

**Report of:** Mark Phillott, Head of Commissioning (Contracts and Business Development),

**Report to:** Director of Adults and Health

**Date:** 22<sup>nd</sup> November 2017

**Subject:** Report to request an interim arrangement is put into place with the Independent Sector Older People's Care Homes the existing agreement expires on the 19<sup>th</sup> December 2017 for a period of 3 months (with an option to extend up to a further period of 3 months)

Are specific electoral wards affected? If yes, 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input 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. In October 2016 a review of the independent sector care homes for older people commenced but the scope of this work was extended to adopt a One City approach to try to resolve some of the issues with quality within the sector.
2. A cost of care exercise was also undertaken by Mazars with a final report being submitted to LCC in July 2017, this was then used to assist with the fee setting discussions.
3. The current framework agreement expires on the 19<sup>th</sup> December 2017.

### Recommendations

4. The Director of Adults and Health is recommended to agree that an interim arrangement is put into place with the independent sector care homes for older people when the existing agreement expires on the 19<sup>th</sup> December 2017.
5. The Director of Adults and Health is recommended to agree that the interim arrangement shall be for the period 20<sup>th</sup> December 2017 to 31<sup>st</sup> March 2018 with one option to extend up to a further three month period.
6. The Commissioning Officer (ASC) will liaise with the Programmes, Projects and Procurement Unit to oversee the implementation of the interim arrangement prior to the expiration of the existing framework agreement. All independent sector care

homes for older people affected by this decision will be contacted to notify them of the interim arrangement and the intentions moving forward.

## **1. Purpose of this report**

- 1.1 The Residential and Nursing Care Services Framework Arrangement (YORE-935MX3) and subsequent phase 2 and phase 3 framework contracts (YORE-95QHXX and 9RUF-QK3014) for the independent sector care homes for older people are due to expire on 19<sup>th</sup> December 2017.
- 1.2 This report seeks agreement from the Director of Adults and Health to enter into an interim arrangement on the existing terms and conditions, with the existing contracted providers,
- 1.3 The duration of the interim arrangement shall be 20<sup>th</sup> December 2017 to 31<sup>st</sup> March 2018, with one option to extend up to a further three month period.

## **2. Background information**

- 2.1 In October 2016 a review of the independent sector care homes for older people commenced but the scope of this work was extended to adopt a One City approach to try to resolve some of the issues with quality within the sector.
- 2.2 Part of the review entailed a Cost of Care exercise which was undertaken by Mazars (who won the tender after a procurement process was conducted)
- 2.3 Mazars issued a final report to LCC in July 2017.
- 2.4 Since the report was received by LCC a series of meetings has taken place with provider representatives of the Care Homes Strategic Advisory Group.
- 2.5 A fee for the final year of the contract has now been agreed (subject to approval of DDP).
- 2.6 Consultation with the rest of the market about the fee offer has now commenced and will be concluded late November 2017.

## **3. Main issues**

- 3.1 In October 2016 a review of the independent sector care homes for older people commenced but the scope of this work was extended to adopt a One City approach to try to resolve some of the issues with quality within the sector.
- 3.2 A review of the quality standards framework has been undertaken alongside a review of the CQC fundamental standards to ensure that the quality standards framework aligns with CQC and best practice standards as issued by a number of sources such as NICE and SCIE.
- 3.3 A market analysis document is being produced to inform the development of the commissioning vision and options appraisal which will determine the most appropriate purchasing solution, procurement route and timing of contract award for the new contract agreement which will commence 1<sup>st</sup> April 2018.
- 3.4 A Leadership Academy is to be established to work with Care Home Managers within the sector.

- 3.5 A Quality Team is being established to provide additional support to the Care Homes to help improve CQC ratings within the City.
- 3.6 Initially it was anticipated that negotiations with the provider representatives of the Care Homes Strategic Advisory Group would be concluded earlier in the year with an agreement reached about the future fees to be paid for the new contract that will commence in the next financial year (2018/19).
- 3.7 These discussions and negotiations have not yet concluded thus an interim arrangement needs to be established to ensure service provision can continue until these negotiations are concluded and a more permanent solution for the provision of these services can be established. It is proposed that any interim solution would be provided on the existing terms and conditions as the current contract.
- 3.8 A report will be submitted to the Executive Board of the Council in 2018 recommending changes to the current model, procurement options and quality framework standards.

#### **4. Corporate considerations**

##### **4.1 Consultation and engagement**

- 4.1.1 Consultation is taking place with all independent sector care homes for older people to determine if they would want to enter into an interim agreement under the existing terms and conditions of the current framework contract for an interim period.
- 4.1.2 The Director of Adults and Health, Deputy Director, Integrated Commissioning Adults and Health and Head of Finance have been engaged with about this proposal.

##### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An Equality, Diversity, Cohesion and Integration Screening has been completed (see Appendix 1), which demonstrates that the service meets the desired equality requirements to cover the interim arrangement.
- 4.2.2 Appropriate policies and procedures are in place with the independent sector care homes for older people.

##### **4.3 Council policies and best council plan**

- 4.3.1 The independent sector care homes for older people helps contribute to the 5 outcomes detailed in the Leeds Health and Wellbeing Strategy 2016-2021. The nature and ethos of the services contribute to: people living longer and healthier lives; helping people to live full, active and independent lives; ensuring that people's quality of life is improved by access to quality services; involving people in decisions made about them, and; helping people to live in healthy and sustainable communities
- 4.3.2 The Best Council Plan vision of Leeds being the best city for health and wellbeing is supported through the delivery of independent sector care homes for older people. This includes supporting more people to live safely and independently in an environment that they class as their own homes and giving people choice and control over their health and social care services.

#### **4.4 Resources and value for money**

- 4.4.1 The anticipated value of this interim contract is still being negotiated with provider representatives. However, if using, as a base, the latest formal offer for fees in place at 19<sup>th</sup> December 2017 a cost of £6.0m is expected. It is noted that the fee negotiations for this period are not completed, but the Deputy Director, Integrated Commissioning Adults and Health is confident that any increase to the cost above can be mitigated within existing resources in 2017/18 and will be contained within the figures forming a part of the 2018/19 budget.
- 4.4.2 As the funding for these services are covered by the personal choice agenda it is the end user who enters into the contract with the provider on an individual level and the Council effectively pay the end users money over to the provider on the end users behalf. Therefore, as each individual contract is circa £28k per annum the PCR threshold of £589k is not breached.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The decisions highlighted in this report will be taken by the Director of Adult Social Services and the Director of Public Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 4.5.2 As the overall value of this decision exceeds £250,000 this decision is eligible for call in.
- 4.5.3 Due to the nature of the service provision these services are exempt from Contract Procedure Rules thus no waiver of CPR's is required. However, such services are caught by the Public Contracts Regulations 2015 (PCR), meaning that any services with a value above £589K must be advertised in OJEU. However, as contracts are formalised on an individual level (due to the end user having the right to choose which provider they wish to contract with), the arrangement proposed is to establish an "approved list" where providers will be vetted for suitability by the Council. Whilst the Council will recommend vetted providers to the end user, they can choose any provider in the market they wish, regardless of whether the provider chosen is on the approved list or not. The Council will always seek to ensure that any individual contracts entered into by the end user are based upon the current framework agreement terms and conditions.
- 4.5.4 The above comments should be noted when making the final decision. The Director of Adults and Health should be satisfied that the course of action chosen represents Best Value for the Council.

#### **4.6 Risk management**

- 4.6.1 The previous procurement processes were conducted in accordance with the Council's Contract Procedure rules in order to ensure that a fair, open and transparent process was utilised. This will also be the case with any future procurement process.
- 4.6.2 If this interim extension period is not approved then the independent sector care homes for older people may give notice on the contract and ask LCC to find alternative care homes for people previously placed there.
- 4.6.3 If this interim extension period is not approved then some independent sector care home providers may try to charge LCC more for any future placements that are

made within their care home until a new contract arrangement commences 1<sup>st</sup> April 2018.

## **5. Conclusions**

- 5.1 Much work has been undertaken to review the existing framework arrangement and a number of workshops with care home providers and stakeholders are currently underway.
- 5.2 An interim arrangement will allow for further discussions and negotiations with the independent sector care homes for older people to agree the service specification and associated documents that will be utilised for the new contract arrangement that will be implemented 1<sup>st</sup> April 2018 (subject to approval of the recommendations contained within this report)

## **6. Recommendations**

- 6.1 The Director of Adults and Health is recommended to agree that an interim arrangement is put into place with the independent sector care homes for older people when the existing agreements expire on 19<sup>th</sup> December 2017.
- 6.2 The Director of Adults and Health is recommended to agree that the interim arrangement shall be from the period 20<sup>th</sup> December 2017 to 31<sup>st</sup> March 2018 with an option to extend up to a further three month period.
- 6.3 The Commissioning Manager (ASC) will liaise with the Programmes, Projects and Procurement Unit to oversee the implementation of the interim arrangement prior to the expiration of the existing framework agreement. All independent sector care homes for older people affected by this decision will be contacted to notify them of the interim arrangement and the intentions moving forward.

## **7. Background documents<sup>1</sup>**

- 7.1 None

---

<sup>1</sup> 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.