

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

Report to Director of Adults and Health

Date: 18th April 2018

Subject: Request to initiate a procurement process (application) for a long term framework arrangement with the independent sector care homes for older people

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. The short term interim framework arrangement with the independent sector care homes for older people is due to expire on 30th June 2018 and a new long term framework arrangement is required to be in place by 1st July 2018.
2. This new overarching framework arrangement will consist of a suite of documents (service specification, quality framework standards and terms and conditions) and will be applied for each new placement made into the independent sector care homes for older people.
3. Consultation has been undertaken with a wide range of stakeholders and they have contributed to the development of the service specification and the quality standards which will be utilised for the new framework arrangement.

Recommendations

1. The Director of Adults and Health is recommended to agree that a procurement exercise based on an application process to renew the care homes framework arrangement is commenced following the call in period for this report.

2. The Director of Adults and Health is recommended to agree that the new arrangement shall be for the period from 1st July 2018 to 31st March 2023 and that the indicative budget shall be £304m.

3. The Director of Adults and Health will use her delegated authority to take commissioning decisions which will be a direct consequence of this key decision, for example, approval of the detailed specifications for procurement and subsequent contract awards. These will be at most a significant operational decision. This is subject to the decisions being in line with the key principles and features as described in this report.

4. The Commissioning Manager (Adults and Health) will liaise with Procurement and Commercial Services to oversee the implementation of the framework arrangement.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Director of Adults and Health to initiate a procurement exercise based on an application process to join the framework agreement for older people's residential and nursing care homes.

2. Background information

- 2.1 In August 2016, Adults and Health commenced a project to re-commission its older people's residential and nursing care contracts with independent sector providers in the city. The initial framework contract that was put in place in 2012 was due to expire in December 2017 therefore it was necessary to put in place new contracts and agree a new fee structure from this point forward.
- 2.2 The independent sector care home provision, currently consists of approximately 4,300 beds across 88 residential and nursing homes of which Leeds City Council commission approximately 1,700 placements across the sector. During the last contract period 85 of the 88 care homes in the city were part of the council's framework contract.
- 2.3 Adults and Health currently spends approximately £60m (gross) per annum on Older People's residential and nursing care home placements with independent care home providers who have homes within the city.
- 2.4 As part of the project governance, a Strategic Advisory Group was established which is chaired by the Executive Member for Adults and Health, Cllr Charwood, and has representation from members of each of the main political parties on the council, the independent sector care home providers including Leeds Care Association, third sector representation through Age UK (Leeds), Service User Representation through Healthwatch Leeds and representation from the Leeds CCG partnership.
- 2.5 In addition to the Strategic Advisory Group, a Project Board chaired by the Deputy Director of Integrated Commissioning, was established to oversee the project and delivery of the objectives along with a project team with various workstreams and a Reference Group of care home managers to assist with the development of the various contract documents.

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. A number of workstreams have been operating to ensure the new contract is fit for purpose for the future.
- 3.2 These include the updating of the current contract documents including the Quality Framework document, a review of business processes to ensure these are as efficient as possible and an options appraisal to determine the best procurement route for the contract.
- 3.3 The current contract documents were previously coproduced with the independent sector providers in 2012 and there have been no major issues with any of the documents during this period. However, since the original contract in 2012, the Care Act has been introduced therefore a full review of all the documents was

necessary to ensure they were Care Act compliant and that they were up to date with current best practice.

- 3.4 As part of this review process, a Reference Group was established which was made up of various care home managers who are part of the current framework contract. This group has been working with commissioning officers in Adults and Health over the last year on updating the contract documents to reflect best practice. As part of wider consultation on the documents, a number of workshops have been held at the end of January 2018 for all providers in the city to contribute to the development of the contract. The terms and conditions of the contract have also been revised and updated by the council's contract solicitor.
- 3.5 In order to ensure the council's business processes are as efficient as possible, a review of the key business processes that affect care homes has been undertaken. One of the key processes to be reviewed was the payments process which was resulting in delays in payments being made to the providers. Over the last year a new process has been established to improve the way financial assessments are undertaken meaning fewer delays in the future in providers receiving payments. This has included the introduction of a new financial queries team which allows providers to have a direct contact within the council to handle queries providers may have with payments thereby speeding up this process which will lead to fewer complaints. New guidance has also been produced for the public on applying for assistance with care home fees from the council.
- 3.6 In the previous contracts the care homes have been able to receive a higher fee level by attaining enhanced quality standards. These enhanced quality standards were the same across each of the service types (i.e. residential, nursing, residential dementia, nursing dementia) however the payment for these enhanced standards were different across the different categories of care. In order to remove this disparity a flat rate quality premium payment will be introduced from 1st July 2018.
- 3.7 A new fee structure, which is the subject of a separate DDP report, has been proposed for the new framework arrangement and is included below in Table 1.

