

Report title: Housing Related Support for people with learning disabilities (LD) and Acquired Brain Injuries (ABI)	
Report to Nick Presmeg, Executive Director for Adult Social Care	
Report author: Lisa Wilson Head of Strategic Commissioning and Policy Adult Social Care	
Date of report: 09/09/2019	For: Decision
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County Divisions affected: All Essex	

1. Purpose of report

- 1.1 ECC is seeking authority to re-commission five existing contracts to deliver Housing Related Support (HRS) services which provides low level support to enable individuals to progress into independent living. This paper seeks approval to engage the market in a single stage, open procurement process to secure suitable provision of HRS services for the following cohorts of people:

- (a) Adults with Learning Disabilities (LD)
- (b) Adults with and Acquired Brain Injury (ABI)

- 1.2 This report asks the Executive Director for Adult Social Care to agree to procure a number of contracts for the provision of this type of support and delegate the decision for awarding the contract/contracts to the Director of Commissioning, Adult Social Care.

2. Recommendations

- 2.1. Agree to undertake a competitive procurement process to secure effective, reliable and efficient provision of HRS schemes for the following cohorts; Learning Disabilities and Acquired Brain Injuries under a maximum 3-year contractual term.
- 2.2 Agree that the procurement shall be conducted under a single stage, open tender process

- 2.3 Agree that the approval to award the contracts is delegated to the Director of Commissioning, Adult Social Care.

3. Summary of issue

- 3.1 The Housing Related Support (HRS) Disabilities Schemes offer low-level support to individuals with a Physical or Learning Disability. These services provide early intervention support which helps people maximise their independence and recover from injury or learn new skills. The schemes are designed to reduce an individual's needs and therefore reduce the need for more intensive and expensive ongoing social care funded services. ECC has commissioned these services since 2003 under the Supported People scheme and continued to support this approach until 2018 when ECC initially planned to decommission these services.
- 3.2 However, following further investigation, we undertook research with providers and users to understand the impact of the services for those accessing them and to understand how they also benefit ECC. This study identified that these services were supporting many people who would have otherwise required more expensive interventions from Adult Social Care and Health services.
- 3.3 It was then agreed to recommission these services after some remodelling to ensure they were delivering in line with ECC's priorities and strategic direction. These include:
- Strengthening Communities through participation and access to wider activities to enable progression
 - Enable more vulnerable adults to live independent of social care
 - Improve the health of people in Essex
 - Focussing on early intervention, prevention promoting independence Supporting demand management.
- 3.4 In April 2019, Susanne Westhead, Director for commissioning was consulted and a waiver was secured to extend two contracts for the provision of HRS to be extended until 31st March 2020. The two contracts subject to the waiver were:
- Peabody Acquired Brain Injury scheme (Colchester and Thundersley)
 - Metropolitan Learning Disability (Dundee Court) scheme
- 3.5 The remaining 3 learning disability schemes (Berwick Avenue, Nickleby Rd and Writtle Rd) remain under an interim block contract with no specific end date.
- 3.6 The Commissioning team have been working with the incumbent providers, occupants of the schemes and other stakeholders to begin to remodel the services to align with ECC priorities and deliver the outcomes that are important to users of the schemes and ECC.
- 3.7 The five services currently deliver the support for the following cohorts of people:

- Specialist support for people with Acquired Brain Injury (delivered by the same provider in two separate sites, one in Colchester and a further scheme in Thundersley),
- Support for individuals with a mild/moderate Learning Disability (delivered by five different providers across Essex in three separate sites).

3.8 Summary of Housing Related Support Services (LD & ABI) and numbers of service users in each interviewed.

To ensure that future recommissioning is informed by learning from current provision we undertook a survey of service users to find out their lived experience of housing related support. The purpose of the survey was to find out what was working well and what was not in order to make recommendations to improve service delivery. More specifically, in line with drive towards remodeling services to support progression, move-on and demand management, the survey objectives were to find out:

- The range, quality and impact of housing related support services
- Whether residents had developed personal, social and emotional skills to live independently
- Access to employment, education and volunteering opportunities by residents
- Move-on processes and any barriers to independent living
- Referral pathways, links to Adult Social Care and other partners

Scheme	Service	Location	Number of residents	Survey Participants
Berryfields	Housing Related Support for adults with an Acquired Brain Injury (ABI) to support them to an independent life	Colchester	8	2
Starling Close	Housing Related Support for adults with an Acquired Brain Injury (ABI) to support them to an independent life	Castle Point	12	2
Nickleby Road	Housing Related Support for adults with learning disabilities aged 18-65 to support them to independence.	Chelmsford	21	2

Dundee Court	Housing Related Support for adults with learning disabilities aged 18-65 to support them to independence.	Basildon	12	2
Writtle Road	Housing Related Support for adults with learning disabilities aged 18-65 to support them to independence.	Chelmsford	8	

Further details regarding the scope of the support for each scheme are detailed within section 3.9 below.

