

Cabinet Member for Adults and Health	Ref No: AH08 20/21
Date: August 2020	Key Decision: Yes
Supported Living Services Procurement - 'Supporting People in their own home'	Part I
Report by Interim Executive Director Adults and Health	Electoral Division(s): All

Summary

The West Sussex commissioning strategy is to reduce the number of people in hospital, residential beds and placed out of county and to increase the number in settled and 'most suitable' accommodation.

Supported Living services are currently commissioned through two contractual frameworks. The proposal is to replace these frameworks with a single recommissioned Supported Living Framework which will:

- Support delivery of the adult's social care vision and strategy;
- Replace current contract arrangements with new arrangements;
- Support the management of challenges in the provider market including recruitment, retention, sustainability and growth;
- Reflect the outcome of the consultation and engagement undertaken during 2019/20; and
- Enable the Council to meet the care and support needs of residents who have been assessed as having eligible social care needs in line with the Care Act 2014.

The proposal for the new commissioning arrangements includes a focus on strengths based and outcome focused services that will complement the adult social care community led support practice being implemented across the county.

To avoid disruption for existing customers, the proposal is that where possible customers will continue to be supported by their current provider. However, it will be a requirement that all providers on the 2015 Framework supporting existing and / or new customers will be contracted with the Council through the new framework arrangement.

West Sussex Plan: Policy Impact and Context

A Strong, Safe and Sustainable Place:

Adult services vision and strategy is for adults with care and support needs to have the best opportunity to lead healthy and independent lives. This requires a focus on the outcomes they want to achieve and investing in

models of support that are fit for the future, those which promote independence rather than dependence.

The provision of effective high-quality supported living services is key to the delivery of the West Sussex Plan, particularly around the aims and priorities within 'A Strong, Safe and Sustainable Place' as identified below:

- A good place to grow-up into adulthood and old age
- People feel safe and secure
- People have opportunities to thrive
- People are healthy and well
- People feel part of their community

In addition, services will be commissioned to work in the communities of West Sussex, and so support the local economy with recruitment of a strong local workforce.

Financial Impact

Across all customer groups, there is budget provision of £35.8m for Supported Living in 2020/21. Due to its value in supporting prevention and independence, the procurement will aim to secure an increase in the level of provision. This will be funded through a change in the mix of spending in the adult social care budget, which is also expected to enable a reduction in the demand growth allocation included in the Medium Term Financial Strategy.

Recommendations

The Cabinet Member for Adults and Health is asked to approve:

- 1) the creation of a new Framework allowing new and previous providers to apply for a place on the Framework, starting April 2021;
- 2) the commencement of a procurement for supported living services, with contracting arrangements to commence from April 2021; and
- 3) the delegation of authority for approval for contract award and any subsequent decisions and awards relating to these contracting arrangements to the Executive Director of Adults and Health.

Proposal

1. Background and Context

- 1.1 There is a desire and imperative to support more people to live as independently as possible within the community. This is dependent on the availability of accommodation and support to meet a wide range of needs but also dependent on cost and compatibility of need.
- 1.2 It is the council's strategy to increase the use of supported living provision with the aim of people receiving this type of support when it is the most appropriate and cost-effective setting and promotes individual development and dependency. Increasing access to supported living will also improve local performance against the Adult social care outcomes framework (ASCOF) target re the proportion of adults with a learning disability who live in their own home or with family ¹
- 1.3 Supported living is the term given to personal support services including personal care and includes the provision of accommodation based supported living schemes, outreach services and live-in carers.
- 1.4 Supported living outreach support are services provided to people who live in their own tenancy or with a family member and where there is no sharing of care with others; for example, people who live at home with family members and require care and support to help them to get ready in the morning to access their community. There are also a small number of people who have 24/7 support in their own home.
- 1.5 Supported Living accommodation-based schemes are widely seen as the model of choice for accommodation and support for people who do not live with their families. The schemes enable people to hold tenancies and share a property with others or have individual units within the same building and have care provided by the same supported living provider. Rent can be met by Housing Benefit or through Housing Costs under Universal Credit if the person is eligible for these benefits. A separation between landlord and support provider gives people living in these services' some security of tenure. The design of services can vary from purpose-built buildings, where people have their own flat or studio flat, to shared homes with communal areas. Support models vary depending on people's specific needs. Most services operate a model of shared care and many provide 24-hour on-site presence, where staff work night shifts, either waking or sleeping at the service. The staff team support people to maximise their independence.

