



CABINET

26 October 2011

REPORT

Subject Heading:

Arrangement for the Provision of
Domiciliary Care to Adults
Cllr Steven Kelly

Cabinet Member:

CMT Lead:

Andrew Ireland

Report Author and contact details:

Tom O'vens

Policy context:

Adult Social Care

Financial summary:

To commission domiciliary care provision
for the residents of Havering, with an
approximate value of £46m over 5 years,
to be funded by Adult Social care revenue
budgets.

Is this a Key Decision?

Yes

Is this a Strategic Decision?

Yes

When should this matter be reviewed?

Not Applicable

Reviewing OSC:

Individuals

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Valuing and enhancing the lives of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This report provides Members with an overview of the current arrangements for the provision of domiciliary care services to the residents of Havering and describes proposals to extend the existing delivery for a fixed period, to allow time to procure new arrangements for the provision of the service.

The new Framework Agreement will support the delivery of the emerging personalisation agenda within Adult Social Care and offer greater control over the resources used to provide care.

RECOMMENDATIONS

It is recommended that Cabinet:

1. Approve the extension of the current block domiciliary care contract until 30th September 2012, in order to allow time for a formal tendering process to take place.
2. Approve the invitation and evaluation of tenders for the provision of domiciliary care services to Adults under a Framework Agreement with the Council.

REPORT DETAIL

Current Arrangements

1. The Council has a duty under the NHS and Community Care Act 1990 to provide domiciliary care services to meet the assessed needs of older or physically disabled people.
2. The provision of domiciliary care optimises independent living for adults in need and reduces the incidence of hospital and residential care admissions.
3. Demand for domiciliary care is anticipated to increase, in part reflecting Government initiatives to promote independent living and driven by the demographic trend towards an ageing population and the social trend towards older people wanting to remain in their own homes.

4. The current provision of domiciliary care services costs approximately £9 million (rounded) per annum and equates to 720,000 hours of domiciliary provision annually. The current services are commissioned via an approved list of 10 independent/voluntary sector service providers alongside a range of spot purchase agreements to meet specialist needs.
5. The existing block contract for the provision of domiciliary care is due to expire in the third quarter of 2011.

Extension of Current Arrangements

6. This report seeks authorisation from the Cabinet for an extension of the current domiciliary care contracts until 30th September 2012.
7. Section 22 of the Contract Procedure Rules states as follows:

'Extensions

Extensions to the duration of existing contracts are generally not permitted except where all of the conditions set out in column A below are met AND at least one of the conditions set out in column B is met:

Column A ALL of these conditions must be met	Column B AT LEAST one of these conditions must be met
Value for money can be demonstrated	One of the exceptions set out in rule 27 below applies
The extension is for the same or a lesser value and period than the original contract	The possibility of an extension was included in the invitation to tender documents
For an extension with a value in excess of £5,000,000, there is a report to Cabinet For an extension with a value in excess of £156,000 and under - £5,000,000 approval of an individual Cabinet member is required	Where applicable, the Assistant Chief Executive Legal & Democratic Services confirms in writing that one of the permissible grounds for extension under European procurement rules applies'

8. Value for money is achieved by continuing with the current arrangements, as this offers better rates and a more efficient process than ad hoc 'spot' purchasing.
9. The original 5 year contract value was approximately £49m; the value of the proposed extension is £9m.

10. Under column B in the table above, one of the exceptions set out in Contracts Procedure Rules 27, is '(f) Best Interest of Council'. The Council's best interests are served by this contract extension as the current providers were selected following a competitive tendering process; the additional time is needed for Council to procure new arrangements for the provision of the service.

Proposed new arrangements

11. It is proposed that the new framework agreement between the Council and successful providers will be for a period of three years to commence in the third quarter of 2012, with the option to extend for a further one year, subject to satisfactory performance.
12. It is envisaged that this new framework agreement will include at least an equal number of approved service providers to ensure choice for service recipients and to support economies of scale for those providers. The framework agreement will contain the agreed terms & conditions, including price. The anticipated total value of the new contract over five years is expected to be approximately £46m.
13. Under the framework agreement, the Council will not give any guarantees or obligations to procure any services from the framework members. However, where the Council does procure a service the terms, conditions and service specification as set out in the framework will apply. Individual care packages will be arranged or 'called off' from the framework according to the rules of the framework.

Procurement Process

14. Tendering for the new framework will be carried out in accordance with the Council's Contracts Procedure Rules. As this is a Part B service, the full provisions of the Public Contracts Regulations 2006 will not apply.
15. The Council will adopt a restricted tendering procedure, as a high level of interest from prospective bidders is expected. The contract opportunity will be advertised in *Community Care* in November/December 2011. This procurement will follow a two-stage competitive process. Organisations expressing an interest in being invited to tender will undergo an initial pre-qualification assessment. Only the most suitable applicants will be included on a shortlist for the second stage of the process, the invitation to tender.
16. The award criteria for this tender will be based on the 'most economically advantageous' tender, this being assessed by balancing quality against price to give best value for money.

