

North Tyneside Council

Report to Cabinet

Date: 22 February 2021

Title: Procurement of Care Home Provision

Portfolio(s): Adult Social Care Finance and Resources	Cabinet Member(s): Councillor Gary Bell Councillor Ray Glindon
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Report from Service Area:	Health, Education, Care and Safeguarding	
Responsible Officer:	Jacqui Old, Head of Health, Education, Care and Safeguarding	(Tel: (0191) 643 7317)
Wards affected:	All	

PART 1

1.1 Executive Summary:

The Authority has a duty to ensure that it has a sustainable Adult Social Care Market, this is provided by third party providers within the borough. This report sets out the Authority's requirements in relation to adult residential care placements and seeks authority to put in place contractual arrangements for a residential and nursing home care services. This report follows on from a Cabinet decision on 29 June 2020 with regard to the Adult Social Care Action Plan and sets out details of the commercial arrangements required to support this and ensure that services are in place to secure longer term adult social care market sustainability and offer an appropriate social care offer to meet the needs of residents.

The purpose of the report is to seek Cabinet approval to undertake procurement exercises for the award of contracts for care homes provision for all client groups (older people, learning disability, mental health and physical disability).

These are all services that are currently in place and the current contracting arrangements have come to an end. New contracts and arrangements are to be put in place to secure provision across the borough and to ensure there is continuity of supply and placements.

In accordance with Contract Standing Orders 8(4), this report requests approval to proceed with the procurement exercises as the aggregated value of the contracts to be procured will exceed £500,000.

1.2 Recommendation(s):

It is recommended that Cabinet authorise the Head of Health, Education, Care and Safeguarding in consultation with the Head of Commissioning and Asset Management,

the Head of Law and Governance and the Head of Resources, Cabinet Member for Adult Social Care and Cabinet Member for Finance and Resources to:

- 1.2.1 Finalise the commercial arrangements to secure the delivery of residential and nursing care home services from providers operating across North Tyneside. This includes the procurement of nursing and continuing health care services on behalf of North Tyneside Clinical Commissioning Group;
- 1.2.2 Undertake a procurement exercise to procure a range of providers to deliver the identified services, as outlined in section 1.5.2 of this report;
- 1.2.3 Following the procurement exercise carried out in accordance with 1.2.2 above, to proceed with the award of contracts to the preferred bidders.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 22 January 2021.

1.4 Council Plan and Policy Framework

This report relates to the following priorities contained within the 2020-2024 Our North Tyneside Plan.

Our People will:

- Be listened to so that their experience helps the Council work better
- Be healthy and well – with the information, skills and opportunities to maintain and improve their health, wellbeing and independence, especially if they are carers
- Be cared for, protected and supported if they become vulnerable including if they become homeless
- Be encouraged and enable to, wherever possible, to be more independent.

Our Places will:

- Offer a good choice of quality housing appropriate to need, including affordable homes that will be available to buy or rent

1.5 Information:

1.5.1 Background

The Care Act 2014 gave local authorities, the NHS and the CQC (Care Quality Commission) clear legal responsibilities for managing different elements of the adult social care market. These include:

- Developing the quality and range of services that local people want and need
- Integrating commissioning of services from the care market with key partners, including the NHS and housing, and ensuring a diverse range of services, so people have choice.

The Authority currently commissions a range of adult social care services from the independent sector to meet the needs of individuals deemed to be eligible in accordance with the Care Act 2014 following a Care Act assessment.

The Authority does not deliver these services internally and needs to have robust and proper arrangements in place for services to be procured and available. There are arrangements in place at present for these services and these have come to an end. There is, therefore, a need to put new arrangements in place and this report sets out proposals and recommendations for new contracts to be put in place. This is to ensure there is sufficiency and continuity of supply to ensure the needs of eligible individuals and the wider population can be met.

New contracts will put in place a range of services and providers to support individuals and ensure there is sustainability of supply and provision over the period the contracts are in place. The contracts will also need to ensure value for money is achieved and also that client outcomes are deliverable and that this is a key focus of the service to be commissioned.

