

APPENDIX 1

Independent Review of the Procurement and Commissioning Process for the Neighbourhood Network Schemes

Review Brief

CONTENTS

| | | |
|-------------|--|-----------|
| 1.00 | INTRODUCTION | 3 |
| 1.01 | Background | 3 |
| 1.10 | The commissioning process | 3 |
| 1.16 | Reason for the review | 4 |
| 1.20 | Purpose of the review | 4 |
| 2.00 | REVIEW METHODOLOGY..... | 5 |
| 2.01 | The Review Team..... | 5 |
| 2.04 | Accountability..... | 5 |
| 2.06 | Stages of the Review | 5 |
| 2.09 | Indicative Schedule for the Review..... | 6 |
| 2.12 | Confidentiality..... | 7 |
| 2.15 | General Work Principles | 7 |
| 3.00 | SCOPE, OBJECTIVES AND EXPECTED OUTCOMES | 7 |
| 3.01 | Terms of Reference | 7 |
| 3.07 | Stages to be examined | 8 |
| 3.09 | Stage 1 - Preparation for change | 8 |
| 3.11 | Stage 2 - Choice of commissioning process..... | 8 |
| 3.13 | Stage 3 - Conduct of commissioning process | 9 |
| 3.15 | Stage 4 – Evaluation of the tender documents..... | 10 |
| 3.17 | Stage 5 - Forward planning for the outcome of the process..... | 11 |
| 4.00 | TERMS AND CONDITIONS..... | 11 |
| 5.00 | OVERALL TIMESCALE FOR REPORTING..... | 11 |
| 6.00 | REMUNERATION..... | 11 |
| 7.00 | FACILITIES TO BE MADE AVAILABLE TO THE REVIEWERS..... | 11 |

1.00 INTRODUCTION

1.01 Background

- 1.02 The Neighbourhood Network Schemes (NNS) were set up to improve the lives of older people in Leeds and are central to the City Council's preventive strategy, which is defined as 'good' by inspectors.
- 1.03 They earned the Council 'Beacon' status in 2002, and in 2006, an invitation to be a DWP LinkAge Plus Pilot. They deliver positive examples of current policy which focus on promoting independence, wellbeing and choice within inclusive communities. Schemes are geographically based and four provide specific support to black and minority ethnic communities.
- 1.04 The NNS' key role is to reduce social isolation and increase the participation of older people in the community, both through social activities and long-term individual support. They function as gateways to information, advice and support and provide a wide range of practical activities and services.
- 1.05 For older people the way the NNS work is as important as what they do; the schemes take a holistic and person-centred approach, working with older people over many years, keeping a watchful eye as they grow older and frail. They see themselves as community development organisations, fulfilling the obligation to 'care for older people' as distinct from 'providing care services'.
- 1.06 Most are small, independent organisations with local management committees, though a number are part of, or parented by larger organisations. They are run largely by and for older people, many having significant input from volunteers drawn from the local community
- 1.07 The concept of a 'network' implies similarity and leads to the assumption that the NNS are the same. In fact a major issue is the fact that the NNS are at very different stages in their development, with levels of activity varying, according to local need, both in what they do and who they work with.
- 1.08 What can be expected of a large well-resourced and long-established organisation is different from the expectation placed upon newer, smaller schemes with a fraction of the income and staff. However, it is the case that all the schemes, large and small, have been successful to varying degrees in raising funding from a range of sources other than Adult Social Care.
- 1.09 Differences between schemes therefore need to be reflected in the aspiration of providing equity across the city.

1.10 The commissioning process

- 1.11 In 2007 a review of the NNS was begun, conducted jointly between Adult Social care and NHS Leeds. The review was in part initiated at the request of many of the NNS, who raised concerns with regard to widening funding disparities and seeking reassurance about their long-term future. Its purpose, therefore, was to determine how more equitable funding and performance arrangements could be put in place. The aim was to preserve and further develop the work of the schemes within a new social care and health environment, with the twin

requirements of promoting prevention through better access to universal services, while increasing choice and control for people with support needs.

