

Wiltshire Council

Cabinet

14 March 2017

Subject: Care Home Tender Contract Awards

Cabinet member: Jerry Wickham
Adult Care, Public Health and Public Protection

Key Decision: Yes

Executive Summary

The Council currently uses 3 methods to purchase nursing and residential care home beds for older people in Wiltshire:

- Block contracts – a fixed number of pre-purchased beds which ensures a more competitive rate and guaranteed supply. Under these contracts the Council is committed to the pre-purchased level of spend even if the beds are not fully occupied during the course of the contract.
- Framework contracts – pre-agreed rates, terms and conditions but there is no commitment to purchase beds that are not required. Frameworks do not guarantee supply but support more competitive rates and reduce administration costs around individual placements.
- Spot contracts – beds purchased as required but rates are not pre-agreed so will be at the discretion of the provider.

Block and framework contracts maximise the opportunity for the Council to manage the supply of beds and spend. The contracts also place obligations on the provider to achieve specified quality of care outcomes and to facilitate prompt admissions from the hospitals and the community which supports reducing Delayed Transfers of Care.

The majority of these contracts end on 31/03/17 and in anticipation of this the Council began a tender process for block and framework contracts in October 2016.

Spend on block and framework care home beds depends upon contract prices and the volume of placements made. In the last financial year (excluding OSJ block contract) it was as follows:

Nursing beds block contract	£7.53m
Nursing beds framework contract	£7.37m
Nursing beds spot contract	£5.18m
Residential beds framework contract	£3.87m
Residential beds spot contract	£15.48m
Intermediate care block (Better Care Fund)	£2.9m

Existing block and framework contracts have enabled the Council to limit the purchasing of spot placements and therefore have greater control on spend.

The tender which is the subject of this paper invited bids for the following:

- Nursing home block beds (up to 200)
- Nursing home framework beds (approximately 200*)
- Residential home framework beds (approximately 200*)
- Intermediate Care block beds (up to 75)

**note that framework contracts do not specify a number of beds therefore we would be looking to award contracts to a sufficient number of providers to enable availability of beds at these volumes*

The tender generated less bids from the market place than desired and this has resulted in a shortfall of 39 block nursing beds. The majority of this reduction was a result of one care provider closing the home which accounted for its current offering of block beds and two providers missing the deadline for placing bids. The remainder of the shortfall is due to existing block providers reducing the number of beds they wish to offer under a block contract.

The number of bids for Framework nursing and residential beds has also reduced and the Council will be conducting a market engagement exercise to establish the reasons for this.

Due to the strategic importance of maintaining the number of block and framework contracts the Council wishes to go out to tender again as soon as possible. This will enable block providers who missed the deadline to submit a bid and it is hoped that market engagement will support additional bids for Framework contracts.

Proposals

1. That Cabinet approves the award of the block and framework contracts as recommended in Appendix 1 which is presented as a Part II paper.
2. That Cabinet approves the undertaking of a re-tendering exercise for further Block Nursing, Framework Nursing and Framework Residential Services in order to address the potential shortfall in the required level of service provision; and
3. Delegates authority to the Corporate Director and the Cabinet Member for Adult Care, Public Health and Public Protection to approve in consultation with the Cabinet member for finance for the award of contracts within the approved budget

Reason for Proposals

Awarding block and framework contracts will secure better rates and better availability of care home beds in Wiltshire. This supports budget management and gives greater control on spend. The contracts place requirements on providers with regard to the quality of care that they provide and also with regard to the speed of assessment and admissions. This supports the health and well-being of individuals, and the health and social care system as a whole.

Carolyn Godfrey
Corporate Director

Wiltshire Council

Cabinet

14 Mar 2017

Subject: Care Home Tender Contract Awards
Cabinet member: Jerry Wickham -
Adult Care, Public Health and Public Protection

Key Decision: Yes

Purpose of Report

1. This Report requests that Cabinet awards contracts for block and framework care home beds as recommended in Appendix 1 which is presented as a Part II paper. The recommendation is based on the outcome of the tender process which began in October 2016.
2. The Report also requests that Cabinet authorise the Council to go out to tender again for Nursing and Residential Framework beds due to the current tender process generating a reduced number of bids and a shortfall in the above provision.
3. The tender invited bids for the following:
 - Nursing home block beds (*up to 200*)
 - Nursing home framework beds (*approximately 200**)
 - Residential home framework beds (*approximately 200**)
 - Intermediate Care block beds (*up to 75*)

*note that framework contracts do not specify a number of beds therefore we would be looking to award contracts to a sufficient number of providers to enable availability of beds at these volumes
4. The tender generated less bids from the market place than desired and this has resulted in a shortfall of 39 block nursing beds against current provision.
5. The majority of this reduction was a result of one care provider closing the home which accounted for its current offering of block beds and two providers missing the deadline for placing bids.
6. The remainder of the shortfall is due to existing block providers reducing the number of beds they wish to offer under a block contract.

