

Commissioning

Report to Director of Adults and Health

Date: 3rd December 2020

Subject: Request to approve the award of places to care home providers onto the COVID-19 Discharge to Assess (D2A) Framework Agreement 2

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open 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:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- Having undertaken a further procurement exercise, referenced as Framework 2, Commissioning Officers wish to enter into a framework agreement consisting of independent sector care home providers with the aim of meeting impending winter pressures which may be further exacerbated by the COVID-19 outbreak through the Discharge to Assess (D2A) service. This report seeks approval to add the providers who have responded as part of the procurement exercise to the framework for D2A beds having submitted a compliant application confirming:
 - a. Their agreement to comply with the service specification and associated appendices;
 - b. The types and numbers of beds available to allocate;
 - c. Their understanding of the 50% retention fee for activated but unoccupied beds;
 - d. Whether they can or cannot accommodate those under 65 in addition to those aged 65 plus, and;
 - e. That the care home in question is within the Leeds Metropolitan District Area and is appropriately registered with the CQC.
- The agreement will be for a period of approximately 4 months commencing 7th December 2020 to 31st March 2021 with an option to extend for up to a further 6 months in any combination subject to confirmation of a funding source.
- In the original key decision it stipulated that placements made through the framework will not be subject to further delegated decisions as outlined under Contract Procedure Rule 3.1.6 and are instead covered by the original key decision

itself. This is based on the need to ensure fast and timely placements that help address any impending winter pressures within the health and social care system, which may be further exacerbated by the COVID-19 pandemic. It also takes account of the volume of call-offs that may be made.

- This cost is fully funded from the discharge to assess funding from the NHS Leeds Clinical Commissioning Group.

2. Best Council Plan implications (see the [latest version of the Best Council Plan](#))

- This award 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.

3. Resource implications

- The funding for the D2A service is delivered through the NHS COVID-19 budget via the NHS Leeds Clinical Commissioning Group (CCG). The previous request to procure a solution for D2A beds gave an indicative estimate of £1,880,996.00 based on an assumption of acquiring a further 100 beds. The actual final cost will be dependent on referrals and uptake of beds from both this and the first framework agreement with providers, established 1st November 2020. The service operates in 2 phases; Phase 1 establishing the scope of the market that is available to engage and Phase 2 seeing the uptake of beds through referrals from the hospital based social work teams.
- Commissioning officers are unable to state the actual costs associated with this award due to the demand-led nature of the expenditure, however the maximum amount of spend possible with these beds is £344,373.74, calculated based on the type and number of beds identified through the procurement.
- Officer time will be necessary as part of ensuring the smooth delivery of the D2A service provision.

Recommendations

- a) The Director of Adults and Health is recommended to approve the award onto the Discharge to Assess Framework Agreement 2 service of all the providers identified by Commissioning Officers at Appendix 2 for a period of approximately 4 months with effect from 7th December 2020 to 31st March 2021, with the option to extend for up to a further 6 months in any combination subject to confirmation of a funding source.
- b) The Commissioning officer will liaise with Procurement and Commercial Services to oversee the implementation of the agreement.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Director of Adults and Health to award places for the independent sector care homes who have applied and been successful in the application process to join the Discharge to Assess Framework Agreement 2 for further provision of D2A beds across the city.

