



**Council Cabinet  
17 July 2019**

Report sponsor: Andy Smith, Strategic Director  
– People Services

Report author: Kirsty McMillan Service Director  
Integration & Direct Services

# ITEM 8

## **Adults Commissioning Transformation Programme Procurement**

### **Purpose**

- 1.1 In June 2018, the Adults Commissioning Transformation Programme (ACTP) commenced as one of the People Services strategic priorities in relation to managing demand for services and ensuring there are sustainable and good quality care service in Derby. This report provides details about the procurement activity that is now required as a major activity within this programme to secure wide ranging Approved Provider Lists (APL). This will be used to secure cost effective and quality care services for people with Care Act 2014 eligible social care needs in Derby.
- 1.2 The Adults Commissioning Transformation Programme aims to change commissioning practice and transform the way the Council purchases care services for Adults. The programme aims to ensure that the Council effectively manages the local “market” of care organisations, ensuring that services are available, affordable and of sufficient quality to meet the needs of local people. This task became a new statutory duty for Councils when the Care Act 2014 came into effect.
- 1.3 This report, which has been written in consultation with Council procurement colleagues, seeks approval to commence the procurement activity that is required to establish a range of Approved Provider Lists. These are the lists that will be formed via various procurement processes such as a framework or dynamic purchasing system, under the 'light touch regime' as allowed by the Public Contracts Regulations 2015, and that will underpin the new commissioning approach.

### **Recommendations**

- 2.1 To agree the procurement of a set of Approved Provider Lists for adult social care as set out in this report.
- 2.2 To delegate authority to the Strategic Director for Peoples Service, in consultation with the Strategic Director for Corporate Resources, to approve the Council entering into such contractual arrangements and the award of contracts via the Approved Provider Lists as are necessary to give effect to the award.

## Reasons

- 3.1 It is imperative that the Council is able to manage and shape the local market for social care in Derby, entering into formalised contractual relationships with suitably qualified care and support providers. This approach is a required activity under the Care Act 2014 as part of Council's "Market Shaping" activities.
- 3.2 The Care Act 2014 states that Council's must ensure that they do not undertake actions which threaten the sustainability of care markets and should ensure that they take steps to have local services which:
- Are appropriate to provide the amount of care required at a sustainable price and that are of sufficient quality;
  - Support and promote the wellbeing of people who receive care and support;

The Care Act also dictates that Council's produce a "Market Position Statement" to enable effective engagement with care providers and stakeholders about the future requirements of the local area. This document will form part of the tender information giving bidders an oversight of current needs/trends and forecasts of demands and where improvements within specific sectors are required.

## Supporting information

- 4.1 The Adults Commissioning Transformation Programme commenced in June 2018 forming four work streams:
- Procurement and Commissioning
  - Quality and Assurance
  - Policy, Documentation, Delivery
  - Systems

The programme has been branded as "Commissioning4Change" and has already reached significant milestones in readiness to move towards the required procurement strategy and the creation of Approved Provider Lists. The objectives of the programme are to:

- implement a new commissioning and service delivery model;
- ensure the effective delivery of good quality care and support services locally;
- through improvements in the care market - promote independence, enabling customers, with the correct levels of support, to live a more independent life;
- increase the provision of accommodation based services that can meet complex needs;
- reduce the number of adults with assessed and eligible needs being placed into inappropriate and out of area residential care homes;
- provide a wider range of safe, reliable, high quality services that provide value for money and a focus on delivering agreed individual outcomes;

- offer a wider range of services with whom the Council can enter into contracts with to provide an alternative to using Direct Payments to arrange support inappropriately;
- update and improve the way that the quality of services is monitored and improved;
- ensure contracts are awarded in compliance with the Council's Contract Procedure Rules and the Public Contract Regulations 2015.

4.2 The proposed procurement programme is structured around four contractual APL's:

- **Domiciliary (home) care** – this is personal care and other support delivered in a person's home and will either be a “standard service” (largely aimed at older people and those with less complex needs) or a “specialist service” aimed at adults who have multiple, complex needs including challenging behaviour. Packages of care will be designed to achieve individual outcomes that have been agreed with social workers as per the Care Act.
- **Supported Accommodation and Living** – this is accommodation for vulnerable people with assessed and eligible social care needs that may or may not have the provision of care and support integral to the delivery model.
- **Residential care and nursing** - this is 24-hour building based residential and nursing care facilities for all ages and needs, both in and outside of the city of Derby.
- **Day Opportunities** –this will provide opportunities for daytime support to achieve agreed outcomes that enable individuals to reach their full potential, access paid work or volunteering and take part in activities that will improve overall life skills.

