

Report to Director of Adults and Health

June 2022

Extension of Commissioning Arrangements for Care and Support at Home

Report by Assistant Director, Commissioning

Electoral division(s): All

Summary

In 2020 a new procurement was commenced to recommission Care and Support at Home services. A decision was taken ([OKD02 21/22](#)) in June 2021 to abandon the procurement, to extend the current arrangements and to develop a new model to be procured as soon as practically possible.

Since that decision, national developments and government requirements mean that the Adult Social Care and Health landscape is subject to significant transformation and change which is anticipated to considerably impact on the way in which social care services are funded and commissioned.

Taking decisions on the future of care and support at home commissioned provision before these transformational requirements are fully understood would risk having insufficient or inefficient provisions and would risk the services having to be retendered within a short timescale.

The proposal therefore is to extend the current commissioning arrangements for Care and Support at Home to enable full consideration of the forthcoming Cost of Care and Market Sustainability Plan and impact of Adult Social Care reforms to inform the service and contract design prior to a procurement commencing.

Recommendations

The Director of Adults and Health is asked to;

- (1) Approve the extension of the Framework agreement for the provision of Care and Support at Home Services (2015) until September 2023 with a further 6 months extension if required.
 - (2) Approve the extension of the Contingency Care and Support at Home Services contract (2021) until September 2023 with a further 6 months extension if required.
 - (3) Approve the continued use of the West Sussex County Council Framework Agreement for Domiciliary Care spot purchase contract 2009 with variations to the terms of the contract as required.
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Proposal

1 Background and context

- 1.1 The Council commissions care and support at home for approximately 2300 adults. Around 60% of these customers are supported via a framework agreement that commenced in 2015. Due to supply issues within the market the Council also contracts with other providers through the continued use of the previous framework (the West Sussex County Council Framework Agreement for Domiciliary Care spot purchase contract 2009) and through a new framework (the Contingency Care and Support at Home Services contract 2021) for the remaining 40%. Spending across these three frameworks equates to approximately £34m per annum.
- 1.2 In 2020 a new procurement was commenced to recommission Care and Support at Home services. However, a decision was taken ([OKD02 21/22](#)) in June 2021 to abandon the procurement, to extend the current arrangements and to develop a new model to be procured as soon as practically possible.
- 1.3 Since the decision in 1.2 on the Care and Support at Home commissioning, there are a number of national developments which will significantly impact on Adult Social Care and create a changing landscape from that which was anticipated in the previous service design and procurement strategy.
- 1.4 The proposed national reforms of Adult Social Care from 2023, which have recently received royal assent will transform the way in which social care is paid for. In addition the development and establishment of Integrated Care Systems and the change in Hospital Discharge Funding are likely to present a changing position in the way discharge services including care and support at home are commissioned and funded.
- 1.5 The Department of Health and Social Care also requires the completion of a cost of care exercise and initial market sustainability plan by the 14th October 2022 which will support preparation for reform. The Market Sustainability Plan (the final version of which must be completed by February 2023) is expected to form the basis of how we commission over the next 3-5 years.

2 Proposal details

- 2.1 Given the national context and the forthcoming requirements set out above, the decision to recommence the procurement has recently been reviewed which has resulted in a proposal to extend the current arrangements for care and support at home for a further year prior to recommissioning.
- 2.2 Making long term commissioning decisions in advance of the cost of care and Market Sustainability Plan risks having to repeat the exercise or not commissioning what is required, and not enabling optimal mechanisms to secure good value and the capacity forecasted to be needed. The full scale of demand and supply will not be fully understood in advance of the completion of the Market Sustainability Plan.

