

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Date:	21 September 2016
Title:	Direct Award of Contract Relating to Learning Disability Services
Reference:	7718
Report From:	Director of Adults' Health and Care

Contact name: Jason Norum, Commissioning Manager

Tel: 01962 847944

Email: Jason.norum@hants.gov.uk

1. Executive Summary

1.1. This report seeks approval from the Executive Member for Adult Social Care to spend up to a maximum of £6m and to put in place three contracts via direct awards for up to 2 years on basis of 1+1 to commence on 31 October 2016.

1.2. This paper seeks to:

- Set out the background context to the project
- Consider the finance for the project and the impact on the budget
- Summarise the key issues
- Consider the future direction of the project

2. Contextual information

2.1. TQ21 are the domiciliary care arm of Southern Health NHS Trust. TQ21 have previously been the County Council's largest provider of domiciliary care and support to people with Learning Disabilities.

2.2. In 2014/15 the County Council put in place a Framework for support for people with Learning Disabilities, and subsequently re-commissioned most domiciliary care and support through the Framework, through the use of the "mini-competition" or "call off" process. TQ21 currently hold contracts awarded both under the Framework and separately. In total they support up to 64 individuals predominantly in shared supported living services (22 addresses). The individuals have a range of highly complex needs, with a mixture of day and waking night hours and sleep in support provided.

- 2.3. TQ21 provided notice on these contracts in February 2016 and following negotiation the existing contracts will continue until 30 October 2016. The County Council used the Framework for Learning Disability and Shared Support to re-commission the support provision through the LD Framework call off process. The 22 addresses were split into 5 “cluster contracts” based on location and service user need.
- 2.4. At the end of the call off process in July 2016, of the 5 contracts called off, two have been awarded, and three contracts have not been awarded. This is because bids were not received or minimum scoring thresholds stipulated in the call off process were not reached.
- 2.5. The three contracts that have not been awarded support up to 30 individuals in 11 addresses.
- 2.6. Having failed to identify new providers for three contracts through the use of the call off process, the County Council considered a full open tender process to select new providers. In order to run a full open tender process, the County Council would require approximately nine months, which would include a minimum 12 week TUPE mobilisation period. This would mean new contracts starting in May 2017 if the tender process was started immediately.
- 2.7. The County Council has been unable to reach agreement with TQ21 regarding their requirements to maintain provision for the nine months needed to operate a full open tender process.
- 2.8. Therefore, approval is sought for interim Direct Award of contracts to ensure the County Council can continue to fulfil its statutory obligations to meet assessed eligible need. These contracts would be in place for 1 year, with the option to extend for a further year. These interim arrangements would also provide continuity of support and provide the time required to either run a full tender process or use the successor to the LD Framework to commission new longer term contracts. (The LD Framework expires in August 2018. These interim contractual arrangements will require new providers to be in situ by 31 October 2018 at the latest).
- 2.9. A revised end date for current contractual arrangements has been negotiated with TQ21 in order to provide sufficient time for safe service user transfer and TUPE mobilisation.
- 2.10 The providers stated in 2.11 were selected taking into account;
 - If the provider is an approved Learning Disability Framework supplier
 - If the provider had expressed an interest in the call-off process for previous contracts of a similar nature
 - The geographic proximity of the provider’s current services and local management infrastructure
 - The County Council’s understanding of current market conditions
 - The provider’s experience of TUPE transfer of staff on NHS terms and conditions

- The provider's experience delivering services to people with very complex needs

2.11 Additionally, Dimensions are the market leader in Hampshire for Supported Living Services for people with learning disabilities. Wessex Regional Care already provide support to 5 of the 6 individuals in the Blackfield Contract, ensuring maximum continuity for these individuals with complex needs.

Blackfield Shared Service – Wessex Regional Care

Value per annum £560,600, total value £1,121,200

Hayling and South Havant – Dimensions

Value per annum £828,500, total value £1,657,000

Fareham and Locksheath – Dimensions

Value per annum £1,219,500, total value £2,439,000

3. Finance

3.1 The total cost of services required is £2,608,600 per annum and £5,217,200 for the full duration of the contract, should the extension period be taken up. Permission is sought for up to £3m per annum, to allow for any future increased need for this service user cohort and new referrals to any currently void beds to be met under the permission to spend.