7. The number of bids for Framework nursing and residential beds has also reduced and the Council will be conducting a market engagement exercise to establish the reasons for this.
8. Due to the strategic importance of maintaining the number of contracts, the Council wishes to go out to tender again as soon as possible. This may enable the two block providers who missed the deadline to submit a bid and it is hoped that market engagement will support additional bids for Framework contracts.
9. There is a financial imperative to have new contracts in place as close to the end of previous contracts as possible (contracts end 31st March 2017) as this will avoid higher cost spot placement rates being paid in the intervening period.
10. The report requests that Cabinet delegates authority to award contracts following the second tender to the Corporate Director and the Cabinet Member for Adult Care, Public Health and Public Protection.

Relevance to the Council's Business Plan

11. The Council needs to ensure the availability of nursing and residential home beds across Wiltshire at competitive rates in order to meet its duty of care to those who require such placements and in doing so fulfil the following priority:

Protect the most vulnerable in our communities

Main Considerations for the Council

12. The services in question are subject to the Public Procurement Regulations (2006) and are required to be tendered. The Council tendered in October 2016 in adherence to these regulations.
13. Awarding block and framework contracts benefits the Council by:
 - Securing better rates than would be achieved by purchasing on a 'spot' basis
 - Creates greater certainty around levels of spend
 - Secures an availability of beds across the county
 - Places contractual obligations on providers to meet performance outcomes in relation to the quality of care that they provide
 - Places contractual obligations on providers to facilitate prompt admissions particularly in relation to hospital discharge or emergency placements from the community.

Background

14. The Council currently commissions nursing and residential home beds for older people under 'block', 'framework' and 'spot' contracts.

15. A 'block contract' is where the Council pre-purchases a fixed number of beds to guarantee a minimum level of availability in a given locality. The provider is guaranteed payment for these beds whether they are used or not and because of this the Council is able to secure more competitive rates.
16. A 'framework contract' is where the Council agrees terms and conditions, and rates that beds can be purchased at in advance of purchase. The Council is not obliged to purchase beds under this contract but the contract ensures that if it does, the rates are as competitive as possible and do not need to be negotiated on a case by case basis.
17. A 'spot' contract is where the price, and terms and conditions of a bed are negotiated individually at the time that the bed is required.
18. Spend on block and framework care home beds depends upon contract prices and the volume of placements made. In the last financial year (excluding OSJ block contract) it was as follows:

Nursing beds block contract	£7.53m
Nursing beds framework contract	£7.37m
Nursing beds spot contract	£5.18m
Residential beds framework contract	£3.87m
Residential beds spot contract	£15.48m
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19. In the absence of such contracts the Council would be in the position of having to 'spot' contract and negotiate rates on a case by case basis for all beds purchased. In doing so it would be in the hands of the market with respect to the rates that it was able to secure. It would also not have a guaranteed minimum level of bed availability to support vulnerable residents of Wiltshire who require 24 hr care in a residential/nursing home and for whom it has a duty to meet those needs.
20. Existing block and framework contracts have enabled the Council to limit the purchasing of spot placements and therefore have greater control on spend.

Overview & Scrutiny Engagement

21. A report updating on progress was presented to the Health Select Committee on 10th January 2017.

Safeguarding Implications

22. It is important that adults who are vulnerable due to the nature of their physical or mental health condition, and require care in a 24hr setting, have access to nursing/residential home beds to avoid serious risk to their health and well-being.

Public Health Implications

23. The availability of nursing/residential home beds will ensure that those whose health and social care needs cannot be safely met in the community have access to appropriate care and support to maximise their well-being.

