

WIRRAL COUNCIL

CABINET: 9<sup>th</sup> DECEMBER 2010

REPORT OF THE INTERIM DIRECTOR OF ADULT SOCIAL SERVICES

## **TRANSFORMATION OF ADULT SOCIAL SERVICES CONTRACTS FOR PERSONAL SUPPORT**

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### ***Executive Summary***

*This report seeks Cabinet authority to tender for the provision of Personal Support to people in their own homes and Support to people living in registered Residential and Nursing Home accommodation in Wirral. The revised Contracts focus on outcomes for people and are set in the context of the broader transformation agenda for Adult Social Care and the recommendations of the Task Force reported elsewhere on this agenda. The new Contracts are considered essential to improving safeguarding arrangements for vulnerable people, providing better value for money and offering more choices for people to enable them to take control over their own lives.*

*This involves a key decision which was first identified in the Forward Plan in December 2009.*

### **1 Background**

- 1.1 At its meeting of 9<sup>th</sup> December 2009 Cabinet agreed to give notice to providers of Domiciliary Care, Supported Living, Residential and Nursing Home Care to terminate the exiting Contracts on 31<sup>st</sup> March 2011 and replace them with a new outcome-based 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.
- 1.2 An open process of involvement and consultation was adopted with many Providers engaged throughout the process. Nine consultation events were held between January and November 2010. The details of these along with the main areas of change in the Service Specifications were examined by the Health and Wellbeing Overview and Scrutiny Committee at its meeting of 1<sup>st</sup> November 2010.

- 1.3 As this represents a major review of the Contracts' terms and conditions and the prices paid under them Cabinet are advised it must be able to demonstrate should there be any future litigation that it has taken fully into account the outcome of the consultation undertaken by officers. In particular Cabinet must be aware of the objections raised by Providers with reference to a proposed fee reduction. The Interim Director will recommend to Cabinet that after taking into account the prevailing market conditions and the broader transformation agenda for Adult Social Care, the majority of the market should still be able to provide good quality care and there will be no material adverse impact on people who are elderly, disabled, from ethnic minorities or female.

## **2 Drivers for Change**

- 2.1 The existing Contracts have been in place for 5 years and are due to be refreshed as the priorities for Adult Social Care have changed in the light of the Putting People First concordat (2009), the Council's consultation '*Wirral's future, be a part of it*' (2010), and the financial climate facing the Council and the wider public sector in general. In summary the main drivers for change are: -
- (a) An over-supply of 500 residential and nursing home beds in Wirral
  - (b) Wirral Council pays 9.5% more than its nearest neighbour average
  - (c) People want to remain in their own homes for as long as possible
  - (d) People want control over their support via Personal Budgets
  - (e) The Council provides 155 beds in direct competition with the market
  - (f) The Council has to find significant efficiency savings
- 2.2 The Task Force looking into priorities for Adult Social Services has recommended to Cabinet that Wirral should stop paying Care Home fees which are around 9.5% more than in neighbouring areas.
- 2.3 The Task force has also recommended to Cabinet that the Council should stop directly providing residential and respite care and instead procure it from the private and voluntary sector. In a similar vein the Task Force recommends the outsourcing the enabling function of the Home Assessment and Reablement Team (HART) and give serious consideration to outsourcing Supported Living services currently provided by the Council.
- 2.4 Cabinet, on 4<sup>th</sup> November 2010 agreed the roll out of Personal Budgets. As a consequence more people will take control over their support arrangements and there is a need to ensure the Personal Support at home market is able to develop and increase its flexibility in order to better meet people's expressed choices. The Task Force has not made any recommendation to reduce fees for Domiciliary Support provided to people in their own homes and Cabinet are advised of the risk of reducing these fees to sustaining the Personalisation agenda.

