

Forward Plan reference number: FP/367/02/19

Report title: Procurement of Care and Support for a Supported Living Scheme in Little Clacton	
Report to: Councillor John Spence, Cabinet Member for Health and Adult Social Care	
Report author: Phil Brown, Transforming Care Programme Director	
Date: 25th March 2019	For: Decision
Enquiries to: Phil Brown, Transforming Care Programme Director	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1. To seek approval to invite tenders for the provision of care and support within a supported living scheme in Little Clacton for up to three adults with learning disabilities who display behaviour that challenges. If approved the contract would commence on the 1st July 2019 with a contract length of 4 years.

2. Recommendations

- 2.1. To agree to invite tenders for the provision of care and support within a supported living scheme in Little Clacton through a single stage procurement process, with a maximum contract length of four years and with a maximum contract value of £2.9 million.
- 2.2. To agree that the evaluation criteria for the tender will be based on 60% price and 40% quality (rather than the usual 70:30), having met all the minimum quality standards required.
- 2.3. To authorise the Director for Adult Social Care to award the contract to the successful bidder following the completion of the procurement process provided they are content that the contract value is within the agreed budget and represents value for money.

3. Summary of issue

- 3.1. The review that followed the abuse at Winterbourne View Hospital in South Gloucestershire identified that there were still a number of adults with learning disabilities and/or autism inappropriately placed in long term hospital placements. The subsequent Concordat published in 2013 placed clear responsibilities on Local Authorities and Clinical Commissioning Groups to develop community services to reduce the numbers of people with learning disabilities and/ or autism placed in hospital.
- 3.2. The Association of Directors of Adult Social Services, Local Government Association, and NHS England published a national plan entitled “Building the

Right Support” in October 2015 to implement the recommendations of the Winterbourne View Concordat. The plan involved the creation of local “Transforming Care” partnerships and included clear targets for reducing the number of people in hospital.

- 3.3. In response to both the Concordat and “Building the Right Support”, the Essex Transforming Care Partnership in partnership with Orwell Housing Association made an application to NHS England Capital Programme for funding to purchase two neighbouring bungalows in Little Clacton. The properties will provide housing for people who require accommodation to be discharged from hospital. Orwell Housing Association are a well-established housing provider registered with Homes England with considerable experience of providing specialist housing. This will help ensure the people living there have security of tenure.
- 3.4. The people who will be living at the scheme will require high levels of specialist support due to the complexity of their needs. The adaptations to the property include Assistive Technology to minimise the requirements for on-going staff and to enhance the level of care. However even with the deployment of this technology, staffing levels are likely to be at least one member of staff on duty at any one time for each person, with additional staff available if required.
- 3.5. Individuals have already been identified for this scheme. The Council will have Nomination Rights for the scheme should any of these people move to different accommodation in the future.
- 3.6. The proposed procurement will ensure that the scheme provides Best Value – both by ensuring that the selected provider has the appropriate skills and competencies to support these individuals with complex needs and help them to progress to become as independent as possible; and that the best price for their care and support is secured by the Council.
- 3.7. This proposed scheme will contribute to the following strategic priorities for the Council.
 - Enable more vulnerable adults to live independent of social care
 - Improve the health of people in Essex
 - Help to secure stronger, safer and more neighbourly communities
 - Facilitate growing communities and new homes

Proposed Approach – Service Delivery

- 3.8. The care and support provider will provide social care support to up to three people living in neighbouring bungalows in a Supported Living service in Little Clacton.
- 3.9. This support will be detailed in each person’s individual support plan but is likely to include support with personal care, accessing the community, and helping the person to manage their own behaviour through understanding potential triggers and developing strategies to manage these. The support will also

ensure that any potential risks arising from the person's behaviour are managed safely.

- 3.10. The support will include elements that are individual to each person and a Core Service that will provide additional support to all three people as and when needed. The Core Service shall provide 105 hours per week during the day, and 63 hours per week during night.
- 3.11. The care and support provider will be required to:
- work alongside the local specialist learning disability and mental health services, and ECC's Complex Behaviour and Behaviour Advice Team to deliver the support described in each person's support plan;
 - work with people to develop their independence. These people have been in hospital environments for the last three years and as a result may have lost many of their daily living skills. It is envisaged that people may need less support as these skills are regained.
 - demonstrate proven competencies and capabilities in supporting people with this complexity of need. This will include a commitment to implementing Positive Behaviour Support across the service; a commitment to recruiting and training staff with the required skills; and a track record of safely managing risk within community-based settings.
 - support people to integrate within the local community. This will include working with the housing provider/s so that the tenants are good neighbours to local residents.
- 3.12. It is expected that the care and support team would need to begin mobilisation from May 2019, working alongside the individuals and current support staff, to ensure a successful transition to start a phased move in scheduled for July 2019.
- 3.13. At the end of the four year period the contract for the care and support will be tendered again to ensure the service model remains fit for purpose and continues to deliver Best Value for the Council.