2. Background information

- 2.1 On 19 March 2020, Central Government published guidance on COVID-19 Hospital Discharge Service Requirements. This placed a duty on local authorities to assume lead commissioning and contracting responsibilities for “expanding the capacity in domiciliary care, care homes and reablement services in the local area”. D2A supports the swift placement of medically fit patients from acute hospital settings to a care home where they are able to recuperate and have a full assessment of their needs in a more appropriate environment.
- 2.2 For the initial period of the pandemic the Council engaged with providers who had come forward through block contract arrangements to help support the discharge to assess process. These initial engagements were made as direct awards under Contract Procedure Rule (CPR) 9.5 via delegated decision D50719, taken on the 27th March 2020, and D50774, which was approved 14th April 2020. A further delegated decision (D52359) and subsequent administrative decision saw cover maintained on a block basis until a framework agreement was procured and finalised.
- 2.3 In October 2020 Commissioning and Procurement officers drew up a suite of documents detailing the requirements of this D2A service, including; a service specification, an Information document (in place of an Invitation to Tender (ITT) and Terms and Conditions. This opportunity was advertised on the 14th October 2020 with a closing date of 21st October 2020 and saw a total of 14 homes identified for this framework.
- 2.4 On the 20th November 2020 commissioning officers obtained authorisation utilising the Special Urgency Provisions to advertise the opportunity for a second D2A framework (decision reference D52501). This was requested to secure additional care home beds in light of the limited number of homes that had been identified through the first procurement, the concerns being that: working with a high number of beds across a limited number of homes placed the resource at greater risk from COVID outbreaks within homes, and; working with only 14 homes across the city made it harder to meet patient and family expectations around choice when making discharges from hospital beds.
- 2.5 Utilising the documents formulated for the original framework, the opportunity was advertised on the council’s electronic tendering system YORtender and in the Official Journal of the European Union (OJEU) on the 25th November 2020 with a closing date for receipt of applications of 2nd December 2020. The documents contained minor changes to reflect the fact that this was a second framework that was being procured and that there was an existing arrangement in the city.
- 2.6 The documents include specific details around how the two different frameworks will operate and how priority will be given to the available capacity under Framework 1,
- 2.7 D2A is part of an ongoing wider national strategy intended to reduce delays to discharge from acute settings. The service takes an integrated person centred

approach to the safe and timely transfer of medically stable patients from an acute hospital to a community setting for the assessment of their long term health and social care needs.

3. Main issues

- 3.1 In total 6 providers submitted applications via YORtender by the noon deadline on the 2nd December 2020. Two applications were rejected due to non-compliance with the invitation to tender request. One on the grounds that the submission was not an application form and was instead an advertisement link, and the second rejected as the provider and the beds offered are already accounted for on the existing D2A Framework Agreement. As stated within the service specification, the first framework agreement would always be utilised first for beds except in specific scenarios, such as expression of individual preference.
- 3.2 The service operates in 2 phases. Phase 1 consists of establishing the providers and potential beds from which the Council can call-off from. Phase 1 required providers interested in being included on the D2A Framework Agreement 2 to complete a two page application form covering the following criteria:
- Their agreement to comply with the service specification and associated appendices;
 - The types and numbers of beds available to allocate;
 - Their understanding of the 50% retention fee for activated but unoccupied beds;
 - Whether they can or cannot accommodate those under 65 in addition to those aged 65 plus, and;
 - That the care home in question is within the Leeds Metropolitan District Area and is appropriately registered with the CQC.

During Phase 1 LCC is not committed to the purchase of any D2A beds from any providers and is merely seeking to ascertain the availability of D2A beds and use this data to populate the framework agreement.

- 3.3 Having undertaken Phase 1 Commissioning Officers confirm that the 4 Providers have offered 31 beds across 6 care homes. Commissioning Officers are seeking to admit the Providers and Care Homes at Appendix 2 onto the framework agreement. The 31 beds consist of: 4 residential; 13 residential with dementia; 10 nursing, and; 4 nursing with dementia.
- 3.4 During Phase 2 the Council will determine which providers and D2A beds it intends to call-off from the framework agreement contract based on presented demand. This process will be directly managed through hospital social work teams as part of the placement process. In place of a full assessment a better conversations record and an order form will be completed with the patient, the social worker will then forward these to the nominated care home. These documents will form the basis of the contract and comprise the actual call-off.
- 3.5 The Council intends to offer as much choice as possible to people being discharged from hospital, therefore the initial call off of beds from the framework contract will be based on this choice, availability and geographical location of the D2A bed. Once a D2A bed is occupied the full fee will be payable until such time as that D2A bed becomes vacant, on average approximately four weeks. Once a D2A bed is vacant,

50% of the fee will be payable until such time as the D2A bed becomes occupied again.

3.6 This is the second framework agreement established for D2A beds. Call-offs will be prioritised to homes on the first framework in all instances where there is bed availability with a home on that framework and that the home is in line with client choice. Beds on the D2A Framework Agreement 2 will be called off in all scenarios where the choice is not available from the first framework.