¹ <https://digital.nhs.uk/data-and-information/publications/statistical/adult-social-care-outcomes-framework-ascof/upcoming>

- 1.6 Live-in care is where the professional carer lives with the person they are caring for. They help them with their daily routine to be able to live independently. This may include helping them to get up in the morning, preparing meals, taking them out for social events.
- 1.7 Supported living is suitable for people with a range of different needs including providing help with communicating, managing challenging behaviours, developing social friendships, preparing for employment, budgeting and developing everyday life skills, for example cooking and cleaning. The support will be tailored specifically to their needs, including providing Positive Behavioural Support (PBS) where appropriate.
- 1.8 The Council commissions supported living services from two framework contracts. The Council also commissions domiciliary care through the Care at Home Framework for people with comparable needs. The current Supported Living Framework (SLFSSF) and the Framework Agreement for the Provision of Community Based Mental Health Support Services end March 2021 and there is no further provision to extend.
- 1.9 There are approximately 780 adult customers from Lifelong services (770 LD and 10 PSI), 292 people from mental health and 31 children in receipt of supported living services.
- 1.10 There are currently 65 providers on the Supported Living Framework of which 47 are actively delivering support. On the Framework Agreement for the Provision of Community Based Mental Health Support Services, there are 21 providers of which 15 are actively delivering support.
- 1.11 At the point the two 2015 frameworks terminate alternative contractual arrangements are required to replace them. All legacy contract arrangements for the provision of supported living will cease and will be replaced by new arrangements. This will mean that all providers wanting to continue or to commence working with the Council to provide services to customers will be required to engage with the new arrangements through the procurement process.
- 1.12 The current Frameworks have successfully promoted a consistent approach to the purchasing of new services, supported a defined market and encouraged the provision of high-quality services. However, since the last procurement a number of unforeseen challenges have been identified which will need to be addressed in the commissioning of the new framework.
- 1.13 These include:
 - 1.13.1 The terms of the current framework which do not encourage growth and development of our market that covers complex care and

support needs. The new Framework sets out the provision for the Council to commission new business for individuals who have exceptionally complex care and support needs. This will enable the Council to commission new schemes that will facilitate people to leave long-stay hospital settings and move to more appropriate environments supported by providers who have met high quality thresholds to deliver care and support needs in specialist schemes. The Framework will allow the Council to be more creative about how these arrangements can be delivered, provide greater market control in commissioning these schemes, and improve patient flow into innovative community settings. Having an 'Open' Framework allows new Providers to join at any point so the Council has access to a wider range of specialist providers who might not otherwise do business in West Sussex. It also encourages growth and a responsive local market whilst decreasing the need to use Individual Placement Agreements in response to unmet need, which are often made out of County and at higher hourly rates.

- 1.13.2 Following the report and recommendations into care and treatment at Winterbourne View, the Transforming Care Programme has shown that institutional settings are rarely person centred and has promoted an increase in the number of customers being discharged from long-stay hospital inpatient services into community placements with the right support. This has increased the need for new intensive and specialist schemes which the current framework was not set up to commission. The new provisions of the Framework will allow the Council to commission new services in the community which means fewer people will be admitted into high cost hospital placements for their care.
- 1.13.3 The availability of Higher Rate Housing Benefit for specialist placements will be increased via the new Framework as it will enable the Council to commission, in the majority of new business, with the requirement that Providers partner with a housing provider who are either a Registered Provider of social housing, a community interest company, or a charity. This ensures that rents are exempt from Local Housing Allowance and can be met in full by local Housing Benefit Departments who receive a government subsidy for these awards, meaning that housing costs are not passed on to the Council under this care and support contract.
- 1.13.4 The introduction of the National Living wage has made recruitment and retention of support staff more challenging in the jobs market, and this has meant the gap between the Framework's maximum hourly ceiling rate and Providers staffing costs, has been eroded. The new Framework offers a way for the Council to passport existing business across at the current ceiling rate, commission new standard business at the ceiling rate, and commission new specialist provision at an enhanced rate where there is evidence

that this is necessary because additional costs will be incurred by the provider.

