

WIRRAL COUNCIL

HEALTH AND WELLBEING OVERVIEW AND SCRUTINY COMMITTEE:
1 NOVEMBER 2010

REPORT OF THE DIRECTOR OF ADULT SOCIAL SERVICES

PROGRESS TOWARDS THE TRANSFORMATION OF ADULT SOCIAL SERVICES CONTRACTS FOR PERSONAL SUPPORT

Executive Summary

This report provides an update on progress to develop new outcome based contracts for personal support as part of the transformation of adult social services. These contracts cover Residential and Nursing Home Care, Supported Living and Personal Support provided to people in their own homes.

The report focuses on the changes to the existing service specifications in the context of managing the market and the broader transformation agenda for Adult Social Services. The proposed changes are considered essential to improve safeguarding, value for money and offering more choices for people to enable them to take control over their lives. The aim is to have the new contracts in place by 1 April 2011.

This item falls within the Social Care and Inclusion portfolio.

1 Background

- 1.1 At its meeting of 9 December 2009 Cabinet resolved to give notice to providers of domiciliary, supported living, residential and nursing home care to terminate the existing contracts on 31 March 2011 and agree a new contracting framework that would help re-shape the market in the context of the personalisation agenda and improved safeguarding arrangements for people living in Wirral. An open co-production methodology was adopted with as many Providers as possible engaged in the process - and many did.
- 1.2 The price the Council pays for these services is subject to the wider public consultation '*Wirral's future, be a part of it*' and will be an issue discussed at a future Cabinet meeting as part of the budget setting process for 2011-12.
- 1.3 The new contract specifications have been designed alongside other changes that underpin the Transformation of Adult Social Care. They have greater focus on outcomes for people, increased choice and control and less bureaucratic business processes wherever possible. A further key development is the strengthening of Safeguarding arrangements. The new contracts give clearer direction to Providers over what is expected of them, and gives the Council greater powers to act when concerns are raised. This important development is contained within the Improvement Plan arising from the inspection in May 2010 by the Care Quality Commission on safeguarding adults, making a positive contribution, and increased choice and control for adults with a learning disability.

- 1.4 A disciplined project management approach has been adopted which has been overseen by the Department of Adult Social Services Transformation Board and reported to the Council's Strategic Change Programme Board. This has ensured a robust audit trail exists that evidences the transparency and fairness of the process. Best practice procurement guidelines have been adhered to and the Project has benefited from the close involvement of officers from Legal Services and Central Procurement which reflects the size of the contract value over its projected life, and the significance to people who are vulnerable. If present trends were to continue the contract value would grow from £71.3m in 2011-12 to £80.2m in 2015-16, representing total expenditure over 5 years of £378.3m. Of course, with major changes facing adult social services arising from the need to significantly reduce spending, this growth is not sustainable.

Service Type	2011-12 £000	2012-13 £000	2013-14 £000	2014-15 £000	2015-16 £000	5 Year £000
Supported Living	10,371	10,683	11,004	11,334	11,674	55,066
Domiciliary	10,262	10,570	10,887	11,213	11,550	54,481
Residential	30,975	31,904	32,861	33,847	34,862	164,449
Nursing	19,655	20,245	20,852	21,478	22,122	104,353
Total Value	71,264	73,402	75,604	77,872	80,208	378,349

Source: 2010-11 Budget Projections with projected growth of older people and people with a learning disability.

2 Residential and Nursing Home Care

- 2.1 The market in Wirral provides approximately 3,500 registered beds. Approximately 500 (14%) of these are not currently occupied which represents a market inefficiency. This directly impacts on market stability and cost to the Council. Members are advised the optimal occupancy is 95% which means there is some availability so people can exercise choice and control over where they live and Providers have sufficient business to cover their costs and achieve a reasonable rate of return.
- 2.2 At the end of 2009-10 the Council supported 1,081 people in residential care and 710 people in Nursing Home care costing £46.6m. Over the last six months this has risen by 34 people net of departures, 36 in residential care and -2 in Nursing Home Care, increasing the projected spend by £0.8m in a full year. The greatest movement is for people with dementia with 55 new placements being made in the last half of the year. There has been a different pattern of this additional demand over the three Localities, with 31 people from Birkenhead, 18 from Bebington & West Wirral and only 6 from Wallasey. The new contract will need to take account of the increasing complexity and dependency of supported people.