- 1.12 A key objective of the review was to find a more transparent and equitable process for commissioning NNS. The review highlighted a series of issues to be considered to enable current and potentially new NNS to support the Council and NHS Leeds in delivering high quality, innovative, universal preventive services for older people.
- 1.13 Following the review, two options appraisal workshops were held to identify the best method of procuring, funding and establishing the required services.
- 1.14 A funding formula closely linked to the national Older People's Relative Needs Formula was devised and adopted to provide equity of funding across the various areas of Leeds.
- 1.15 A competitive tendering exercise began in July 2009, with tenders being received from 38 organisations. The process culminated in a report to the Adult Social Care Delegated Decision Panel in February 2010. This process is the subject of the current review

1.16 Reason for the review

- 1.17 Following an initial communication of the recommended outcome of the commissioning process, a number of concerns were raised by participating organisations and other stakeholders – predominantly from the Neighbourhood Network providers (and their representatives), which had not been successful in the tendering process. Details of the issues raised are included at Appendix A. In summary, a number of letters, telephone calls and emails were received questioning, not only the outcomes in relation to individual schemes, but also the whole commissioning process.
- 1.18 The decision to set up the review was taken by the Director of Adult Social Services, after withdrawing the original Delegated Decision to award contracts to the successful bidders.
- 1.19 The current position is that the process has been halted pending the outcome of the review. Existing Neighbourhood Networks have been given a contract extension to ensure continuity of service until the review is complete and a decision has been taken over the award of contracts.

1.20 Purpose of the review

- 1.21 The overall purpose of the review is to come to a view on whether the commissioning process as a whole can be regarded as having been 'open', 'transparent' and 'fair' in terms of its planning, conduct and outcome; and compliant in terms of any applicable legal requirements and the Council's own rules and procedures.
- 1.22 More specifically:
 - a) 'Open' would refer to an inclusive process where a wide range of views have been sought from all stakeholders about the motivation for the commissioning exercise, its conduct and outcome.

- b) ‘Transparent’ would refer to the methods used in the design of the process, its content and outcome being understood by all participants.
- c) ‘Fair’ would refer to the planning behind the process, the design of the tender exercise, its conduct and outcome being proportionate to the types and scale of the participating organisations.
- d) ‘Compliant’ would relate to ensuring that the laws that apply to procurement and commissioning were followed, along with the Council’s own constitution.

2.00 REVIEW METHODOLOGY

2.01 The Review Team

2.02 The review team will comprise two independent reviewers – a Lead Reviewer with a background in Adult Social Care, and a Specialist Reviewer with a background in Procurement.

- a) The Lead Reviewer is Bill Kilgallon
- b) The Specialist Reviewer (Procurement) is Peter Howarth

2.03 The review team members will be required to sign a declaration of impartiality and confidentiality.

2.04 Accountability

2.05 The review team will report directly to the Joint Lead Officers from the Council. The Joint Lead Officers are

- a) Sandie Keene, Director of Adult Social Services, and
- b) Nicole Jackson, Assistant Chief Executive (Corporate Governance)

2.06 Stages of the Review

2.07 The review will take place in three phases

- a) Phase 1 – Review of the documentation
 - i) An extensive pack of documentation has been collated relating to all aspects of this project. The documentation has been organised around the 5 key questions that form the subject of this review. The documentation index is included at Appendix B.
 - ii) Phase 1 of the review will involve a ‘desk top’ review of all the documentation. During this stage of the review, the review team will start to form an initial view on the five key questions posed. During the process the review team should
 - Form initial views on the questions that form the basis of this review
 - Identify any areas or issues which need clarification

- Pose questions that they think are relevant to the review but not included in this brief
- Identify people or groups that should be interviewed as part of the review process
- Request any additional evidence they feel appropriate to the review

iii) It is anticipated that this phase of the review will take up to 3 days to complete, although the length of each of the stages can be varied in consultation with accountable officers

b) Phase 2 – Interviews and meetings

- i) This phase of the review will provide the review team with the opportunity to explore in detail, any further questions or issues which arise from examining the documentation. This phase of the review will be used for:
 - Testing assumptions made in the initial part of the review
 - Clarifying issues of uncertainty
 - Reviewing additional evidence as it is requested and made available
 - Meeting with individuals, groups or organisations to gain additional evidence which tests and informs conclusions.
- ii) The council will, using best endeavours, try to facilitate reasonable access to any individual, group or organisation involved in the NNS. Requests for contact with any individual, group or organisation should be made through the officer identified at 7.01 below.
- iii) It is anticipated that this phase of the review will take up to 3 days to complete

c) Phase 3 – Prepare and present the Final Report

- i) This phase of the review will allow for writing up the findings of review, including initial consultation with the Council's joint lead officers prior to publication
- ii) The review team will be required to reach conclusions based on an objective analysis of the evidence presented and obtained. Any recommendations or observations made in the final report will be evidence based.
- iii) It is anticipated that this phase of the review will take up to 3 days

2.08 The review team may be called upon to give evidence on the role and findings in any future Scrutiny Board investigation.