1.14 Faced with these challenges, it is challenging to maintain the same spend on the supported living provision; and not possible if the number of people supported in such provision increases, particularly those with more complex needs. While maintenance of the ceiling hourly rate has had some unintended consequences, it has also prevented the escalation of hourly rates seen in some parts of the market, for example the domiciliary care market. This has been possible only through use of the Supported Living Framework.

1.15 How increases in spend will be mitigated is covered in section 4.

2. Proposal Details

2.1 The provision of effective high-quality supported living services is key to the delivery of the West Sussex strategy. The continued availability and continuity of current provision and the ability to develop and expand availability to people with complex health and social care needs will be supported by the new framework and the development of an associated accommodation strategy.

Proposed Route to Market:

2.2 A new open framework will allow the council to work flexibly with providers. New providers will be able to join the framework at any time including at the point of awarding work. Existing business will be transferred over to the new Framework for all current providers that agree to new terms, meet requirements and quality. This will enable the council to keep the status quo to ensure there is minimal disruption to people's settled accommodation and support.

2.3 The new Framework will have three Lots as follows:

- Lot 1: Supported Living - Outreach Support Services and Live-in care
- Lot 2: Supported Living – Accommodation-based Services
- Lot 3: Supported Living – Accommodation-based Services (Intensive and Specialist)

2.4 Most business will be delivered under Lots 1 and 2. Outreach and Accommodation-based Services will have a maximum ceiling hourly rate where existing business will transfer across on the same hourly rate plus any uplift that has been agreed and applied in 2021/22. In 2020/21 the uplift that was applied was 4%.

2.5 Lot 3 will be used by exception, for example, where:

- future business requires new intensive and specialist accommodation schemes to be commissioned and it is more cost effective to do this via the supported living framework than in residential care services or spot purchasing.
- it can be demonstrated that there is cost avoidance or cost savings by commissioning new provision.
- such schemes can be costed to reflect the additional costs associated with running an enhanced service and mini tenders, with at maximum budget available and tailored specifications, will ensure that the council maximises value for money through a level of competition and driving a sustainable pricing from suppliers.
- We would expect such schemes to be costed so that, over a given time period, payments are reduced as the customers gains independence and resilience. If someone is not progressing, then alternative services will be considered.

2.6 The new framework will require providers to, where individuals are able, increase customer independence to reduce the level of support required to meet the customer's care outcomes, so that over time costs are reduced. This will sometimes require people to move on to other services.

2.7 Children's Supported Living and Independent Shared Lives service, currently included under the SLFSSF, will not be included under the new contract and will be taken forward under separate procurement arrangements and decision report. This will need to be managed at a corporate level to mitigate risks and ensure a lifelong approach.

Factors taken into account

3. Diagnostic assessment

3.1 In November 2019 a company called Newton Europe Ltd carried out some research in Lifelong Services looking at the 'ideal accommodation outcomes' of a sample of customers. The research found that a significant number of customers could be living more independent lives in more independent settings and that more Supported Living, Shared Lives and Extra care accommodation was needed. Within the South East Region, for example in Hampshire and Oxfordshire, there are much higher levels of supported living provision than West Sussex. The new Framework will allow for the continuation of the long-term placements (linked to tenancy agreements) and attract new business to join and help grow the market.