All contracts will be in line with the strategic objectives and the commercial context in which the services operate, these were set out in the Cabinet report on 29 June 2020. For Adult Social Care, these stem from the Our North Tyneside Plan which sets our priorities for supporting vulnerable people to be healthy and well and also that they are cared for, protected and supported.

Strategic Objectives

Need – meeting our assessment of need in line with our statutory duty and Joint Strategic Needs Assessment

Sustainability – support a sustainable care market which can treat its staff and customers well, and

Value for money – ensure there is transparent value for money for the local tax payer and can be accommodated within the Medium Term Financial Plan

Commercial Context

Required outcomes – identifies needs to be met, outcomes required and services to meet those needs and outcomes

Current market assessment – the range of providers currently engaged and their characteristics

Current commercial assessment – how many providers the Authority contracts with, what is paid and how that compares nationally and locally

Social value – the Authority's current social value policy and how that applies to the care market

Our strategic plans and values – how providers and the market will contribute to the strategic goals

1.5.2 Care homes (older people, learning disability, mental health and physical disability)

There are currently 31 homes in the borough for older people, with 1482 beds.

There are currently 14 homes in the borough for those with a learning disability, working age mental health and physical disability, with 182 beds.

The Authority does not fund all of the beds in these care homes; placements in these homes include private funded placements, placements funded by other Local Authority areas and placements funded by the Clinical Commissioning Group.

The proposed procurement process will allow the Authority to contract with any care home provider in the borough that accepts the fee structure proposed by the Authority and which meets the standards set out in the contract and service specification for personal care, funded nursing care and NHS continuing healthcare.

All care homes are required to be registered with the Care Quality Commission (CQC) and will be subject to the CQC regulatory process and this includes undertaking inspection visits and publishing inspection reports. The Authority will work closely with the CQC on all matters relating to service quality and delivery.

The overall estimated cost of this service over the contract period will be in excess of £500,000 and requires Cabinet approval. Gross spend for all care homes in 2019/20 was over £32 million.

Whilst Adult Social Care must seek to ensure Best Value in terms of the procurement of residential and nursing care, the structure of the existing market in the Borough, the use of a pre-agreed pricing mechanism and the choice of placements afforded by the Choice of Accommodation Direction mean that it has not been previously possible to competitively procure this service. The current contract ended in 2015 and has been extended as a waiver since then due to ongoing fee negotiations. In accordance with the Public Procurement Regulations 2015 a procurement exercise must be undertaken. Extensive engagement is currently being undertaken to ensure providers are ready to contract with the Authority. Engagement is being undertaken in relation to pricing, placement strategy and contract duration. Arrangements will be put in place to ensure that the Authority complies with its duties contained within the Care Act and provides a commercially robust approach for the Authority. If approved the final terms of the contract and offer to the market will be determined in accordance with the recommendations as set out at paragraph 1.2 of this report.

The Authority is seeking to procure and operate a new contract and framework agreement for care homes provision in the borough from 2021, for a term of four years to 2025. The procurement arrangements will allow for new providers to the market to be added during the contract's lifetime. All individual services will be commissioned on a spot purchase basis.

This report seeks authority to procure a care home service and to award contracts to providers that meet the required criteria.

1.6 Decision options:

The following decision options are available for consideration by Cabinet

Option 1

Agree the recommendations set out at section 1.2.

Option 2

Not agree the recommendations set out at section 1.2 and propose that officers consider other options for delivering this provision.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

- (a) Current contracts and contracting arrangements have expired and are subject to annual carry forward and could be leaving the Authority subject to financial risk, new arrangements will need to be in place to ensure continuity of service for individuals accessing those services;
- (b) Ensure compliance with procurement regulations, undertake competitive procurement exercises;
- (c) To ensure commissioning arrangements are current, effective and ensure value for money is in place with those contracts and framework agreements;

1.8 Appendices:

There are no appendices to this report.

