

# **ADULT SOCIAL CARE & HEALTH CABINET MEMBER MEETING**

**Agenda Item 14**  
Brighton & Hove City Council

<b>Subject:</b>	<b>Re-tendering Home Care Contracts</b>		
<b>Date of Meeting:</b>	<b>16 June 2008</b>		
<b>Report of:</b>	<b>Director of Housing and Adult Social Care</b>		
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<b>Key Decision:</b>	<b>Yes</b>	Forward Plan No. ASC 0007	
<b>Wards Affected:</b>	All		

## **FOR GENERAL RELEASE**

This report is for general release and is on the forward plan reference no: ACS 0007

### **1. SUMMARY AND POLICY CONTEXT:**

1.1 To secure the agreement in principle of the Cabinet Member to proposals for re-tendering contracts for home care services.

1.2 Home care services are essential services that support an increasing number of vulnerable people safely in their own homes with dignity and respect. The council will work in partnership with Service Users and Service Providers, to move toward a personalised approach to the purchase of home care services and the contractual arrangements will reflect that direction of travel.

This is in line with the White Paper, 'Our Health, Our Care, Our Say,' and the standards through which the national regulator, the Commission for Social Care Inspection (CSCI), will be inspecting the home care providers.

### **2. RECOMMENDATIONS:**

(1) To re-tender, during the financial year 2008-09 the district contracts for home care services for the subsequent three years.

(2) To agree that the re-tender will be for new cases arising during the contract period only and these will be subject to the new contract. The expectation is that existing work will come under the terms and conditions of the new contracts with each successful provider (as agreed in the previous two tendering processes).

(3) To include a service user representative on the Tender Evaluation Panel.

(4) To authorise the Director of Adult Social Care & Housing to approve the recommendations of the tender evaluation panel, after consultation with the Cabinet Member for Adult Social Care and Health, and the letting of contracts.

- (5) To authorise the Director of Adult Social Care and Housing to approve any other matters in connection with the tendering and contract award exercise, including any necessary adjustments to the procedures outlined in this report.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 Current arrangements for day-time home care provision in the independent sector are that there are framework contracts (which set the service specification and price paid by the Council) with 10 approved providers. Following a tendering exercise, contracts were awarded to these providers for three years from April 2005 to March 2008, with the option to extend contracts by up to 18 months. Providers were awarded contracts aligned to geographical districts based on post code sectors. For details of current contract awards, see **Appendix One**.
- 3.2 The current contractual arrangements have worked successfully for the council and have received positive commendation from independent sources. This is evidenced in the Commission for Social Care Inspection (CSCI), The State of Social Care In England 2005-06, see **Appendix Two**. The current system is generally robust and effective, and has delivered increasing volumes of home care in response to increasing demand, and overall quality of provision is above the national average as CSCI scores are generally higher than other Authorities.
- 3.3 The current and new framework contracts do not tie the council into paying a particular amount each month to each contract. The council only pays for the actual amount of work carried out by the home care provider, on behalf of the council.
- 3.4 Brighton & Hove City Council set standard prices for care for all providers, with different elements for the length of the call, its complexity, and whether it is weekday or weekend. The value of the contract is approximately £13,448,288 per annum (2007-8). Current pricing structure is attached for information, see **Appendix Three**.
- 3.5 The unit cost for an hour of care in Brighton and Hove is £14.80 and when benchmarking against our Nearest Neighbour comparator group the range of costs are from £9.70 per hour (North Tyneside) to £15.10 per hour (Plymouth).
- 3.6 We propose to set the rate for service provision at a level the council considers viable for appropriate quality of provision, rather than have providers tender their own prices.  
This system has been successful in the previous two tendering processes and will continue to have the important effect of confirming levels of budgetary expenditure for planned levels of service provision. Providers will effectively compete on quality of service provision and their ability to recruit and retain staff. This approach will leave potential tenderers to make their decision about whether they want to pursue working with the council on these set terms. Built into the service specification will be transparency over the levels of wage payment made to home care workers by home care providers. The Council can then set a minimum expectation of wage rates that will encourage staff recruitment and retention.
- 3.7 The role and complexity of home care is changing and therefore a well trained workforce is crucial to the delivery of a high quality service and the training requirements will be built into the contract.