3.7 The current local authority fees applicable to the D2A Framework Agreement 2 are detailed in Table 1 below:

7 th December 2020 – 31 st March 2021	Core Fee	QPP Fee
Residential	£559	£583
Residential Dementia	£599	£623
Nursing (excluding FNC)	£590	£614
Nursing Dementia (excluding FNC)	£616	£640

Table 1. Care fees 2020/21

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 During the original work to establish the first D2A beds framework there was a degree of engagement with care home providers and with third sector colleagues including Carers Leeds and Age UK to ensure their views were reflected in the commissioning arrangements and the processes that would be put in place to support the discharge arrangements.

4.1.2 Ongoing engagement with providers, social workers and health partners will form a key part of this arrangement.

4.1.3 LCC has and will continue to engage with NHS Leeds Clinical Commissioning Group (CCG) colleagues around the D2A Framework Agreement 2 and ensuing call-off opportunities.

4.1.4 The Executive Member for Health Wellbeing and Adults was briefed on the decision to secure additional care home beds as part of Discharge to Assess provision to reduce Covid-19 winter pressures in acute hospital settings on the 18th November 2020 with the outcome of the procurement shared on the 3rd December 2020

4.2 Equality and diversity / cohesion and integration

4.2.1 An Equality and Diversity Impact Assessment Screening Tool has been completed and is included at Appendix 1. This assessment demonstrates that the service meets the desired equality requirements.

4.2.2 All providers are required to have appropriate policies and procedures in place within their services as part of the requirements of being on the framework.

4.3 Council policies and the Best Council Plan

- 4.3.1 The framework agreement 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.

Climate Emergency

- 4.3.2 The recommendations in this report do not directly impact on the Climate Emergency however, in our overarching agreement with care homes, the providers are encouraged and supported to reduce their carbon footprint and to adopt greener working practices as and where possible.

4.4 Resources, procurement and value for money

- 4.4.1 The funding for the D2A service is delivered through the NHS COVID-19 budget via NHS Leeds Clinical Commissioning Group (CCG). Commissioning officers obtained the authority to receive and spend this funding in a previous Key decision (D52359). For reference the maximum cost of utilising all of the beds offered for every day of the framework agreement would be £344,373.74. However it is highly improbable that this maximum value would be reached as LCC makes no payment on any bed until it has had its first placement, after which payments reduce to a 50% rate for each of the days that the bed stands vacant.
- 4.4.2 Funding is currently confirmed up to . Any further based

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

- 4.5.1 The significant operational decision highlighted in this report will be taken by the Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 4.5.2 As this is a significant operational decision as a consequence of a previous key decision it is therefore not subject to call in
- 4.5.3 It should be noted that no formal contract is being entered into with care home providers at this point. The application process merely establishes a list of providers who have agreed to the Council's terms and conditions of contract and fee setting process. A contract will only be formed once LCC has requested to purchase a bed from a provider admitted onto the Framework.

4.6 Risk management

- 4.6.1 This simplified application process has been undertaken to ensure that a fair, open and transparent process was utilised and due diligence checks will be undertaken on providers being considered as part of the framework agreement.
- 4.6.2 To minimise risks in terms of ensuring only suitable providers access the new arrangement, due diligence tests were incorporated into the application process for all care homes that were new to the agreement.
- 4.6.3 If this provision is not secured, there is a high risk that the Council will fail to meet its legal obligations as set out in the national COVID-19 guidance in "expanding the capacity in domiciliary care, care homes and reablement services in the local area".

5. Conclusions

- 5.1 With the support of colleagues in Procurement and Commercial Services, Commissioning Officers have completed a procurement exercise to establish a second framework agreement for D2A beds. This exercise has resulted in 4 providers offering 31 beds across 6 homes coming forward. This provision will help to further address impending winter pressures which may be exacerbated by the COVID-19 pandemic.

6. Recommendations

- 6.1 The Director of Adults and Health is recommended to approve the award onto the Discharge to Assess Framework Agreement 2 service of all the providers identified by Commissioning Officers at Appendix 2 for a period of approximately 4 months with effect from 7th December 2020 to 31st March 2021, with the option to extend for up to a further 6 months in any combination subject to confirmation of a funding source.
- 6.2 The Commissioning Officer will liaise with Procurement and Commercial Services to oversee the implementation of the agreement.

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.