3.2 Consultation

- 3.3 Current providers on the SLFSSF were invited to complete online surveys and 11 responded. From this feedback a small focus group of providers met with the council. A market engagement event inviting all current and interested service providers was held on 30th September 2019, with 41 organisations represented at the event. The council presented draft proposals, developed following the focus group work, and gave providers an opportunity to shape the proposals that would be taken forward and explored further the challenges faced by the market.
- 3.4 Providers said what worked well including: a positive working partnership with the council; the Learning Disability Provider Forum; and having clear rates. There was agreement between providers that the maximum ceiling hourly rate did not reflect the needs of complex and specialist services. Providers requested more sustainable ways of doing business that shared risk and provided flexibility.
- 3.5 Customer engagement took place between 20th November 2019 and 31st January 2020. There was a limited response from mental health customers which will necessitate further consultation around this group to understand their perspective more fully prior to tender. There was some very positive feedback from people with a learning disability about supported living provision, complimenting staff who listened, showed respect and helped people to live independent lives. There was feedback, particularly around autism, of the gaps in Services for autistic people. Service users and their families also felt that pressures on recruitment, retention and skills of staff were having an impact on the quality of people's lives. A full report is on the [Have Your Say webpage](#).
- 3.6 The engagement has been extremely valuable, and feedback will be used to shape the procurement process and the service specification.

4. Financial (revenue and capital) and Resource Implications

- 4.1 The County Council has budgeted to spend £35.8m on Supported Living services in 2020/21. This is a figure that covers all customer types, some of which is subject to pooled arrangements with the West Sussex Clinical Commissioning Group. The majority of this (£29m) falls within Learning Disabilities, where it makes up 28% of the budget.
- 4.2 Since Supported Living is a cost-effective form of provision, one of the main aims of the procurement is to secure an increase in service availability. This is intended to reflect:

- The strategic objective to move people out of residential and have people in more independent settings, such as Supported Living in line with the priorities in the Adult Social Care Vision and Strategy;
- In 2017 the Care Quality Commission (CQC) changed their approach and policy for registering new services following the introduction of Registering the right support² (Care Quality Commission: 2017). This has had a particular impact on the development of new residential services, where providers are required to demonstrate how they have applied the Building the Right Support guidance which sets out the principles of the provision of small services usually accommodating six or less people. Therefore, to achieve economies of scale, providers are focussing on the development of new supported living services rather than residential care, increasing the number of services and people living in supported living schemes.
- It will enable the setting up of new supported living services for people with challenging behaviours.

4.3 The level of expenditure that will be incurred under the new framework cannot be specified with certainty. The reasons for this are as follows:

- Providers will be added to the framework who fulfil the County Council's assessment criteria, part of which will be affordability. However, there will be no guarantee of business and expenditure will depend on the number of hours of service that are delivered.
- Unit prices will not be known until the tender process has been completed. Even though a 4% increase was agreed as a fees uplift for 2020/21, factors such as the National Living Wage, Covid-19 and the impact of Brexit on the availability of people to work in care could result in an increase in costs greater than simple inflationary growth.

4.4 Neither of those factors are reasons not to seek a maximum volume of service. The alternative would be to manage costs by reducing volumes which would risk increased use of residential services. This is the most expensive form of care provision and so would be a false economy. Instead the objective will be to drive a change in the mix of expenditure with increases in the supported living proportion of the spend beyond the current £35.8m being offset by reductions in other areas of the budget. In practical terms this will be achieved by:

²

https://www.cqc.org.uk/sites/default/files/20170612_registering_the_right_support_final.pdf

- Incentivising supported living when the funding that will be available in the 2021/22 budget for paying uplifts to care providers is being allocated.
- Creating more competition by growing the Supported Living Provider market and developing an Accommodation Strategy so that there can be an increase in placements made (where this is the most appropriate and cost-effective setting) in supported living instead of residential. Competition in the market will help keep prices down and create a wider range of services that will meet the varied needs of this cohort.
- Cost reductions delivered by working with residential providers to switch to provide Supported Living services. Encouraging more residential services to de-register will decrease the number of residential beds where the average costs are higher. For example, the de-registration of a single learning disability residential service to supported living in 2019/20 achieved a saving of £13,871 p.a.
- The new framework will encourage market growth in supported living, this will result in people being able to be placed in these more appropriate and often cheaper settings and reduce the likelihood of placement in a more expensive residential placement. Currently, when there are no choices in the market and a person is in urgent need of a service, the social care team have no other option but to make placements that are over-provision.
- Working with providers on opportunities to manage costs both through focusing on outcomes and moving people on as their needs change and lowering levels of support. There will be an expectation of this in the specification and contract.
- Increasing capacity to support customers with challenging behaviours in settings which can reduce the risk of placements breaking down and requiring customers to go to more costly hospital or other placements.
- An increase in the range of provision and capacity in the market in West Sussex reducing the need to use more expensive out of county placements.
- The ability of Supported Living services to increase independence and reduce support levels over time. Supported living services are more able to do this than residential services.
- Providing a step-down pathway whereby people can move out of hospital or residential care into more independent and less costly services.

