

Report to Alan Sinclair, Director of Adults and Health

September 2024

Commissioning Residential and Nursing Care Homes for People with Mental Health Needs

Report by, Lucie Venables, Head of Commissioning, Adults & Health

Electoral division(s): All

Summary

The current contract arrangements for residential and nursing care home services for mental health need to be updated as they have now expired. To ensure that this update provides the right outcomes for people there needs to be sufficient time and opportunity for co-production with residents and care providers. The update will also aim to align with the new Commissioning Strategy, Public Mental Health Needs Assessment and emerging Market Position Statement.

To ensure the Council is compliant with the Public Contracts Regulations 2015 and the Council's Standing Orders on Procurement and Contracts, it is proposed that the current arrangements are continued via direct award under new terms and conditions for the duration outlined, in this report, whilst more detailed changes are developed.

Recommendation

The Director of Adults and Health is asked to approve the direct award of contracts to existing residential care and nursing home providers for people with mental health needs to April 2027 with a further six (6) month extension to October 2027, if required.

Proposal

1 Background and context

- 1.1 Residential and nursing care home services for adults with mental health needs are purchased by the council on behalf of people who have been assessed as having eligible social care needs.

Services are currently commissioned via the Care home services contract for Adults with Mental Health needs 2015 that has now expired. Therefore, it is no longer compliant with the Public Contract Regulations 2015 and the Council's Standing Orders on Procurement and Contracts.

- 1.2 A direct award was approved in November 2022 to limit duration of the current commissioning arrangements to March 2024 with a six (6) month extension to September 2024. Subsequently, some terms and conditions of the residential care framework were updated following a letter of variation in October 2023.
- 1.3 In addition, the Council has recently published the Adult Social Care Commissioning Strategy and produced the Public Health Mental Health Needs Assessment and work is underway to develop a Market Position Statement for mental health during 2024. These strategic documents provide an important context for the recommissioning of these services and a substantial change in the recommissioning approach is required to ensure they align with the Councils' vision and intentions.
- 1.4 In order to allow sufficient time for the recommissioning and to ensure that the new arrangements are informed by the commissioning strategy and emerging Market Position Statement, a direct award of new terms and conditions to currently contracted residential care nursing homes in West Sussex is recommended.

2 Proposal details

- 2.1 The contracts for these services have been awarded by way of call offs from the Residential and Nursing Care Home Services (Contract for Adults with Mental Health Needs 2015).

This framework is used to commission most customer placements at nursing and/or residential homes.

- 2.2 It is proposed to direct award contracts to existing residential and nursing care providers for people with mental health needs with revised terms and conditions and an updated service specification to reflect current legislation and ensure the contracts are compliant with the Council's Standing Orders on Procurement and Contracts and the Public Contracts Regulations 2015. The Director of Adults and Health is

asked to approve the direct award of contracts to existing residential care and nursing home providers for people with mental health needs to April 2027 with a further six (6) month extension to October 2027, if required.

- 2.3 The proposed timescale is to allow sufficient time to develop and coproduce a revised offer to ensure that customers and carers needs are met. To ensure services meet projected demand and the changing needs of local people, including significantly increased complexities, future recommissioning will be underpinned by the Mental Health Market Position Statement to be published by March 2025, Public Health Mental Health Needs Assessment, to be published in 2024 and the Adults' Social Care Commissioning Strategy 2023 to 2025 and West Sussex County Council Adult Social Care Strategy 'The Life You Want to Lead 2022.
- 2.4 Neighbouring authorities who have made similar transformational changes indicate an estimated two (2) years' transition process is required as a minimum for residential care frameworks.
- 2.5 The proposed direct award will enable the Council to contract with existing providers without any disruption to the market or to the continuity of care for customers.