3.9 Essex ABI Service:

These schemes provide specialist support for adults recovering from Acquired Brain Injuries (ABI). They receive support to aid their recovery, relearn social and daily living skills, develop their social networks which helps them to live an independent life and deal with the impacts of their brain injury. There is a move on ethos which aims to support people in to general needs accommodation.

Learning Disability:

Residents receive short term accommodation and tailored support to develop day-to-day skills, enabling them to live as independently as possible. The aim is to support them to develop the skills and confidence to move into their own accommodation.

- 3.10 A total of **£45,268** savings has already been realised via efficiencies within 2018/19. The 2019/20 contract value is **£411,849**. We have benchmarked the current pricing, and this measures up as very good value when compared to similar schemes for people from other cohorts including people with mental health needs, young homeless people and single homeless adults and families.
- 3.11 As noted in section 3.1 above, it had been the intention to decommission these services, however following significant consultation with users of these services it is apparent the service offers early support which leads to recovery and progression and enables people to get their life back on track or learn new skills where they may not have lived independently from family members *Report for HRS 2018*

4. Options

Following a review of these services and their benefits, the following four options have been considered:

4.1 Option 1: Do nothing (not recommended)

- 4.1.1 Should ECC elect not to recommission these services, the ABI scheme and the LD scheme in Dundee Court which have defined contractual end dates will expire on 31st March 2020, thereby depriving vulnerable people of access to support in these areas. In addition, this approach would create a variance in the level of support for adults with Learning Disabilities who currently access HRS services. Access to services would be limited meaning that there would be an impact on ECC with a risk of increased costs for ongoing support and capacity needed to assess or review those in the schemes. We already have limited recovery and rehab provision for ABI as it is, and this has been identified as a gap in our Physical Impairment discovery work so decommissioning these schemes would further contribute to this gap.

4.2 Option 2: Formal procurement to secure new service provision from 1st April 2020 (recommended option)

- 4.2.1 This option would enable the Council to remain compliant with its legislative requirements under the Public Contract Regulations 2015. Conducting a formal procurement opportunity would enable the Council to satisfy its statutory duty to undertake a formal, OJEU compliant sourcing process as the aggregate value of this service exceeds the procurement threshold, thereby limiting the Council's exposure to risk on the basis that the wider market did not have an opportunity to participate in a procurement to deliver this service.
- 4.2.2 Undertaking a formal procurement process would enable the Council to ensure that the service is contracted in line with terms and conditions which reflect the current legislative requirements and best practice guidance. The current contractual provisions may not offer adequate protection to the Council in the event of litigation.
- 4.2.3 The current specification for this service needs to be changed significantly to ensure the service is delivered in a way that models the Council's strategic direction, commissioning vision and delivers against the priorities and wishes of the people who access the services. Procuring the services would give the Council maximum flexibility to alter the specification to achieve this.
- 4.2.4 Risks of undertaking this option include:

It is unclear what the medium to long-term impacts will be on current tenants/people who use the service if the current providers are not successful or choose not to bid. There is a risk that the schemes will become unviable for the landlords as HRS schemes for the landlords and the properties may be repurposed leading to these assets being lost as early intervention services

leading to disruption for the tenants and potentially greater costs for the Council. If this risk were to materialise then the council would work with the new provider to identify new properties to ensure the service can run.

4.3 Option 3: Direct Award to current providers (not recommended)

4.3.1 There is an option to direct award this contract to the current providers. This option would minimise the negative impact upon and ensure continuity of care for the existing customers/tenants the current tenants/people who use the service. It would also mitigate the problem of the landlord restricting access as the properties are owned by the support providers. This would give the council a stronger guarantee that the ongoing delivery of the service could be maintained.

4.3.2 The risks associated with this option include:

4.3.3 This option creates a risk of legal challenge as it is not consistent with ECC's obligations under the Public Contracts Regulations 2015.

4.3.4 This option would also make it difficult to insist upon a new specification as the Council has limited leverage to insist that provider(s) sign up to the new terms and specification.

4.4 Option 4: Mixed economy direct award (spot purchase) for existing placements and formal procurement for new referrals (not recommended)

4.4.1 This option would be to direct award to the existing providers for the current customers/tenants and then go out to the market to find a provider for any new customers.

