

Report of: Head of Commissioning, Adult Social Care

Report to: Director of Adult Social Services

Date: 3rd December 2015

Subject: Waiver of CPR 9.1 & 9.2 in respect of Carers Emergency Plan Service

Are specific electoral wards affected? If relevant, name(s) of ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This report sets out proposals for waiver to Contract Procedure Rules (CPR) in order that a contract is awarded to the existing provider of the Carers Emergency Planning Scheme.
2. The Carers Emergency Planning Scheme is a valued service for carers in giving them peace of mind about what would happen if they were suddenly unable to care. It is used by those carers whose burden of care is the heaviest as they are almost all co-resident with the cared for person and carrying out very demanding care tasks for very dependent loved ones
3. ASC awarded a new contract for two years from 1st November 2012 with options for three, twelve month extensions. The first of these extensions (from 1st November 2014) was granted. However, due to administrative error a request to further extend the contract from 1st November 2015 was not made in time for the necessary approvals to be sought in order that an extension could be granted.
4. A new contract will ensure continuity of service until a comprehensive review and commissioning process is completed.

Recommendations

1. This report recommends that the Director of Adult Social Services (DASS) waive Contract Procedure Rules (CPR's) 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into new contract with Housing 21 to provide a Carers Emergency Planning Scheme for a period of 10 months from 1st January 2016. The contract value is £112,500.

The Director of Adult Social Services is requested to note:

- A review of Emergency Planning for carers will be undertaken alongside a wider review of respite and short break provision
- Consultation and engagement with relevant stakeholders will be planned as part of the proposed review
- Ian Brooke-Mawson, (Joint Carers Commissioning Manager across the Local Authority and CCG's) will be responsible for coordinating the review and subsequent commissioning activity.

1. Purpose of this report

- 1.1. The purpose of this report is to seek waiver to Contract Procedure Rules (CPR) in order that a contract is awarded to the existing provider of the Carers Emergency Planning Scheme for a period of ten months from 1st January 2016.

2. Background information

- 2.1. The Carers Emergency Planning Scheme was launched as an in-house service in 2006. When Central Government provided specific funding for the scheme in 2008 the scope of the service was expanded and improved and a full competitive tender advertised. There were a number of interested parties and the contract was awarded on the basis of quality and cost to Housing 21 for three years from 1st March 2009.
- 2.2. The scheme is intended to provide those carers where the cared-for person is most dependent on them with peace of mind that, in the event of an emergency, (e.g. a road traffic accident or sudden hospital admission) a care service will be provided for up to 48 hours (72 hours at a bank holiday) to look after the cared for person in their own home. The carer is supported by a Housing 21 worker to make a plan which covers all the information needed for a personal care worker to step in in an emergency and look after the cared for person, often in the period before another family member can step in. The plan is registered with Housing 21 and the carer is given a number of items with the emergency number and the number of their individual plan (credit card, key ring, fridge magnet). The provider employs three full-time Emergency Liaison Officers (ELO) who cover the emergency contact phone number twenty-four hours per day, carry out registrations and reviews and promote the service. The ELOs respond to the emergency and put a care worker in place where appropriate.
- 2.3. Following the satisfactory outcome of a Soft Market Test (SMT) ASC awarded a new contract for two years from 1st November 2012 with three twelve month extensions. The first of these extensions (from 1st November 2014) was granted. However, due to administrative error, a request to further extend the contract from 1st November 2015 was not made in time for the necessary approvals to be sought in order that an extension could be granted.
- 2.4. The annual value of the contract is £135,000. However, the budget for emergency care hours was increased to £15,000 in November 2014 to reflect the increased costs of emergency care hours being delivered.
- 2.5. It is intended to carry out a significant review of Carers' services in 2016. Key work has been identified as:
 - The re-commissioning of community based respite services
 - The re-commissioning of the Carers Emergency Plan Scheme
 - Evaluation of impact of the Care Act and increased provision at Carers Leeds
 - A fundamental review of respite/short breaks provision in the city

- 2.6. This waiver will allow the work to be informed by the current Carers Emergency Planning service.

