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| ADULT SOCIAL CARE CONTRACTS FOR PLACEMENTS IN CARE HOMES |
| Councillor Wayne Fitzgerald, Deputy Leader and Cabinet Member for Integrated Adult Social Care and Health |
| December 2018 |
| Deadline date: December 2018 |

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| 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/29MAY17/04 |
| 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? | YES Verto number: PR002363 |

| RECOMMENDATIONS | |
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| <p>The Cabinet Member is recommended to authorise the Corporate Director for People and Communities to make residential placements in care homes until 1 December 2028 (10-year contract) subject to:</p> <ul style="list-style-type: none"> (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. | |

- 1.1 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 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 and 3.4.8 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (b).

3. TIMESCALE

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| Is this a Major Policy Item/Statutory Plan? | NO | If Yes, date for relevant Cabinet Meeting | N/A |
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Table 1 - Timescale

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 2017/18 was £67.5m. Of this £16.7m 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. See table 2 below for an approximation of the spend over a 10 and 20 year period, based on current spend.

| Current Spend 2018/18 | Spend over 10 years | Spend over 20 years |
|-----------------------|---------------------|---------------------|
| £16.7 million | £167 million | £334 Million |

Table 2 - Approximate spend over a 10 and 20 year period

- 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 The pseudo DPS process allows The Council 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 terms and conditions set out in the ADASS East of England service contract;
 - d) All provider's on the rolling select list are published on a Council designated site and this site is maintained and is updated every 3 months via Contracts Finder;
 - e) Value for money is determined via the Brokerage Team who negotiate each placement fee in relation to individual service users. In order to effect this, Brokers utilise the IESE Complex Care Tool to provide a reference point for costs and challenge to the provider ([click here for further information](#));
 - f) Following the panel process and the Pseudo DPS process, contracts will be issued securing the placement(s);
 - g) Standards and outcomes required to keep people safe, and meet their needs is in accordance with the Care Act 2014 and the Health and Social Act 2008 (Regulated Activities) Regulations 2014.
- 4.10 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.
- 4.11 The list will be opened for the duration of 10+10 years. Providers will be able to apply throughout the duration of the Pseudo DPS framework and the submission will be evaluated on quarterly basis.

- 4.12 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 Procurement / Legal / Brokerage / and Commissioners 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.

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 and would conflict with the Choice directions set out in 4.7.

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) 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 process followed was in line with procurement guidelines.

The procurement process was conducted based on the instructions provided by the legal department.

The extensive contract negotiations with the in area service providers started on 18th of July 2017 and was concluded on 5th of January 2018.

Prior Information Notice (PIN) was issued to the market on 27th of November. It allows any potential Care Home to submit their bid and secure their place on Pseudo DPS rolling select list.

The success factors are as follows:

1. Bidder passing Standard Selection Questionnaire(SSQ)
2. Bidder submitting the information on the insurance (Public Liability/Employers Liability)
3. Bidder completing and submitting Safeguarding Toolkit
4. Bidder agreeing to councils T's and C's
5. Agreement to relevant declarations
6. Bidder submitting following documentation for council's reference:
 - a. Current pricing documentation
 - b. Current policies and procedures in place i.e. Business Continuity Plan, risk management strategy/policy, quality management certification, safeguarding of vulnerable adults, how staff support Service users with their finances, Support Plan and Service User Needs and Risk Assessment, Service User Involvement, Complaints & Compliments, Lone Worker, Whistle Blowing, Code of Conduct/Professional Boundaries.
 - c. Statement of Purpose

The list detailing successful bidders will be advertised on TED/Contracts Finder as well as on council's website. The current list of successful bidders are:

- Cherry Blossom Care Home
- Clair Francis Retirement Home
- Field House EYE Ltd
- Garden Lodge Residential Care Home
- Maxey House
- St Margaret's Care Home
- Trustcare - Philia Lodge
- Trust Care Management Ltd - The Star
- Peterborough Care - Park Vista Care Home
- Peterborough Care - Broadleigh Nursing Home
- Peterborough Care - Lavender House
- Peterborough Care - The Maltings
- Avery House Healthcare Limited
- Priory Adult Care - Abbey Court Care Home
- Athena Care Homes (UK) Limited - Ashlynn Grange
- Anchor Trust - Clayburn Court

- Barchester Healthcare - Chater Lodge
- Barchester Healthcare - Longueville Court
- Barchester Healthcare- Werrington Court

10. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

10.1 None.

11. BACKGROUND DOCUMENTS

11.1 None.