- 2.3 One of the current financial pressures being faced by the Council is the increasing number of older people who were previously self-funded and entered residential or nursing home care without a statutory assessment. The Council has no option but to offer financial support to these people when their resources run out. This may only be 2.5 people per month however it represents an additional cost of £0.5m per year. The new contract will aim to limit this financial risk to the Council by encouraging Providers to be assured private payers have sufficient funds to pay for their care for as long as they are likely to need it. The Council cannot lawfully fully mitigate this risk.
- 2.4 The price the Council currently pays was determined by a *Fair Price* model developed with providers and consultants 'Laing and Buisson' in 2005. This examined the basic input costs such as staffing, provisions, and utilities of providing a registerable and financially sustainable business. It also included a reasonable rate of return on investment, or profit in many cases. The core principles of this model remain valid; however the impact of the current economic climate and the need to make savings demand a review of what the Council can reasonably afford to pay.
- 2.5 The average price paid for residential care in Wirral is 9.5% more than its nearest neighbours, and 9.17% more for nursing home care. The Task Team examining Adult Social Services costs as part of the consultation exercise in the summer of 2010 were informed this represents £4m above the average total expenditure. A specific question has been asked of people in Wirral whether this differential should be reduced.
- 2.6 The reason why this cost differential has arisen is because the Council introduced quality premiums in 2005. 80% of the bed capacity in Wirral now qualifies for the maximum 3 Star rating which brings with it a financial reward of £60 per person per week. The Care Quality Commission in their report to Cabinet of 2 September 2010 identified that the quality of care in Wirral is greater than it is in other areas and it is suggested this is a direct consequence of the star rating and premiums and their effective quality assurance.

2.7 **General Market Considerations**

- 2.7.1 The new contract has been developed to reflect the need to change the shape of the market to meet the requirements of the personalisation agenda, achieve better value for money and critically to respond to the need to improve safeguarding arrangements. They are based on a good understanding of market forces and prevailing conditions: -
- There is an oversupply in the market of approximately 300 beds
 - There is a 2% per annum increase in the older population in Wirral
 - More people are being supported in their own homes for longer
 - People will exercise more choice and control with their personal budgets.
 - More people are being re-enabled and supported with assistive technology
 - There is increased availability of alternatives such as extra care housing
 - Fees in Wirral are more than 9% above fees paid in neighbouring Councils
 - The Council is the purchaser of approximately 50% of the market

- The Council provides 155 beds in direct competition with the market
- The current economic climate has a direct bearing on running costs

2.8 Progress (Residential & Nursing Home Care Contract)

2.8.1 Cabinet on 9 December 2009 authorised the consultation with providers regarding the shape of a new contract that better reflected the personalisation agenda and a review of fee levels including quality premiums. A process was agreed with Providers who elected for open consultation rather than through a representative group. This has included: -

- (a) 16 March 2010 - Workshop 1, to agree a common definition and understanding of outcome based support (over 50 people attended).
- (b) 13 April 2010 - Workshop 2, to explain how the Department of Health 7 outcomes of 'Our Health, Our Care, Our Say' will be defined within the delivery of personalised support (over 60 people attended).
- (c) 18 May 2010 - Workshop 3, to discuss the initial principles and terms of the proposed new contract (over 60 people attended).
- (d) 15 July 2010, consultation event with user/carer and representative groups, to discuss service specification and contract terms (6 people attended).
- (e) 20 July 2010 Workshop 4, to further discuss and agree terms of contract (over 100 people attended).
- (f) 26 July 2010, wider consultation event with users, carers and community representatives (approximately 100 people attended).
- (g) 3 September 2010, workshop with providers to finalise contract terms (40 people attended).
- (h) 5 October 2010, final consultation with homeowners to communicate the wider consultation on fee levels.

