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| <b>DECISION TITLE: Award of Contract for Integrated Community Equipment Service and approve Section 75 Agreement</b>  |
| <b>ENTER NAME OF CABINET MEMBER EXERCISING DELEGATED POWERS :</b> Councillor Irene Walsh, Cabinet Member for Integrated Adult Social Care, Health and Public Health |
| <b>ENTER MONTH IN WHICH DECISION IS BEING TAKEN :</b> October 2021  |
| <b>Deadline date:</b> <i>October 2021</i>   |

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| Cabinet portfolio holder:  | Councillor Irene Walsh, Cabinet Member for Integrated Adult Social Care, Health and Public Health |
| Responsible Director:  | Wendi Ogle-Welbourn   |
| Is this a Key Decision?  | YES<br>Forward Plan Reference Number: KEY/ 24 MAY21/ 03   |
| 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?             | N/A   |

**R E C O M M E N D A T I O N S**

The Cabinet Member is recommended to:

1. Approve the implementation of a single Section 75 Agreement between the Cambridgeshire and Peterborough Clinical Commissioning Group (CCG), Peterborough City Council (PCC) and Cambridgeshire County Council (CCC) in which the CCG delegates the provision / commissioning of the NHS function to the authorities with PCC acting as the lead authority.
2. Authorise PCC entering into a Delegation and Partnering Agreement with CCC, whereby CCC shall delegate the delivery of the function of Integrated Community Equipment Services to PCC, which shall include the associated transfer of funding to PCC. PCC shall be the authority to contract with the provider NRS Healthcare for delivery of this function throughout Peterborough and Cambridgeshire.
3. Authorise the award of the Integrated Community Equipment Service Contract to NRS Healthcare commencing 1 April 2022 for a period of 5 years with the option to extend for a further 3 + 2 years. The total annual pooled budget for this service is estimated at £5,884,866.00 per annum.

## 1. PURPOSE OF THIS REPORT

- 1.1 This report is for the Cabinet Member for Integrated Adult Social Care, Health and Public 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 (c)

## 2. TIMESCALES

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| Is this a Major Policy Item/Statutory Plan? | No |
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## 3. BACKGROUND AND KEY ISSUES

### 3.1 Introduction

- 3.1.1 The Integrated Community Equipment Service (ICES) contract has been in place since 2014, operated by *NRS Healthcare*. It was extended under the contract terms in 2019 for a further two years, and again in 2020 for a further year due to Covid19 impacting the procurement timetable. This period of extension was approved via a CMDN published in December 2020. The current contract will therefore terminate on 31/3/2022.

The service is being jointly commissioned by Cambridgeshire County Council (CCC), Peterborough City Council (PCC) and the Cambridgeshire & Peterborough Clinical Commissioning Group (CCG) with PCC acting as lead commissioner. With effect from 1 April 2022, PCC shall contract with the successful supplier on behalf of CCC and the CCG, with the authorities entering into a Delegation and Partnering Agreement reflecting the delegation of function between authorities.

- 3.1.2 The service is responsible for the purchasing, delivery, installation, collection, recycling, repair and maintenance of a large range of health and social care equipment which helps people to remain as independent as possible in the community and in the home of their choice. The service also provides minor housing adaptations (small ramps, rails etc.). The provision of equipment to people with assessed need is part of our statutory duty under The Care Act 2014 and is a critical service in terms of keeping people as independent as possible, avoiding admissions to hospital or care homes, reducing the amount of formal home care packages, supporting discharges from hospital and end of life care. The service is well respected within the local health and social care system. The provision of appropriate equipment to people at home can prevent, avoid and delay their need for more costly forms of health and social care support. The service provides equipment to all service user groups including children.
- 3.1.3 This paper covers the key elements in relation to this service namely the commissioning and funding of the service via Section 75 Agreement, the delegation of the function between authorities and the outcome of the recent procurement and re-tender process.

### 3.2 Section 75 Agreement

- 3.2.1 Section 75 of the NHS Act 2006 allows partners (NHS bodies and councils) to contribute to a common fund which can be used to commission health or social care related services. This power allows a local authority to commission health services, enabling joint commissioning and commissioning of integrated services.