- 2.5 The impact of these considerations are connected to the significant number of requests for early voluntary retirement and present the Council with a unique opportunity to safeguard essential services and achieve better value for money in a coherent strategy. Put simply, if demand for services provided by the independent sector increases as a result of the Council withdrawing its supply, the market will be better able to absorb a price reduction. For example a 30 bed home currently running at 85% occupancy would need to attract 3 additional residents to achieve 94% occupancy and completely offset the price reduction. It is anticipated that good quality homes will achieve this additional business as the Council re-commissions up to 155 beds from the market, representing approximately £3.2m in potential business. This proposal was put to Residential and Nursing Home Providers engaged in the consultation process prior to the Task Force making its final decision and it's potential to reduce the impact of reducing fees by 9.5% in line with the nearest neighbour average. Feedback on these options has been received individually by homes and from the Homeowners' Association as well as Providers giving their direct feedback as part of wider consultation on Council priorities. It is important that Members give due consideration to this feedback in making their final decision as the Council has a dominant market position, directly purchasing approximately half of the available supply.

### **3 Consultation and Co-Production Process**

- 3.1 Following the decision of Cabinet in December 2009 it was agreed with Providers of Domiciliary, Supported Living, Residential and Nursing Home Care to engage in an open process of consultation and co-production of the revised Contracts and fees paid under them. These workshops also focussed on possible ways providers could diversify their service offer to people with a Personal Budget. For example Providers of Residential and Nursing Home Care could consider offering more community support in their local areas (e.g. laundry, day time activities, outreach support) which presents new opportunities for income generation towards their fixed costs. The process of consultation was outlined to providers in January 2010 and was followed by a series of inclusive workshops throughout the year:

- (a) 29<sup>th</sup> January 2010 Provider Forum to agree the process (60 people attended, representing 40 residential and nursing home providers)
- (b) 16<sup>th</sup> March 2010 The first workshop attended by 38 providers to agree the process and a common understanding of outcome based support.
- (c) 13<sup>th</sup> April 2010 Provider Workshop focussing on how the seven outcomes of 'Our Health, Our Care, Our Say' (DOH 2008) can be reflected in the contract and delivery of personalised support. Over 60 people attended.

- (d) 18<sup>th</sup> May 2010 Provider Workshop to develop the principles and terms of the proposed new Contracts. Over 60 people attended.
- (e) 15<sup>th</sup> July 2010 Consultation with a focus group of representatives of people who use services and carers to discuss the service specification and contract terms. (6 people attended)
- (f) 20<sup>th</sup> July 2010 Provider Workshop to further develop the Contract and Service Specification. Over 100 people attended representing 77 providers.
- (g) 26<sup>th</sup> July 2010 Wider consultation with users, carers and community representatives. Over 100 people attended the event with 12 participating in a focused break-out group.
- (h) 3<sup>rd</sup> Sept 2010 Workshop with Providers to further develop the terms of the new Contracts. 59 Providers attended.
- (i) 5<sup>th</sup> October 2010 Final consultation with providers of Residential and Nursing Home Care to consult on proposals being considered by the Task Force, including the proposal to reduce fees by up to 9.5%. 40 Providers attended.
- (j) 2<sup>nd</sup> Nov 2010 Final consultation with 34 people attending representing 24 providers of Domiciliary Care and Supported Living to consult on Task Force recommendations and tender process for Personal Support at Home to be presented to Cabinet in December 2010.

#### **4 Provider Feedback**

- 4.1 A number of Providers expressed concern that the approach being taken by the Council focussed too heavily on the majority of support packages, particularly for the elderly, and gave insufficient regard to people with very complex needs and/or challenging behaviour. Officer's response to this has been to make appropriate provision within the tender for specialist support. It is proposed that the main part of the tender will be for a Standard Offer Contract at prices that have been set by the Council. Tenders will also be invited for a Supplementary Service Specification that has been developed for both Contracts (Personal Support at Home and Residential/Nursing Home Care) which set out the circumstances when this applies and supplementary open tenders will be invited for such. Cabinet are advised that current prices for these specialist services are fairly ad hoc and this new arrangement will lead to more regulated provision and better value, transparent procurement arrangements. The circumstance where this applies is determined by a multi-disciplinary assessment of an individual's needs and the specialist support that is required from appropriately experienced and trained staff. It includes support to: -