2.8.2 There have also been numerous exchanges of ideas and requests for information from individual providers and the Wirral Care Homes Association. The principles of transparency and a genuine attempt to co-produce the new specification have been paramount throughout. The presentations made at the Workshops have addressed the reality of the economic climate and Providers have been fully briefed on the considerations being presented to the Task Force looking at priorities for Adult Social Services. The Committee is reminded that in the last few years, prices have been reduced in real terms by over £2.6m through agreeing by contract variation a reduction in the baseline fee for 2009-10 of 1.3% and non payment of inflation for 2009-10 and 2010-11.

2.8.3 Notice was served on 30 September 2010 that the current contract would end on 31 March 2011 and be replaced by a new contract on 1 April 2011. This gives more than the minimum notice period of 3 months. However the final contract and the price the Council is prepared to pay does need to be agreed by 31 December 2010 in order to meet this deadline.

2.9 Key Changes to the Residential & Nursing Home Care Contract terms and Service Specification

2.9.1 The revised draft contract is available from the Director of Adult Social Services. These continue to be modified by agreement with Providers until the formal date of inception. Key changes from the previous specification have been learned from customer feedback and consultation with practitioners across health and social care. Many contribute to improved Safeguarding arrangements and this project has prominence in the Adult Social Services Improvement plan. They include: -

- a) Clause 10 of the contract limits the Council's funding responsibility when people enter residential or nursing home care without a statutory assessment. This means Homes bear a greater financial risk should people be placed by Health without the Council's agreement to offer continuing financial support.
- b) Clauses 13 and Section 7.3 limit the Council's responsibility to fund people who pay for their accommodation themselves should their resources run out, or whose fees which are higher than the Council is prepared to pay, are met by a third party.
- c) Clause 10 and Section 1.12 of the Service Specification clarifies the Council's responsibility to provide information about people's needs, preferences and aspirations in a more timely way, and Provider's responsibility to act upon that information.
- d) Clauses 25 and 26 give greater clarity to the circumstances where either party can terminate the contract in respect of the whole contract or for individual resident.
- e) Clause 35 requires Providers to comply with Wirral's Safeguarding policy and procedures relating to adults and children.
- f) Section 1.7 of the Service Specification sets out the principles of support that the Provider must comply with. These are: -
 - the right to dignity, privacy, confidentiality and independence
 - residents are central in making decisions about their lives
 - residents' property is treated with respect
 - people acknowledge and respect all aspects of diversity
 - people have the greatest control over how they live their lives
 - the needs of carers and families are recognised
 - support is flexible and able to respond to people's changing needs.
- g) Section 1.8 sets out new requirements of Providers relating to people's quality of life. This sets out the provider's obligation to maximise people's independence and inclusion as active citizens.
- h) Section 1.9 sets out a different way of quality assuring the service provided under the contract using the seven outcomes outlined in the White Paper 'Our Health, Our Care, Our Say'. The new focus will be on asking people who use the service to report on the extent to which they are supported to: -
 - be as healthy as they can be
 - live a fulfilled life
 - participate as a full and equal member of their community
 - have the same life chances as other adults
 - live free from harm, fear, discrimination and prejudice
 - be financially stable and have control over their money
 - feel valued by others

- i) Section 1.11 covers the administration of medicines and health related interventions. These have been developed in conjunction with NHS Wirral.
- j) Sections 2, 7 and 9 cover the financial arrangements. These strengthen the reporting requirements which will serve to avoid confusion over financial liability. They will include the price the Council is prepared to pay for the Service, Quality Premiums and the inflation to be/or not to be applied each year. Cabinet have not yet made a decision in this regard as this remains open to public consultation. Section 7 sets out the arrangements for dealing with people's personal finances.