- 3.8 Consistency and continuity from care workers is a key aspect of service quality according to the people who use home care services. The key workforce issues both nationally and locally are recruitment and retention of staff. **Please see Appendix Four.**
- 3.9 The price will need to be seen as being a fair balance between being sufficient for good commercial operation and not so high that it allows any excessive profit whilst ensuring a high level of quality is sustained. The price paid will need to be reviewed at least annually.
- 3.10 The service specification draws heavily on the national minimum standards for domiciliary care agencies, and identifies where Brighton & Hove City Council specifications are more detailed or higher than the minimum standards. This provides for excellent monitoring arrangements. **Please see Appendix Five.**
- 3.11 A key element of the evaluation criteria for the tender will be linked to CSCI ratings of the service providers. See **Appendix Six** the full range of provisional evaluation criteria.
- 3.12 It is proposed that the evaluation panel will consist of: a corporate Procurement Officer, a service user, a Contracts Manager and a Contracts Officer.
- 3.13 It was agreed at the January 08 Adult Social Care and Health Committee to extend the current contracts by 12 months (which is covered under the existing contracts). The tendering process (from call for expressions of interest to award and start of new contracts) has in the past taken at least six months. The next tendering process could start immediately in June 2008, then allowing for contingencies, the new contracts could start in June 2009.

#### **4. CONSULTATION**

- 4.1 The key stakeholders have been consulted; these include the primary care trust, service users, home care providers and assessment staff.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

The value of home care contracts with independent providers was approximately £13.5 million in 2007/08. The new contracts will cover three years and commence during 2009/10

The prices for care for providers are set annually in a separate process to the tendering exercise. Successful providers will also be entitled to an incentive payment linked to quality of provision; the basis for payment will form an element of the tender specification.

The actual costs of home care provision are benchmarked against other local authorities on an annual basis these will be monitored alongside other Value for Money indicators.

### 5.1 Legal Implications:

The contracts referred to in this report are 'Part B' service for the purpose of EU procurement law and UK procurement regulations, and therefore not subject to the full application of either. The Council is nevertheless required to ensure that it obtains best value in a non-discriminatory and transparent way. The proposed method for seeking tenders complies with this requirement, although the approach to pricing is innovative and must be capable of withstanding Best Value/Value for Money analysis. The value of the contracts is in excess of £50,000 so they must be in a form approved by the Head of Law. The Council must take the Human Rights Act into account in respect of its actions but it is not considered that any individual's Human Rights Act rights would be adversely affected by the recommendations in this report.

Lawyer Alison Leitch Date: 25 March 2008

### 5.2 Equalities Implications:

The tender process and documentation will ensure that all those seeking a contract have full and effective equalities policies in place.

The Contracts Unit monitors all independent service providers to ensure there is effective implementation of their equalities policy that is linked to equalities legislation and National Minimum Care Standards

### 5.3 Sustainability Implications: Geographically focused provision

It is a key element of the contracting arrangement that contracts are based on small geographical areas (postcode sectors/districts). These make more efficient use of travel time for care workers; and give providers more scope to develop closer links with key local services e.g. GP and community nurses. As demonstrated in appendix two.

### 5.4 Crime & Disorder Implications: *No implications*

### 5.5 Risk and Opportunity Management Implications:

The risk involved in allowing tenders to compete on price is that the quality of service will be compromised, as wages and workers terms and conditions will be insufficient to recruit and retain good calibre staff. Therefore the Council is seeking to set a fair price in order to encourage the providers to concentrate and compete on quality.

### 5.6 Corporate / Citywide Implications:

The current home care providers have generally worked effectively in partnership with the Council. There are issues about the optimum number of providers that would be best for the city. There is some trade-off between a smaller number of providers that would generate an economy of scale and efficiencies, whilst a larger number of providers would generate more choice and diversity of provision.

## 6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 To avoid unnecessary disruption to the arrangements for existing service users, the district contracts will be for new cases only, leaving existing service users with their existing provider. This is for three major reasons:

- i) If service users were to have a change of provider this could be very disruptive for them. Continuity of carer is frequently cited as the issue that service users most care about. To move vulnerable users would not be good practice.
- ii) Logistically moving potentially well over a thousand users would be complex and time consuming for the Council to manage.
- iv) There is the likelihood that such a move would de-stabilise what has been a fragile market.

6.2 If a current provider is not awarded a district contract for new work, their existing work may need to be reviewed. There are two options open to the Council. (This is a similar system to that which was agreed in the previous re tenders).

**OPTION ONE**

If the provider is unsuccessful because the quality of the care they provide is not of sufficient standard, then their existing cases could be re allocated to other providers, over a period of three months.