3.2 Although the projected spend for these contracts is an increase from the current cost it is believed that this represents the best value that can be achieved in the short term. In addition, should the annual costs reach the £3m for which approval is being sought, this will be a further annual pressure. Should any pressure arise it will need to be found from within the existing budget limit for Adults, Health and Care

3.3 Detailed breakdowns of costs related to this permission to spend request are set out in Exempt Appendix A. Funding will be via the Learning Disability Budget.

3.4 Negotiations with the providers have ensured that the rates submitted and used for these contracts are competitive and offer good value to the County Council for these interim arrangements.

3.5 The County Council's approach to this situation provides a high degree of continuity as it is anticipated that the majority of current support staff will be eligible for TUPE and will transfer to the newly identified providers.

4. Consultation and Equalities

- 4.1 A change of provider can cause anxiety for people with Learning Disabilities with associated complex needs. Many service users affected by this situation have no experience of receiving care and support from other provider organisations and there will be a high degree of uncertainty and anxiety amongst service users, family carers and staff.
- 4.2 The County Council has organised and will support drop in events and will ensure service users and family carers are kept up to date with developments through frequent communications.

5. Other Key Issues

- 5.1. TQ21 have stated that they are unable to continue to provide support to these individuals beyond October 30th. If support were not available, the County Council would not be meeting its statutory obligations to meet assessed eligible care and support needs. There would be a critically high level of risk if support was not available to these individuals, with death or serious injury likely to occur immediately in many cases.
- 5.2. The only other option open to the County Council would be to provide high cost residential care packages. However, it is highly unlikely that the County Council could source 30 appropriate residential care placements in Hampshire, in the time available. It should also be considered that these individuals have tenancy rights and may refuse to be moved to alternative provision. Given the history, current provision and complex needs of the individuals concerned, it is unlikely that a move to a residential care provision would be in the best interests of the individuals concerned.
- 5.3. Most contracts let through the Learning Disability Framework are on a 3+2+2 year basis. This is to provide maximum continuity to service users, family carers and staff. This also allows providers to undertake long term strategic planning, which enables them to offer maximum value to the County Council.

The proposed duration of the proposed contracts via direct award (1+1) is designed to provide sufficient continuity and consistency to service users and family carers, whilst recognising that the County Council will re-procure these contracts as soon as possible. Additionally, incoming providers need a degree of stability and projected return on start-up costs to undertake the TUPE transfer of NHS staff.

6 . Legal Implications

- 6.1 In exercising its functions an authority must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equalities Act and advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.2 Legal advice is set out in Exempt Appendix A

7. Future direction

7.1 At the end of this interim arrangement, contracts will be re-tendered through an open tender process, or the successor to the LD Framework. Permissions to spend will be sought as required.

8. Recommendation(s)

8.1 That the Executive Member for Adult Social Care gives approval for contracts to be put in place via direct awards as set out in the report, and spend up to a maximum of £6 million for up to two years on the basis of 1+1 to commence on 31 October 2016.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	<u>yes</u>/no
Maximising well-being:	<u>yes</u>/no
Enhancing our quality of place:	yes/ <u>no</u>

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

DocumentLocation

None

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;

Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.2. Equalities Impact Assessment:

The service users affected by this project have learning disabilities, autism and other associated complex needs. In many cases an individual's ability to understand the situation may be limited. The project is intended to work in the best interests of service users by ensuring continuity of support. The approach adopted by the County Council will maximise the possibility of TUPE transfer of staff from TQ21 to new providers, and ensure that service user's current housing arrangements are not jeopardised. The potential impact of not proceeding with the project would be critical levels of risk experienced by service users who are unable to meet basic care needs without support.

The County Council will maintain written communication with Service Users, and have requested TQ21 support people to understand the communication. Drop in events are also being planned. Advocacy organisations have also been briefed and are available to support individuals on referral. If individuals wish to commission their own support, Direct Payments remain an option in these circumstances.

2. Impact on Crime and Disorder:

2.1. None

3. Climate Change:

3.1 None