Proposed Approach – Procurement

- 3.14. It is proposed to award the contract for a period of four years through a single stage open procurement process.
- 3.15. The contracted hours within the contract will be based upon the individual support plan for each person. ECC will not guarantee a minimum or maximum level of hours, but instead will provide indicative volumes to allow prospective providers to propose an hourly rate through the tender process. The indicative volumes range from 672 to 777 hours per week.

3.16. It is proposed that only tenders that meet the minimum quality criteria (as set out in the procurement documents) will be evaluated. This will ensure that only providers demonstrating they can deliver the service to the required quality standard will be formally evaluated. This will allow ECC to focus on the 'added value' criteria in the evaluation of the tender response, as the minimum quality standard will have already been addressed. It is proposed that the tenders from providers that pass the minimum quality standard will be evaluated as follows:

- 60% Price – bidders will be given information about indicative volumes and the standards required in terms of skills and capabilities and asked to submit an hourly rate based on this information.
- 40% Quality – bidders will be required to submit technical responses to the procurement documents, including the specification, and these responses will be scored.

3.17. The contract will be awarded to the most economically advantageous tender scoring highest following an evaluation of 60% price and 40% quality, having met the minimum quality criteria.

3.18. The timescales for the mobilisation and implementation of this service are as follows. The service mobilisation and implementation are dependent on the building works being completed so may be subject to change if there are any delays to the building work.

Activity	Timescale
Contract award	May 2019
Service mobilisation	May 2019 to June 2019
Scheme fully operational	1 st July onwards.

3.19. TUPE regulations will not apply. People will be either moving into the service from a hospital or residential placement and so no transfer of services will take place in order for the TUPE regulations to apply.

4. Options

4.1. The Council has tried to source placements from the current market for the people identified for these properties. This has been unsuccessful because existing providers have not been able to offer the model of accommodation and the care and support that these people require.

4.2. A number of options were considered to secure the care, support and housing management for this scheme. These included:

- Option 1: Purchasing the care and support for each person separately using the current purchasing arrangements for Supported Living;
- Option 2: Procuring the care and support for the scheme as a whole.

- 4.3. Option 1 is not recommended because it does not offer the economies of scale of Option 2. The optimum model for these individuals is that they receive a minimum of one to one support for twenty-four hours a day and share an additional member of staff who can provide support as and when needed. Option 1 would require each person to have two members of staff for twenty-four hours a day. Option 2 allows for this optimum level of staffing.
- 4.4. There are currently not enough specialist providers operating in Essex for people with this complexity of need. Option 1 is not attractive enough to stimulate the development of the existing providers or to attract new providers into Essex.
- 4.5. Option 2 provides economy of scale and therefore is more likely to achieve better value than Option 1 and would be more attractive to providers. This would stimulate the development of our existing providers or provide sufficient volume to attract new providers into Essex.
- 4.6. A contract length of four years is attractive to providers because it provides the surety to invest into and develop services for this cohort of people. It also provides stability for the people who will be living at the scheme.

5. Issues for consideration

5.1. Financial implications

- 5.1.1. The proposed contract is expected to have a revenue cost of between £2.5m and £2.9m over the four years of the contract. A range has been used to take account of the potential variation in the hours of support.
- 5.1.2. The hourly rate used in the financial modelling is based on market intelligence of the highest provider rate from previous procurements for similar types of service and as such should provide a worst-case price scenario.
- 5.1.3. The total annual cost of care provision based on the highest support hours modelled is £729,000 with a part year impact in 2019/20 based on anticipated start date of the contract of £547,000.
- 5.1.4. The funding of these placements is anticipated to be partly via transfer of funds from Health with the balance being met by Essex County Council.
 - 5.1.4.1. One person is included within the current Transforming Care Pooled Budget arrangement and, as per the Section 75 agreement, their costs will be fully funded by the CCG's contribution to the pool.
 - 5.1.4.2. One person is being discharged to ECC from an NHS England funded Specialist Commissioning service. The total funding transfer for 2018/19 from NHS England to Local Transforming Care Partnerships was £900,000 to cover costs of all NHS England discharges. Based on the latest estimated costs for this cohort, the same value of transfer in 2019/20 would cover 46% of costs.

Procurement of Care and Support for a Supported Living Scheme in Little Clacton

5.1.4.3. The third person is not currently included within the pooled fund arrangement. When their Section 117 aftercare plan has been finalised and costs are known their aftercare plan will be presented to the Essex Section 117 panel to determine the proportion of the contribution from ECC and the proportion of the contribution from Basildon and Brentwood CCG. Previous similar cases have resulted in an agreed 50/50 funding arrangement.

5.1.5. The following table summarises the funding requirement in each financial year, based on the highest contract cost, along with the contributions that could be expected based on the position set out in paragraph 5.1.4.

