

**ADULT SOCIAL CARE CONTRACTS FOR PLACEMENTS IN CARE HOMES**

Councillor Wayne Fitzgerald, Deputy Leader and Cabinet Member for Integrated Adult Social Care and Health

**February 2018**

**Deadline date:** February 2018

Cabinet portfolio holder: Responsible Director:	Wayne Fitzgerald, Cabinet Member for Adult Social Care Wendi Ogle-Welbourn, Corporate Director for People and Communities
Is this a Key Decision?	YES If yes has it been included on the Forward Plan: YES KEY/19FEB18/02
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so has it been registered on Verto?	NO Verto number: N/A

**RECOMMENDATIONS**

The Cabinet Member is recommended to authorise the Corporate Director for People and Communities to make residential placements in care homes until 1 December 2018 subject to:

- (i) Such placements being within the budget for the services;
- (i) The placement meets the conditions set out in the choice directives;
- (ii) The placement is made in consultation with the Head of Strategic Finance;
- (iii) Individual placements are made in accordance with the Council's Financial Regulations;
- (iv) The placement does not exceed the OJEU threshold per annum; and
- (v) All individual placement agreements is completed/signed.

**1. SUMMARY OF MAIN ISSUES**

1.1 Under the "Choice Directives" Local Authority Circular 2004 (20), Local Authorities have a duty to offer residents (whose care they are funding) choice over where they receive their care provided the home accepts the funding terms and conditions, including how much the Council

is willing to pay.

- 1.2 When the Council funds and places people in care homes currently it is done so on a spot purchasing arrangement which requires an exemption from the Council's Contract Rules. This is time consuming, taking officers time away from the brokering and management of placements.
- 1.3 This paper seeks Cabinet Member approval to implement a temporary solution that authorises the Corporate Director for People and Communities to make placements in care homes until the Council has developed and implemented a longer term placement procedure that is compliant with its obligations under the Public Contract Regulations and Local Government Acts.

## 2. PURPOSE OF THIS REPORT

- 2.1 The purpose of this report is to provide background information and to seek the Cabinet Member's approval in relation to the recommendation.
- 2.2 This report is for the Cabinet Member for Integrated Adult Social Care and Health to consider exercising delegated authority under paragraph 3.4.3 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (b)

## 3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	<b>N/A</b>
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## 4. DETAILS OF DECISION REQUIRED

- 4.1 Local authorities have the power, under section 21 of the National Assistance Act 1948, to provide residential accommodation and community care services to adults who, because of age, illness, disability or other circumstances are in need of care and attention not otherwise available to them. The powers under section 21 are subject to the requirement to act with the approval and under the direction of the Secretary of State. This includes the National Assistance Act 1948, Community Care Act 1994, Choice of Accommodation Directions 1992 and the LAC (2004) 20 Guidance issued under Section 7(1) of the Local Authority Social Services Act 1970.
- 4.2 Vulnerable adults who have been assessed by the Council as having eligible need that could be effectively supported in a care home setting have a legal right to live in a care home of their choice under the National Assistance Act 1948 (Choice of Accommodation) Directions 1992.
- 4.3 The total Adult Social Care spend for 2016/17 was £62.1m. Of this £15.8m was spent on long term placements in residential care and nursing care. Where an individual has nursing care needs the cost of meeting this need is met by the NHS. It is important to highlight that residential care is an option reserved for those with the highest needs that can no longer be supported within their own home. The number of placements made in residential care and resultant cost to the Council will not change as a result of this decision.
- 4.4 Whilst the Council's strategy is to support individuals to remain independent and living at home for as long as possible, when someone's needs reach a point that they need residential care it is important the Council is able to make placements quickly so it can respond to changes in someone's support needs and ensure the right level of care is delivered in the right setting.
- 4.5 A delay to securing a care home placement can lead to a delayed transfer of care from hospital and subsequent financial penalty for the Council. It also causes unnecessary disruption as vulnerable individuals are moved to interim care settings whilst a permanent placement is organised. It is therefore important the Council looks to employ agile systems and processes to secure care home placements.

