

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
SOCIAL CARE HEALTH & WELL-BEING CABINET BOARD**

13th September 2018

**Report of the Head of Commissioning, Support & Direct Services –
Angela Thomas**

SECTION A – MATTER FOR DECISION

WARDS AFFECTED: ALL

COMMISSIONING OF LEARNING DISABILITY SERVICES

Purpose of the Report

1. To obtain Member approval to undertake a procurement exercise for a range of learning disability services.

Executive Summary

2. This report sets out a proposal to establish a framework for the provision of supported living schemes and specialist domiciliary care services for people with a learning disability. The intention is for Neath Port Talbot County Borough Council ("the Council") and Abertawe Bro Morgannwg University Health Board ("ABMU HB") to use this framework, where appropriate, to purchase new services and to re-procure existing services.
3. The Council's current arrangements have been in place for a number of years and advice from the Council's Legal Services section is that there is a need to re-procure our existing services. Re-procuring these services also provides an opportunity for the Council to review and strengthen our current arrangements in order to further promote high quality and value for money.
4. Once the framework has been established, it is proposed that this framework is used to take forward a mini-competition (see paragraph 18) for the re-procurement of existing supported living schemes and specialist domiciliary care services.

5. Engagement will take place with all relevant stakeholders, including service users and their families, with regards to the establishment of the framework and the re-procurement of supported living schemes and specialist domiciliary care services for people with a learning disability. If it is identified that this proposal requires a change to the nature or level of service then officers will undertake a consultation exercise.
6. The Council will lead on the development and management of the joint framework. As such, there is a need for the Council to enter into an arrangement with ABMU HB regarding the establishing and hosting of the framework.

Background

Current Position

7. The Council have arrangements in place with 6 providers to deliver care and support and housing related support to 108 individuals in 38 supported living schemes. AMBU HB jointly fund 5 of these placements due to the individuals having both social care and health needs (information correct as at 24.08.18). In addition ABMU HB have a number of placements in these schemes to support people with a learning disability that have Continuing Health Care (CHC) needs.
8. Arrangements are also in place with 6 providers to deliver 650 hours of specialist domiciliary care to people with a learning disability across the unitary authority area of Neath Port Talbot.
9. Historically, there has been an incremental approach to the commissioning these services. This is due to the steady increase in the use of supported living and domiciliary care as an alternative to traditional residential care over the past 10 years.
10. There is now an opportunity to take stock of our current commissioning arrangements and to take forward a more strategic approach to how we develop and purchase these services.
11. Our current contractual arrangements have been in place for a number of years and there is a need to review these contracts. This will help us to strengthen quality, ensure the contracts reflect current best practice and legislation as well as setting out clear expectations on both parties.

12. Under the Public Contract Regulations 2015 the Council is obliged to act in an open fair and transparent manner, ensuring that contract opportunities for social care and health services in excess of £615,278 is advertised to reach a wide market in order to encourage as much competition as is possible. The value of these services mean that they are caught by the aforementioned procurement rules.
13. On March 8th 2018 (Background Paper 1), Members granted permission for the Head of Commissioning, Support and Direct Services to enter into a competitive procurement exercise to re-commission learning disability services funded through the Supporting People Programme Grant (SPPG). Members also approved that following the procurement process and an assessment of the bidder(s) quality and cost, for the Head of Commissioning, Support and Direct Services to be granted delegated authority to enter into new contracts for with the bidder(s) evaluated as offering the most economically advantageous tender. This framework and the proposed re-procurement of supported living and specialist domiciliary care will include housing related support services funded through SPPG.

