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| Subject: | Permission to Tender for Home Care | | |
| Date of Meeting: | Health & Wellbeing Board – 2 February 2016 Policy & Resources Committee – 17 March 2016 | | |
| Report of: | Executive Director for Adults' Services | | |
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| Ward(s) affected: | All | | |

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report outlines the recommendations for the new home care (domiciliary) contract. A joint contract between the Council and the NHS Brighton and Hove Clinical Commissioning Group (CCG)

2. RECOMMENDATIONS:

- 2.1 The recommendation is to approve the recommendations from the Health & Wellbeing Board on 2 February 2016. These were:
- 1) To agree to commence a tender process leading to the award of home care contracts to suitably qualified providers who are able to demonstrate that they can provide value for money, effective from September 2016 for a duration of five years, with provision for a further extension of up to two years, as outlined in this Paper;
 - 2) To grant delegated authority to the Executive Director of Adult Services to approve the award of contracts, following the conclusion of the procurement process;

3. CONTEXT/ BACKGROUND INFORMATION

Background to the home care market

- 3.1 The national home care market is fragile.
- Allied Health Care, the largest national provider has recently been sold following a posting of a loss in profits of £220 million.
 - The chief executive of the Care Quality Commission warns that banks are not lending to homecare providers because of the commercial outlook.

3.2 Locally in the summer of 2015 two main providers gave notice to leave the market, this was for 2,000 hours and impacted on 230 publically funded people in the city

3.3 The Statutory Guidance for Section 5 of the Care Act 2014 states:

“When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care.”

Overview

3.4 The current home care contract commenced in 2012 and has been extended until September 2016. The service provides personal care and support to people living at home in Brighton and Hove. The intention is that the services will be accessible to those who are assessed as needing public funding and those who fund their own care. The new services will be jointly modelled between Brighton and Hove City Council and NHS Brighton & Hove CCG, with the latter a contracting party via an Access Agreement.

3.5 Key to the new contracts is a commitment to quality. They will be outcome based. Commissioners are consulting closely with stakeholders, including potential providers, assessment teams, users and carers. The aim is to minimise disruption to service users.

3.6 The United Kingdom Homecare Association Ltd (UKHCA) is the professional association of home care providers from the independent, voluntary, not-for-profit and statutory sectors. They have designed a cost model which can be used for the calculation of a fair price for social care services. This has been used locally for all costings. It includes paying workers a living wage which will help provide stability to the market.

3.7 It is a contract that will evolve. Flexibility is essential; the Council/ NHS CCG will work with providers to change any aspect of the Service Specification during the life of the contract. Developing national or local policies and priorities may also necessitate changes. The views of providers, service users and their carers will be taken into account with any developments. This contract will also be delivered in accordance with the Unison Ethical Charter for Home Care and support the Living Wage.

Outcome focussed

3.8 The new contracts are ‘outcome focussed’. It will enable the providers to agree a schedule of care and how it is delivered in partnership with the service user and their representatives. As part of the outcome approach encouragement is given in the model of service delivery to developing links with the local community to assist in decreasing isolation and improving health and wellbeing.

3.9 In the existing contract, the Council creates a support plan for providers, including a set schedule to complete specific tasks. This approach is referred to as the ‘time and task’ method and it can limit innovation and personalisation. It

also leads to the commissioning of 15-minute home care visits, a practice not recommended by the UKHCA (UK Home Care Association) and Unison. The new contract moves away from this approach.

Areas

- 3.10 The new contracts will continue to use geographically based areas. This allows home care providers to focus their attention on specific areas, reducing travel time and cost and increasing the amount of contact time a care worker has with service users. After much discussion and modelling the 10 geographical area option seems to best meet needs. Links with Health areas have been explored; however the NHS GP Cluster model is not workable, but efforts will be made to link providers to GP clusters.
- 3.11 As a result of the tender process a lead provider will be allocated to each area, with an expectation that they accept the majority of home care packages in that area. This will be a key performance indicator in the new contract (see Contract Monitoring below). Each area will also have a back-up provider who will take up the package if not accepted by the lead provider.

Core and Enhanced packages

- 3.12 The contract will be priced using a set hourly rate model (as discussed in paragraph 4.10 below). The vast majority of care packages (estimated over 80%) will be labelled as 'core' covered by a set of specific tasks detailed in the Specification.
- 3.13 Some packages will include tasks which require additional training. These include those for people receiving Continuing Health Care and NHS Enhanced Level Two Tasks (such as peg feeding). Care packages including these tasks will be considered 'enhanced' and attract a higher hourly rate. It is anticipated that by the end of the contract period up to 15% of tasks will be enhanced.

Dynamic Purchasing System (DPS)

- 3.14 A small number of care packages (estimated initially at around 5%) will have requirements outside of the scope of the core and enhanced service specifications. This could include people with complex care needs or challenging behaviour. To ensure these packages are taken up by providers and that a fair price for care is paid, these packages will be allocated to providers via a DPS. The DPS will also be used for core and enhanced care packages which have not been picked up by lead/back-up providers in their areas.
- 3.15 This system allows any qualified provider to submit an application, including a bespoke price, to provide the required care. These applications will then be assessed in terms of both price and quality and the care package allocated accordingly.
- 3.16 Utilising a DPS approach will allow for new entrants in the market to apply to be approved providers and submit applications for packages. This will help stimulate the local market and improve contingency plans in the event of provider

failure. It is anticipated that the percentage of packages allocated via the DPS will increase throughout the life of the contract.