3 Other options considered (and reasons for not proposing)

- 3.1 Do nothing: The current contract is non-compliant with the requirements of the Council's Standing Orders on Procurement and Contracts and the Public Contracts Regulations 2015 and other relevant legislation. The contract end date has expired and the length of time these contracts have been in place presents reputational, legal, and regulatory risks and is therefore not recommended. In addition, the impact of not proceeding with the recommendation will create uncertainty for providers and lead to service disruption as the current terms and conditions expire in September 2024. As these services are meeting individuals' assessed outcomes, there would also be a risk of the Council failing to meet its duties under the Care Act.
- 3.2 Tender in the immediate future: To tender now is not recommended, as a repeat of the exercise would be required once the Market Position Statement is published and there is insufficient time to achieve the substantial change in the recommissioning approach that is required to meet future needs and demand. An insufficient response to the tender in the meantime also risks limiting the provision of qualified providers who can respond to referrals for new customers, which would risk insufficient provision to meet demand or indeed for customers to have a reasonable solution to provide their care.

4 Consultation, engagement and advice

- 4.1 The forthcoming recommission will include robust plans to consult and engage with a range of residents and their family members alongside providers of residential and nursing home care providers.

5 Finance

5.1 Revenue consequences

The recommendation will result in continuity of care for existing customers who will remain with their current provider and at the current cost. In financial terms this means that the outcome is neutral and approximately £16.3m will continue to be spent in purchasing residential and nursing care under the framework. This is an amount which will vary over the period of the extension but that will be due to factors such as demand and any fee uplifts agreed by the County Council that will not be impacted by the change in the contract.

5.2 The effect of the proposal:

(a) How the cost represents good value

Not applicable

(b) Future savings/efficiencies being delivered

Not applicable

(c) Human Resources, IT and Assets impact

There will be a limited impact on human resources and IT to direct award existing residential and nursing care contracts.

6 Risk implications and mitigations.

Risk	Mitigating Action (in place or planned)
Not all existing providers agree to the revised specification and terms and conditions of the direct award.	In the rare circumstances where agreement cannot be reached with an existing provider, the individual circumstances will be considered, and a way forward agreed with stakeholders including customers and carers.

<p>Potential new entrants to the residential and nursing care market challenging the direct award of contracts.</p>	<p>Most of the existing market already contracts with the Council, however, there may be risks with 'out of county' providers, which some customers currently choose to be closer to social networks and support.</p> <p>In such cases individual direct awards will be requested.</p>
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7 Policy alignment and compliance

- 7.1 Our Council Plan – the direct award and recommissioning of these contracts reflects the strategic direction as set out in the Council Plan and the Adult Social Care Strategy to provide strength-based services that support people to progress and to connect to their local community.
- 7.2 Legal implications – this reflects the Council’s obligations under the Care Act 2014 to ensure a market which has a range of quality services and solutions for the residents of West Sussex. It also reflects statutory obligations to ensure care is available to meet the needs for those assessed as having eligible social care needs.

Updated terms and conditions will be drafted by the Commercial Legal Team to ensure compliance with current legislation, internal working practices and the Council’s Standing Orders on Procurement and Contracts.

- 7.3 Equality duty and human rights assessment – the direct award of contracts and recommissioning is not expected to have a negative impact on people with protected characteristics. To ensure equality of opportunity and access to these services and to avoid unlawful discrimination, the contract terms will set out the requirements for providers to deliver services according to the Equality Act 2010. An Equality Impact Assessment will be completed and reviewed as part of the recommissioning process.
- 7.4 Protecting the environment – As part of the recommissioning process, the Council will be seeking commitments to minimise the environmental impacts, including carbon emissions in support of the Council’s climate change strategy for West Sussex.
- 7.5 Crime and disorder – there are no immediate impact on the Council’s responsibility to minimise crime and disorder.

- 7.6 Public Health – it is expected that the revised specification and recommissioning will have a positive impact by promoting the health and wellbeing of individuals and enabling access to health services.
- 7.7 Social value – the contracts are expected to have a positive impact on social value and future tender requirements will incorporate social value and the economic benefits of the service to the local community.

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Appendices
None

Background papers
None