2.9.2 In summary this revised contract maintains people's choice about where and how they choose to live. It gives the Council more authority to hold to account Providers who fail to meet the required level and standard of service and enhances safeguarding arrangements. By setting the price the Council has more control over its Budget. The changes outlined in this paper are as a result of lessons learned from customer feedback and are consistent with the Adult Social Services Improvement Plan and broader transformation agenda.

3 Personal Support to people in their own homes

3.1 The Council currently has 2 contracts covering personal support at home (a) Domiciliary Care, and (b) Supported Living.

3.2 These are essentially the same specification however they currently have different price structures. The Council is projected to spend £9.96m on domiciliary care, procuring 15,500 hours of support per week at a unit cost of £12.28 per hour. Projected expenditure on Supported Living is £10.1m at a unit cost of £13.49 per hour, providing 14,400 hours per week. Discussions with Providers have centred on combining these contracts into a single specification with a standard price. It is recognised however that the Council may pay a differential hourly rate from time to time; for example when block contract arrangements are put in place where a discounted price is expected or for highly specialist support (such as for people with very challenging behaviour) that requires a supplementary specification and highly specialised skills. In both cases these price differentials will be secured by tender.

3.3 The following hourly rates are paid among Wirral's nearest neighbours:

Liverpool	£10.94
Lancashire	£11.96
Halton	£11.22
Cheshire West	£12.24 - £14.28
Wirral	£12.28 - £13.49

3.4 Progress (personal Support at Home Contract)

- 3.4.1 The consultation process has been the same as that outlined in paragraph 2.3.1. The new contract has been developed with a focus on outcomes for people rather than inputs. The principle is that it is more important what a provider achieves for someone than the time and task specified at the point of assessment. However for audit purposes it will still be necessary to commission and measure this in terms of hours of support to enable the Council to commit and monitor expenditure appropriately.
- 3.4.2 It is likely that the demand for personal support will continue to rise as more people with assessed need choose to live at home rather than enter residential or nursing home care. It is also likely that more people will choose to manage their own support with the aid of personal budgets. The new contract provides a contractual framework that enables people to use their personal budget to buy their support directly from accredited Providers with the added protection it gives them.

3.5 Key Changes to the Personal Support at Home Contract

- 3.5.1 It is intended that the contract will be tendered for on the basis of awarding it to 3 Primary and 3 Secondary Providers for each of the 3 Localities, and a number of Tertiary Providers operating on a Wirral wide basis.
- 3.5.2 The Council will set the price for personal support at home for the Primary and Secondary Providers, and open tenders will be invited for 'specialist support' for people with more complex need and for the Tertiary Provider status.
- 3.5.3 Contracts will be awarded to Primary and Secondary Providers on the basis of existing provision, and a qualitative assessment. This is to address customer's main concern that continuity and quality of care should be the paramount consideration. The price, like that for residential and nursing home care, will be set by Cabinet and based on a jointly agreed model with providers that reflects the actual costs of providing personal support. This ensures consistency and reduces the Council's exposure to financial risk from market forces.
- 3.5.4 The contract aims to place the customer first. This means people who are assessed as needing support, and who ask the Council to organise that support are free to choose which Provider from the accredited list they would like to provide their support. Where no such wish is expressed the Council will be obliged to use the Primary Provider in the first instance and then the Secondary if the initial request cannot be met.
- 3.5.5 It is also proposed that Primary and Secondary Provider status is reassessed from time to time. The Contract specifies how this will be achieved using a quality assurance framework linked to how well people's outcomes are being met and Provider's speed of response to new referrals. Customers have fed back that the speed of response has been an issue with the current arrangements and this has sometimes led to people being unsupported or delayed in hospital for longer than is necessary. The new contract sets challenging targets for Providers to retain their status.

These are: -

- Providers will be expected to respond to new referrals within 1 hour of the referral being made, indicating their willingness and ability to provide the support; and
- To commence that support within 72 hours of such positive indication.