PCC and CCC's ICES is commissioned and funded by a Section 75 (pooled budget) agreement with the CCG. Currently, there are two Section 75 Agreements, one for each authority. Both agreements will terminate on 31/3/2022.

3.2.2 It is proposed that there is a new approach for the commencement of the newly procured contract on 1 April 2022:

- The implementation of a single Section 75 Agreement between the CCG, PCC and CCC in which the CCG contributes to a common fund which shall be used to commission the ICES function(s) by the authorities.
- The Section 75 may recognise one authority as the Lead Authority for purposes of commissioning ICES, whereby a successful third party shall provide the service upon completion of the procurement. The authority leading the procurement in this matter shall be PCC.
- Each party's financial contributions, risk share, responsibilities, obligations, liabilities, dispute resolution, termination rights etc. shall be identified within the S75 Agreement. The CCG shall make contributions direct to each authority (as recommended by each authority's Finance Team).
- PCC shall contract with the successful supplier on behalf of CCC in reliance on powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature. A delegation and partnering agreement between PCC and CCC shall document the delegation of function, set out in the financial contributions of each authority and associated transfer of funding from CCC to PCC, define roles and responsibilities and agree review processes to manage the function's delivery and performance

### 3.3 Procurement Process and Contract Award

3.3.1 A re-tender of the ICES contract was undertaken following Public Contracts Regulations 2015 (PCR2015). This was a joint commissioning activity, with PCC acting as the lead with input from CCC, CCG & CPFT. The procurement utilised the Open Procedure in accordance with Regulation 27 PCR2015 and comprised of the following elements:

A Selection Questionnaire including:

- Financial Standing
- Technical and Professional Ability
- General Data Protection Regulation (GDPR)
- Modern Slavery
- Insurances

A Quality Element - the maximum score available was 100 points. A weighting was given to each question ranging between 3% and 30%. A minimum quality threshold score of 70% or higher of the total was required from bidders. The quality questions that were asked within the quality element related to the following areas:

- i) Implementation & mobilisation plans (10% weighting)
- ii) Key requirements (30% weighting)
- iii) Recycling of equipment (5% weighting)
- iv) The management of non-contract 'special' equipment (including Technology Enabled Care and children's equipment) (5% weighting)
- v) Clinical support to the contract (12% weighting)
- vi) IT / on-line requisitioning system requirements (15% weighting)

- vii) Minor adaptations (10% weighting)
- viii) Social value (5% weighting)
- ix) Environmental policy (5% weighting)
- x) GDPR (3% weighting)

A Price Element - the most economically advantageous price of those bidders that scored equal to or above the minimum quality threshold.

All bidder's that met the selection criteria within the Selection Questionnaire proceeded to the tender evaluation stage. Tenders submitted were evaluated on a minimum quality threshold then via the most economically advantageous price evaluation mechanism. This means that out of a maximum score of 100, bidders would need to score at least 70% (70 points) of the total available to have their price for the services considered. The bidder with the most economically advantageous price after having achieved at or above the threshold quality score would have submitted the winning bid.

The Quality element of the tender was evaluated and scored independently by a panel. This panel was made up commissioners from PCC, CCC and the CCG, and operational colleagues from PCC, CCC and the CPFT, all of whom were supported by the Peterborough Serco Procurement Service.

The panel members individually considered the bidders' responses and provided an initial score providing a rationale for the score awarded. A moderation of those scores was then led by the Procurement Service. A consensus score and rationale was determined following moderations.

3.3.2 The price evaluation consisted of two key elements that were combined to provide an overall total price:

- i) **Activity prices.** Bidders were provided with a finance schedule to complete which gave them estimated annual volumes for the following activities:
  - Postal deliveries
  - Standard delivery (within 5 working days)
  - Next day delivery
  - Same day delivery (to support the D2A pathway)
  - Delivery and installation of telecare equipment
  - Standard collection (within 5 working days)
  - Next day collection
  - Bulk delivery and collection to / from peripheral stores
  - Planned preventative maintenance
  - Minor housing adaptations
  - Repair of equipment in the community (urgent and non-urgent)
- ii) **Product prices based on a 'basket of goods' approach** with the basket containing the top forty contract products based on volume and value

Bidders were advised that commissioners required the service to operate on an 80% credit (buy back) model which is the industry standard approach and one which has served the authorities well in the current contract.

