
- Supporting families and people to remain as independent as possible in their own homes and to establish personal choice and smooth transition into adulthood.

5. Risk management

- 5.1 The framework agencies will have an opportunity to have regular dialogue and market updates throughout the commissioning and procurement development period.
- 5.2 Those service users and their carers who wish to have continuity of care and support will be enabled to do so through these and other arrangements. The promotion of service user's independence in their own homes is vital to avoid the risk of hospital or care home admissions.

6. Financial implications

Cabinet approved uplift in fee levels for SLHS personal care and support services in April 2014 to address an historical legacy of low fee levels which are unsustainable, whilst a longer term procurement plan for sustainable market development is developed (Ref: Cabinet Report April 2014). One aim of the new tender process is to stabilise fee levels between an explicit range of prices and the Directorate is seeking some savings on this budget by bringing down the high end of fee levels, having raised the minimum fee level in this report. This would be in addition to savings targets in 2014/15 from implementation of Electronic Call Monitoring (£500,000) and demand management (£500,000). The combination of these savings targets means the plan is for a significant reduction on SLHS expenditure over the period 2015 to 2018.

7. Legal implications.

- 7.1 All contractual arrangements must be procured in compliance with the Public Contracts Regulations 2006 (as amended), if applicable; and with the Council's Contract Rules.
- 7.2 The Council's Legal Services Team will need to work with the Social Care and Inclusion and Children Services Directorate and with the Procurement Team to extend or vary any existing contracts and/or develop new contracts and review existing arrangements.
- 7.3 Legal Services will work with officers to ensure that all necessary legal processes will be in place to minimise the risk to the Council, whilst ensuring that the processes are not onerous.

8. Property implications

There are no direct property implications for the Council.

9. Health and Wellbeing implications

Sustaining a range of high quality personal care at home and in the community social care services will contribute to maintain the health and well being of both adults and children as are priorities within the Children and Young Peoples Plan and the Health and Well-being Plan.

10. Staffing implications

There are no direct staffing implications for the Council.

11. Equality implications

A new contract arrangement for Regulated Community Based and Short Break Services will ensure that a range of community services can continue to provide support for those people in need regardless of their circumstances in terms of equality and diversity.

12. Consultation

- 12.1 Commissioning forums and workshops for agencies who can provide personal care and support at home and in the community have been held during this transitional period (**see annex 1**) to provide the care market an opportunity to contribute to the commissioning process and to assist in demonstrating that fee levels will be realistic in recognising the costs of care for both adults and children and zoning of contractual arrangements for the older person's provision. The council is also committed to reducing the extent to which zero hour contracts for care workers are being used and will be engaging with care agencies about this in the near future.
- 12.2 Consultation with existing service users and carers will be carried out as part of the tender process and communication following completion of the tender process.

Background papers


- Support for Living at Home Services – Re-procurement of Contract Cabinet October 2013
- Briefing Note for Social Care and Inclusion Scrutiny and Performance Panel 7 November 2013 - Support for Living at Home Framework Contract – Further Update
- Fee Levels for Support for Living at Home Services Cabinet April 2014

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Summary of Consultation with Providers of Support for Living at Home Services

Providers stated:
Initial feedback from 10 December 2013 – 31 July 2014 has indicated the following :
The lessons learnt from 2009 must influence the implementation plan for the re-introduction of block contracts.
Council's Response:
<i>The Council will be seeking to commission Older People's personal care services on a cost and volume contract instead of the re-introduction of block contracts.</i>
Providers stated:
The Council needs to realise not all service users' needs will be met within a block contracting arrangement and a process of transparency must be developed for Providers to be selected to meet complex needs. There are concerns around service users with complex needs, which will need to be defined within the tendering process and an accredited list of Providers to allow for transparency and selection.
Council's Response:
<i>The Council is seeking to commission all other client group personal care services through a framework agreement which should meet the needs of the borough.</i>
Providers stated:
The restriction of the number of Providers ie to a maximum level of 6 will put the Council at greater risk should one Provider fail. (Reference was made to the 2009 contract experience and the re-introduction of spot purchasing arrangements as Providers in their block zones were unable to pick up work from the failed Providers). The Council should consider at least 2 Providers in each block arrangements as per regional neighbourhood authorities ie Sandwell and Wolverhampton.
Council's Response:
<i>A final decision on the numbers of Providers which the Council would seek to contract with on a cost and volume approach for older persons is yet to be decided.</i>
Providers stated:
The initial outline zones are not feasible and will need to be redefined.
Council's Response:
<i>Providers have had the opportunity to feedback on the zoning of the borough for the proposed personal care services for older people which has resulted in 6 zones agreed by the majority of Providers interested in this contract.</i>
Providers stated:
The Council should set a price it is willing to pay and the re-tender questionnaire concentrates on quality and service delivery.

Council's Response:
<i>No decision has been made.</i>
Providers stated:
The introduction of electronic call monitoring will need to consider Providers systems currently in operation due to investments already made in systems.
Council's Response:
<i>The Council is piloting electronic call monitoring and the market will be updated on findings and funding arrangements should this be applicable thereafter.</i>
Providers stated:
Transitional arrangements should be considered as it will allow successful Providers to opportunity to manage the transfer of service users to new contracting arrangements in a timely manner as many service users chose to stay with their existing Providers which can create difficulties for new Providers and the contract staffing arrangements.
Council's Response:
<i>The Council has learnt from the 2009 contracting implementation and will not be seeking to make the same mistakes. Therefore, it will be looking to work with the successful Providers of the tender process to develop the implementation plan of the new contractual arrangements which should allow for a smoother transition for both service users and the 'new' Provider.</i>
Providers stated:
What is the Council's view on service users who wanted to stay with a Provider who was not successful in the tender process?
Council's Response:
<i>The service user would be given the option to stay with the Provider of their choice through a direct payment.</i>
Providers stated:
Has service users been informed about the possible changes to their current provision/Provider?
Council's Response:
<i>Not as yet. The Council will be engaging with service users and the options available to them shortly.</i>
Providers stated:
The direct payment rate for Walsall Council has not been reviewed. The Director agreed further work was needed in this area to address the rate in April 2014. Has there been any further development?
Council's Response:
<i>This issue will be raised with the Director and the market will be updated accordingly through a market statement.</i>
Providers stated:
Will the Council be holding workshops as in December 2013 when its commissioning intentions have been finally drafted?
Council's Response:

Yes, there is a need to engage with the sector as part of the commissioning process and there will be the opportunity to assist with the final specifications. The views of the sector are important on the contracting approach, pricing etc to be taken.