3.5.6 The key changes in this Contact include the following: -

- (a) Clause 30 of the contract gives greater clarity to Providers responsibilities regarding Safeguarding arrangements. There are also enhanced clauses in the Service Specification (Section 2.1) to protect people from the risk of financial abuse when an individual needs an appointee to help manage their benefits, or assistance is needed, and requested, when people lack capacity to manage their personal financial affairs safely.
- (b) Section 1 of the Service Specification established the key principles of support which are the same as those listed in paragraph 2.9.1(f). The focus of these is to put people first and enable them to live as independently as possible.
- (c) As with the contract for Residential and Nursing Home Care the support provided will be quality assured against the seven outcomes of 'Our Health, Our Care, Our Say'. The quality assurance framework for this is set out in Section 1.3.
- (d) Section 1.5 extends this contract standard to people who privately fund support from Providers who have a contract with the Council. This includes people who use their personal budget to pay for support. Whilst the contractual relationship in these cases exists between the person who uses the service and the Provider, its acceptance is a pre-requisite to being an accredited Provider. Of course, people using their own money or a personal budget are free to use any Provider or person they wish to employ, including non-registered services. People will be given sufficient information and advice to help them make their own decision in this respect.
- (e) Section 1.10 requires Providers to maintain links with their local communities so that people are encouraged and supported to access local services that help meet their outcomes in a cost effective way.

3.6.5 In summary this new contract gives greater freedom for people to specify the support they need. It gives an alternative for people who pay for their own support or buy it with their personal budget. By setting the price the Council has more control over its Budget. The changes outlined in this paper are as a result of lessons learned from customer feedback and are consistent with the Adult Social Services Improvement Plan and broader transformation agenda.

4 Financial Implications

- 4.1 The Council is projected to spend £71.3m in 2011-12 at current prices, which over the projected life of the contracts (5 years) equates to £378m. However no decision has been made yet in respect of the revised fee levels in 2011-12 and beyond. These are subject to public consultation and Cabinet will make that decision as part of the budget setting process later in the year. Furthermore the amount the Council will spend on these contracts will depend on (i) the Fair Access to Care Services (FACS) criteria confirmed by Council for 2011-12, (ii) the extent to which people take up a personal budget and arrange alternative provision that meets their need, and (iii) the impact on early intervention, prevention, Assistive Technology and Re-enablement.

5 Staffing Implications

- 5.1 There are no specific staffing implications arising from this report. Members will be aware that the market providing support to people employs many local people, who are mainly women and lower paid. For the Council, effective monitoring of these contracts as they relate to outcomes for individuals will require a different approach to contracts Quality Assurance. That role will be spread across professionals (Contracts Officers and Fieldwork Practitioners) and partner agencies such as LINKs.

6 Equal Opportunities Implications/Health Impact Assessment

- 6.1 The new contracts will need to ensure nobody is disadvantaged and that people's health and wellbeing is promoted. The draft contracts have been developed with colleagues in NHS Wirral and include health related tasks and how these may be quality assured through the development of integrated working via a Section 75 Agreement, particularly but not exclusively in Nursing Home care.

7 Community Safety Implications

- 7.1 The new draft contracts focus on outcomes for people, primarily increased choice and control which will assist people accessing, with Providers' support, a range of community services wherever they may live. They also focus on improving the safeguarding arrangements for vulnerable people.

8 Local Agenda 21 Implications

- 8.1 None directly arising.

9 Planning Implications

- 9.1 There may be local planning implications arising from the diversity and change of business use of some premises as a result of the new contractual arrangements.

10 Anti Poverty Implications

10.1 None directly arising.

11 Social Inclusion Implications

11.1 The new contracts will aim to promote people's inclusion in local communities.

12 Local Member Support Implications

12.1 The contracts will cover support to be provided to people living in all wards.

13 Background Papers

13.1 None used.

14 Recommendations

That the Committee note the progress in developing the new Contacts for Residential and Nursing Home Care and Personal Support in people's own homes.

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