

**Report of the Strategic Director of Health and Wellbeing  
- Adult Services to the meeting of the Health and Social  
Care Overview & Scrutiny Committee to be held on  
Thursday 12 July 2018**

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**Subject:**

**RE-COMMISSIONING OF HOME SUPPORT CONTRACTS**

**Summary statement:**

**Report for Projects over £2m providing details of the Health and Wellbeing - Adult Services, intention to re-commission Home Support Services within the District**

**This report is provided for information to advise members of the forthcoming procurement of a contract with a value of in excess of £2million.**

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## **1. SUMMARY**

In line with Council Standing Order 4.7.1 all Contracts with an estimated value of over £2m must be reported to the relevant Overview and Scrutiny Committee before inviting tenders.

This document provides details of the Health and Wellbeing - Adult Services, intention to re-commission Home Support Services within the District. This activity augments the Departments Home First Strategy working with people who choose to access support to remain happy, healthy and at home.

This report will be augmented at the Overview and Scrutiny Committee meeting by a visual Powerpoint presentation by the Contract and Quality Assurance Manager for Home Support.

## **2. BACKGROUND**

Home Support is the delivery of a wide range of personal care and domestic/community support services to people in their own homes. Support may range from a short visit to ensure that a person has taken prescribed medication, for example, through to a significant care package meeting assessed needs for example personal care i.e. support to get in/out of bed, bathing/toileting and meal preparation.

During 2016 Officers, in line with Contract Standing Orders and EU procurement legislation established a new Framework for Home Care Services in the District. This became operational in September 2016 as the Integrated Personalised Support and Care Framework (IPSAC) The Framework comes to the end of its initial term on 12 September 2018, but includes an option to extend for a further 12 months during which time Officers intend to undertake a tender process which will due to the aggregate value, require an OJEU procurement exercise to select the successful providers.

As of July 2018, there are 99 CQC registered providers in Bradford providing approximately 3,701 people with 35,000 hours per week of home support. The Council brokers approximately 45 new requests for home support provision per week.

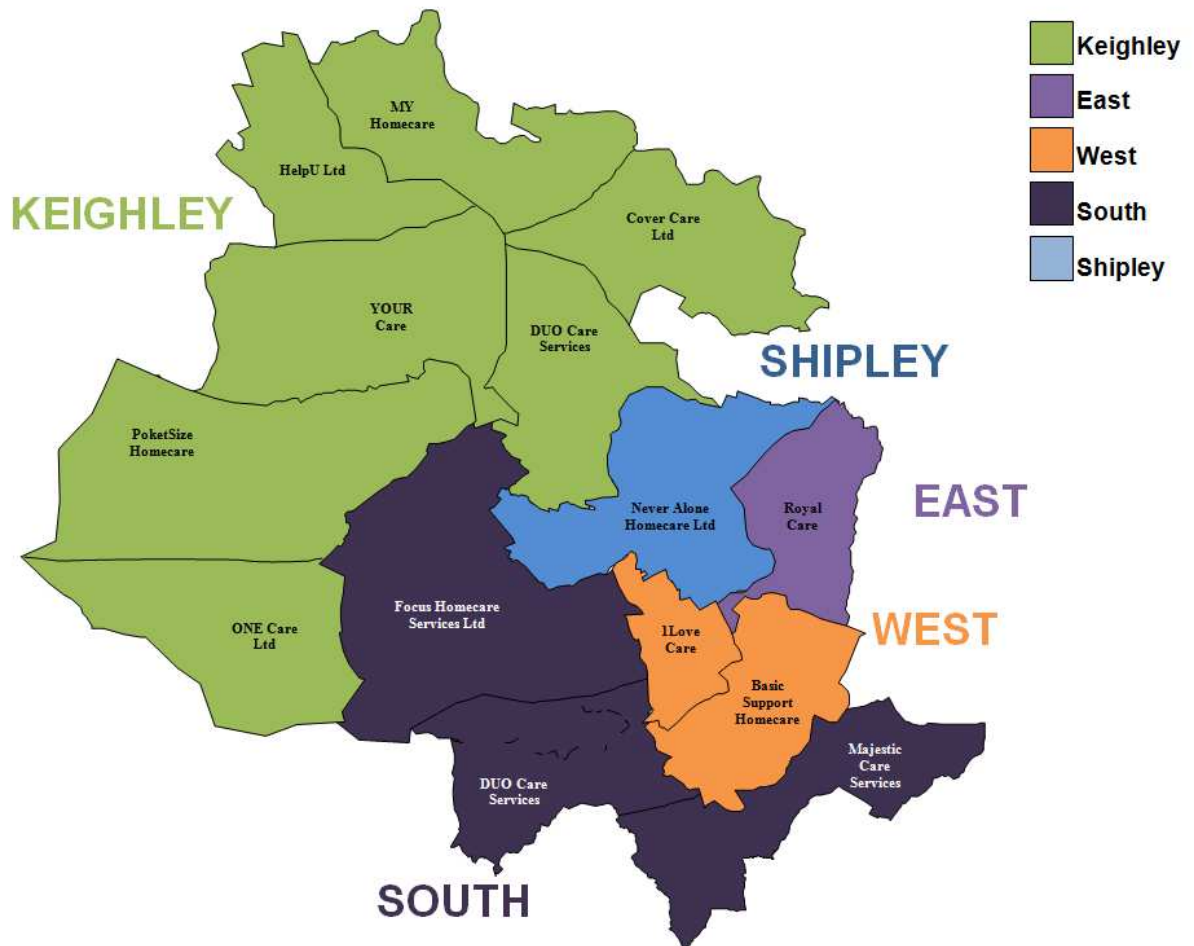
Currently, recruitment and retention issues can affect the timely placement and subsequent support in specific geographic areas of the District. The planned re-commissioning of home support services takes into account these challenges.

