

## **Cabinet – 23 October 2013**

### **Support for Living at Home – Re-procurement of Contract**

**Portfolio:** Councillor McCracken – Social Care

**Related portfolios:** None

**Service:** Social Care and Inclusion

**Wards:** All

**Key decision:** No

**Forward plan:** No

#### **1. Summary**

- 1.1 To explain the reasons for the need to conduct a new procurement exercise for Support for Living at Home Services (SLHS). The development of a new contract along the lines described in this paper will consolidate current and historical contract arrangements and place the Council, working in partnership with Walsall Clinical Commissioning Group, in a stronger position to manage supply from the market in a more robust manner.

#### **2. Recommendations**

- 2.1 That Cabinet authorises a procurement process be undertaken in respect of support for living at home services to meet identified needs within the domiciliary care sector, end of life (palliative) care, continuing health care and community support sectors.
- 2.2 That Cabinet delegate's authority to award the contracts for support for living at home services to the Executive Director of Social Care and Inclusion.
- 2.3 That Cabinet delegates authority to the Executive Director of Social Care and Inclusion to sign or authorise the sealing of contracts, deeds or other documents in relation to the provision of support for living at home services.

#### **3. Report detail**

##### **3.1 Current Framework Contract**

- 3.1.1 The contractual arrangements for the current Framework Agreement for the Support for Living at Home Services (SLHS) went live from 7 January 2013. These contract arrangements incorporated older persons, mental health, learning

disabilities and physical and sensory client groups and sought to amalgamate all domiciliary care, end of life (palliative) care, continuing health care, and community support services into a single contractual agreement.

3.1.2 The current framework contract was designed, linked to operational infrastructure changes, to support a pure model of personalisation, and the main features of the contracting model, together with the operational difficulties encountered, were therefore as follows:

- Everyone would receive a direct payment and so there was no mechanism in the contract whereby the Council could continue to make payments directly to providers. Service users that preferred a managed account were to be directed to independent sector direct payment support organisations (DPSO's) and they would pay them to support a managed account if that was preferred. Once it became apparent that the Council should continue to offer the choice of an internal managed account, or to continue to make payments to providers directly, then the contracting model in effect was no longer fit for purpose;
- Service users would choose the provider in all cases and not the Council. The internal brokerage function was therefore ceased, and there was no mechanism in the contract whereby the Council could select a provider. However, the Council has had to continue to select providers for those people who do not wish to have a direct payment;
- The accreditation process was premised on quality as measured by outcomes and not around time and task. This has made it difficult to hold providers to account according to a simplistic but still relevant measure of whether they are delivering according to specified times, or to implement electronic call monitoring;
- Providers were allowed to set their own prices and there was an expectation that market forces would maintain a control over prices increasing beyond the level that service users were prepared to pay. The average of fee levels levied by providers on the framework is no higher than the previous arrangements, however, there is a greater variety of fee levels, both between providers and service users, and the Council's financial administration infrastructure (FISCOM) is unable to cope with a large amount of fee variations;
- There was a mismatch between the current providers delivering care at the point of award of the contract and those who were successful on the new framework. Two thirds of service users were receiving their service from providers who were not accredited on the new framework. This resulted in the need to review a large number of cases prior to 'go live' so as to either change them over to a direct payment to continue with their provider of choice who was not on the framework, or be supported to choose an alternative provider from the new framework. It became apparent that there

was a need for a contractual arrangement with the pre-existing providers, albeit on a transitional basis, whilst this situation was resolved. There remains a significant cohort of service users with no direct payment who are receiving a service from a provider who is not on the framework, operating against outdated contractual arrangements, and a transitional contract arrangement is being re-established for 2013/14 which will seek to address this, as well as some market anomalies. There is also a cohort of providers that are procured through a spot contract basis which are to be addressed through the new transitional contractual arrangement.

- 3.1.3 The continuation of previous arrangements as part of the transitional contract arrangements represents a material change from contractual model in the current framework contract necessitating a new procurement process being undertaken.

## 3.2 **New Contract Arrangements**

- 3.2.1 The new contract should allow for both a situation whereby service users are receiving their funding directly from the Council in the form of a Direct Payment and choosing their own provider (as set out in the current framework and described above), and a situation where the Council will provide a Managed Account and thus continue to select providers on behalf of service users and pay the providers directly.
- 3.2.2 If the Council were to establish block contracts with a restricted number of providers for the majority of people who choose a Managed Account then this would help the Council to ensure that these providers can provide a high quality of service; that they remain financially sustainable; and they are able to respond speedily to changes in demand. However, the creation of a block, based on 60% of anticipated demand, will require robust management arrangements to ensure that they are utilised to their maximum before any spot purchases are made.
- 3.2.3 The contract should also address some key differences in the way support for living at home services are provided for older people compared to adults with complex conditions.
- 3.2.4 The design of a new contract should therefore comprise of a specification for block contracts with a restricted number of providers for the majority of people who choose a managed account, and a restricted number of providers on a framework contract for the majority of people who choose a direct payment. These two contracts can be established via a single procurement exercise.
- 3.2.5 The procurement exercise will be based upon the following principles:
- That the contract will be in two parts, one primarily for SLHS for older people as part of a block/zone contract; and another primarily for SLHS for adults with complex conditions as part of a framework contract;