#### 4.3 Proposed Procurement approach

Service Specifications and business requirements have been written for each area in consultation with operational staff and external care providers to ensure that the services to be procured, and the purchasing arrangements, are fit for purpose and meet the needs of the customers. This will allow for a range of scenarios where care may be required from a care provider:

**Dynamic Purchasing System (DPS)** - The Council's Proactis e-procurement system will be used to deliver procurement of all four Service requirements as set out above. As this is already in use across the Council, there is no additional cost to using this system. The Council intends to create the APL's using a procurement process called a Dynamic Purchasing System. This procurement 'tool' will allow the Council to create a list of pre-qualified service providers for each Service requirement (if they meet the selection criteria). The 'light touch regime' means the Council can be flexible in the use of this process and it can be adapted to suit the Council's requirements. Once on the list (APL) the pre-qualified providers can then bid on contract opportunities that become available. This is a useful tool as it has the flexibility to allow new providers onto the list during the term of the APL, helping the Council build/shape the market and ensure providers on are pre-agreed terms and conditions.

The APL will be used when there is a need to directly award a care package to a specific care provider, or where a “further competition” is required based on the needs set out for an individual customer. This latter mechanism will enable a group of providers to bid for a specific care package.

The procurement timeline has been designed based on running the required procurement processes in an order which will mitigate the current risks and gaps in the care market. The proposed timeline is :

**1<sup>st</sup> APL (to be advertised end of July 2019)**

- **Supported Accommodation –**
  - Supported Living
  - Supported Accommodation
  - Accommodation Only

**2<sup>nd</sup> APL (to be advertised mid August 2019)**

- **Home Care –**
  - Standard
  - Specialist

**3<sup>rd</sup> APL (to be advertised mid September 2019)**

- **Day Opportunities –** Promoting Well-being and achieving Independence

**4<sup>th</sup> APL (to be advertised end September 2019)**

- **Care Homes**
  - Standard
  - Nursing
  - Specialist

Following the procurement process, the implementation of each APL will therefore be staggered but with an aim to have all APL's in place and starting to deliver services by 31 March 2020 - with Supported Accommodation being implemented by December 2019 at the latest, due to this being the area of most risk and also future opportunities within the market at present.

**4.4 Measuring success** - The outcomes that are anticipated of the new approach are:

- to have a well-managed, good quality and value for money social care market in Derby
- to have a more formalised compliant contractual arrangement with the majority of care providers operating locally, whilst still offering choice and control for customers who may want to purchase care directly using Direct Payments
- Improved engagement with organisations providing care
- Improved approach to “brokerage” activity so that *all* care packages under contracts are organised by commissioning staff
- Improved Quality Assurance processes, particularly focusing on outcomes for individuals and evidencing improved quality of support and accommodation
- Reducing the incidents of failing providers, or those exiting Derby in an unplanned way with more proactive support being in place to prevent provider

- getting into difficulties
- The Adult's commissioning workforce will be better equipped to perform the statutory market shaping role.

#### 4.5 Further developments planned:

**Sustainable Care costs** – whilst the Council has broadly been successful in managing and meeting demand for adult social care support - the continued demographic changes predicted for Derby indicates increased pressure on the budgets for the Council. To manage the risk of increased costs that may be associated with this, a piece of work has been undertaken to determine whether the price that the Council pays for care locally is sustainable. The output from this work will be used to inform the procurement evaluation process within the APL's in relation to potential bidders' setting out their costs. The data analysis and conclusions drawn about local cost pressures will strengthen our approach and conversations with providers to ensure fair prices, and assist us to gauge fee uplifts for the future.

**Electronic contract management** - our existing adult social care case management system (Liquid Logic) is able to provide an on line Provider Portal to manage the increased volume of administrative activity associated with the increased volume of contracted services. This is being developed and will be able to manage the processes of issuing contracts; receiving, verifying and paying invoices; resolving disputes; issuing remittance advice notes etc.