- (a) people with advanced multiple sclerosis
- (b) people with motor neurone disease
- (c) people with profound paralysis and multiple sensory difficulty
- (d) people with profound multiple disability resulting from brain injury
- (e) people with very challenging behaviour

- 4.2 Feedback has been received from homes that the pricing option presented to Cabinet is based on the financial model created with consultants *'Laing and Buisson'* in 2005 and that this was devised for units of between 20 and 30 people. It was claimed by some Providers this was unfair to smaller homes; most of whom provide specialist support to younger adults. Officers' responded to this by confirming the former model was indeed based on *'efficiently run homes of 30 beds or more, operating at 90% occupancy'*, however it was the Council's intent to move away from this model in the light of the current economic climate. The Council could not reasonably be expected to set differential prices that would be required for smaller, less economical homes to operate at. However this does not preclude such homes tendering for the Service and for the Specialist Support they are more suited to provide.
- 4.3 A number of providers commented on the lack of provision for inflation in the Contracts and indicated that a 'price freeze' (ie no provision for inflation) would be preferable to a price reduction. Officers' response to this is that a 'price freeze' would not reduce baseline expenditure and therefore would not contribute to the projected budget deficit.
- 4.4 Providers were informed of the financial pressures being faced by the Council and the Task Force scrutiny of fees paid under the Residential and Nursing Home Care Contract and Cabinet's subsequent consideration of reducing fees by up to 9.5%. Providers accepted the need to make savings across all services however were concerned that reducing their fees would have a detrimental affect on their businesses and quality of care for vulnerable people. Officers confirmed these views would be expressed to members as part of the decision making process. Officers also confirmed to Providers that the Council would be looking at different ways of re-shaping the market to enable them to diversify and maximise occupancy in order to mitigate the impact of lost revenue.
- 4.5 Specific feedback was sought from Providers on the Quality Premium system currently in place. The Care Quality Commission inspection (May 2010) found and reported that the quality of care in Wirral was better than in other North West Councils. This is, in part, attributed to the Quality Premiums implemented in 2005. No alternative proposals were put forward and officers and providers agreed the current triggers were probably the most appropriate measurable indicators of service quality. It was suggested they should be maintained in the new Contracts but no guarantee of value was given. The proposal put to Cabinet in this report is for the Quality Premiums to be maintained with a 9.5% reduction in value.

- 4.6 Throughout the open consultation process feedback was invited on the emerging Contract and Service Specification. At two of the Workshops the draft Contract was examined line by line and amendments made in the true spirit of co-production. Providers made comments at all of the workshops and several have submitted a written response to the Interim Director of Adult Social Services. Where possible these have been taken into account and can be evidenced in the latest draft of the Contract terms and tender process and minutes of the Provider meetings.