Procurement Implications

24. The report seeks approval to award contracts and undertake an additional re-tender process for the reasons set out herein. The procurement processes in both cases were undertaken by the Strategic Procurement Hub together with key council stakeholders, and in accordance with the Council's Contract and Procurement Regulations, Part 10 of the Council's Constitution. A breakdown of the procurement process applied and the recommended contract awards is provided in Appendix 1.

Equalities Impact of the Proposal (detailing conclusions identified from Equality Analysis, sections 4 and 5)

25. The procurement of nursing/residential home beds through block contracts and framework agreements by the Council will support equitable access to 24hr care in a care home setting for people who do not have the financial means to secure this care themselves.
26. The specification for the service states that providers will be expected to demonstrate use of local resources and provision of services which take account of customer's religion and culture.
27. The procurement process ensures that organisations entering into contracts with the Council must have their own policies and procedures in place to comply with the Equality Act 2010.

Environmental and Climate Change Considerations

28. By ensuring a level of choice of nursing/residential bed provision across Wiltshire this will reduce the level of travel and associated costs for families and will help to ensure that Wiltshire residents can remain living in Wiltshire.

Risk Assessment

Risks that may arise if the proposed decision and related work is not taken

29. If contracts are not awarded this will create additional financial pressures for the Council because care home beds would have to be purchased under spot purchase arrangements. The costs of spot

placements are individually negotiated and are likely to be higher than placements made at pre-agreed rates.

30. If the contracts are not awarded in March 2017, there will be insufficient time for the administrative processes to take place before 1st April 2017. The consequence of this will be that the financial benefits of the contracts would be lost during the interim period because placements would need to be made on a spot contract basis.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

31. Where block contracts are awarded the Council will need to pay for the beds whether it uses them or not.
32. Rigorous oversight and management of empty beds (voids) will be carried out to ensure that voids are kept to a minimum.

Financial Implications

33. Awarding the contracts supports market management and gives greater control on spend because rates, terms and conditions have been agreed up front.
34. Due to the number of nursing block contracted beds decreasing, the total value of spend on block contracts will decrease overall. The tender has resulted in an increase in price per bed however this increase will include the impact of the National Living Wage for those beds. The rates quoted in Appendix 1 are for financial year 17/18 and will incur an uplift in following years. Care homes have indicated in their bids what their cost increases would be for future years of the contract, but the contract does contain a clause which enables the council to cap any increase at the rate of CPI for October of the previous year.
35. Framework residential and framework nursing rates have also increased and, due to a reduction in bids for these contracts, there will be reduced availability of framework contract beds going forward.
36. Intermediate Care block beds are funded through the Better Care Fund.
37. Further work will be required to engage with the market and recommission additional beds at an affordable price.
38. Appendix 1 (Part II Paper) includes further details on the financial implications of awarding the tenders.

Legal Implications

39. Legal advice and support will be required for entering into contracts with providers.

40. Any procurement process must be undertaken in line with the provisions of Part 9 (Financial Regulations) and Part 10 (Contract Regulations) of the Council's Constitution.
41. Any procurement process must also be compliant with the Public Contracts Regulations 2015 (PCR).
42. Legal Services have assisted in the drawing up of the bespoke contractual documentation required. The Cabinet Member decision for award of further contracts will be the executive decision for the further re-commissioning of these services and therefore the final sign-off of the supporting documentation will be able to be effected by the Associate Director Adult Services under their general delegated powers provided that decision is taken in accordance with the executive and in consultation with the Associate Directors Law and Governance and Finance.
43. Failure to properly comply with relevant parts of the Constitution, the Public Contract Regulations and the general principles of contract law could result in a legal challenge. However the risk of challenge will be minimised by the use of a PCR compliant procurement process as overseen by the Strategic Procurement Hub.

Options Considered

44. Award of contracts to providers listed in Appendix 1(Part II paper)

Conclusions

45. It is recommended that Cabinet:
 1. Approves the award of the block and framework contracts as recommended in Appendix 1 (Part II paper).
 2. Approves the undertaking of a re-tendering exercise for further beds Services in order to address the potential shortfall in the required level of service provision; and
 3. Delegates authority to the Corporate Director and the Cabinet Member for Adult Care, Public Health and Public Protection to approve in consultation with the Cabinet member for finance for the award of contracts within the approved budget

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Background Papers

The following documents have been relied on in the preparation of this report:

None

Appendices

Please note, the Appendix is confidential and subject to Part II of the Council's Constitution and therefore is not to be published.

Appendix 1 – Recommended list of contract awards and financial implications