

Wiltshire Council

Cabinet

17 April 2012

Subject: Full Utilisation of Care & Support Framework Agreement

Cabinet member: Cllr John Thomson - Adult Care, Communities and Housing

Key Decision: Yes

Executive Summary

- This report seeks Cabinet agreement on the proposal to outsource the Council's in-house provider "Wiltshire Supported Living Service" (WSLS) for adults with learning disabilities, to other Support Providers who are already delivering the majority of specialist care and support across the county, under a framework agreement initially agreed by Cabinet in 2009.
- The decision will mean a transfer of potentially 52 full time equivalent staff to the new provider/s and this will take place under the Transfer of Undertakings (Protection of Employment) Regulations 2006. ("TUPE")

Proposal(s)

Cabinet are asked to approve the following:

- To enter into a competitive exercise with the 9 Care and Support Providers who have been listed on the Council's existing Framework Agreement since 2009; to procure the support services which will mean that the Council's own staff will "TUPE" transfer across to the successful appointed provider/s;
- To delegate authority to the Corporate Director with responsibility for Adult Services to award the contract in consultation with the appropriate service directors.

Reason for Proposal:

The majority of supported living services are already provided by independent sector care and support providers across the county. These organisations provide a quality care and support service to individuals living in their own homes.

This decision represents the last phase of the transfer of the Council's own services to providers under this framework. In brief this means that 25 customers already living in their own homes (some with shared tenancies), will continue to receive the same high quality person-centred care and support, but where the staff providing that support will be managed and employed by an independent provider instead of the Council

Name of Director: Sue Redmond
Designation: Corporate Director

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Purpose of Report

Cabinet need to make this decision because:

- the number of staff involved in the TUPE transfer will exceed 50 (65 staff in total)
- the value of the service is over one million pounds

This report outlines a proposal which seeks to provide continuity of care to customers living in their own homes, with continuously improving choice & control in their lives.

The responsibility for the assessment and review role continues to be delivered by the Council's adult social care Operational Teams.

The Council's Operational service has commenced initial communication and discussion with staff and customers, their families/ Carers to ensure that their views help to shape any future decisions, alongside the publication of this Cabinet report. It should be emphasised that staff, at every point in this programme will support customers and families/ Carers to make sense of the proposals and changes if Cabinet agrees. Indeed, the plan is for customers and their families/ Carers to be the people who will help choose the providers and really take charge of their lives.

Background

At a time of rapid changes in social care markets the council's business plan 2011-2015 clearly outlines its role as a commissioner of social care services, (this means that planning, consulting, ensuring quality and looking to the future needs for the people of Wiltshire) rather than providing services directly. One of the "Commissioning Intentions" for 2011-2014 is for quality services to be delivered with our provider partners, as outlined in a previous Cabinet Paper (2009) the "Learning Disability Supported Living Framework Agreement".

Main Considerations for the Council

There is a vibrant well established supported living market in Wiltshire, with approximately 60 Providers supporting 260 customers with an expenditure of £6.5m per year.

The Council's "in house" supported living service has been in existence since 2006. It currently supports 25 tenants across the county in a range of housing options, in shared

houses where 24 hour support is provided through to low levels of support to individuals living in their own properties. Current customers live in properties in Melksham, Trowbridge and Salisbury.

The proposed changes will provide an opportunity for customers and their families to become involved, in making decisions about which provider/s support/s them, or which provider/s they employ to deliver their own support whilst remaining in their own home.

It is proposed that the contract will be let by a competitive process with the 9 Providers currently on the Care & Support Framework Agreement. The successful provider/s shall formally comply with the TUPE transfer requirements of the WSLs staff. The Provider/s will enter into "Individual Service Level Agreements" with the Council, for each Customer within the existing WSLs service. Quality of service is paramount and although having been selected on the Council's framework agreement, the selection process will include further qualitative measures such as:

- Visits to houses and schemes where providers currently operate
- Discussion with customers and their families at schemes where providers currently operate
- Analysis of external audit and CQC regulatory compliance reports
- Analysis of ongoing business viability, management and governance

Environmental and Climate Change Considerations

There is no environmental impact as the individuals will be remaining in their own homes with potentially the same staff providing the direct support to them.

Equalities Impact Assessment (EIA)

No change of service type and scope is proposed and consequently there will be no impact on equality.

Current service provision has been Equality Impact assessed (EIA). It is anticipated that within the proposed procurement, the same support workers will be delivering service to the same customers. In addition the Council's duty to promote equalities will be met by the proposal to monitor equalities by way of EIA review throughout the transfer project duration and onwards into delivery of the new service.

The rigorous tender process adopted at the time the Framework was initiated has already established that the 9 Providers on the Framework are able to deliver quality services; represent "best value" and provide safeguards against the risk of service failure.

Risk Assessment

The key risks associated with this project together with the actions that will be taken to address or mitigate these risks have been identified and under regular review.

