

# **Report of the Strategic Director of Health and Wellbeing to the meeting of Health and Social Care Overview and Scrutiny Committee to be held on Thursday 26<sup>th</sup> September 2019**

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## **Subject:**

**Health & Wellbeing Commissioning Strategy and Intentions – Adult Social Care  
2019-21**

## **Summary statement:**

**This report is to provide information and to advise members on the adult social care commissioning strategy and intentions of the Bradford Council’s Health and Wellbeing department over the next two years.**

**This report also provides information for members on the forthcoming procurement of contracts with a value of in excess of £2 million that will be commissioned in line with the commissioning strategy and intentions.**

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**Portfolio:**  
Healthy People and Places

**Overview & Scrutiny Area:**  
Health and Social Care and Wellbeing

## **1. SUMMARY**

- 1.1 This report is to provide information and to advise members on the adult social commissioning strategy and intentions of the Bradford Council's Health and Wellbeing department over the next two years.
- 1.2 This report also provides information for members on the forthcoming procurement of contracts with a value of in excess of £2 million that will be commissioned in line with the commissioning strategy.

## **2. BACKGROUND**

### **Priorities**

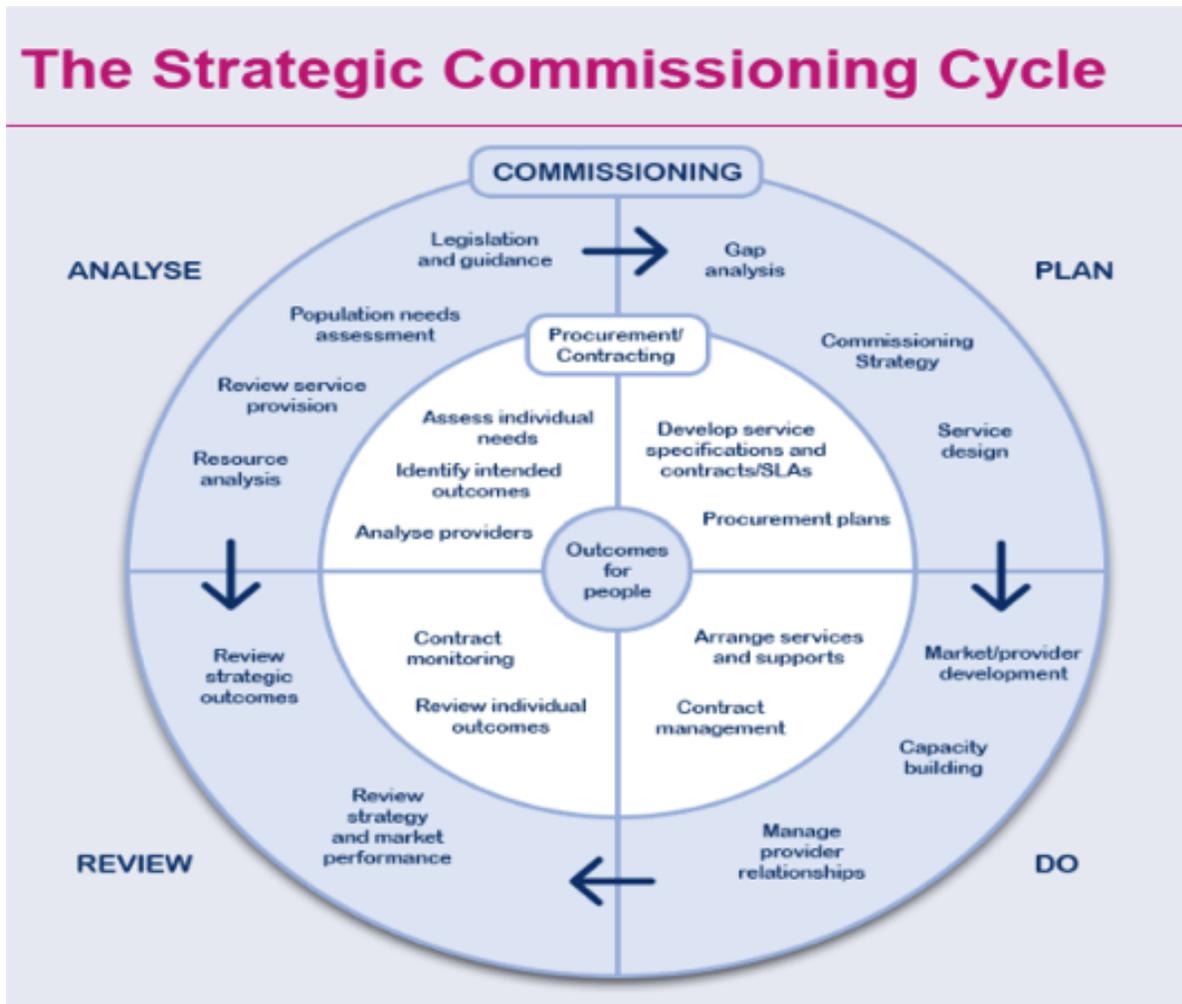
- 2.1 The Health & Wellbeing department (the department) commission a wide range of services for vulnerable people across the district. This is achieved through an on-going programme of commissioning and procurement activity.
- 2.2 This work is aligned to the key priorities of the department and the Clinical Commissioning Group (CCG) and the shared system vision; Happy, Healthy and at Home.
- 2.3 Through the Strategic Partnering Agreement (SPA) the Council has agreed to work closely with NHS Clinical Commissioning Groups to develop stronger and deeper joint commissioning arrangements. Through the Health and Care Partnership Boards all local partners (not just commissioners) are engaged in the development of the Council's broad commissioning intentions in line with the overall vision, objectives and principles, in Adult Social Care.
- 2.4 The department is also undertaking a programme of change through the Health & Wellbeing Transformation programme with four transformation and change priorities; Maximising independence, Early help & prevention, Commissioning and Performance framework.
- 2.5 The commissioning strategy and intentions are aligned to the above priorities and the budget savings that need to be achieved in the next two years through the adults demand management strategy.

