

Report to Executive Director of Adults and Health

May 2021

Care and Support at Home Award of Contracts

Report by Head of Commissioning

Electoral division(s): all

Summary

The tender for Care and Support at Home which initially commenced in February 2020 and was subsequently paused as a result of the first wave of the pandemic has reached the point at which a decision is required regarding the award of the new arrangements. Following a number of risks and concerns having been raised and reviewed the proposal for decision is not to award the procurement.

It is proposed that current contractual arrangements through established framework agreements be extended whilst fresh plans for the service and its procurement are made as soon as is practicable. Potential suppliers will be engaged both in relation to the reasons for the decision and the options for participating in the current framework.

Recommendations

The Executive Director of Adults and Health is asked to;

- (1) Abandon the procurement of Care and Support at Home Services.
 - (2) Agree to develop and procure a new model for the service as soon as practicable.
 - (3) Approve arrangements to extend the 2015 Care and Support at Home Framework Agreement until July 2022 with a further possible extension of 6 months and to commission services through the 2015 Care and Support at Home Framework Agreement and through the Domiciliary Care spot purchase Framework Agreement as a reserve position.
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Proposal

1 Background and context

- 1.1 In February 2020, the decision ([Report ref:AH11 19/20](#)) was made to commence the procurement of Care and Support at Home Services. The

decision included the delegation of the authority to award the contract to the Executive Director of Adults and Health.

- 1.2 Subsequent to the initial decision, a procurement commenced and shortly after was paused as a result of the Covid pandemic. Following the first wave and as the situation stabilised slightly during the summer of 2020, the tender recommenced and a decision was taken to continue using existing contract arrangements for longer to accommodate for the delay. Lots 1 and 2 for the primary and secondary positions across the County were closed in October 2021 and the evaluation of the tender subsequently commenced.
- 1.3 During the winter of 20/21 there have been significant pressures across the health and social care system and care markets. Managing the short term impact of the pandemic has been a priority and supporting the market to continue to provide services has been crucial, but the longer term impact on the market and on the changing need and demand may take time to fully understand. This has altered the approach to the provision of these services which may be required in the longer term.
- 1.4 The process has reached the point at which a decision is required prior to award of the new arrangements. Initial discussions on this raised a number of risks and concerns and these have been reviewed by the Adults and Health Leadership Team and have culminated in a proposal not to award the procurement which is detailed further in section 2 of this report.
- 1.5 The risks and issues identified, considered and reviewed include the following:
- 1.6 As a result of the pandemic, this is a significantly challenging time to be implementing a new model of delivery when the full impacts on the market of Covid are as yet unknown. A significant change in the interim may further impact this with risks of destabilisation and disruption. Whilst to some extent such impacts could have been expected, it had been hoped to have a clearer understanding of the long term impact by the time of the conclusion of the procurement but the form and longevity of the pandemic frustrated this plan.
- 1.7 Risk of disruption to customers who may need to move to a different provider where their existing provider has not bid or take up a Direct Payment to stay with their existing provider was a further factor of concern. The Council is not able in these current times to prioritise resources needed to move volumes of customers to new providers or move to Direct Payments. In addition, Self-funded customers will be impacted by changes in costs. These demands were greater than had been anticipated in the procurement planning. There was also consideration of maintaining as much stability for service users and the arrangements for supporting them as possible.
- 1.8 The health and social care landscape has changed quite significantly over the last 1-2 years whilst these arrangements have been out to procurement. Expectations and requirements around flexibility and responsiveness are different, and the focus on maintaining flow and avoiding delay in other parts of the system are heightened and this needs to be embedded into commissioning arrangements. There was no adequate opportunity to adapt to these changing requirements during the complex procurement process.
- 1.9 The outcome of the procurement would have impacted on resource both internally and externally. In operational practice this would have required

finding alternative provision for customers and making significant changes to systems. This impact was likely to have been greater than originally envisaged and at a time when resources are having to be re-directed to manage the ongoing impact of Covid-19.

- 1.10 System impacts were identified to enable payment of invoices and purchasing to be completed, and the ability to implement these processes in a timely way in this time following impact of Covid was a concern.
- 1.11 A likely initial financial impact of around £2m. This may lead to difficult decisions in other areas of the business and thus impact on customers and on Adult Social Care over the next two years.