3. Main Issues

3.1. Reasons for Contract Procedure Rules Waiver / Invocation

- 3.1.1. The contractual arrangement ceased on 31st October 2015. Although the contractual arrangements included options to extend, the Senior Procurement Projects Officer has advised that as the contract was not extended within timescales that Waiver will need to be sought in order that we can enter into a new contract (with the same T's & C's).
- 3.1.2. The scheme is and should continue to be a key component of support for carers and the people they care-for. However, contract monitoring suggests that the size of the membership of the scheme is now such that the ability of the organisation to deliver the contract within the existing resources is strained.
- 3.1.3. Membership of the scheme has continued to grow with approaching 1,900 carers registered with the scheme. The scheme can be accessed directly by carers, by referral from a carers' assessment or from a statutory or third sector organisation.
- 3.1.4. A new contractual arrangement is required to ensure that this valuable service continues until a comprehensive review and commissioning process is completed.

3.2. Consequences if the proposed action is not approved

- 3.2.1. The carers emergency plan scheme is a valued service for carers in giving them peace of mind about what would happen if they were suddenly unable to care. It is used by those carers whose burden of care is the heaviest as they are almost all co-resident with the cared for person and carrying out very demanding care tasks for very dependent loved ones
- 3.2.2. If the service were not to be provided there would be no dedicated service supporting carers to plan for emergencies and no tried and tested way of putting short-term care in place in the event of an emergency.

3.3. Advertising

- 3.3.1. The initial contract award was subject to a competitive procurement exercise. Any future procurement will be advertised as per Leeds City Council's Contract Procedure Rules (CPR)

4. Corporate considerations

4.1. Consultation and Engagement

- 4.1.1. ASC commissioners will engage with existing providers and all other relevant parties throughout the contract period to ensure a joined up approach to service development

4.1.2. Consultation and engagement with relevant stakeholders will be planned as part of review and commissioning.

4.2. Equality and Diversity / Cohesion and Integration

4.2.1. An Equality Impact Assessment Screening Tool has been completed and is attached at Appendix 1.

4.2.2. A further Equality Impact Assessment will be undertaken as part of the proposed review.

4.3. Council Policies and Best Council Plan

4.3.1. The Carers Emergency Planning Scheme contributes to the delivery of key outcomes within the Best Council Plan 2013/17, specifically to improve the quality of life for our residents, particularly those who are vulnerable or in poverty and the delivery of the 'Better Lives' objective.

4.3.2. The service makes significant contributions to City Priority Plans, in particularly the Health and Wellbeing Plan and its priority to make Leeds the best City for Health and Wellbeing by 2030.

4.3.3. The service contributes to the outcomes set out in the Leeds Carers Strategy.

4.4. Resources and Value for Money

4.4.1. The annual value of the contract is £135,000. However, the budget for emergency care hours was increased to £15,000 in November 2014 to reflect the increased costs of emergency care hours being delivered.

4.5. Legal Implications, Access to Information and Call-In

4.5.1. This is a Significant Operational Decision which is not subject to call-in.

4.5.2. This report does not contain any exempt or confidential information.

4.5.3. Awarding contracts in this way could leave the Council open to a potential claim from other providers, to whom the contract could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate. In giving the work to these providers without competition there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity.

4.5.4. There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.

- 4.5.5. The Director of Adult Social Services will consider the nature of the services being delivered, including the physical location, and should be satisfied that due to the scope and nature of the services it would not be of interest to providers in other EU member states.
- 4.5.6. Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making their final decision, the Director of Adult Social Services should be satisfied that the course of action chosen represents Best Value for the Council.

4.6. Risk Management

- 4.6.1. The contract will continue to be performance managed by officers in ASC. This includes regular reviewing of performance information and quarterly contract management meetings with the provider, at which any delivery issues are discussed. To date the service has delivered in accordance with the service requirements and performance criteria outlined in the specification.

5. Conclusions

- 5.1. A new contract will ensure continuity of service until a comprehensive review and commissioning process is completed.
- 5.2. The review will also ensure that any service specification and subsequent service model is co-produced.

6. Recommendations

- 6.1. This report recommends that the Director of Adult Social Services (DASS) waive Contract Procedure Rules (CPR's) 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into new contract with Housing 21 to provide a Carers Emergency Planning Scheme for a period of 10 months from 1st January 2016. The contract value is £112,500.
- 6.2. The Director of Adult Social Services is requested to note:
- A review of Emergency Planning for carers will be undertaken alongside a wider review of respite and short break provision
 - Consultation and engagement with relevant stakeholders will be planned as part of the proposed review
 - Ian Brooke-Mawson, (Joint Carers Commissioning Manager across the Local Authority and CCG's) will be responsible for coordinating the review and subsequent commissioning activity.

7. Background Documents¹

7.1. None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.