## **5 Customer Feedback**

- 5.1 People who represent customers and carers attended two meetings (as detailed in paragraph 3.1) with officers to review the proposed terms and conditions. It was minuted that they were content with the emerging shape of the Contract and its new focus on outcomes for people rather than the more traditional 'task and time' approach.
- 5.2 Concern was expressed that reducing prices could have an adverse affect on quality and people sought assurance that the Council would maintain its monitoring arrangements to ensure this did not happen and people living in vulnerable situations were safeguarded. Officers confirmed the monitoring arrangements have been clarified in the new Contract and quality assurance was a key aspect of the improvement of Safeguarding arrangements in Wirral. Discussions are also being held with NHS Wirral to promote a more joined up approach, including partners such as Links, with particular regard to monitoring standards in Nursing Homes.
- 5.3 Customers also expressed concern that such a major change in the procurement of Personal Support at Home could mean many people experiencing a change in their personal carer with whom they may have built up positive relationships with. This could have an adverse impact on their health and emotional wellbeing and confidence to remain living independently. Officers' responded to confirm that 'continuity of care' would be a paramount consideration in awarding contracts. Essentially the award of the primary Contracts within Localities' would favour current service providers.
- 5.4 The Health and Wellbeing Overview and Scrutiny Committee received a report at its meeting of 4<sup>th</sup> November 2010 to review the proposed contracting arrangements. The Interim Director responded to comments from Members, in particular with regard to current financial pressures being faced by the Council of the increasing number of older people who were previously self-funded and entered Residential or Nursing Home Care without a statutory assessment. The Council had no option but to offer financial support to these people when their resources ran out. The new contract would aim to limit this financial risk to the Council by encouraging providers to take steps to ensure that private payers have sufficient funds to pay for their care for as long as they are likely to need it.

5.5 This question also relates to people who currently pay, or may be expected to pay a "Third Party Contribution" towards the cost of their care. The risk is that some Providers will accept the Council's reduced fee level and seek to charge individuals an extra amount to offset their loss of income. It would be unlawful for Homes to charge individual residents but it is lawful to seek contributions from a third party. Members are advised this is current practice in many homes in Wirral. The Council will monitor such occurrences as part of its quality assurance role and make sure people are not coerced into making such a contribution and people are presented with the right information to help them make informed decisions at the time they choose their place of residence. The new Contract seeks to limit, but it cannot eradicate completely, the Council's exposure to financial risk when third parties default on these private funding arrangements.

5.6 The final part of customer feedback to be taken into account is the response to the Task Force looking into priorities for Adult Social care. The Task Force has recommended to Cabinet the following actions that have a direct bearing on the decisions being sought in this report: -

- (a) Option 6      The Council must: *"Continue to provide Personal Support, particularly to those people identified as having critical and substantial need. The Council purchases this support at a cost of £12.28 per hour, which is extremely competitive with third and private sector providers"*
- (b) Option 8      The Council should stop: *"Directly providing residential and respite care. It is instead suggested that these services should be procured from the private and voluntary sector, who will be stringently quality controlled in order to provide the service at identical or improved quality, at a lower cost"*
- (c) Option 9      The Task Force suggests: *"that the Home Assessment and Reablement team (HART) should be amended - with the Assessment section retained and the 'enablement' part of the service procured from the voluntary, community and faith sector"*
- (d) Option 10     The Task Force suggests: *"that all Home Care and Supported Living services currently provided by the Department of Adult Social Services could be better provided, in terms of efficiency and cost effectiveness, by external providers and that this option should be seriously considered"*

- (e) Option 11      The Task Force suggests: *"that the Council stops paying Care Home fees of 9.5% more than in neighbouring areas. The Task Force recommends reducing these rates to bring them in line with neighbouring Council areas.*

## **6 Contracting Arrangements**

- 6.1 Formal notice was served on Providers on 30<sup>th</sup> September 2010 that the current contracts would cease and be replaced in April 2011.
- 6.2 If Cabinet agree the recommendations in this report tenders will be invited on the 15<sup>th</sup> January 2011, and Cabinet will be asked to award contracts at its meeting on 17<sup>th</sup> March 2011. It is suggested the commencement date is Monday 11<sup>th</sup> April 2011 to coincide with the date people's Benefits are uplifted. This will simplify and reduce the cost of the administrative process of updating approximately 5,000 records in SWIFT.
- 6.3 In order to address customers' paramount concern over service continuity, it is proposed that the tender process confirms that where a current domiciliary care provider chooses not to tender or is not awarded the new Contract, their current arrangement is rolled over by mutual consent for a period of up to 6 months to enable alternative support arrangements to be put in place.
- 6.4 It is further proposed that the current contract for Residential and Nursing Home Care for providers not wishing to contract under the new arrangements be rolled over for the life of the individuals supported under it or for as long as the Provider continues to provide the service to the individual affected. This will mean no further placements will be made by the Council in those homes and people will not be forced to find alternative accommodation until such a time the Provider no longer provides the service. This may delay the achievement of the savings based on the number of homes and supported residents affected in this way. Cabinet may wish to set aside an appropriate contingency from the savings potential until the extent of this is fully understood.