2 Proposal details

- 2.1 Having taken account of the risks and issues in awarding the procurement, and indeed the risks highlighted in section 6, the proposal is to abandon the Care and Support at Home procurement. Instead of moving forward with the award it is proposed that the existing arrangements continue as an interim position, including the use of the 2015 Care and Support at Home Framework and, in reserve only in so far as needed, the 2009 Domiciliary Care Spot Purchase Framework. The Council will also consider the best way to engage and work with new entrants to the market during the period of continued operation of the Framework.
- 2.2 The 2015 Care and Support at Home Framework Agreement is due to cease on the 3rd July 2021. It is therefore proposed that this be extended on the grounds of urgency of needing to have arrangements in place through which to purchase care and meet the Council's statutory duty under the Care Act 2014, whilst alternative arrangements are developed. This provides the most beneficial outcome in terms of market stability and continuity of service to service users.
- 2.3 In order to move forward to a more sustainable procurement of the service, the Council will extend the current arrangements for a further year until the 3rd July 2022, with the option to extend for 6 months beyond this date to allow for any unforeseen and unavoidable delays.
- 2.4 The Council will prioritise development of a different model for commissioning which supports objectives of market stability, capacity, quality, value for money, flexibility, and responsiveness, avoiding disruption for customers and simplicity of implementation. In developing the model the Council will engage with the market to ensure a solution which is achievable and deliverable to ensure sustainable and viable service provision.

3 Other options considered (and reasons for not proposing)

- 3.1 Awarding the Framework Agreement. This was the intention throughout the process but is not proposed in light of the risks and concerns identified in 1.5 – 1.11.
- 3.2 Delaying the Framework Agreement. This was considered as part of the options taken to the Adults and Health Leadership Team. However, a delay and implementation of the same model tendered is not felt to be sufficient to mitigate all of the risks and issues identified in 1.5 - 1.11.

4 Consultation, engagement, and advice

- 4.1 In reaching the proposed decision, consultation has been undertaken with the Adults and Health Leadership team and the Executive Leadership Team. Advice has been provided through Legal and Procurement services.

5 Finance

- 5.1 The proposed decision results in continuation of existing contractual arrangements for a further year, including the annual uplift of 1.75% agreed for 2021/22 through [decision report AH12 \(20/21\)](#). Consequently, the recommendation does not create any additional financial implications and so the cost of care and support at home will remain in line with the assumptions on which the budget is based.

- 5.2 The effect of the proposal:

(a) **How the proposal represents good value**

Awarding contracts may have had a financial impact in the region of £2m over the first 1-2 years. This would not have represented good value and hence a new model with appropriate consideration of value for money and working with the market on how this can be achieved will be required.

(b) **Future savings/efficiencies being delivered**

There are no savings identified as a result of the proposal.

(c) **Human Resources, IT and Assets Impact**

Awarding contracts was anticipated to have a significant effect on human resources and IT and other Council resources at a time when there have and continue to be significant impacts as a result of the pandemic. These aspects will be fully considered in relation to an alternative model that will simplify and mitigate the impact on these resources.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Risk of challenge from the provider market on the decision to abandon.	The Council wishes to work with the market to put in place arrangements which avoid destabilisation for the market and for customers and to ensure that new arrangements can be commissioned as quickly as possible. The Council will be clear on the reasons for the decision and will discuss how providers can work with the Council in the meantime. It is the ambition of the Council to maintain a positive relationship with providers despite the outcome no doubt being disappointing to some providers. The Council's Invitation to Tender contained clear wording that the Council could choose not to award and the Council is satisfied that it does have a legitimate rationale for abandoning.

Risk	Mitigating Action (in place or planned)
Risk of extending the use of existing expired contracts.	The Council will seek to keep the continued use of these arrangements to a minimum by working to deliver an alternative within a year where possible. In addition, it will direct referrals first to the 2015 contract which is the most up to date contract arrangements. It is considered that the Council has a legitimate need under Regulation 72 of the Public Contracts Regulations to vary the existing arrangements.
Reputational risk of not awarding contracts	The Council has undertaken a full impact assessment, which has been scrutinised and reviewed at a senior level and has considered all potential risks and impacts and has identified that proceeding to award is not in the best interest of the public and whilst there is a reputational risk the impact of doing so is greater.

7 Policy alignment and compliance

- 7.1 There are legal implications with the proposal that have been considered, including the risk of challenge as a result of the decision not to award the procurement. This is described within the risks in section 6. In addition the statutory requirements to meet the eligible needs of residents of West Sussex has been considered in relation to the continuation of the use of existing arrangements.
- 7.2 The 2021 commissioned arrangements anticipated a positive impact on the climate with reducing need for non-local travel. This will be fully considered in the new model to be developed to ensure this can be a positive impact for future commissioning arrangements.

Catherine Galvin
Head of Commissioning, Adults and Health

Contact Officer: Juliette Garrett, Commissioning Lead for Older People,
Tel:033 022 23748, Juliette.garrett@westsussex.gov.uk

Appendices

None

Background papers

None