- 4.6 Whilst many residents choose to live in a care home close to where they live, there are occasions where residents choose to move to a home outside of the Peterborough area, to be closer to family for example. In such circumstances the Council would need to exercise its duties under the “Choice Directives”.
- 4.7 The Choice of Accommodation Directions 1992 or “Choice Directives” and later guidance issued within the Local Authority Circular 2004 (20) set out the conditions the residential care home needs to meet before the council agrees to the placement including;
- a) The accommodation is suitable in relation to the individual’s assessed needs;
  - b) To do so would not cost the authority more than it would usually expect to pay for someone with the individual’s assessed needs;
  - c) The accommodation is available;
  - d) The person in charge of the accommodation is willing to provide accommodation subject to the authority’s standard terms and conditions and prices for such accommodation.
- 4.8 Under the current model when someone identifies a care home and the placement is made by the Council, under its duties under the Choice Directive, the Council is not in a position to procure the services at present.
- 4.9 This paper sets out a short term solution offer enabling the Corporate Director for People and Communities to approve placements whilst a longer term solution is implemented to enable the Council to make placements with care homes in a much more efficient way, with the possibility of benefiting from economies of scale whilst also ensuring someone’s care and support needs and the operational requirements of the service are met.
- 4.10 In the short term it requests approval to authorise the Director to make placements without a competitive tender until such time as the Council can implement a rolling select list of approved care home providers and on provision the placement meets the following conditions:
- a) The placement meets the conditions set out in the choice directives (above)
  - b) The placement is made in consultation with the Head of Strategic Finance;
  - c) Individual placements are made in accordance with the Council’s Financial
  - d) Regulations;
  - e) The placement does not exceed the OJEU threshold per annum;
  - f) All individual placement agreements is completed/ signed.
- 4.11 The above conditions are in addition to the existing Adult Social Care process checks which include approval by the social work team manager that residential care is appropriate/ necessary and approval by the Adult Social Care Quality Assurance and Expenditure panel once it is satisfied all other care options have been explored and ruled out.
- 4.12 The long term solution is to procure a rolling select list. A rolling select list is a list of providers who have applied to the Council to be a provider of residential care and have satisfied the conditions or criteria. The conditions of the Peterborough rolling select list for adult residential care are:
- a) The provider has the appropriate registration with the Care Quality Commission;
  - b) The provider meets the requirements of the choice directives set out in 4.7;
  - c) The provider meets the conditions set out in 4.9;
  - d) The provider meets the terms and conditions set out in the ADASS East of England service contract; and
  - e) All provider’s on the rolling select list are published on a Council designated site and this site is maintained and kept up to date under the direction of the Assistant Directors.
- 4.13 The Council will advertise through a prior information notice (PIN) the opportunity for provider’s to join the rolling select list to improve market awareness and appropriateness of

essential care placements.

- 4.14 Once a placement is made with a care home on the rolling select list, the Council will monitor the quality of the service provided through regular reviews to ensure the provider is meeting the terms and conditions of the contract. Any change in the service users needs will also prompt a review of the support provided.

## 5. CONSULTATION

- 5.1 This report follows extensive consultation with colleagues within the Council and local care homes. The consultation with the homes has focused on the terms and conditions of the service contract the Council will employ. A provider forum was held on 26 June 2014 to introduce the contract specification and invite providers to join a representative group to work with the Council to review the rates it pays for care.
- 5.2 During the forum concern was raised about the amount of paperwork involved in admitting someone into the care home currently and the difficulties providers have experienced in receiving payment for services on time. This feedback supports the recommendation to authorise the Director to be able award contracts for care.

## 6. ANTICIPATED OUTCOMES

- 6.1 **Streamlining Process** – the proposed recommendation will enable placements to be made at pace, avoiding unnecessary delays to residents care whilst also minimising administration.
- 6.2 **Making it easier to do business with the Council** – the change would avoid unnecessary delays and enable payments for these services to be made more quickly. Important when the current residential market demand exceeds supply in many areas.
- 6.3 **Adhering to both statutory duties and contract rules** – the proposed change allows the Council to deliver the duty to offer choice and control over where someone prefers to live.
- 6.4 **A stronger contractual agreement between council and home**- the change enables the Council to issue new contracts to all existing and new placements. This will offer greater clarity on the outcomes the Council expects from the provider and the terms and conditions of the placement.

## 7. REASONS FOR RECOMMENDATIONS & ANY RELEVANT BACKGROUND INFORMATION

- 7.1 The recommendation set out in the report offers a flexible solution to meet the Choice Directive and maintain continuity of service provision for service users.

## 8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 **Do nothing** – There would be significant delays in placements being made that are required in emergency situations and potentially limit the Council's ability to offer choice to service users as required under the Choice Directive. This option was therefore discounted on this basis.
- 8.2 **Run a tender for every care home placement** – This option was discounted as it would significantly delay placements that are often needed to be made in emergency situations .

## 9. IMPLICATIONS

### Adult Social Care

- 9.1 There are implications on current Adult Social Care systems and processes as a result of this change. Adult Social Care will need to share the ADASS service contract with potential provider's as soon as they are identified by the resident to ensure they can evidence they meet the terms and conditions.

- 9.2 The Council will need to identify an area within the Adult Social Care pages of the Council website ([www.peterborough.gov.uk](http://www.peterborough.gov.uk)) to publish details of all provider's on the rolling select list and identify a resource responsible for maintaining this list.

### **Financial**

- 9.3 A system for consulting the Head of Strategic Finance has already been developed and implemented to ensure that the financial conditions of placements set out in this report are met.
- 9.4 There are no other financial implications as the number of placements and resultant cost to the Council will not change as a result of this decision.

### **Legal**

- 9.5 The legal implications are contained within the body of this report.

### **Procurement**

- 9.6 The Adult Social Care Team will engage with legal services and the client procurement team in relation to developing a longer term solution for the provision of residential placements that can be implemented prior to 1 November 2015.

## **10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED**

- 10.1 None.

## **11. BACKGROUND DOCUMENTS**

- 11.1 None.