Financial Implications

The most cost effective way to deliver supported living services is to use the Care and Support Framework. Savings of approx 10% (estimated nationally evidenced by other such transfers) of the budget cost and based on reductions in management and overhead costs, are possible. This equates to an efficiency saving of £195k, which is reflected in the Council's latest financial plan for 2012/13.

Legal Implications

The DCS0193 Care & Support Framework Agreement was let in accordance with European legislation (Official Journal of the European Union) and although exempt under Part B, the full OJEU process was adopted. The supported living market for adults with a learning disability was fully tested via an open and transparent tender exercise and the 9 Providers selected represent “best value”.

The current proposal could be viewed as being outside of the original procurement. However, it is still a part B service and so the Council can determine the form of the tender exercise as long as that process is fair, open and transparent and the appropriate market has been opened to competition. The process will be fair, open and transparent and it is the view of officers that the current framework providers are the market of providers able to meet this service requirement in Wiltshire. The risks of challenge on a procurement process issue are low.

As TUPE will apply it is vital that the Council are legally compliant and key timescales within the project plan will accommodate the need for informal and formal consultations to take place (which will be supported by the Trades Union, Human Resources and Legal representatives).

Other Options Considered

- 1 *Outsource complete service via a competitive exercise with Providers who are on the Care & Support Framework* – permits a smoother more cost effective transition and allows a full evaluation of the service. Would cause less disruption to current service and minimise if not remove any impact on Customers. Providers are likely to be more interested in quoting against an established business unit
- 2 *Do nothing* – This would mean that the Council would retain management responsibility for the service as a direct provider which could potentially restrict customer choice and could adversely affect the ability of the service to continuously develop.

Consultation Process & Communication Plan

A detailed Communications Plan has been prepared to ensure that all key stakeholders are informed and consulted on the proposal, and given a full opportunity to contribute towards the process. Subject to approval by Cabinet of the principle of outsourcing these services, stakeholders will be further involved in the tender selection.

Safeguarding

The Council, whilst continuing in its assessment and care management role with these customers, has robust processes in place to protect the safety of individuals being supported. The providers were all rigorously assessed during the DCS0193 Framework procurement process and meet the quality criteria to be awarded framework contracts with the Council. A key part of this assessment evaluated their ability to support people to remain safe, through risk assessment, adherence to safeguarding processes, and recruitment, training and supervision practices. A contract monitoring review includes the review of policies and records, and interviews with the service users, staff and families. Providers are required to deliver an action plan to address any improvements required and this is monitored by the Disabilities Commissioning Team who can also support providers

to continually improve their services. Customers and their families/ Carers may change their support provider/s whilst staying in their own home.

Conclusion

We invite the Cabinet to approve Option 1 -

- to enter into a competitive exercise with the Care and Support Providers who are on the Framework, to procure the support services;
- the start of a formal consultation involving key stakeholders on the options and process for outsourcing prior to formal procurement procedures being undertaken.

**Sue Redmond,
Corporate Director**

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Date of report: March 2012

Background Papers

The following unpublished documents have been relied on in the preparation of this report:
None

APPENDICES

Appendix 1 DCS0193 Care & Support Framework Information

APPENDIX 1

DCS0193 CARE AND SUPPORT FRAMEWORK INFORMATION

What is supported living?

Supported living is when you get support to live independently in your own home. This may mean you live on your own, share with others or own all or part of your home. The people who give you support are not the same people who own the home that you live in. Some people have a little bit of support; other people have lots of support. A key component of this is that you live in your own home, and are able to choose or change your support provider.

What is the framework?

The council uses something called a framework which is an agreement for purchasing all supported living related services for adults with a learning disability. It has to use this framework for everyone unless there are very clear, formally recorded reasons for not doing this. If the council fails to use the framework agreement appropriately, then the providers can legally challenge the council. This framework can be accessed to provide a supported living service for any adult with a learning disability who is eligible for community care services when their assessed needs are assessed as being critical or substantial and their wellbeing would be at risk without a commissioned service being delivered to meet their needs.

All nine providers on the framework have already gone through a full and comprehensive tendering process where their skills, knowledge, experience, and best value for money have been ascertained by key stakeholders, including customers who may use the service.

How does it work?

A care manager does an assessment of a person's needs and, if eligible, proceeds to get a budget agreed. Once the budget has been agreed an 'Invitation to Quote' process is started with the providers. The process has to be followed to ensure that providers have been given a fair and equal chance to 'bid' for the person's support. The support providers supply the council with the details of how they would provide the service and the cost of the service. Once all the quotes have been received they will be evaluated by the care manager, the person concerned, and other people involved in that person's life. This gives the person a chance to meet the support provider and their family, to ask further questions and to make sure they will receive good support. After evaluating all the quotes, the successful provider will be notified and a start date will be agreed for the support package.

Exclusions to the framework

Any customer receiving a direct payment for their support service can choose their own provider, including from outside the framework agreement. The council only has the responsibility to provide guidance and support to the individual in regard to making an informed choice. Any resulting contract will be between the individual and the provider.

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