Proposed Framework Arrangement

14. It is proposed that the Council establish a framework of experienced providers who are able to deliver high quality, financially sustainable and modern services. In order for a provider to be successful in obtaining a place on the framework, the Council will assess the providers experience and quality as part of the framework tender process. All providers that are able to meet the Council's experience and quality expectations will be awarded a place on the framework.
15. The framework does not guarantee that the Council or ABMU HB will use any of the providers for the provision of services. Instead it will guarantee that all providers on the framework are able to bid for services that the Council or ABMU HB purchase through the framework. The Council and ABMU HB will also have the right to not use the framework.
16. Existing providers that are awarded a place on the framework will have their current contracts for supported living and specialist domiciliary care services superseded by the new framework agreement. This ensures that all our current placements are strengthened by having in place new contracts with enhanced quality standards as well as clear obligations for

providers. These contracts will also reflect the most recent legislation in regards to social care and housing related support.

17. The length of this framework agreement will be for a period of two years, with an option to extend this contract for a period of up to 24 months.
18. The Council intends to use this framework, where appropriate, to purchase new supported living and specialist domiciliary care services and re-procure existing supported living and specialist domiciliary care services. This is known as a 'call off' or 'mini-competition'.
19. The framework will not be used to purchase new individual placements in supported living schemes. This is to help ensure that people have maximum choice and control by separating their choice of accommodation from the care and housing related support they receive.
20. Although this framework will not generally be used for new specialist domiciliary care placements, a number of existing domiciliary care placements will be re-commissioned through this framework (please see paragraphs 23-28 for more detail).
21. The evaluation process for each mini-competition will include an assessment of the bidder's quality and cost, with the bidder demonstrating the most economical advantageous tender winning the mini-competition and being awarded the individual service agreement for the delivery of care and/or housing related support and/or CHC services.
22. The Council will host the framework and lead on its development; both the Council and ABMU HB will have an ability to use this framework.

Proposal for Re-commissioning Existing Schemes

23. As explained in paragraphs 2-3, there is a requirement for the Council to re-procure its existing supported living schemes and specialist domiciliary care.
24. Rigorous engagement with key stakeholders including those that use services, their families/carers and providers will be undertaken to ensure a co-produced approach to commissioning these services.

25. It is proposed that the Council re-procures these services by undertaking a mini-competition through the framework for a number of 'lots'. These lots will be geographically based and consist of a number of supported living and specialist domiciliary care services within a specific geographical area. The provider that is successful in winning the mini-competition for that lot will be required to deliver all existing services in that geographical area.
26. It is proposed that the existing 'Closer to Home' schemes are re-procured as a separate lot to the geographical lots. This is due to the highly specialist nature of the schemes. The 'Closer to Home' schemes are part of a Western Bay project to support people that currently reside in out of county residential placements to return to their local communities through the development of highly specialist supported living schemes.
27. There are a number of benefits to geographical based lots, for example providers will be able to make closer links with their local community in order to support the Council's vision of building safer and resilient communities. In addition, it will allow more flexibility for providers to staff the schemes.
28. Providers wishing to bid for these lots will submit a bid via the framework, which will be evaluated based on their quality and cost in order to identify which bidder(s) will offer the most economically advantageous tender. The bidder offering the most economical advantageous tender will be awarded the contract for that lot.

Arrangements with ABMU HB

29. The Council will lead on the development and also host the framework. Either party will be able to use this framework to commission individual services (e.g. a supported living scheme that is fully commissioned by ABMU HB or the Council) as well as to jointly commission schemes (e.g. a supported living scheme that is jointly funded between ABMU HB and the Council).
30. In light of the above, there is a need for the Council to enter into an arrangement with ABMU HB in regards to the obligations and governance of establishing and hosting the framework.

Financial Impact

31. The net social services budget for learning disability services in 2018/19 is £9,887,790. This figure includes some residential placements, which will not be included in the framework.
32. In addition £1,337,307 of SPPG funding is allocated to learning disability providers for the delivery of housing related support.
33. It is not possible to indicate the financial impact of this proposal until the services have been tendered and the Council has evaluated the bids. The procurement process will ensure that the Council contracts with providers that are able to offer best value for money, taking into account both the quality and cost of the bidder's submissions.

Equality Impact Assessment

34. An EIA is not required for this report.
35. Equality considerations will be addressed through the procurement process to ensure providers are compliant with equality legislation and support the Council in meeting its public sector duties.