**Service Directory** – Liquid Logic is also being developed to provide an eMarketplace which will be a directory of services initially to include care homes and homecare and then staggered work to encompass other market sectors e.g. supported living, day opportunities and Personal Assistants. It will centralise on one platform information about organisations that are delivering care and support services in the local area and be publically available to customers, families, self funders, partners, providers as well as social work and commissioning teams. It has the potential to become the foundation for a Derby-wide directory of any help and support – including universally available services such as leisure and cultural facilities. The system is already built and has been tested and it is planned to go live to the public at the end of the year.

### Public/stakeholder engagement

- 5.1 There have already been 4 market engagement events with the care providers across all service types which were well attended and informed further feedback on areas that commissioners needed to take into account. There has also been soft market testing for the 4 areas with providers about specifics on the Service Specifications and delivery models in advance of the procurement process. Further engagement events will be taking place covering details about the purchasing models.

- 5.2 Ongoing engagement has taken place with operational social work colleagues during the first phase of the programme and continued focused engagement will take place over the upcoming months to ensure new processes and systems are in place and the new brokerage offer is embedded for the go live dates for the APL's. Ongoing consultation has also taken place with procurement colleagues who are supporting the overall process.

## Other options

### 6.1 Do Nothing

This would mean continuing to deliver a model of purchasing care and support that provides only partial market oversight. There is a particular deficit in market intelligence where Direct Payments are being used to purchase care and support. There have also been increased incidents of providers exiting the local market in an unplanned way and this may continue if more comprehensive contractual relationships are not in place with more of the care market than currently. Quality improvements anticipated may not be realised and the Council may be more exposed to poor quality provision against a backdrop of rising costs. All of these risks mean that moving forward with a new approach to commissioning is essential if we are to become fully compliant with our duties under the Care Act around market oversight and market shaping.

## Financial and value for money issues

- 7.1 The out-turn for spend in Adults in 2018/19 was as follows:

|  | <b>£'000</b>  |
|--|---------------|
| Salary and service costs                   | <b>16,302</b> |
| Residential and nursing care               | <b>23,840</b> |
| Community care (including Direct Payments) | <b>33,668</b> |

This paper proposes a commissioned 'Approved Provider List' for Adult Social care provision of initially 4 contractual APL's that has the potential to cover all of the non salary and service costs for the contractual term of 10 years. This would have an approximate value of £760 million over the life of the contracts, allowing for projected demographic and inflationary pressures within the budget. Each procurement activity will set out the maximum value of care business that may be commissioned via the APL's – however there will be no guarantee of income for any provider signed up to

the APL's, as these will be driven by demand and needs which will naturally fluctuate from one individual to the next.

## Legal implications

- 8.1 The Care Act has given Local Authorities key responsibilities for “Market Shaping” and the commissioning of adult care and support. In order to fulfil this legal obligation the Council must ensure it does not undertake actions which will threaten the sustainability of the market by having in place sustainable arrangements with local care providers. In addition, the Council’s finance and contract procedure rules require that contracts should be awarded compliantly in terms of current procurement legislation. These proposals will strengthen the position of contracts being awarded compliantly as a way of meeting Care Act eligible needs and reduce the need and frequency of waivers being used for emergency care provision or where a contract or APL is not in place.

## Other significant implications

- 9.1 The Adults Commissioning Transformation Programme is a key strand of the Adults Business Plan for 19/20, and is one of the strategic priorities being monitored by the Council’s newly established Programme Management Office in recognition of it’s importance in shaping the local market for social care, and the amount spent on purchasing care from external organisations. In 2018/19 this was approximately £57.5 million net of income received.

**This report has been approved by the following people:**

| <b>Role</b>                | <b>Name</b>        | <b>Date of sign-off</b>    |
|----------------------------|--------------------|----------------------------|
| <b>Legal</b>               | Olu Idowu          | 24 <sup>th</sup> June 2019 |
| <b>Finance</b>             | Janice Hadfield    | 19 <sup>th</sup> June 2019 |
| <b>Service Director(s)</b> | Kirsty McMillan    | 19 <sup>th</sup> June 2019 |
| <b>Report sponsor</b>      | Andy Smith         | 25 <sup>th</sup> June 2019 |
| <b>Other(s)</b>            | Catherine Hadfield | n/a                        |