## **7 Summary of Proposals that Require Cabinet Approval**

- 7.1 To invite Tenders for the provision of Locality Personal Support to replace the current contracts for Domiciliary and Support Living services at a standard rate of £12.28 per hour, or part thereof.
- 7.2 To award the Contract for Personal Support based on a qualitative assessment and existing service provision to three Providers per Locality as they are presently constructed (these being Birkenhead, Wallasey, and Bebington and West Wirral).
- 7.3 To make all new referrals to these Locality Support Providers from the Contract commencement date.

- 7.4 To invite open Tenders for the provision of General and Specialist Personal Support as a back-up to the Locality Support Providers and/or where they are unable to meet complex needs and challenging behaviours.
- 7.5 To roll forward current contracts for people supported to live in their own homes into 2011-12 until such a time that alternative support arrangements under the replacement contracts can be put in place, and no longer than 6 months.
- 7.6 To invite Tenders for the provision of Residential and Nursing Home care at the standard rates of: -
- |     |                                  |         |          |
|-----|----------------------------------|---------|----------|
| (a) | Baseline Residential Care        | £322.14 | per week |
| (b) | 1 Star Residential Care          | £327.11 | "        |
| (c) | 2 Star Residential Care          | £351.82 | "        |
| (d) | 3 Star Residential Care          | £376.81 | "        |
| (e) | Baseline Nursing Home Care       | £362.74 | "        |
| (f) | 1 Star Nursing Home Care         | £367.71 | "        |
| (g) | 2 Star Nursing Home Care         | £392.42 | "        |
| (h) | 3 Star Nursing Home Care         | £417.41 | "        |
| (i) | Baseline Residential (EMI) Care  | £348.04 | "        |
| (j) | 1 Star Residential (EMI) Care    | £353.01 | "        |
| (k) | 2 Star Residential (EMI) Care    | £377.72 | "        |
| (l) | 3 Star Residential (EMI) Care    | £402.71 | "        |
| (m) | Baseline Nursing (EMI) Home Care | £388.64 | "        |
| (n) | 1 Star Nursing (EMI) Home Care   | £393.61 | "        |
| (o) | 2 Star Nursing (EMI) Home Care   | £418.32 | "        |
| (p) | 3 Star Nursing (EMI) Home Care   | £443.31 | "        |
- 7.7 To serve notice on Contracts with Homes supporting people outside of Wirral and replace them with the new Contract for Residential and Nursing Home Care and reduce the current Contract price 9.5%. The risk here is that some homes may not sign up to the new Contract and current prices may have to be sustained for the life of the individual being supported or alternative accommodation may have to be sought in Homes that do agree to the new terms.
- 7.8 To extend the existing Contract for people currently supported in Residential and Nursing Home Care, and paid for by the Council, over for the life of the individual, the period they choose to remain in the home or the continued trading of the Provider whichever is the sooner; where the provider is not awarded the new Contract. The Council shall not make placements in such homes.

- 7.9 To revise the award of Star premiums as follows and each Premium to be based on the current level less 9.5%: -
- (a) Baseline Satisfactory evidence of a Provider being willing and able to meet and maintain the quality standards set out in the Contract and Service Specification.
  - (b) 1 Star A premium of £4.97 per week based being able to meet the Baseline plus evidence that the Provider has 50% of its total employees qualified to an appropriate NVQ level 2 or equivalent.
  - (c) 2 Star A premium of £24.71 per week based on the achievement of 1 Star plus activities arranged in/out of the home as evidenced by employing someone dedicated for that purpose for more than 20 hours per week; and the rating by the Council as advised by the appropriate Regulatory body as 'good'.
  - (d) 3 Star A premium of £24.99 per week based on the achievement of 2 Star plus a rating by the Council as advised by the appropriate Regulatory body as 'excellent'.