### **What is Commissioning?**

- 2.6 There are many definitions and views about what commissioning actually is. In general terms it is a systematic approach to planning and resourcing public services in order to ensure value for money. This is a wide definition that could be applied to any type of service.
- 2.7 In terms of commissioning social care it is about achieving the best possible outcomes for the community and for individuals, who require care and support. This includes people who may need care and support at some time in the future. Commissioning is about ensuring there is a personalised approach to meeting

people's needs, in all services and settings.

- 2.8 Commissioning is not always about “buying new services”; it might be looking at a number of different options and approaches to meeting demand or change in priorities. This can be joint working on a strategy with other partners or co-production through the re-design of current systems.
- 2.9 The commissioning process is a cycle, a set of activities grouped into four key elements all of equal importance; Analyse, Plan, Do and Review. See diagram below for further detail.



- 2.10 For each commission undertaken a commissioning project team is set up comprising of colleagues from other services and/or departments: Technical experts who play a key role in providing advice and helping to shape the commission. This can include social workers, legal services, procurement and finance. The work of the project team is to work through the commissioning cycle.
- 2.11 Governance of commissioning projects is directed through the departmental management team and through the relevant joint boards.
- 2.12 Integral to the commissioning of services is fully understanding the needs of individuals. This can only be achieved through involving people in the

commissioning process its self, from service design through to reviewing services. This is co- production of services with individuals but co-production also involves all stakeholders who can influence the way services are designed, commissioned and delivered.

- 2.13 Market engagement is another success factor in the commissioning of services. Early and timely market engagement with the different social care markets enables potential providers to fully understand what we need local services to look like and enables potential providers to plan for how they might respond to “the ask” as an organisation.

