

# WIRRAL COUNCIL

## CABINET

13 OCTOBER 2011

<b>SUBJECT:</b>	<b><i>ASSISTIVE TECHNOLOGY - RE-TENDER</i></b>
<b>WARD/S AFFECTED:</b>	<b><i>ALL</i></b>
<b>REPORT OF:</b>	<b><i>HOWARD COOPER - INTERIM DIRECTOR OF ADULT SOCIAL SERVICES</i></b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR ANNE MCARDLE</b>
<b>KEY DECISION?</b>	YES

### **1.0 EXECUTIVE SUMMARY**

- 1.1 On 1 September 2011 Cabinet approved the outcome of a tendering exercise for the provision of an assistive technology assessment service and telecare installation, monitoring, maintenance and response service.
- 1.2 During the standstill period following Cabinet, a challenge was received from one of the unsuccessful providers, suggesting that the tender documents did not adequately promote fairness and in turn could result in further challenge under the Remedies Directive (2009) which can be subject to financial penalty.
- 1.3 No formal contract discussions have taken place and providers who submitted a tender have been advised that the Council will not be proceeding any further with this tender.
- 1.4 The current contract expires on 30 September 2011; it will be necessary to extend the current contract until 31 March 2012 whilst re-tendering takes place.

### **2.0 BACKGROUND AND KEY ISSUES**

- 2.1 The original tender process followed a single stage OJEU Open Procedure. On 1 September 2011 Cabinet approved the outcome of the tendering exercise for the provision of an assistive technology assessment service and telecare installation, monitoring, maintenance and response service.
- 2.2 During the statutory standstill period (Alcatel) it became apparent that a key requirement of the contract could no longer be met by the successful provider. The specific issue relates to being able to monitor a particular brand/type of assistive technology equipment i.e. "Alertacall"

- 2.3 The tender documents included mandatory selection criteria relating to installing, monitoring and maintaining equipment (that current users of the service have installed) by the start of the contract. This was to ensure continuity of service for these vulnerable individuals. The specification does not specify particular brands of equipment for installation, but it was necessary to provide for continued use (including recycling/reusing) of already purchased and installed equipment.
- 2.4 "Alertacall" equipment provides a safety confirmation service. Individuals with this equipment press an "I'm OK" button on the Alertacall telephone handset at pre agreed times, say early evening when the individual would expect to be back at home. An alert is only raised if the button is not pressed. The response will be different for each person but typically will involve trying to make contact by phone and/or contacting a named carer. On Wirral we have three individuals with this equipment installed. There are many different organisations using this equipment nationally and literature on the equipment does not suggest in any way that being able to source and use the equipment would be restricted in anyway. Indeed the website implies very clearly that Alertacall can be readily used by organisations whether or not they directly provide a monitoring service themselves or not.
- 2.5 It is common for Assistive Technology equipment to be incompatible with certain other systems, but there are not normally any restrictions to acquiring the permissions to run the required systems e.g. this is the case with Tunstall, Chubb, Tynetec and Possum which are the majority suppliers of Assistive Technology equipment in the UK.
- 2.6 To provide for fairness and suitable competition it was not reasonable to require providers to have certain permissions or licenses in place prior to submitting a tender, rather that they should be able to acquire them should they be awarded the contract.
- 2.7 No concerns or issues were raised by any organisation that received the tender documents about difficulty or problems with reasonably meeting the mandatory requirements during the tender process.
- 2.8 During the standstill period a challenge was received from one of the unsuccessful providers supported by communication from "Alertacall" stating that they were unaware of the provider that had been successful with this tender and that the company was not currently scheduled to work with any new suppliers at this time or in the immediate future. Further correspondence confirms that this is not an exclusivity issue for "Alertacall" rather they do not have the capacity to take on new business at this time.
- 2.9 Resultant investigation and communication was overseen by Corporate Procurement with advice and guidance from the Council's Legal Services.