The re-commissioning of services enhances the Home First Strategy to ensure that the wishes, feelings and beliefs of people who have long term support needs from the services are communicated, understood and upheld.

We have deliberately invested in Home Support services within the District, working with local providers in establishing a Service Improvement Board whose views have been taken into account in pursuing the re-commissioning of home support services.

Officers have developed a revised specification for the future delivery of Home Support services which will aligns the provision with internal operational localities to create a number of small locality contracts specific to geographic areas. Smaller areas will allow the recruitment of staff who may not drive. Additionally, to afford market stability, a number of guaranteed hours per week based on current/future usage will be provided. It is recognised that the term of the contract is long enough to afford market stability. The new contracts will also address the issue of very short call provision (15 minute calls).

The following graphic provides, for information purposes only, how the District may look with the configuration of new locality contracts.



We intend to hold an information event for current providers and potential bidders, where our commissioning intentions will be outlined as well as offering Tender Ready Training.

### **Planned Procurement Process and Award**

**Indicative contract term: Three years with an option to extend for two further periods of twelve months.**

This takes into account market stability issues and feedback from the market.

- Indicative tender publication date: September 2018
- Bids returned November 2018
- Evaluation: November-December
- Award: end December
- Implementation and handover: April 2019

To mitigate the risk associated with TUPE transfer, and to protect reputational risk, it is proposed that resource is made available to help incoming and outgoing providers to manage this process in each contract area.

### **3. OTHER CONSIDERATIONS**

It is recognised that any change to the services is likely to have significant TUPE and service transfer implications for those in receipt of support.

TUPE is likely to apply because as a result of the commissioning process there may be a service provision transfer. TUPE Regulations apply in service provision transfers in situations where a new contractor takes over activities from another contractor (known as re-tendering).

In order to avoid any impact on the winter pressures period and to keep potential disruption to services at a minimum, it is proposed that the new contract start on 1 April 2019, with the tender exercise taking place between September and December 2018.

To minimise disruption and anxiety within the service user group, it is proposed that communications relating to the new contract are restricted to the post award period, where concerns can be assessed on a case by case basis.

### **4. FINANCIAL & RESOURCE APPRAISAL**

Scoping as to the financial implications will be undertaken as part of the process to determine any cost changes/budgetary revisions.

Currently, the annual cost of home support services is £43 million. This comprises the following:

- CCG £12m
- Client Contribution £4.3m

- Council:
  - £15m on OP/PD
  - £9.6m on LD
  - £2m on MH

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

The aforementioned TUPE and service transfer implications for those in receipt of support will need to be fully accounted and provision/governance created in order to mitigate/minimise these.

Finance Officers will form part of the project group for the procurement of this service and will provide advice on financial modelling and implications for the new Contracts.

The Council's Legal Services will form part of the project group for the procurement of this service and will provide advice on both commercial and social care legal aspects.

## **6. LEGAL APPRAISAL**

The procurement of Home Support services is to ensure the Council is meeting its statutory duties under the Care Act 2014, the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Mental Capacity Act 2005, and to cater for future demand.

The Local Authority must also have regard to its public sector equality duties under section 149 of the Equality Act 2010 when exercising its functions and making any decisions. The Local Authority must carry out an Equalities Impact Assessment to enable intelligent consideration of any equality and diversity implications when commissioning services.

S149 of the Equality Act 2010 (the Public Sector Equality Duty) provides as follows

A public authority must, in the exercise of its functions have due regard to the need to;

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to;

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to;

- a) tackle prejudice, and
- b) promote understanding.

Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

The Public Services (Social Value) Act came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. The Act applies to the pre - procurement stage of contracts for services. Commissioners should consider social value before the procurement starts because this can inform the whole shape of the procurement approach and the design of the services required

Commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could improve the social, environmental and economic well being of the area and also to consider how in conducting the process of procurement the commissioner might act with a view to securing that improvement.