**OPTION TWO**

If the provider is unsuccessful for reasons other than quality the Council could agree for them to be a back up provider enabling spot purchase care on an individual basis. This arrangement would then be subject to regular review.

6.3 The proposed approach to tendering and contractual arrangements for 2009-2012 draws on the experience of tendering for home care services in 2000-01 and in 2004-05, and consolidates the well-documented strengths of the current arrangements. It will ensure value for money for the council and effective partnership working with independent providers. Key features are commented on throughout this report and summarised in the **Appendix Seven**.

The current number of providers is 10. There are currently no compelling reasons to increase the total number of providers, as there is already sufficient choice of provider (3 or 4) in each district, and service users feel more strongly about choosing between the individual care workers who attend them than choice about the company managing the care. At the same time there are risks attached to making the number of providers too small, as this may allow monopoly positions to develop. There is also an inherent unpredictability around potential buy-outs of small providers by larger organisations. Therefore to maintain the number of providers at 10 at this time appears to be reasonable.

6.4 No single provider will be allowed to secure more than 25% of the total value of all the contracts.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

7.1 The reasons for the recommendations to be approved are discussed in detail throughout this report with special attention to: 3.1 to 3.10, 5.3, 5.6, 5.7 and 6.1 to 6.5. This is an essential service which is key to supporting the national and local agenda of Personalisation in social care. The tendering process needs to support this agenda, ensure quality and value for money and comply with the relevant tendering legislation.

## **SUPPORTING DOCUMENTATION**

Appendices:

### **1. Appendix One: 2005-08 Contract awards**

<b>District [post code sectors]</b>	<b>District Provider</b>	<b>1<sup>st</sup> back- up</b>	<b>2nd back- up</b>	<b>3<sup>rd</sup> back- up</b>
BN1 1, 1 2,	Plan Personnel	Care UK 14	Agincare	Carewatch

1 3, 1 4, 3 1				
BN1 6, 1 7	Hallifax Care	Prime Care	Plan Personnel	Care UK
BN1 8, 1 9	Community Careline	Care UK	Plan Personnel	Carewatch
BN2 0, 2 2, 2 9	Carewatch	Care UK	Community Careline	Prime Care
BN2 1	Agincare	Community Careline	Plan Personnel	Prime Care
BN2 3, 2 4	Prime Care	Community Careline	Care UK	Carewatch
BN2 5	Care UK	Agincare	Community Careline	Prime Care
BN2 6, 2 7, 2 8	Community Careline	Prime Care	Agincare	[no award]
BN3 2, 3 3, 3 6, 1 5	Carewatch	Sussex Home Care	ILO	Care UK
BN3 4, 3 5	Sussex Home Care	Allied Healthcare	ILO	Carewatch
BN3 7, 3 8	Allied Healthcare	Sussex Home Care	Carewatch	ILO
BN41 1, 41 2	Allied Healthcare	Sussex Home Care	Carewatch	ILO

Within each zone there is a hierarchy of providers: the District Provider who gets first refusal on new care packages in their district, and then a first backup provider who is next offered the care package if the District provider is unable to take on the care package promptly; and second and third backup providers if that provider cannot take on the care package.

## 2. Appendix Two

### The State of Social Care In England 2005-06

The Commission for Social Care Inspection (CSCI) published their national report on the State of Social Care In England 2005-06 on 10 January 2007.

Brighton & Hove City Council received a specific commendation within this report in the chapter on the state of commissioning (paragraph 6.52). This was in the section on 'understanding and developing local care markets' where the work of the Adult Social Care Contracts Unit was cited as good practice in working in

collaboration with independent sector service providers and having positive working relationships with this sector.

Features of this relationship include:

- a well-conceived regime for contract setting and compliance
- evidence that measures taken to analyse and develop the market were yielding very good results
- a 'fair rate' strategy agreed with providers had been in place for two years
- an independent provider forum established which is supported by a full-time post
- contracts and service specifications developed collaboratively with the private sector
- incentive payments made on top of agreed fees to improve quality of service in home care services
- robust monitoring regime which was 'fair and helpful'

The work of the Contract Unit has been supported by the Independent Providers Forum (IPF), which has been part-funded by Brighton & Hove PCT; and also supported by the Learning and Development Officer (Independent Sector) post.