- 2.3 Delaying the commencement of a procurement exercise also gives time for the market to stabilise after a considerable period of challenge for the sector as a result of the pandemic and enables further engagement with the market on the forthcoming recommissioning. It also provides time to assess the impact that the significant uplifts prioritised to the sector in the recent decision ([OKD52 21/22](#)) have made.
- 2.4 The proposal recommended therefore is to extend the current arrangements until the 30th September 2023 with a potential further extension of 6 months up until the 30th March 2024. This enables one year to work through the impacts of the Cost of Care and Market Sustainability Plan following which a procurement will commence.
- 2.5 However, this proposal represents a delay from initial plans and a requirement for extensions of contracts some of which are out of date and do not have extension clauses built in, presenting risks to the Council which have been fully considered by Executive Leadership Team and identified on the corporate risk register. The current contracts are high value and are out of date and therefore non-compliant with the requirements of the Council’s Standing Orders or the Public Contract Regulations 2015 or updated legislation. The length of time these contracts have been in place presents reputational, legal and regulatory risks which may be highlighted in the forthcoming CQC inspection, by other regulatory bodies, audit or through challenge from providers if progress to resolution cannot be demonstrated. A number of mitigations have been recommended to action alongside the extension in recognition of the risks identified. These are identified in section 6 below.

3 Other options considered (and reasons for not proposing)

- 3.1 Commissioning originally intended to complete the procurement of a new Framework with completion in line with the extensions set out in decision [OKD02 21/22](#). However, commissioning within those timescales risks having to repeat the exercise following the Market Sustainability Plan or not commissioning what is required, not enabling optimal mechanisms to secure good value and capacity needed and procuring within a context of an unstable market following the challenges still being felt as a result of the pandemic.

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, with a financial impact as below:

- 5.2 Revenue consequences

	Current Year 2022/23 £m	Year 2 2023/24 £m
Revenue budget	£34m	£34m

	Current Year 2022/23 £m	Year 2 2023/24 £m
Change from Proposal	-	-
Remaining budget	£34m	£34m

Year 2 financial impact (23/24) is likely to be impacted by tendered costs submitted as part of forthcoming procurements and the outcome of the cost of care exercise. The financial implications of this will be managed as part of decision making at that time.

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

Care and support at home is a cost effective way of supporting people with eligible care needs where someone is able to remain living at home, when compared to the average cost of residential care services.

This proposal gives the Council time to support the care sector and to rebuild provision after the Covid pandemic. As such it seeks to place providers in a more sustainable position prior to the procurement and provides an opportunity to review the impact of recent rate increases and to consider the Cost of Care exercise to be completed by October 2022.

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

The commissioning timescale provides an opportunity to review the cost of care as a result of the forthcoming exercise.

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

The proposal to extend current arrangements enables resource to be focused on Market Sustainability Plans and the Cost of Care exercise in order to better inform the commissioning going forward. It also avoids potential duplicated resource to commission a solution which may require recommissioning shortly after.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Risk of challenge from existing or new providers on the delays to procurement	A plan is in place to communicate and engage with the provider market. The extension will enable providers to input into the commissioning plans. The current arrangements and the extension of the contingency contract in particular will enable all providers to enter into a contract with the Council in the interim if they are able to meet the requirements and deliver according to the terms of the contract.
Risk of extending out of date contracts.	Legal support will be required to vary the terms of spot purchase framework agreements in particular

Risk	Mitigating Action (in place or planned)
	<p>to ensure that they reflect the latest legislation and guidance.</p> <p>Subject to approvals, opening up the contingency contract wider for providers to work with the council in the interim.</p>
<p>reputational, legal and regulatory risks which may be highlighted in the forthcoming CQC inspection, by other regulatory bodies, audit if progress to resolution cannot be demonstrated.</p>	<p>Develop a programme of works to allow the cost of care and market sustainability plan to be progressed.</p> <p>Regular communication and engagement with providers on programme development and progress and strategic direction. Confirm interim plans to support stability.</p> <p>Implementation of uplifts to providers delivering within existing frameworks.</p> <p>Focus resource on managing provider relationships to improve contract management.</p> <p>Subject to approvals, opening up the contingency contract wider for providers to work with the council in the interim.</p> <p>Update the 2009 contract terms and conditions by variation where these are significantly out of date.</p>

7 Policy alignment and compliance

- 7.1 Extending the arrangements will enable the Council to deliver on its statutory duties to provide care and support to customers with eligible care needs as identified through a Care Act 2014 Assessment, and to support the wellbeing of individuals and the focus on maintaining independence.
- 7.2 A plan is in place to mitigate for risks on compliance of the current arrangements.

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Appendices

Background papers