TUPE refers to the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014". The TUPE rules apply to organisations of all sizes and protect employees' rights when the organisation or service they work for transfers to a new employer. TUPE has impacts for the employer who is making the transfer (also known as the outgoing employer or the transferor) and the employer who is taking on the transfer (also known as the incoming employer, the 'new employer' or the transferee).

All procurement activity must be undertaken in accordance with Council's Contract Standing Orders and in line with internal governance requirements.

## **7. OTHER IMPLICATIONS**

### **7.1 SOCIAL VALUE**

In line with the Council's Social Value and Inclusive Growth Policy, the procurement for these services will include a 10% scored Social Value section, using the Social Value Toolkit to demonstrate that bidders will meet social value objectives for inclusive growth

### **7.2 EQUALITY & DIVERSITY**

The Department is in the process of compiling an Equality Impact Assessments as part of the re-commissioning of Home Support where requirements necessitate which will be incorporated into the specific work/procurement plan. All work undertaken will address issues of equality and diversity as they apply to protected characteristics groups.

### **7.3 SUSTAINABILITY IMPLICATIONS**

The re-commissioning of Home support Services in contributing to sustainability strategies will be considered as part of the process to ensure that the Departments functions and services maintain their capability and quality through the transition process and beyond.

### **7.4 GREENHOUSE GAS EMISSIONS IMPACTS**

The proposal to create specific small geographical localities will enable staff visiting people to reduce significantly the organisations carbon footprint and emissions from a reduction in the use of vehicles. Staff will be able and encouraged to walk between visits.

### **7.5 COMMUNITY SAFETY IMPLICATIONS**

There are no community safety implications arising from this report.

### **7.6 HUMAN RIGHTS ACT**

The Human Rights Act 1998 provides a legal basis for concepts fundamental to the well-being of older people and others who are in need of Home Support. The Act provides a legal framework for service providers to abide by and to empower service users to demand that they be treated with respect for their dignity

### **7.7 TRADE UNION**

Officers have liaised with the Trade Union (Unison) in respect of the Unison Ethical Care Charter and the aim is to include this as part of the new contract arrangements.

### **7.8 WARD IMPLICATIONS**

There are no direct implications in respect of any specific Ward.

## **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

There are no Corporate Parenting issues arising from this proposal.

## **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT**

A full Privacy Impact Assessment will be undertaken to determine specific areas of GDPR and information security as part of the process. It is recognised that the potential for transfer of personal data may be significant

## **8. NOT FOR PUBLICATION DOCUMENTS**

None

## **9. OPTIONS**

Home Support is currently purchased through the Integrated Personalised Care and Support Framework, which expires in September 2018, with an optional 12 month extension period. In order to ensure a continued contractual relationship with service providers, and to be compliant with the procurement regulations for aggregate spend of this value, it is now necessary to undertake a OJEU procurement exercise, which will be open to the market, including new local provision where available.

### **Option 1: Replacement Framework agreement**

Pros: Replicates existing ways of working and allows for a broad range of providers  
Cons: Difficult to guarantee supply in rural areas. Difficult to manage 'off Framework' placements

### **Option 2: Dynamic Purchasing System**

Pros: Providers can join at any stage  
Cons: Home Support hourly rates are established as a separate costing exercise and a DPS does not work with a fixed rate pricing model. Difficult to assess and award based on quality of provision.

### **Option 3: A series of individual block contracts**

Pros: Successful providers each receive a guaranteed volume of business.  
Cons: Lack of flexibility in the event of provider failure.

### **Option 4: Self Directed Support**

Pros: Allows service users to have choice and control over the care that they receive, by directly or indirectly managing their own budgets. In line with the Choice Directive and the Department's vision for care and support.  
Cons: At this stage, the provider market and Council resource for managing Self Directed Support is not sizeable enough to allow for all provision to follow this route, meaning that a traditional contractual relationship will also be necessary. Personal commissioning provision will increase over time as Service users who choose to



use a non-contracted provider will be assisted to take a Direct Payment or Individual Service Fund.

**Option 5: Geographically based locality contract – Preferred Option**

Allows for a range of providers to work in and across defined geographical boundaries. Working on five primary localities (Bradford East, Bradford South, Bradford West, Shipley and Keighley), with providers taking patches within each locality, the model would guarantee a minimum number of hours, and give greater coverage, and flexibility.

**10. RECOMMENDATIONS**

That the Committee discuss the contents of this report and consider any equality and diversity, TUPE and social value implications at this pre- procurement stage in accordance with Council Standing Orders in 4.7.1.

**11. APPENDICES**

None.

**12. BACKGROUND DOCUMENTS**

None.