3.3.3 Tender Results

A total of four bids were received. Three bids reached the minimum quality threshold of 70%. Of these three tenders, the bid with the most economically advantageous bid has submitted the winning bid.

The overall summary of results is as follows:

| <b>Provider</b>   | <b>Quality score</b> | <b>YES or NO (met or exceeded the minimum quality threshold of 70%)</b> | <b>Most economically advantageous price</b> |
|-------------------|----------------------|---|---|
| <i>Provider A</i> | 84                   | YES   | 3   |
| <i>Provider B</i> | 82                   | YES   | 2   |
| <i>Provider C</i> | 70                   | YES   | 1   |
| <i>Provider D</i> | 50                   | NO  | Not Applicable                              |

Provider C met the minimum quality threshold and submitted the most economically advantageous price.

#### **4. CONSULTATION**

- 4.1 A Market Engagement Event was undertaken in January 2020 at which all three market leaders were present. This was held to determine the best route to market and to ensure the requirements of the service could be met. It also offered the opportunity to hear about service developments that providers were pursuing in their other contracts so as to help inform our new service specification.
- 4.2 Consultation with service users was undertaken in 2019. This was completed using Parent Carer forums, and the Partnership Boards chaired by Healthwatch. Feedback from service user surveys, gathered during 2019/20, were also used alongside the Partnership Board feedback to inform the outcomes required of the service and helped in the development of the new Service Specification.
- 4.3 Legal Services, Procurement, CCC and the CCG have been fully engaged and provided support throughout every stage of the procurement process.

#### **5. ANTICIPATED OUTCOMES OR IMPACT**

- 5.1 A single Section 75 Agreement between PCC, CCC and CCG shall govern the commissioning and funding of the service for the duration of the new contract.
- 5.2 PCC shall enter into a contract with *NRS Healthcare* on behalf of CCC.. This option is chosen in reliance on powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature. A delegation and partnering agreement between PCC & CCC shall document the delegation of function, set out the financial contributions of each authority and define roles and responsibilities. The partnering element shall document the processes between the authorities to manage the function's delivery and performance, whilst adhering to the overarching principles and protocols of the Joint Working Agreement. The CCG will be involved in the monitoring of the contract, as they are now.
- 5.3 These arrangements will continue to deliver a high quality community equipment service to people with assessed and eligible needs in Peterborough. The service will:

- Support people of all ages to remain as independent as possible in the community
- Support people to remain living as independently as possible in the home of their choice
- Support the hospital discharge process and prevention of admission
- Support both the early intervention and prevention, and long term care agendas

5.4 As a point of note regarding the S75 Agreement that shall be entered into between PCC, CCC and CCG, on 6 July 2021, the Health and Care Bill was published, setting out key legislative proposals to reform the delivery and organisation of health services in England, to promote more joined-up services and to ensure more of a focus on improving health rather than simply providing health care services. The Health and Care Bill will allow for the establishment of Integrated Care Boards and Integrated Care Partnerships across England and the proposed abolishment of Clinical Commissioning Groups (CCGs). The Bill is to be debated in parliament throughout autumn and winter 2021 and is expected to be passed in time for changes to come into effect in April 2022. Accordingly, the Integrated Care Boards will take on the NHS planning role currently held by the CCG, therefore arrangements in place between CCG, PCC and CCC will be considered during this period of transition, and existing s75 agreements shall be amended or replaced as required by the new legislation.

## 6. REASON FOR THE RECOMMENDATION

- 6.1
- Provision of equipment that meets an assessed need is a requirement under The Care Act 2014
  - Provision of community equipment is also an essential part of the early intervention and prevention offer as it can reduce and delay the reliance on more costly social care services – e.g. domiciliary care and care home placement
  - The tender process was compliant with procurement legislation, and the service was procured in accordance with the Public Contract Regulations 2015. The contract to be awarded is recommended as it represents good value for money and provides services that meets the quality standards

## 7. ALTERNATIVE OPTIONS CONSIDERED

7.1 *Section 75 Agreement*  
 Consideration was given as to whether to continue with two separate Section 75 Agreements. This was felt to be unnecessary as the key element of the agreement (the pooled budgets) will be included as separate schedules. All other aspects of the agreement apply to both authorities in equal measure.