2.09 Indicative Schedule for the Review

- 2.10 The review should be progressed in a timely manner sensitive to the concerns of existing NNS providers, bidding organisations, service users, staff and volunteers.
- 2.11 The indicative timetable for the review is:
- | | | |
|------|--------------------------------|------------------------|
| i) | Completion of Phase 1 | First week in May 2010 |
| ii) | Completion of Phase 2 | Mid May 2010 |
| iii) | Completion of Phase 3 | End of May 2010 |
| iv) | DASS Report to Executive Board | July 2010 Meeting |

- 2.12 These timescales will be subject to review in consultation with the lead reviewers.
- 2.13 Sandie Keene and Nicole Jackson will meet with the reviewers at the end of each phase of the review.

2.14 Confidentiality

- 2.15 Information that will be made available to the review team relates to an ongoing procurement process and must be treated in the strictest confidence. The review team will not share any information relating to this review with any third parties, without the express written permission of Leeds City Council (to be obtained through the Joint Lead Officers, if required).

- 2.16 The final report will be open / available, with an executive summary presented to Executive Board.

2.17 General Work Principles

- 2.18 The review should be conducted in an impartial, open, transparent and accountable manner
- 2.19 The review should be local in nature and specific to the NNS, but should feel capable of making wider recommendations and suggestions if these will benefit future projects
- 2.20 The review should be conducted in a manner and make proposals or recommendations that will move the NNS forward
- 2.21 The review should be conducted in a manner which shows sensitivity and respect to those involved, taking account of their respective views and opinions.

3.00 SCOPE, OBJECTIVES AND EXPECTED OUTCOMES

3.01 Terms of Reference

- 3.02 This review has been commissioned to provide an independent overview to the commissioning and procurement arrangements for improving the Neighbourhood Network Schemes available to the older people of Leeds.
- 3.03 The review is intended to cover the whole commissioning and procurement process.

- 3.04 The overall commissioning and procurement process has been separated into 5 key stages. For each key stage, set out below is an overview of the stage together with a number of suggested considerations for the review team to adopt in seeking to address the key stage.
- 3.05 A number of representations have been made by elected members, existing NNS providers and other organisations that submitted bids for NNS. These representations have been collated and included separately for reference
- 3.06 A flowchart which summarises these terms of reference is included at Appendix C.

3.07 Stages to be examined

- 3.08 It is proposed that the review of the Neighbourhood Network Schemes be examined under five main headings.

3.09 Stage 1 - Preparation for change

- 3.10 This stage of the process will focus on the need for change and how that need was identified, demonstrated, communicated, and taken forward

- a) **The review team will be asked to comment on:**
- i) **Was the case made for change?**
 - ii) **Were the desired outcomes from the change articulated?**
 - iii) **Were the communications and engagement around the need for change appropriate and robust?**
 - iv) **Was appropriate approval sought to implement the change?**
 - v) **Were representations and comments made by bidding organisations prior to the start of the commissioning process considered or evaluated?**
- b) In reaching its conclusions the review team may wish to consider:
- i) Was there engagement in the process?
 - ii) Were the communications robust?
 - What decisions were taken, by whom and on what basis?
 - Were alternatives to restrictive tendering considered?

3.11 Stage 2 - Choice of commissioning process

- 3.12 Having considered the case for change, and identified the desired outcomes from that change, this stage of the review will look at the process undertaken to select the most appropriate commissioning or procurement process to achieve those desired outcomes.

- a) **The review team will be required to comment on:**

- i) **Whether the selected commissioning route was appropriate to deliver the required changes identified at Stage 1**
 - ii) **Whether alternative ways of commissioning the NNS were considered?**
 - iii) **How robust was consideration of alternative commissioning routes?**
- b) In reaching its conclusions the review team may wish to consider:
- i) Was the procurement / commissioning process designed to deliver what was needed?
 - ii) Was the process approved?
 - iii) Was the expectation from the procurement / commissioning process realistic?
 - How was the process designed and what information was used to support the design?
 - How were stakeholders involved / consulted?
 - Was there acceptance or approval of the process: if so, when, by whom?
 - Can clear links be made between the approach to be taken and the desired outcome?
 - Were the specification and evaluation criteria appropriate?
 - What communications took place between councillors, NNS and between Adult Social Care and Procurement?