### **3. REPORT ISSUES**

#### **Commissioning Strategy and Commissioning Intentions**

- 3.1 The department has developed a Health & Wellbeing Adult Social Care Commissioning Strategy and Commissioning Intentions document to support the work of the department (and the wider Council) in achieving its strategic objectives over the next two years.
- 3.2 The Commissioning Strategy, attached at Appendix 1, sets out the context in which the strategy operates and the five key commissioning priorities for 2019-2021 which are:
- Early Intervention and Prevention
  - Personalisation, Choice and Control
  - Accommodation and Support Services
  - Contract Management and Financial Administration Services
  - Market Shaping - facilitation and sustainability
- 3.3 The Commissioning Intentions document, attached at Appendix 2, sets out, in detail, the work plan for undertaking the commissioning strategy. Under each of the five commissioning priorities is a description of the work packages and timescales.

#### **Procurement**

- 3.4 The commissioning intentions document also sets out where procurement activity with a value of over £2m will be carried out in the life time of the commissioning strategy (2019-2021).
- 3.5 Procurement activity has up until now been carried out in line with traditional procurement routes, primarily Open tender processes, resulting in block or spot managed purchases or through Restricted tender processes resulting in framework contracts.
- 3.6 The Public Contracts Regulations 2015 introduced the Light Touch Regime, under which ‘social and other specific services’ above a given threshold, can be procured via any process, subject to compliance with EU Treaty principles of proportionality, transparency and equal treatment, and adherence to certain mandatory steps around publication, advertising and contract award.

- 3.7 Light Touch processes are nationally on the increase due in part to the potential for authorities to resolve previous areas of inconsistency around statutory requirements of procurement, and duties to promote choice and control under the Care Act.
- 3.8 The Light Touch Regime (LTR) very much fits with the procurement and commissioning approach that we want to move forward with. It provides the opportunity to adopt processes that fit with the markets we commission from, and allows us flexibility to respond to service and market needs, proportionality, where required, as long as EU Treaty principles are being met.
- 3.9 As an example of this, in line with an approach taken by other local authorities, the department is currently undertaking work to develop a Light Touch approach to procurement. This new route to market can be used across a range of services to replace traditional Framework agreements with a flexible and responsive system, in which new entrants to the market can participate at any time.
- 3.10 Making use of the increased procurement flexibility available under the Regulations over this period will result in greater choice for service users of Council accredited providers and services; and better opportunities for local providers.

## **Social Value**

- 3.11 The Council's Social Value and Inclusive Growth Rationale and Policy Document is applied to all procurements for contracts over £25k in value. The Policy sets the approach for doing more than sourcing the Council's supplies at a price that it is competitive and good value for money, it also set the Council's ambition for meaningful Social Value from our providers.
- 3.12 As part of the commissioning process we consider social value before the procurement starts because it can inform the whole shape of the procurement approach and the design of the services required. This includes thinking about whether the services we are going to commission could improve the social, environmental and economic well-being of the area and also how in conducting the process of procurement it might act with a view to securing that improvement.

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

- 4.1 The report is about streamlining the commissioning activity. The commissioning activity will be performed under the guidance of the Council Constitution in particular the contract standing orders. Budgets are set within each area of the department and rigorous monitoring takes place. There is no direct impact on the budget but as the commissioning strategy and intentions are embedded, specific monitoring will take place to ensure that the spend remains within budget.

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

- 5.1 Each commissioning project is managed by a team that includes commissioners, operational, finance, procurement and legal staff. To manage activities and timescales there is a formal project plan, which includes a risk register and a

communication plan which is monitored by the project team. The department will also seek legal advice in relation to requirements set out paragraph 6.

- 5.2 The project team reports progress to the Assistant Director and the departmental management team. Jointly commissioned projects report to the relevant joint boards.

## **6. LEGAL APPRAISAL**

- 6.1 There is increased flexibility to be achieved in following an LTR route to procurement, which serves the aim of the Public Contracts Regulations 2015 (PCR). There are however still regulations to be adhered to and each individual procurement to be undertaken must be considered in terms of the level of cross-border interest there may be in order to assess whether any advertisement needs to be made when below the LTR threshold.