- 7.2 *Contract*  
 The following options were considered:
- **Bringing the service in-house.** This option was rejected as the cost of the 80% funding model of the service would not transition effectively or efficiently into an in-house model
  - **Not to provide the service.** This is not appropriate as the provision of equipment to meet assessed needs is a requirement under The Care Act 2014 and essential to the prevention and early intervention agenda
  - PCC and CCC to contract separately with a service provider, however this was rejected because the contract would mirror each other and would present an unnecessary duplication. The integrated commissioning facilitates an integrated approach to the contracting as the service is the same across Cambridgeshire & Peterborough

## 8. IMPLICATIONS

## Financial Implications

- 8.1 The Council will enter into a 5 year contract with the successful provider with the option to extend for 3 + 2 years.

The total annual pooled budget, based on 2021-22 for this service is as follows:

|                                      | <b>LA contribution</b> | <b>CCG contribution</b> | <b>Total annual pooled budget</b> |
|--------------------------------------|------------------------|-------------------------|-----------------------------------|
| <b>CCC Pool</b>                      | £2,419,942             | £2,285,638              | £4,705,580                        |
| <b>PCC Pool</b>                      | £412,750               | £766,536                | £1,179,286                        |
| <b>Total funding for the service</b> |                        |                         | <b>£5,884,866</b>                 |

The new contract (commencing 1 April 2022) allows for an annual uplift based on the Consumer Prices's Index (CPI).

The CCC pool contributions will transfer to PCC (who shall be the authority contracting with the provider on behalf of both authorities) and PCC will then pay the provider.

Any pressures on the pools at year-end are apportioned in line with the percentage risk shares. It should be acknowledged that this is a demand led service and has to respond to pressures across the health and social care system. The contract is also affected by global market forces. At present the service is seeing increased costs affected by rising shipping prices and raw material costs. These are closely monitored by Commissioners and Finance leads across PCC and CCC and in liaison with the CCG.

## Legal Implications

- 8.2 Advice from PCC Legal Services and Serco Procurement has been obtained throughout the procurement process. The procurement has been conducted in accordance with the Public Contracts Regulations 2015.

Section 75 of the NHS Act 2006 allows partners (NHS bodies and councils) to contribute to a common fund which can be used to commission health or social care related services. This power allows a local authority to commission health services, enabling joint commissioning and commissioning of integrated services. Section 75 agreements can include arrangements for pooling resources and delegating certain NHS health-related functions to the other partners.

With effect from 1 April 2022 CCC shall delegate delivery of the function for Integrated Community Equipment Services to PCC and shall transfer funding accordingly. PCC shall enter into contractual arrangements on behalf of both authorities. Legal implications shall be considered and addressed within the Delegation and Partnering Agreement between CCC and PCC, setting out clear roles and responsibilities for both councils, including (but not limited to) liabilities, financial arrangements, information governance, data protection and performance management. The Parties shall enter into a Delegation and Partnering Agreement in reliance on their powers and the exclusive rights given to local authorities to undertake administrative arrangements of this nature in sections 101 and 113 of the Local Government Act 1972, and sections 19 and 20 of the Local Government Act 2000 and the regulations made under these Acts; together with the general power within section 2 of the

Local Government Act 2000 and the supporting provisions within section 111 Local Government Act 1972.

### **Equalities Implications**

8.3 The Community Equipment Service provides for all service user groups, including children and young people.

### **8.4 Carbon Impact Assessment**

A carbon impact assessment was completed and one of the quality questions focussed on this aspect. The successful provider confirmed that they would use either hybrid, or fully electric, vehicles in order to work towards carbon neutrality.

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

9.1 *None*

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

10.1 None

## **11. APPENDICES**

11.1 None