- 3.17 In addition to the lead and back-up providers in each area, there will be a two number of standalone lots being: procured as complimentary lots to the main home care contract:
- Home care for people in extra care housing
 - Home care for homeless people
- 3.18 The extra care housing lot covers support at various sites, including the New Larchwood Extra Care facility. This service is currently provided to 16 of the 38 people by the Council's Independence at Home Team. (I@H). The remaining tenants have their care delivered from independent providers, personal assistants, and some people do not require a service.
- 3.19 I@H has been moving to becoming a more specialist short term reabling home care service for several years. No other adult social care provider in the city provides such a service.
- 3.20 The unit cost of the I@H service is significantly higher than that of the independent sector. Due to the higher unit cost, it is important that I@H concentrate on the provision of a more specialist short term services to prevent hospital admission and to facilitate hospital discharge. In addition, the service provides a service of last resort for a small number of people who may require it.
- 3.21 The service users at New Larchwood need longer term, steady state care. They do not require the more specialist short term reabling service that I@H provide. This longer term care is similar to that provided by all the independent sector care providers in the city. The home care service at Patching Lodge & Vernon Gardens extra care schemes is provided by an independent sector provider.
- 3.22 If the recommendations in this report are finally agreed, service users would have their service delivered by the provider who is successful in bidding to provide the home care service at New Larchwood. Each service user would be supported through their transition to a new provider, and their needs would continue to be met. Service users will be informed about this proposal prior to the Health & Wellbeing Board taking place, and they will be supported through this process.
- 3.23 In September, Brighton & Hove Council's recognised unions and relevant staff at New Larchwood were informed of the intention to retender the BHCC Home Care Contract, the inclusion of New Larchwood in this tender and the potential for staff at New Larchwood to TUPE transfer to a new provider. Brighton & Hove Council unions and staff have been kept updated with progress with the retender process since September.
- 3.24 Commissioning the service with a new provider will result in a TUPE event (Transfer of Undertakings (Protection of Employment) Regulations 2006). A TUPE event occurs where an undertaking is transferred and there is an economic entity which retains its identity. TUPE will see relevant Brighton & Hove Council staff, jobs and employment transfer to the new provider on the same terms and conditions as their current employment. This change of provider

is likely to result in some savings to the Council. The TUPE Regulations require that affected Staff and appropriate representatives are informed and consulted on the issues arising as a result of the potential transfer. Affected staff and Union representatives have been consulted in compliance with the Regulations.

- 3.25 To ensure the new service is a success, a set of robust key performance indicators will be included in the contract. These include tracking of performance in relation to:

| Ensuring a quality service | Performance measurement |
|---|---|
| Making sure service users receive their service in a timely way | Pick up time for lead and back-up providers i.e. the interval between which a Package of Care is offered to a Provider and it is accepted |
| The consistency of care workers visiting service users | Monitoring Care Workers' entry and exit times on home care visits. |
| Ensuring recruitment and retention of staff | Payment of a living wage and travel expenses for care workers |
| The quality of training for home care staff: | This is critical to ensure service users are receiving a quality service which is safe and effective. |

- 3.26 Service quality will be monitored by the Commissioning and Performance team and also the Care Quality Commission which provides regular updates to the Council.(Care Providers must be registered with the Care Quality Commission).

Proposed Rates and impact

- 3.27 The set rate for Core care packages has been based on the UKHCA's annual report 'A Fair Cost for Home Care', with some local variations to take into account the particularities of Brighton and Hove. Key factors such as the living wage and paid travel time/expenses have been addressed and all business processes have been reviewed to ensure that the new contract delivers value for money.

- 3.28 The proposed hourly rates and the estimated additional full year cost are:

| Core Rate (£ per hour) | Enhanced Rate (£ per hour) | Annual increase in Commitment (Council Collects Income) | % increase compared to Current Commitment |
|-------------------------------|-----------------------------------|--|--|
| 17.24 | 19.24 | £0.531m | 5.8% |

- 3.29 This recommendation mirrors the 'running the business and profit' percentage rate suggested by the UKHCA and results in an increase in the hourly rate paid by the Council and NHS. The recommendation seeks to address the volatility of the market and meet the requirements to pay carers a living wage.

3.30 Some of the impact of this increase is offset via changes to the model of delivering the service, such as the removal of enhancements for 15 minute calls.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The home care market is fragile and action needs to be taken to encourage new local providers. The dynamic purchasing model will allow new providers entrance and provide for a more robust market. Additionally the new contract will deliver better terms for care workers and enable targeted, transparent and fair monitoring of delivery.