- 2.10 The successful provider did not lack any explicit technical competence or organisational capacity. Furthermore, at the time of completing the tender documents answered 'yes' to the mandatory criteria in good faith and in every expectation that they could secure the necessary permissions and licenses to maintain the equipment, it is now clear that they could now not meet this aspect of the contract.
- 2.11 The organisation that came second in the tender process is able to utilise the "Alertacall" system and are our current provider. Due to the issue raised in point 4.8 it could be suggested that the tender documents did not adequately promote fairness and in turn result in challenge and under the Remedies Directive (2009) which can be subject to financial penalty.
- 2.12 As this was identified during the standstill period no formal contract discussions have taken place and providers who submitted a tender have all been advised that Wirral Council will not be proceeding any further with this tender.
- 2.13 The current contract expires on 30 September 2011 and the new contract was scheduled to be live from 1 October 2011; it will be necessary to extend the current contract until 31 March 2012 whilst re-tendering takes place.

### **3.0 RELEVANT RISKS**

- 3.1 Advice from the Council's Legal Services confirms the risks highlighted above and that, subject to suitable revisions, it is necessary to re-tender.
- 3.2 Not extending the contract would leave a service that supports over 3,800 individuals without any formal contractual arrangements.

### **4.0 OTHER OPTIONS CONSIDERED**

- 4.1 No other options could be considered.

### **5.0 CONSULTATION**

- 5.1 Assistive Technology has been discussed widely at a local and national level and still features heavily in policy direction particularly about the shift toward prevention. Locally, Assistive Technology has been discussed at Health & Wellbeing events and has the support of the Older Peoples Parliament. Assistive Technology also featured in the Wirral: *be part of it* consultation. Again there was support for the service, although there was a recommendation to explore the possibility of introducing nominal charging. This is currently being researched with findings and options to be presented in the autumn of 2011.

### **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 6.1 The original and any re-tender have or will open procurement processes. Due to the nature of the service it is not possible to disaggregate it to provide opportunities for local voluntary, community and faith organisations. Otherwise no implications have been identified. A representative from the local voluntary, community and faith sector was involved in the evaluation panel.

## **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

7.1 Care Services Efficiency Delivery Unit (CSED) of the Dept of Health was engaged to conduct a financial evaluation of telecare in Wirral. Estimating avoided costs on the basis of diagnosis at assessment and assumed prevention of more substantial care needs. This gave a Return on Investment (albeit presently non-cashable), of £2.18 for every £1 spent across the health and social care economy.

7.2 The specification and tender is not for agreed levels of activity and is on a cost/volume basis. Payment is based on actual activity. The specification allows for all key aspects of the service to be contained if necessary

7.3 A number of further changes to the specification and tender documents have been identified that would help in generating further value for money from a new contract.

7.4 The current service is provided under a contract that expires on the 30<sup>th</sup> September 2011. The recommendation is to extend this to allow for a re-tender exercise. Apart from some very limited resources relating to convening evaluation panels the cost of the tender exercise has been limited to relevant staff time.

7.5 There are no staffing, IT or asset issues for Wirral Council.

## **8.0 LEGAL IMPLICATIONS**

8.1 None identified

## **9.0 EQUALITIES IMPLICATIONS**

9.1 At present this is a universal service for which no equality issues have been identified.

9.2 Equality Impact Assessment (EIA)

(a) Is an EIA required? No

## **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 None identified.

## **11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 None identified.

## **12.0 RECOMMENDATIONS**

12.1 Cabinet is recommended to:

- Note the developments relating to the original tender for the provision of an assistive technology assessment service and telecare installation, monitoring, maintenance and response service, in particular not progressing further with the award of the new contract.

- Approve re-tendering (using an OJEU accelerated procedure) for the provision of an assistive technology assessment service and telecare installation, monitoring, maintenance and response service. This would follow suitable revisions to the specification and documents that would provide continuity of service for vulnerable people and promotion of fair competition and value for money from the process.
- Approve the extension of the existing contract to 31<sup>st</sup> March 2012 which would allow for the re-tendering exercise to be completed and provide for a suitable handover period.

### 13.0 REASONS FOR RECOMMENDATION/S

13.1 Awarding the successful provider or the second place provider would be at clear risk of challenge for not being fair, anti-competitive or not providing value for money.

13.2 Extending the existing contract ensures that the service continues to be linked to formal contractual arrangements.

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### APPENDICES

None.

### EXEMPT APPENDICES:

None.

### REFERENCE MATERIAL

N/A

### SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet	01/09/11
Cabinet	13/01/11
Cabinet	18/03/10