	2019/20	2020/21 onwards
Total Annual Contract Cost	£546,923	£729,230
Funded by:		
Pooled Fund Contribution ^^	£231,580	£308,773
NHS England Contribution to NHSE discharge *	£72,529	£96,705
B&B CCG Contribution to NHSE Discharge **	£78,836	£105,114
Total Health funding	£382,944	£510,592
ECC funding required	£163,978	£218,638
^^ Assumed 100% contribution from CCG to cost of Adult 1		
* Assumed 46% contribution from NHSE to cost of Adult 2		
** Assumed 50% contribution from B&B CCG to cost of Adult 3		

It is anticipated the ECC funding requirement detailed above will be met from within the existing budget provision of £3m for demographic growth for people with learning disabilities. This will be monitored as part of the monthly outturn process with a view to ensuring all growth seen across the learning disabilities budget is being contained within the envelope provided.

5.1.6. No alternative options in the community could be identified for these individuals.

5.1.7. No specific provision has been built into the MTRS in respect of the people being discharged to this provision, given the expectation that they would be funded by the transfer from Health or discharge was not anticipated at the point the budget was set, however we do budget for demographic growth each year and this would be met by that budget allocation.

5.1.8. The table in paragraph 5.1.5 assumes that the funding transfer from NHS England, based on funding received in 2018/19, will fund approximately 46% of the on-going revenue costs. Negotiations with Health, regarding these transfers and including provision for managing inflationary pressures, are still on-going. As such it should be noted that there is currently no legal agreement in place to facilitate this funding transfer and in discharging this patient there is a financial risk to ECC if the transfer does not take place or is of a lesser value, of up to £73,000 in 2019/20 increasing to £97,000 in subsequent years.

5.1.9. In addition, there is an assumed 50/50 joint funding arrangement with Basildon and Brentwood CCG for the third individual. The actual shares will only be

determined by the S117 Panel review. It should therefore be noted that any variation increasing ECC's share of costs will result in a pressure of up to £79,000 in 2019/20 increasing to £105,000 in subsequent years. If these two pressures materialise we would aim to meet them from the LD demographic growth element of the budget but must monitor this closely and highlight the risk that in future years there is a risk that this creates growth against the corporate gap.

- 5.1.10. The funding requirement articulated, and the potential funding risk should be viewed in the context of, had the national Transforming Care Programme not been being undertaken, under business as usual arrangements, the totality of the cost of a community package for any patient discharged from hospital would be borne by ECC, and need to be met from the provision made in the budget for demographic growth. It is anticipated that any shortfall in funding from the risks, articulated in paragraph 5.1.8 and 5.1.9 above, will be met from the existing care and support budgets for people with Learning Disabilities.
- 5.1.11. The contract for care services will not guarantee the provider a minimum number of care hours and will be at a fixed hourly rate for the life of the contract.
- 5.1.12. The costs associated with both establishing the contract and its management will be met from within existing staffing budget.
- 5.1.13. NHSE England have provided a capital contribution of £815,000 towards the purchase and refurbishment of these properties from their Capital Programme. This funding was paid directly to Orwell Housing who will purchase, adapt, and provide the housing management for these two properties.
- 5.1.14. The property title will be held by the housing provider and as such there will be no liability to ECC for any property maintenance costs above those included by the provider in deriving their hourly rate for provision of services.

5.2. Legal Implications

- 5.2.1. ECC has a duty under section 2 of the Care Act 2014 to provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will contribute towards preventing or delaying the development of adults in the area of needs for care and support, and reduce the needs for care and support of adults in its area. By procuring the services set out in this report, ECC will be taking steps to discharge its statutory duty under the Care Act 2014.
- 6.2.2 The proposed services are deemed to be 'health, social and other specific services' set out in Schedule 3 of the Public Contracts Regulations 2015 (the Regulations). The procurement of these services are subject to the light touch regime, as the value of the services exceeds the current financial threshold of £615,278. As a result, the procurement of care and support services within a Supported Living setting, is subject to the 'Light Touch Regime' or Section 7 of Chapter 3 of the Regulations.

- 6.2.3 Section 7 of Chapter 3 of the Regulations requires ECC to publish its intention to award a contract for 'social and other specific services' by either Contract Notice or Prior Information Notice (subject to the conditions relating to the contents of both the Contract Notice or Prior Information Notice).
- 6.2.4 As noted in the Financial Implications, some of the cost associated with this contract are included within the pooled budget. Where relevant, the Council has entered into the appropriate agreement in order to set up the pooled budget. The creation of such agreements have already taken place and therefore permission to enter into such agreements is not required by this decision.

6. Equality and Diversity Implications

- 6.1. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3. The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

- 7.1 Appendix 1 - Equality Impact Assessment

8. List of Background papers

- 8.1 None.

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor John Spence, Cabinet Member for Health and Adult Social Care	

Procurement of Care and Support for a Supported Living Scheme in Little Clacton

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In consultation with:

Role	Date
Executive Director for Adult Social Care	28/03/19
Executive Director for Corporate and Customer Services (S151 Officer)	03/04/19
Margaret Lee	
Director, Legal and Assurance (Monitoring Officer) Kim Cole on behalf of Paul Turner	29/03/19