4.5 Ultimately the potential to deliver these outcomes will depend on the market’s response. Nevertheless, based on average cost differentials, the table below shows the extent of the opportunities that would be available if a supported living service can appropriately replace a residential care service:

% Reduction in Residential	5%	10%	15%	20%	25%	30%
Number additional Supported Living Placements	27	54	81	108	136	163
Annual saving	£305k	£611k	£916k	£1.23m	£1.54m	£1.84m

4.6 The scope for delivering this, including the associated operational implications, will not be known until the outcome of the procurement is confirmed. However, assuming it is successful, the benefits will enable a reduction in the demand growth funding that is earmarked in the Medium Term Financial Strategy for adult social care. Currently £4.7m is included for Learning Disabilities for this purpose, so a good response from providers is a key element to plans for making the budget financially sustainable.

4.7 In the development of new accommodation schemes Officers will need to join-up with the Councils ‘Capital Programme’, look at using ‘A Place to Live’ capital funding and work with Landlords and Suppliers’ Investors.

4.8 Human Resources, IT and Assets Impact

4.9 The impact of human resources internally is on the following areas:

- Management of the procurement which will include procurement, commissioning, legal, finance, contracts and adults’ operations.
- Ongoing contract management as well as quality and performance monitoring.
- Increasing personnel in the Placement Finder Team including a supervising role which will be funded from both Lifelong services and Mental Health budgets via an invest to save business case. This team’s role will be key in delivering savings.

5. Legal Implications

- 5.1 The Council has a statutory duty under the Care Act to meet the assessed eligible social care needs of residents of West Sussex. The commissioning of supported living services enables the Council to purchase care and support services for people with eligible social care needs in order to discharge this duty.
- 5.2 The potential for the value of the spend via this framework means this is considered a Key Decision.
- 5.3 The Council will competitively tender these services under the Light Touch regime in accordance with the procedures set out in the Public Contract Regulations 2015.
- 5.4 The Council will enter into a services contract using terms and conditions, approved by Commercial Legal Services and compliant with section 10 of the Council's Standing Orders on Procurement and Contracts.
- 5.5 The Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") will not apply to any Council staff because of this proposal and nor will any staff transfer into the Council. It is possible that TUPE will apply in relation to any change of service providers but the Council has adequate contractual provisions in place in the existing contract to facilitate the transfer of relevant information between the outgoing and incoming provider above and beyond the statutory provisions which should ensure a smooth transfer of service.

6. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
Delayed discharge from hospital, over provision in residential care or people placed out of county because of no local provision.	Work with capital programme and investors to source housing. Mini tenders under Lot 3 for intensive and specialist care and support provision. Establishing a step-down pathway whereby people can move out of residential care into greater independence and less costly services.
Insufficient capacity within services to meet	Development with providers of alternative models of care and support provision.