- That the Council will restrict the number of providers within each part of the market;
- That the Council will have a direct contractual relationship with some SLHS providers when a managed account is chosen, and with DPSO's where a direct payment is the preferred option;
- That people who choose a managed account with the Council will default to the provider with the block contract for where they live (there may be some exceptions where this is for an adult with complex needs);
- That the Council will continue to make payments directly to those SLHS providers with a block contract, and the volume of transactions and the variation in fee levels will be reduced because of the restricted number of providers with a block contract;
- That the Council will pay DPSO's directly on behalf of people with a direct payment who choose to be supported by a DPSO;
- That the quality assurance mechanism will be based upon both outcomes as experienced by service users and delivery according to time and task;
- That the Council will require implementation of an electronic monitoring system as part of contractual compliance to ensure the accuracy of payments;
- That providers will set standard prices on an annual basis, and that the Council will set ceilings for the price of services; The Council reserve the right to review these to address the savings the Council has to achieve over the next 4 years.
- That the Council's contract arrangements may be adopted by the CCG for commissioning of SLHS for people who are eligible for Continuing Health Care;
- That a review process will be conducted to support service users who wish to choose their provider to transfer to a direct payment, or to support the transfer of people with managed accounts to the block contracted provider for where they live;

### 3.3 **Timescale**

- 3.3.1 The most appropriate time to 'go live' on a new contract will be at the start of the next financial year. This means authorisation to go ahead with a new procurement exercise in October, and then going to January Cabinet for contract award. This is a tight timetable and, given the scale and complexity of the project, it will be prudent to plan for some slippage that may make it necessary to extend the current framework and transitional contract arrangements for a period after March 2014.

- 3.3.2 A Project Board comprising membership from across the Directorate as well as Finance, Legal and Procurement Teams is led by the Joint Commissioning Unit.

#### **4. Council priorities**

- 4.1 Support for Living at Home Services are key to enabling people to retain their independence. The social care market is a major part of the economy of Walsall employing around 5,000 people in the workforce.

#### **5. Risk management**

- 5.1 A full analysis of risk has been undertaken as part of the project approach, with regular monitoring and escalation/mitigation by project board members as required.
- 5.2 As the project moves from a procurement process through to the transition and implementation phases, risks are being systemically mapped and managed through project board governance arrangements.
- 5.3 Main risks are around minimising the opportunity to challenge to the procurement process or transitional arrangements and a failure of the market to respond to new ways of working. There is also the possibility of a challenge from reducing the number of overall suppliers. These risks are being mitigated through the application of robust project management.

#### **6. Financial implications**

- 6.1 Expenditure on support for living at home services is currently of the order of £26 million and is expected to remain around this level for the four years of the new framework. Support from the Corporate Procurement Team has been identified.
- 6.2 Robust procedures to manage the utilisation of the block arrangements will be implemented to ensure that the Council does not pay for care it has not received.

#### **7. Legal implications**

- 7.1 Officers need to ensure that the arrangement and delivery of care and support services complies with equality legislation and that the procurement process is in compliance with the Council's Contract Rules 2010 and relevant procurement legislation.
- 7.2 The use of a framework agreement for the more complex care provides the opportunity for flexible contracting arrangements as services are only contracted for as and when required. There is no guarantee to any service provider of the level of work.

## **8. Property implications**

- 8.1 These services are provided in people's own homes and so there are no property implications.

## **9. Health and wellbeing implications**

- 9.1 The new contract arrangement means that those individuals who wish to can continue to be able to purchase their own care and support and thus have much greater control over their daily living. This in turn will help to sustain their independence, health and well being and thus prevent a need for a higher level of service.

## **10. Staffing implications**

- 10.1 All staff of services that are the subject of this procurement exercise are employed within the external/independent sector and so there are no TUPE implications for the Council. There may be TUPE implications for staff to transfer between providers in the independent sector.

## **11. Equality implications**

- 11.1 The development of a new contract will include a requirement for providers to continue to meet individual needs regarding race, gender, disability or other equality issues, with personalised services ensuring compliance with all relevant equalities legislation.

## **12. Consultation**

- 12.1 There has been extensive consultation with key stakeholders including:
- Citizens (present and future) inclusive of carers, Black and Minority ethnic representation
  - Providers, inclusive of voluntary and community sector
  - NHS partner agencies
  - Internal stakeholders including Legal, Finance and Procurement

## **Background papers**

Cabinet Report 12 September 2012

Social Care Scrutiny and Performance Panel September 2013

## **Author**

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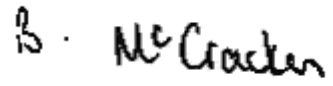
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