4.4.2 This does not mitigate the risk of legal challenge as identified in option 3 above.

4.4.3 This option is likely to have an adverse effect on the commissioning vision as there is little to no incentive for the current providers to support someone to move out of the property as this will lead to the support provision going to another provider. This will mean fewer people will be able to be supported by the service over time. There will also come a time when the service does not have enough occupants to be financially viable, therefore posing a risk to those remaining in the scheme at that point

4.4.4 Splitting the services in this way is likely to reduce the interest in the procurement given that in the short-term there will be little opportunity for any new provider to generate income as the incumbent will be using up all the contract value with existing customers. There is also the risk that as the service does start to transfer to a new the TUPE liabilities will be greater than any profits available from delivering the service for only new customers. This lack of competition will mean there is little opportunity to bring any innovation or financial savings to these services.

4.4.5 Whilst on the face of it, this option seems mitigates the risk of destabilising the current placements and potentially escalating any underlying needs. However,

the way the current service is configured there tends to be one or two support workers who are available to support customers, as and when required, on shift throughout the day. This would make the practicalities of managing the service difficult if it were provided by different providers. There is likely to be a situation where someone needs support but can't access it as the person who is contracted to support them only works a small number of hours a week within that service whilst another person who supports existing customers is there but is not contracted to support the person.

5. Financial Implications

- 5.1 The current budget (2019/20) effected by these contracts is **£411,849** per annum which would equate to **£1.2m** over the 3-year period with the option of a one-year extension (approval would be sought at the point of extension if this was being recommended and separate governance would be required). This would create a total commitment of £1.6m over the 4-year period. We will create an appropriate "limit" by property/service type in order to evaluate bids accordingly and to cap the contract value per lot to remain within the **£411,849** above. There are no savings assigned to these budgets and therefore this decision remains within current MTRS provision for future years
- 5.2 Essex County Council currently receives **£1m** per annum for all the HRS activity within Adult Social Care from Public Health by way of a grant. Of the **£1m**, **£232,000** is used in relation to these schemes and the remaining £180,000 is funded by revenue budget. The Public Health Grant is forecast to continue at £1m whether the spend on these contracts goes up or down over the course of our current MTRS.
- 5.3 The pricing schedule for the proposed procurement will require candidates to provide breakdown of their costs of delivering these schemes in order to secure transparency of their rates and therefore consider the value for money of the provision, which is not currently possible due to the construction of the block payment for the existing schemes. The commercial result is not expected to provide any efficiencies if we award the schemes in multi lots as opposed to separate lots due to the diversity of the schemes.

6. Legal Implications

- 6.1 ECC is under a duty under the Care Act 2014 to assess the needs of individuals and meet their assessed needs. When meeting needs it may choose or have a duty to provide accommodation or services to meet that individual's needs if they meet the eligibility requirement. The need for the direct provision of accommodation can be avoided if service users can be supported to obtain and maintain their own accommodation, e.g. by renting from landlords.
- 6.2 As the total contract value exceeds the current financial threshold of £614,278, and the nature of the services fall within the definition of Health and

Social Care Services under Schedule 3 of the Public Contracts Regulations 2015, the procurement of Housing Related Support Services can be undertaken in accordance with the Light Touch Regime. The proposed use of a procedure that is open to all under the Light Touch Regime, is compliant with the Public Contracts Regulations 2015.

- 6.3 The PCR 2015 do not prescribe rules on award criteria for contracts awarded under the light touch regime, and authorities have the flexibility to determine their award criteria. However, local authorities are under a statutory duty to achieve best value, so achieving best value will inform the award criteria to be used. ECC's proposed award criteria must be published in the OJEU notice, as authorities are required to be transparent regarding any award criteria that will be used.

7. Equality and Diversity implications

(Please provide with your report an electronic copy of the Equality Impact Assessment. This EqlA will be published on the Council's website for members and the press and public to see. The first two paragraphs set out below are standard text which you may use if your proposal has any potential equality and diversity relevance. Most reports will need to include this. However, you cannot use this text alone.)

- 7.1 Section 149 of the Equality Act 2010 creates the public sector equality duty which requires that when ECC makes decisions it must have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act
 - (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.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.
- 7.3 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. *This service will have a positive impact on people with a disability who are eligible to access the service through helping them (re)gain their independence and live meaningful lives as part of their community.*

8. List of Background Papers

(Any request for any background papers listed here should be made to the person named at the front of the report who will be able to help with any enquiries)

(The Council is required by law to list all background papers in every CMA or Cabinet Report. Background papers merely need to be listed in case somebody wants to obtain a copy – they are not published and Democratic Services do not need to receive them.)

The list must include all documents which have not already been published but which were relied upon by the author when preparing the report. This might include, for example, consultants reports, consultation letters, local or national schemes or policies which may not have been published. This does not include ECC business cases which are prepared in parallel with CMAs but for a different purpose. Please do not embed or attach these documents.)

Sign off process:

(Once legal and financial implications have been incorporated, reports need to be agreed by the Section 151 Officer and the Monitoring Officer. Reports must then be agreed by the Responsible Director named on the front of the report.)

N. Per...

2/12/19