Risk	Mitigating Action (in place or planned)
the needs of residents of West Sussex	<p>Our Lifelong Services Market Position Statement signals our intentions to the market to support development in this area.</p> <p>Support for the care market through the Proud to Care campaigns, website and provider support.</p>
Increasing costs of services	<p>Development of alternative models of care.</p> <p>Community led, preventative and reabling support focus to enable demand management for long term care.</p> <p>Work with Suppliers to establish a step-down pathway.</p>
Providers not bidding for the opportunity leading to the inability to award	<p>Provider engagement has been used to develop proposals which reflect the requirements and abilities of the market.</p> <p>The procurement will be advertised in line with Standing Orders for procurement contracts.</p> <p>All existing providers in West Sussex will be notified.</p>
Risk of provider failure impacting on services available to customers	<p>Resource will be required to ensure appropriate levels of contract management, performance monitoring and quality assurance.</p> <p>A specialist Placement Team will support stronger relationships with the market and a consistent approach.</p> <p>The framework will remain open to enable providers to join at any time.</p> <p>There will be monitoring of financial due diligence of providers with high volumes,</p>

Risk	Mitigating Action (in place or planned)
	high risk or high impact of provider failure.
Higher payment rates for Care and Support at Home support packages will weaken the Council's position in buying care under the Supported Living rates	The market and type of care and support offered is very different.
There are operational implications as some customers will be required to be moved from residential provision	De-registering residential services is a decision for the provider. Officers will however support the process and work alongside providers who choose deregistration. Discharge and person-centred planning will be used to ensure moves are suitable and cost effective.

7. Other Options Considered (and reasons for not proposing)

Other options for the commissioning of these services included:

- 7.1 Continuation of the existing arrangements: There are challenges with the markets capacity to respond to new business requests which cannot be met under the current contract arrangements. This is currently being worked around by buying services off the framework which is unsustainable. The benefit of having an 'open' framework is that new work or services will be commissioned much more easily reducing the need for Individual Placement Agreements and Waivers. This will also support the Accommodation Strategy and development of new services.
- 7.2 To establish providers within geographical boundaries: Under this model each area would have a designated provider with a guaranteed level of business. This option was discounted because of the wide range of customer needs in Lifelong Services and the requirement to be able to match providers with individuals to meet specific needs.
- 7.3 Single contract with a Lead Provider: This option was discounted at this time but is an option the council will consider for the future. Having a large number and range of providers reflects the diverse range of need, different customer cohorts, wide geographical area and

both outreach and accommodation-based support. Other councils have tried to reduce the number of providers, for example Surrey, and this approach has not been successful. Within a Unitary Authority it may be more successful. The challenge would be moving people through services and incentivising providers to do this.

- 7.4 Agreeing to maximum ceiling rate to be able to join the Framework:
This option was discounted having looked at other councils providing for the Transforming Care cohort and the feedback from the market. There are examples in other areas of enhanced payments being introduced to secure services that are both resilient and effective. Lots 1 and 2 will have a maximum ceiling hourly rate but joining the Framework will not be dependent on agreeing to this.

8. Equality and Human Rights Assessment

- 8.1 All West Sussex residents with assessed eligible social care needs have a right to have those needs met through the local authority. The proposals are developed in order to ensure that the Council can support this right.
- 8.2 The specification will support progression and increased independence wherever possible. The service will be underpinned by the ethos of person-centred care and planning approaches. At all times the service will respect the human rights of individuals and their rights of personal freedom, choice in daily living, dignity and self-respect, independence, privacy, fulfilment and the exercise of self-determination. Standards relating to matters such as positive behavioural support, safeguarding, staff and training, personalisation and advocacy will be included.

9. Social Value and Sustainability Assessment

- 9.1 A sustainability assessment has been completed and identifies the positive impact organisations delivering supported living provision could have on social value and sustainability, with potential to:
- reduce travel
 - reduce inequalities around health outcomes
 - reduce social isolation
 - increase people in work, paid and voluntary
 - reduce carbon emissions
 - reduce use of natural resources
 - reduce waste and increase recycling
 - increase employment opportunities for local people
 - increase business to third sector providers
 - increase use of local resources, goods and products
 - improve learning, qualifications and skills of care and support workforce

- increase the number of apprenticeships
- increase number of people with a learning disability employed
- provide opportunities for people to thrive
- increase participation in community activities
- increase use of technology and capable environments

9.2 Organisations will be asked in the invitation to tender, to provide information on how social value and sustainability will be achieved.

10. Crime and Disorder Reduction Assessment

10.1 There are no anticipated crime and disorder implications.

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Appendices None

Background papers None