3.13 Stage 3 - Conduct of commissioning process

- 3.14 Having selected a process considered the most appropriate to achieve the desired outcomes, was that process conducted appropriately and implemented correctly?
- a) **The review team will be required to comment on:**
- i) **Whether the procurement process was implemented correctly – in an open, fair, transparent and legal way**
 - ii) **Whether the procurement process made adequate provision for the types of organisations bidding and provided appropriate levels of support to those organisations throughout the process**
 - iii) **Were the expectations of the process proportionate to the organisations applying?**
 - iv) **What levels of support were available?**

- v) **Was the degree of collaboration between organisations achievable and adequately explained?**
- b) In reaching its conclusions the review team may wish to consider:
- i) Were the procurement / commissioning processes implemented correctly?
 - ii) Were the expectations of the process proportionate to the organisations applying?
 - iii) What levels of support were available?
 - Was adequate support provided to bidders?
 - Was the project management effective?
 - Was the process compliant (in terms of EU / CPRs etc)?
 - Were the documentation / correspondence clear and accessible?
 - Is there a risk of challenge?
 - Was a risk register maintained and contingencies made for high risk areas, eg TUPE?

3.15 Stage 4 – Evaluation of the tender documents

3.16 This stage of the review will focus specifically on the tender documents and the tender evaluation process

- a) **The review team will be asked to comment on:**
- i) **Whether the evaluation criteria were appropriate to the specification**
 - ii) **Whether the evaluation process was appropriate**
 - iii) **Whether the scoring was consistent**
- b) In reaching its conclusions the review team may wish to consider:
- i) Was the scoring consistent?
 - ii) Were the criteria appropriate to the specification?
 - Were the skills of the team doing the evaluation appropriate to the specification?
 - Can clear links be made between the result and the desired outcomes?
 - Was there good communication with councillors?
 - Can independence and impartiality be demonstrated?

- Are there any anomalous results, or deficiencies, or ‘low confidence’ areas that need to be addressed?

3.17 Stage 5 - Forward planning for the outcome of the process

- a) This stage of the review will look at the method adopted for taking forward the outcomes of commissioning process.
- b) **The review team will be asked to comment on:**
 - i) **Whether the impact of implementation was properly considered**
 - ii) **Whether preparation for the implementation of decisions was adequate**
- c) In reaching its conclusions the review team may wish to consider:
 - i) Was the impact of implementation properly considered?
 - ii) What preparation of the Neighbourhood Networks was undertaken?
 - Were expectations of collaboration between successful and unsuccessful schemes realistic / achievable?
 - Does a change in this service investment have consequences for other elements of funding and service delivery in the organisation (as claimed by NNS providers)?
 - How were the communications planned with NNS and councillors?

4.00 TERMS AND CONDITIONS

- 4.01 The terms and conditions to be used for the contract between the Council and the reviewers are attached at Appendix D.

5.00 OVERALL TIMESCALE FOR REPORTING

- 5.01 See para 2.11.

6.00 REMUNERATION

- 6.01 The reviewers will be remunerated at the agreed Council rate plus their reasonable expenses

7.00 FACILITIES TO BE MADE AVAILABLE TO THE REVIEWERS.

- 7.01 A link Adult Social Services officer will be available to support the reviewers in their work. Office space will be made available on request for the purposes of the review of documents or for meetings with NNS representatives. The complete bundle of documents will be made available to reviewers with key documents being reproduced for their individual use.
- 7.02 Administrative support for the setting up of meetings required in phase 2 will be provided.

APPENDICES

Appendix A - Issues raised by Neighbourhood Networks

Appendix B - Document Index Lists

Appendix C - Review Process Flow Chart

Appendix D - Terms and Conditions

Appendix E - Key Contacts List

Appendix F - Glossary of Terms/Abbreviations

APPENDIX A

ISSUES RAISED BY NEIGHBOURHOOD NETWORKS

All Neighbourhood Networks were invited to submit comments regarding the focus of the review. The comments below have been submitted by a total of 11 Neighbourhood Network Schemes and in letters from two elected members. Six out of the 11 NNS submitting comments had not been recommended to be awarded contracts.

Summarised below are the points and questions raised in correspondence received by Adult Social Care, listed broadly under the headings of 'Areas to be examined' in the Review Brief.

1.1 Preparation for change

- Bidders' capability to understand and meet the needs of older people.
- Considerable investment of time and effort from initial consultation starting in spring 2008 – drew staff away from efforts to secure alternative funding.

1.2 Choice of commissioning process

- The decision to go to competitive tender was mistaken.
- Were the views of the existing Neighbourhood Networks adequately represented when developing the documents?
- Fewer contracts do not necessarily deliver better value.
- The timetable of the bid and deadline for submission put managers, staff and volunteers under severe pressure.
- The process will not address disparity of funding if all schemes are to receive at least the same amount as previously.
- Concern that there may have been 'marketing' of the schemes by commissioning officers prior to the tender process.
- The ethos of the schemes is in their local nature – schemes should not be conflated to cover a wide geographical area.
- Interpretation of the 'collaboration to achieve efficiencies' objective – officers not clear whether this means co-operation or take-over.
- The point about Neighbourhood Networks being individual charities with legal responsibilities made repeatedly but not heard.
- Breaking the link with the locality / neighbourhood based model poses a threat to what is unique and valued about the schemes.