The full report is available on the CSCI website

[http://www.csci.org.uk/about\\_csci/publications/the\\_state\\_of\\_social\\_care\\_in.aspx](http://www.csci.org.uk/about_csci/publications/the_state_of_social_care_in.aspx)

### 3. Appendix Three

#### Home care rates

	2007-08	2008-09
weekday standard care		
60 mins	£11.84	£12.47
45 mins	£9.90	£10.35



30 mins	£7.97	£8.10
15 mins	£6.04	£6.00
weekday special care		
60 mins	£13.38	£14.10
45 mins	£11.19	£11.61
30 mins	£9.01	£9.10
15 mins	£6.82	£6.72
weekend standard care		
60 mins	£15.51	£16.38
45 mins	£12.96	£13.56
30 mins	£10.44	£10.61
15 mins	£7.91	£7.81
weekend special care		
60 mins	£16.81	£17.74
45 mins	£14.07	£14.70
30 mins	£11.32	£11.49
15 mins	£8.57	£8.47

#### 4. Appendix Four

The workforce for Brighton and Hove is large: over 700 home care workers in any given week, and given staff turnover, over 1,000 workers over the course of a year. The key workforce issues affecting recruitment and retention:

- Low rates of pay
- Unsocial hours (evenings and weekends) for a significant proportion of the carers

To overcome these obstacles having a set price allows the council to include in the contract that there is transparency<sub>1</sub> over the levels of wage payment made to

home care workers by home care providers. The Council can then set a minimum expectation of wage rates that will encourage staff recruitment and retention and this will encourage a higher quality of service.

The price has been set in this way for in the last two tendering processes and this has encouraged a more stable workforce. However this is area of significant concern both nationally and locally, as it can compromise providers' ability to deliver continuity of carer, and it puts high demands on recruitment and training expenditure.

## 5. Appendix Five

Home care contracts are currently monitored through the Contracts Unit. Officers undertake annual audits and contract reviews, and there is the home care forum where quality is a standing item. Monitoring includes service user views are obtained through the Sixty Plus Action group, service user questionnaires and other feedback. Complaints, safeguarding adults' investigations and other information are also consistently monitored. Details on home care performance are presented bi annually to Elected Members.

The incentive payment will be further developed to reflect emphasis on staff turnover, continuity of care, commitment and success with NVQ (National Vocational Qualification) training and ability to take up complex cases.

## 6. Appendix Six

### Evaluation criteria (provisional)

*Note the price is set prior to tender*

Issue	Weighting	Detail	Weighting
CSCI evaluation	50%	Most recent evaluation	30%
		Average of previous evaluations	20%
Staff turnover	15%	Management turnover	7.5%

		Home care worker turnover	7.5%
Commitment to training	15%	Level of NVQ training in workforce	7.5%
		Level of investment in training	7.5%
Level of intensive/ complex cases	7.5%	Size of average care package	2.5%
		% of all cases which are >20 visits or 20 hours weekly	5%
Level of carer continuity to service users	7.5%		7.5%
Evidence of partnership working	5%		5%
<b>Total</b>	<b>100%</b>		<b>100%</b>

## 7. Appendix Seven

### Key Features of re-tender

Issue	Preference	Rationale
Volume of work being tendered	New work only, with existing service users remaining with their existing providers	Preserves continuity of provision to existing service users, and appropriately values good existing providers
Pricing arrangement	Set prices for work consistent for all providers	Providers compete on quality and ability to recruit and retain staff. There needs to be recognition that quality will be rewarded and a price that is fair to everyone agreed.

Basis for contract division	Zoned districts, based on postcode sectors	Focussing providers' work into geographical districts rather than dispersed across the city gives clear efficiency benefits in reducing care worker travel time, and facilitates providers developing links with local GP surgeries etc
Approach to quality	Incentive payments for quality	More positive to reward good quality than simply penalising poor quality
Allocation of work to providers	Managed through brokerage team (Care Matching Team) with Backup arrangements	Straightforward administration
Avoiding dominance of a single provider	Maximum award to any single provider is 25% of total contract awards	Preserving competition
Approach to existing providers and new entrants	Value the majority of existing providers, at the same time as inject an element of additional competition from a new provider	Past tendering and post-tendering experience in home care has reinforced that the most consistently responsive and good quality provision has been from locally owned and managed services. This relates to higher levels of continuity of management and a greater responsiveness to local expectations (as a higher proportion of their total business is directly with BHCC)

### Documents In Members' Rooms

1. There are none.

### Background Documents

1. The White Paper, 'Our Health, Our Care, Our Say,
2. The Commission for Social Care Inspection (CSCI), The State of Social Care In England 2005-06.