5. ENGAGEMENT & CONSULTATION

5.1 Officers from Brighton and Hove Council and NHS Brighton & Hove CCG have worked very closely with a range of stakeholders. Existing providers have attended a number of engagement events, where various elements of the service specification and model have been discussed. Where appropriate, provider feedback has had a direct impact on the model. Two wide-ranging market testing exercises have been completed and a large briefing event for all providers in the market has taken place.

5.2 Service users and their representatives have attended a working group which is responsible for input into question setting and providing evaluation guidance to the tender evaluation panel.

5.3 A project board with monthly meetings was established at the commencement of the project. Representatives on the board include officers from commissioning, procurement, finance, human resources, legal the CCG and operational teams such as care matching and assessment services.

6. CONCLUSION

6.1 The new contract is a joint Council and CCG offer and it should attract new providers into the market. If the report is agreed home care currently provided by I@H at New Larchwood will be included in the tender alongside other home care provided in Extra Care housing.

6.2 The new contract will offer a new fee to providers. Key factors such as the living wage and paid travel time/expenses have been addressed and all business processes have been reviewed to ensure that the new contract delivers value for money. It is an outcome focussed contract that removes the need for the 15 call.

6.3 There has been wide ranging engagement in place since the start of the project. This has included service users and their representatives in addition to professionals working in Care and Health.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications

- 7.1 The Council's estimated full year cost of current service agreements for care packages on the current Home Care set rates is £9.182m for 1,416 clients.
- 7.2 The 2016/17 increase in net cost for September 2016 to March 2017) is anticipated to be £0.373m (£0.531m full year effect). The net cost allows for an increase in income from full-costers (self-funders) of £0.072m (£0.097m full year effect). The proposed 2016/17 budget allows for an increase of 2% from inflation (£0.184m) which will reduce the financial impact of the increased rates to £0.189m for 2016/17 (£0.347m full year effect).
- 7.3 The standard and enhanced rates have been calculated using the UK living Wage of £8.25 per hour (as promoted by the Living Wage Foundation) and based on the UK Home Care Association 'A Fair Cost for Home Care' report and adjusted for local market intelligence. The additional cost of allowing for UK Living wage within the proposed rates is estimated at £0.373m for 2016/17 with a full year effect of £0.531m. The revised contract is expected to improve the Value for Money for both the Council and Brighton & Hove CCG.
- 7.4 Future increases in the UK Living Wage will impact on the gross fees and this will be modelled when the new rates are announced in November of each year and built into the medium term financial strategy.

Finance Officer Consulted: Anne Silley

Date: 21/12/15

Legal Implications:

- 7.5 The Services required under this procurement fall within Schedule 3 of the Public Contracts Regulations 2015 (SI 2015/102) and therefore subject to what is frequently referred to as the "light touch regime". The value of the procurement exceeds the threshold (£589,148.00) at which an advertisement is required to be placed in the Official Journal of the European Union. The opportunity will therefore be advertised across the European Union satisfying the requirement to seek value for money. The procurement process is not unduly proscribed but must accord with the fundamental public procurement principles of transparency, fairness and equal treatment. The OJEU notice is a fundamental procurement document and it is important the notice reflects the extent to which variation of the contract over its life is permitted to reflect changing circumstances, developments in best practice; the provisions relating to the requirement to pay the living wage and the potential for a TUPE transfer. It is a further requirement that the nature of the Lots is specified in the Notice.
- 7.6 Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply in which case the provision of the regulations must be complied with.
- 7.7 Consideration must also be given when letting service contracts to the provision of social value (Public Services (Social Value) Act 2012). This is apparent from the report which indicates that the model of service delivery will include encouragement to extend links for service users in the wider community.

- 7.8 It is a function of the Health and Well Being Board to oversee and make decisions concerning Adult Social Care. Reference to the Care Act is made in the body of the report. Section 5 of the Care Act 2014 imposes duties on the Local Authority to facilitate and shape the market so that it meets the needs of all people in its area who need care and support, regardless of how it is arranged or funded. The duties imposed require the Local Authority to ensure the market provides diverse, high quality, sustainable options to meets needs now and in to the future.

Lawyer Consulted: Judith Fisher and Sandra O'Brien

Date: 08/1/16

Equalities Implications

- 7.9 Since the beginning of the home care tender project an Equalities Impact Assessment has been used to inform processes.

Sustainability Implications:

- 7.10 The new model of the home care service will enable providers to plan their scheduling and routes more effectively, reducing the amount of travelling between appointments. Additionally, the area model is being utilised, ensuring the area covered by providers is of relatively small size. These features reduce the environmental impact of travelling and enable care workers to walk and use public transport.
- 7.1 The home care market both nationally and locally is unstable. Providers are finding it difficult to recruit and retain staff. Some providers struggle to remain in profit and there have been significant exits from the market. In order to support the market the new contract includes smarter ways of working and improved fees.

Health, social care, children's services and public health

- 7.2 The new home care contract is a joint contract for home care to adults. It will be between the Council and CCG with providers. All parties have been involved as stakeholders through the process. Prevention, reabling care is a core care component.

SUPPORTING DOCUMENTATION

None