1.9 Contact officers:

Scott Woodhouse, Strategic Commissioning Manager Adults, Tel. (0191) 643 7082
David Dunford, Acting Senior Business Partner, Tel. (0191) 643 7027

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Report to Cabinet dated 29 June 2020 – Adult Social Care Action Plan

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The commissioning and procurement of Adult Social Care services will need to take full account of the resources and funding available to meet the needs of the target population. The contracts / framework agreements that will be put in place will then have a number of clients linked to them and the cost associated with the contract will be linked to the assessed and eligible needs of the individual and the agreed support plan that is put in place.

Spend for each client group and for each service type will be linked to specific budget lines within the overall Adult Social Care budget. There is provision within the overall Adult Social Care budget and contingencies for these.

Spend against these budgets will be managed through the normal budget monitoring process and reported to Cabinet bi-monthly as part of the financial management reporting of the Authority.

Any financial support in relation to the coronavirus pandemic will be subject to separate regime.

Where appropriate, the Provider will be required to work with the Authority to manage the overall demand and service levels that are in place.

The Care Act 2014 provides that when commissioning services, the Authority should be assured and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the well-being of people who receive care and support and allow for the service provider to meet their statutory obligations to pay at least the national minimum wage or the national living wage and provide effective training and development of staff. The Authority should have regard to guidance on the minimum fee levels that are necessary to provide this assurance, taking account of the local economic environment.

2.2 Legal

The contracts and contracting arrangements that will be in place for each of the services included in this report will ensure Authority will comply with the Public Contract Regulations 2015 and the Authority's Contract Standing Orders when procuring each of these services and will seek to achieve value for money in the procurement process.

The Authority also has a duty under the Care Act 2014 to ensure the assessed and eligible needs of individuals are met and this will include meeting those needs via services being commissioned or put in place as set out in this report. The Care Act also places a general duty to promote diversity and quality in the care and support provider market with a view to ensuring that any person in its area wishing to access services in the area has:

- (a) Variety of providers to choose from who (taken together) provide a variety of services;
- (b) Variety of high-quality services to choose from;
- (c) Sufficient information to make an informed decision about how to meet the needs in question.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The process of establishing a detailed specification for each of the services / service areas included in this report will be undertaken in close conjunction with key colleagues across the Authority.

The process of tender evaluation for the award of contracts / framework agreements will be completed alongside colleagues with specialist knowledge, experience and expertise across the Authority.

2.3.2 External Consultation/Engagement

There is continuous engagement with care and support providers, service users and family carers of those who access the services and the NHS to ensure the delivery of high quality services.

Comments and feedback from individuals with specialist knowledge, experience and expertise will be fed into the procurement process.

The current engagement on the new contract and procurement arrangements is on-going with a range of stakeholders to ensure the requirement delivers high quality service

provision alongside value for money and fully meets the Authority's needs and at the same time ensures there is sufficiency of sustainable provision.

2.4 Human rights

The proposals contained in this report relate to the following human rights:

- Right to liberty and security;
- Right to respect for private and family life;
- Freedom of thought, belief and religion;
- Freedom of expression;
- Protection from discrimination.

2.5 Equalities and diversity

The Adult Social Care contracts stipulate that the Provider(s) will ensure compliance with the 2010 Equality Act and Public Sector Equality Duty and therefore will not unlawfully discriminate against employees or service users with protected characteristics.

The contract also stipulates that the Provider(s) must ensure that its workforce receives appropriate training in order to understand their roles and responsibilities under the Equality Act e.g. implementing Equal Opportunity requirements, and to promote equality and prevent discrimination.

This will be monitored through the quality monitoring arrangements for each of the services.

2.6 Risk management

Risks have been considered and evaluated. Actions that could be taken to mitigate identified risks have been identified. During the process of contracting, risks will be discussed, evaluated and actioned as appropriate.

Risks that are specific to service delivery will be identified and included in the service specification.

Any risks associated with the process of putting new contracts in place have been mitigated through the use of the NEPO portal as the mechanism to ensure that an open and transparent procurement process is in place.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Chief Executive x
- Head(s) of Service x
- Mayor/Cabinet Member(s) x
- Chief Finance Officer x
- Monitoring Officer x
- Head of Corporate Strategy and Customer Service x