## **8 Financial Implications**

- 8.1 The cashable efficiencies arising from the revision of contracts outlined in this report in 2010-11 are £5.368m. £4.457m comes from a 9.5% reduction in Residential and Nursing Home fees and £0.906 from reduced Supported Living rates. Non-cashable savings of £2.068m are also achieved by avoiding paying inflation in 2011-12.
- 8.3 Cabinet may also wish to give an indication to Providers as part of the Tender of its intent to seek further reductions in 2012-13 and beyond. For example a 2% reduction on the 12 month anniversary of the Contract will generate cashable savings of £0.85m.
- 8.4 Cabinet are advised of the risk of some homes refusing to tender for the new Contracts and the possible need to identify bridging finance to continue to fund existing activity until alternative services are found. This commercially sensitive information will be subject to a separate report when the position becomes clearer.

## **9 Staffing Implications**

- 9.1 There are no specific staffing implications arising from this report. Members will however be aware that the care and support market provide employment to many local people who are in the main women and lower paid. Staffing costs represent the largest share of provider costs and the Council and partner agencies such as Links will need to be active to ensure terms and conditions that might be affected by the decisions of Cabinet do not adversely impact on service quality.

- 9.2 Cabinet are also advised of the positive employment prospects for many staff who may take Early Voluntary Retirement and Voluntary Severance who are experienced care workers as a result of the outsourcing of Council run services.

## **10 Equal Opportunities Implications/Health Impact Assessment**

- 10.1 The new Contracts will need to ensure nobody is disadvantaged and that people's health and wellbeing is promoted. An equality impact assessment has been undertaken to ensure the potential impact of these proposals on individuals and groups is thoroughly considered and risks are mitigated. The new contracts and proposed tender have been developed so that nobody is disadvantaged because of their age, disability, ethnicity or sex.

## **11 Community Safety Implications**

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

## **12 Planning Implications**

- 12.1 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.

## **13 Anti Poverty Implications**

- 13.1 None directly arising/

## **14 Social Inclusion Implications**

- 14.1 The new contracts will aim to promote people's inclusion in local communities/

## **15 Local Member Support Implications**

- 15.1 The Contracts will cover support to provided to people living in all wards/

## **16 Background Papers**

- 16.1 None used/

## **17 Implementation Strategy**

17.1 In order to deliver the Project the following implementation plan and timeline needs to be adhered to: -

<b>Implementation Milestone</b>	<b>Effective Date</b>
Task Force recommendations made to Cabinet	9 <sup>th</sup> December 2010
Cabinet authorises DASS Interim Director to invite Tenders	“
Cabinet sets standard price for Personal Support	“
Tenders posted via Chest	15 <sup>th</sup> January 2011
Tenders returned by	15 <sup>th</sup> February 2011
Cabinet (17 <sup>th</sup> March) DASS clearing meeting	21 February 2011
Complete Tender evaluation	28 <sup>th</sup> February 2011
Complete New provider interviews	6 <sup>th</sup> March 2011
Cabinet briefing	7 <sup>th</sup> March 2011
Cabinet to agree award of contracts	17 <sup>th</sup> March 2011
Contracts awarded	1 <sup>st</sup> April 2011
Contract commencement date	11 <sup>th</sup> April
Transition commences	11 <sup>th</sup> April
Complete Transitional arrangements	1 <sup>st</sup> October 2011
Benefits realisation review	30 <sup>th</sup> October 2011

## **18 Recommendations**

That Cabinet authorises the Interim Director of Adult Social Services to implement the Contracting arrangements as set out in paragraphs 7 and 17.

**HOWARD COOPER**  
**Interim Director of Adult Social Services**