Workforce Impacts

36. The contents of this report do not have any impact on the Council's workforce.
37. Although the contents of this report will not have any impact on the Council's workforce, the workforce of external providers that the Council contract with to deliver the existing services may be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as part of the exercise to re-procure existing services. Any TUPE will be between the current and new provider(s) and will not impact on the Council workforce.

Legal Impacts

38. The cost of these services exceeds the OJEU threshold of £615,278 for undertaking a competitive tender.
39. As such, the Council is required to undertake a procurement exercise for these services in accordance with the Public Contract Regulations 2015.

Risk Management

40. There are no risk management issues associated with this report.

Consultation

41. There is no requirement under the Constitution for external consultation on this item.
42. There may be a requirement to undertake public consultation if it is identified that the procurement exercise represents a change to the nature or level of service. However at this stage it is not believed that the procurement exercise will result in a change to the nature or level of service as the services are based on the service users care plan.
43. In light of paragraph 42, it is proposed that Cabinet approve officers to undertake a public consultation exercise, if there is an identified need to do so.
44. In order to ensure co-production in the commissioning of services, officers will undertake engagement with all key stakeholders, including those that use services and their families/carers. Feedback from this engagement will support both the establishment of the framework and the purchasing of services through the framework.

Recommendations

45. That agreement is given for:
 - a) The Head of Commissioning, Support and Direct Services to take the lead in commencing a procurement exercise in order to establish a framework for the provision of supported living schemes and specialist domiciliary care services for people with a learning disability, which can be capable of being used by Neath Port Talbot County Borough Council and Abertawe Bro Morgannwg University Health Board;
 - b) Following the procurement process, for the Head Commissioning, Support and Direct Services to be granted delegated authority to enter into a framework agreement with the bidder(s) evaluated as offering the most economically advantageous tender (taking into account the quality and cost of the bids), for the provision of

supported living and specialist domiciliary care service for people with a learning disability;

- c) Once the framework has been established, for the Head of Commissioning, Support and Direct Services to use this framework, where appropriate, to purchase supported living and specialist domiciliary care services;
- d) Subsequent to the establishment of the framework, for the Head of Commissioning, Support and Direct Services to use this framework to commence a mini-competition for the re-procurement of existing supported living schemes and specialist domiciliary care services for people with a learning disability;
- e) If identified as a requirement, officers to commence any necessary public consultation to implement this proposal;
- f) For the Head of Commissioning, Support and Direct Services to enter into an arrangement with Abertawe Bro Morgannwg University Health Board to lead and host the framework.

Reasons for Proposed Decision

- 46. Undertaking a procurement exercise to establish a framework for supported living schemes and specialist domiciliary care services for people with a learning disability will ensure that the Council is legally compliant when purchasing these services. In addition, this will ensure that the Council is best placed to continue meeting the needs and demands of those that require these services through the purchasing of high quality and financially sustainable services.
- 47. Re-procuring supported living schemes and specialist domiciliary care services for people with a learning disability provides an opportunity to review current services and ensure that they are best placed to meet current and future needs. In addition, the re-procurement exercise will ensure that the Council is compliant with the Public Contract Regulations 2015 and the Council's Contract Procedure Rules.
- 48. If this proposal results in a change to the type or level of service, entering into a public consultation will ensure that the views and opinions of the public inform the Council's decision making.

49. Entering into an arrangement with ABMU HB in regards to the development and hosting of the framework will offer protection to the Council in the event of a dispute between partner authorities.

Implementation of Decision

50. The decision is proposed for implementation after the three day call in period.

Appendices

51. None

List of Background Papers

52. 2018/19 Contractual Arrangements for the Supporting People Programme Grant (restricted)- Item 11 of the Social Care, Health and Wellbeing Cabinet Board 8th March 2018.

<http://moderngov.neath-porttalbot.gov.uk/ieListDocuments.aspx?CId=322&MId=7624>

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