17. The following officers are in the project team:

Assistant Director for Commissioning (project sponsor)	Joe Coogan
Manager for Modernisation (project manager)	Tom O'vens
Commissioning Officer (service project team)	Hilda Nevoh
Review & Development Officer (service project team)	Dave Mitchell
Strategic Commissioning Lead (Prevention) (service project team)	Jackie Phillips
Acting Senior Practitioner (service project team)	Lurleen Trumpet
Quality Manager (service project team)	Fiona Barnard
Project Development Officer (service project team)	Graham Oakley
Procurement Adviser	Tracy Christian
Strategic Business Partner (Finance)	Caroline May
Principal Locum Lawyer (Contracts)	Robin Bloom

18. All current and prospective providers will be consulted and kept fully engaged with the tendering process, along with progress on implementation by way of regular meetings and updates; this will ensure that appropriate markets are available as need is identified.

Service improvement and best value considerations

19. The new contract will support the delivery of the emerging personalisation agenda within Adult Social Care, offering greater control over the resources used to provide care. In particular, this will offer an opportunity to develop a service specification for the new contract that is flexible, innovative and able to support delivery of the personalisation agenda.

20. The use of an electronic monitoring system will be a contractual obligation placed upon all suppliers as part of their approval for the provision of domiciliary care within the new framework agreement. This will ensure continued information collection and financial management of the services provided.

21. The proposed arrangements will cover the supply of domiciliary care where the Council pays the provider direct. They will also cover 'Direct Payment' situations, where an individual service user is provided with funds by the Council to buy their own domiciliary care. It is envisaged that the rates for both types of provision will be the same.

22. The new framework should ensure qualitative improvements and greater efficiencies in service delivery as a result of:

- Economies of scale;
- A competitive tendering process for appointment to the framework;
- Competition amongst framework members.

23. It should be noted that due to the nature of the service and its individual specific needs, there will on occasions be an ongoing requirement for the use of 'spot' purchasing of care arrangements outside of the proposed framework arrangement. However the service area will endeavour to minimise this need as best as possible.

24. When the new framework arrangements start, there may be packages of care being supplied by organisations which are not part of that new framework. To ensure continuity of care for individuals, it is not planned to migrate those packages of care to new framework providers unless value for money considerations or the needs of the individual service user require it. Rather, they may remain with the existing providers.

25. Packages of care which are being provided by existing providers, who subsequently become new framework members, will be subject to the terms and conditions set out in the new framework.

REASONS AND OPTIONS

Reasons for the decision:

1. To preserve the continued delivery of domiciliary care to adults in Havering.
2. To make arrangements for the delivery of that care from mid 2012 onwards.

Other options considered:

1. Do nothing. The current contract arrangements would come to an end and all future domiciliary care packages would need to be procured on an individual basis. This is not a practical option and would lead to a potential decrease in quality and value for money.
2. Attempting to extend the current contracts would only offer the Council a short-term solution. The current contracts do not acknowledge many of the legislative changes of the past five years, the introduction of technologies to better manage the domiciliary process and establish real efficiency savings or allow for the flexibility. All of the aforementioned are now seen as essential to deliver on the personalisation agenda.

3. The extension of the current contractual arrangements for a period of up to one year is seen as essential. No other option would ensure that the Council is in a position to engage in a meaningful tender process or enable the development of an innovative service specification that allows for outcome based commissioning and contracting that will deliver on the personalisation agenda.

IMPLICATIONS AND RISKS

Financial implications and risks:

The 2010/11 actual costs for the provision of domiciliary care services were in the region of £9.3m per annum, met from the Adult Social Care revenue budget. The new contract will continue to be funded by Adults Services.

This tendering process is not expected to generate significant savings, although some savings will be achieved through use of the electronic tracking system and improved efficiencies.

There is a cost implication associated with new providers being required to use the electronic monitoring system (in respect of training, set up costs etc); this will be in the region of £2.6k per new provider. It is proposed that these costs will be borne by the providers.

The price/quality ratio for scoring purposes is yet to be decided. The scoring process will reflect the expected quality expectations (in line with the personalisation agenda).

The contract will be awarded initially for three years with the option to extend for a further one year. It is proposed that fixed price rates, at a level to achieve value for money over the contract period, will be sought as part of the tender process.

The contract will be monitored on an ongoing basis in terms of both quality and cost effectiveness, and also in terms of provider financial stability.

Legal implications and risks:

None other than as set out in this report.

Human Resources implications and risks:

The current domiciliary care services are not delivered to the community through contracts that involve Council employees. Proposals as set out here do not alter

this position. The Framework Agreement will require providers to use their own human resources to deliver any commissioned support to customers, as and when required.

It has been deemed that TUPE Regulations will not apply in relation to the Framework Agreement and no Council employees are expected to transfer to any new provider selected under the tendering process. Hence, the risk of a claim arising from Council employees with regard to TUPE Regulations is determined to be low.

The tendering exercise will be managed by existing staff within the Adult Social Care Commissioning teams with advice from Internal Shared Services (Procurement). The completion of this tendering exercise will not impact on the employment status of these staff members, except where any fixed term contracts may exist for the direct purpose of completing the work to bring in the Framework Agreement.

Existing providers have been advised of the likely tendering timetable and will be advised to seek independent legal advice in relation to any issues that may affect their own workforce as a result of the outcome of this tendering exercise.

Equalities implications and risks:

An initial impact assessment has commenced and will proceed to the Social Care and Learning Equality & Diversity Directorate group. This item will need to be revisited post consultation to consider any implications and feed back from the SC&L Equality & Diversity Directorate group.

BACKGROUND PAPERS

None.