Table 1- Proposed Fee Levels

Service Type	Fee for providers not part of the Framework Agreement	Standard Fee	Standard Fee plus the Quality Premium Payment
Residential	£460	£523	£545
Residential dementia	£492	£560	£582
Nursing	£475	£550	£572
Nursing dementia	£494	£573	£595

- 3.8 To ensure the correct procurement route can be chosen to implement the new contract, a series of options appraisal workshops have been held with stakeholders including the independent sector providers. An overview of the market in Leeds was presented along with information about the different types of contracts.
- 3.9 The outcome of these discussions was that a framework arrangement should be considered. Additionally, Adults and Health in partnership with the CCG

Partnership will consider block contracts for any specialist areas of provision where resources are scarce such as nursing dementia. The preferred option for the length of the arrangement was 5 years as it allowed providers more certainty and allowed them to plan. The option chosen for the procurement process was overwhelmingly for a simplified application process that complies with the Public Contracts Regulations 2015 however, there was an acknowledgement that should any block beds be purchased, this would need to go through a competitive procurement process and would be subject to a separate DDP report.

- 3.10 The framework arrangement will be an overarching agreement between Leeds City Council and the older people's residential and nursing care homes. Additionally each individual person that is placed in a care home will then have their own Care Home Individual Service Agreement (CHISA) which is an individual contract between LCC, the care home and the person being placed in that care home. The CHISA details the individual's care and support needs and the cost of the placement.
- 3.11 The outcomes from the consultation were reported to the Project Board in January 2018 with a recommendation that a new 5 year framework contract is commissioned with providers through an application process and the board agreed that this option should be recommended to the Executive Board for agreement.
- 3.12 The Executive Board met on the 21st March 2018 and were supportive of the options contained within the report thus approval to undertake a procurement exercise based on a simplified application process is now required from the Director of Adults and Health in order to ensure that a new overarching framework can be put into place to commence 1st July 2018 when the existing agreement expires.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The quality standards and service specification have been developed by working in partnership with a number of service providers, monthly meetings have taken place between March and December 2017 whereby discussions were held and areas for amendment, inclusion or clarification were identified and where appropriate included in the standards.
- 4.1.2 All care home providers have had several opportunities to comment on both the quality standards and the service specification. Two workshops were held to which all providers were invited. Additionally the quality standards and service specification were sent electronically to all care homes for comment. Information was, where appropriate, incorporated into the quality framework standards and service specification.
- 4.1.3 As part of the One City Care Home Quality and Sustainability project residents and/or relatives, registered managers and care home staff have been consulted as using a questionnaire with contact details provided for those who wanted to speak to someone. Information was then collated from all of the responses and reflected in the revised standards.
- 4.1.4 Elected members who sit on the Strategic Advisory Board were informed and consulted with on a bi-monthly basis throughout the project.

4.1.5 Additionally other stakeholders internal to the Council were consulted at various points of the development of the key documents and their comments were invited in order to ensure we had as wide a consultation and representation as possible.

4.2 Equality and diversity / cohesion and integration

4.2.1 An Equality Impact Assessment has been undertaken in relation to the development of the quality standards and service specification and this demonstrated that equality and diversity had been considered during the development of both the quality service standards and the service specification and this is attached as Appendix 1.

4.2.2 The EIA demonstrates that Care Homes are ideally placed to develop community cohesion through strengthening connections with local community group and schools and through employment opportunities within the care home setting.

4.2.3 The importance of emphasising diversity and inclusion in contracts is recognised and a number of quality standards have been co-produced with providers to ensure that this area has been included within the quality standards framework. This would then provide the information for the service provider to address any inequalities or under representation.

4.2.4 Equality characteristics will be rigorously monitored as part of the ongoing monitoring of the new long term agreement.

4.3 Council policies and best council plan

4.3.1 The framework contract will contribute to the Council's policies and the Best Council Plan including delivery of the better lives programme by contributing 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.

4.4 Resources and value for money

4.4.1 It is important to note that there are several variables that influence the financial cost associated with care home placements. These include the fee, number of service users funded by the Local Authority, length of stay, the mix of service users e.g. residential, nursing, the number of providers who will deliver services at the fee mix.

4.4.2 Though the cost of the contract is influenced by both demand and the mix of demand, it is presumed that the financial spend will be circa £304m during the period of the arrangement. Other than 2018/19, this does not include any inflationary awards which will be agreed in line with the terms and conditions of the framework agreement and through the annual budget setting process.

4.4.3 Whilst the overall value of the overarching framework is as above the average annual value of each individual CHISA is £28k per annum.

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 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 As this is a key decision, future decisions arising from this report, for instance, decision to award the contract will be at most a significant operational decision and therefore not be subject to Call In.

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 this procurement exercise based on a simplified application process and due diligence checks will be undertaken the same as if a procurement process had been utilised.

5. Conclusions

- 5.1 A new overarching framework agreement is required to be put into place with effect from 1st July 2018.
- 5.2 The procurement exercise should be based on a simplified application process.

6. Recommendations

- 6.1 The Director of Adults and Health is recommended to agree that a procurement exercise based on an application process to renew the care homes framework arrangement is commenced following the call in period for this report.
- 6.2 The Director of Adults and Health is recommended to agree that the new arrangement shall be for the period from 1st July 2018 to 31st March 2023 and that the indicative budget shall be £304m.
- 6.3 The Director of Adults and Health will use her delegated authority to take commissioning decisions which will be a direct consequence of this key decision, for example, approval of the detailed specification for procurement and subsequent contract awards. These will be at most a significant operational decision. This is subject to the decisions being in line with the key priorities and features as described in this report.
- 6.4 The Commissioning Manager (Adults and Health) will liaise with Procurement and Commercial Services to oversee the implementation of the framework arrangement.

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.