1.3 Conduct of the commissioning process

- Was the particularly local nature of the schemes adequately reflected in the tendering process?
- The process was not proportionate for small organisations – more suitable for bids for millions of pounds.
- The process was a box-ticking exercise geared to meeting the government's various agendas, with little resemblance to reality at the 'sharp end'.
- Concern about the basis on which demographic data were compiled for each area – bidders not given clear information about population data.
- Concern about the handover of client data at the termination of the contract – matter raised but unanswered.
- Inappropriate expectations of service delivery by volunteers.

- Concern about the opaqueness of the funding formula – not possible to see how the funding was worked out for each area.
- Mistrust between the organisations and Adult Social Care over the process has been justified.
- Lack of transparency generally.
- Cavalier and unsatisfactory way in which questioning of allocations was dealt with.
- Lack of direct communication ‘for months’ when demographics were questioned.
- Concern that successful contractors will be obliged to provide Adult Social Care with information on members and service users.
- Successful organisations fearful ‘of a retrograde return to a grants system which would increase vulnerability to future cuts in funding’.
- Was the support offered to the existing Neighbourhood Networks adequate?
- Jargon used in documentation.
- Was sufficient regard given to the capacity of small organisations to participate in the commissioning process?
- Concern at the quality of advice provided by the VOICE support worker – advised that a bid which ultimately failed was ‘very satisfactory’. Question whether this was the wife of someone working for the successful bidder: conflict of interests?

1.4 Evaluation of the tender documents

- A too ready acceptance of the visionary promises of the bidders who were provisionally awarded contracts – was their capacity to deliver adequately investigated and compared with existing networks?
- Concern that support officers, who invited discussion on problem areas being the same officers who were part of the evaluation panel.
- Terms of reference for evaluation appear to have been changed / ignored by the evaluation team (criteria 1,3,4; paras b,c,d).
- Insufficient testing of financial viability of bidding organisations.

1.5 Forward planning for the outcome of the process

- Did the tendering process take into account other monies raised by the existing schemes?
- An assumption that the time, energy and commitment of volunteers are transferable to the new schemes. Unsuccessful organisations do not want to transfer.
- Did the tendering process take account of the assets owned by unsuccessful bidders?
- Most of the Neighbourhood networks are registered charities with trustees responsible for an autonomous organisation. How can this structure be contracted to another provider or ‘umbrella organisation’?
- Officers played down the risk of disruption or diminution to services.

2 A number of other issues were raised by the NNS and stakeholders, which do not fit into the five main categories. These were:

2.1 Matters relating to the extension of contracts

- Would the extension until July have been sufficient to pursue TUPE arrangements?

- Successful organisations concerned at risks due to the delay in an atmosphere of cuts in public spending. If the issue becomes protracted, hope for a separate consideration.
- Erroneous letter offering 12 months extension (when it should have been three), followed by admission of ‘administrative error’.
- Requests for the incorrect 12-month extension to be honoured.

2.2 Matters relating to the review

- That it should be holistic and take account of what the Neighbourhood Networks actually do, rather than be a paper exercise.
- That there should be a swift and fair outcome.
- That the review should properly evaluate the entire Neighbourhood Network portfolio and look at the implications of the commissioning scheme from every angle, not just from the procurement aspect.
- That the review should not simply be ‘a desktop review of documentation’ (quote from SK letter of 26 March).
- That the review should consider the context of the procurement and the term ‘Leeds Neighbourhood Network Scheme’ carrying a particular model of community support.
- Appropriateness of Mr Kilgallon’s role as reviewer.
- The review should assess and evaluate the costs of the commissioning process – can the direct and indirect costs of the tendering and evaluation process be justified?
- Fears that the outcome of the review will result in a new tendering process all over again.

2.3 Matters relating to communication

- The identity of Leeds Irish Health and Homes as a successful bidder only came to light after a councillor downloaded the delegated decision notification.
- Lack of feedback to unsuccessful bidders.
- Frustration at continued inability to explain to management committees, staff and members the reason for lack of success.
- Outcome communicated by brief, formal letter offering three telephone numbers for feedback. No answer on the three phones.
- In the five east Leeds schemes, two received feedback, three did not.

2.4 Matters relating to Leeds Irish Health and Homes

- No comparable level of experience of working with older people.
- Works exclusively with one cultural group.
- Lack of collaboration with the five east Leeds schemes.
- The group has never before shown any interest in working in Burmantofts.