- 6.2 It is important to ensure that in addition to the general principles of equality, non-discrimination and transparency, the department:

- i. advertise in OJEU (or its relevant replacement in the event of Brexit) all above-threshold LTR procurements;
- ii. publish all advertisements on Contracts Finder (including below-threshold if they are advertised anywhere else);
- iii. utilise the mandatory and discretionary exclusion criteria in the PCR;
- iv. follow the general rules around pre-qualification questionnaire (PQQ) (as proscribed by Lord Young) – including not using PQQ below the general services threshold and using government-recommended standard PQQ questions;
- v. undertake the contract award notice and standstill provisions as generally set out in the PCR as the remedies regime will apply to LTR as to any procurement.

This is pursuant to both the PCR and government issued guidance on LTR.

- 6.3 In order to undertake robust processes, the department must set out clearly the intentions and steps to be taken, and adhere to these throughout. Legal challenges can be mounted to any procurement process, leading to costs, delays and reputational damage to the Council. The recourse could be through the PCR, through judicial review or by complaint to the legal ombudsman.

- 6.4 The department should seek legal advice for any LTR procurements that it will undertake which deviate from standard procurement routes in order to evaluate and/or mitigate the risk of the proposed course of action.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

- 7.1.1 As part of the commissioning processes Equality Impact Assessments are undertaken at key points in the process, where requirements necessitate. All work

undertaken will be address issues of equality and diversity as they apply to protected characteristic groups.

## **7.2 SUSTAINABILITY IMPLICATIONS**

7.2.1 The commissioning of services in contributing to sustainability strategies will be considered as part of the process to ensure that the department's functions and services maintain their capability and quality through the transition process and beyond.

## **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

7.3.1 Providers of commissioned services will be required to support the Council's commitment to reduce CO2 emissions through the contracting arrangements it enters into with Council.

## **7.4 COMMUNITY SAFETY IMPLICATIONS**

7.4.1 There are no community safety implications arising from this report.

## **7.5 HUMAN RIGHTS ACT**

7.5.1 The Human Rights Act 1998 provides a legal basis for concepts fundamental to the rights of people. The fundamental rights include rights that impact directly on service provision in the health and social care sector.

7.5.2 Where services are of commissioned providers of services will be required to comply with the Human Rights Act through the contracting arrangements it enters into with the Council.

## **TRADE UNION**

7.6 1 Future changes in commissioned service may change the roles of staff and offer new and different opportunities to work together.

## **7.7 WARD IMPLICATIONS**

7.7.1 There are not direct implications in respect of any specific Ward.

## **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

7.8.1 There are no direct implications in respect of any specific ward.

## **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

7.9 The implementation of an adult social care commissioning strategy and intentions will have positive implications for corporate parenting. The Council's ability to fulfil its legal and moral duty to safeguard and promote outcomes for its Looked after Children, will be strengthened by the commissioning intentions. This includes a

more integrated approach to commissioning services through joint working to ensure services meet local needs.

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

7.10.1 A full Privacy Impact Assessment will be undertaken to determine specific areas of General Data Protection Regulation (GDPR) and information security as part of the commissioning process. It is recognised that the potential for transfer of personal data might be significant when commissioning and procuring services.

7.10.2 There may be a need for partner agencies to share data however this would only be with the express permission of individuals affected in the full knowledge of why and what it would be used for. GDPR principles relating to any individuals data and rights under the Data Protection Act 2018 will be respected.

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

8.1 None.

## **9. OPTIONS**

9.1 As this report is for information only there are no options which can be listed.

## **10. RECOMMENDATIONS**

10.1 Members are asked to consider and comment on the information provided on the Health and Wellbeing Strategy and Intentions – Adult Social Care 2019-20

## **11. APPENDICES**



➤ Appendix 1 Health & Wellbeing – (Adult Social Care) Commissioning Strategy and Intentions 2019-2021



Appendix 2 Health & Wellbeing – (Adult Social Care) Commissioning Intentions 2019-2021

## **12. BACKGROUND DOCUMENTS**

12.1 None