

CABINET

8 APRIL 2014

REPROVISION OF THE ENHANCED CARE UNIT (ECU) AND NAPIER UNIT

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Barbara Peacock, Director of Children and Adult Services

Author: Jane Love Head of Partnership Commissioning Adults
Preeya Madhoo Head of Category Management People

Summary

It has been the Council's long standing intention to re-provide the Napier Unit and the Enhanced Care Unit (ECU) onto one site. These services are inextricably linked with staff working across both services and an overlap of service users who attend both. The Council is proposing to take forward the re-provision of the Napier Unit and ECU with Agincare homes.

The Council has explored a range of options for the re-provision of this service including alternative sites, but given the costs, interdependencies and other issues it is felt that bringing both services onto the Napier Unit site is the best option for these services.

1. Budget and Policy Framework

- 1.1 Full Council approved the sale of Robert Bean Lodge and Nelson Court and the re-provision of services to Agincare on 21 February 2013, following initial consideration by Cabinet on 12 February 2013 and this was in accord with the Council decision to outsource the Linked Service Centres.
- 1.2 A further paper was brought to Cabinet on the 16 April 2013 to agree the re-provision of the Napier Unit and Enhanced Care Unit (ECU). At that meeting, Cabinet resolved to delegate authority to the Assistant Director Adult Social Care, in consultation with Portfolio Holders for Finance and Adult Services, Assistant Director Legal and Corporate Services and the Chief Finance Officer to look at the options for re-provision of the services at the Napier Unit and ECU, over the next 2 years, and requested that a paper with the options be brought back to Cabinet for approval.

- 1.3 The Council has a range of statutory duties and powers to provide services vulnerable adults such as older people, people with learning disabilities, physically disabled people, people with mental health needs and carers. Duties and powers are contained within the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970, together with other statutes and regulations. These services include residential care, respite care and day care.
- 1.4 Care Homes are subject to Section 23(1) of the Health and Social Care Act 2008, which requires the Care Quality Commission (CQC) to produce guidance for providers of health and adult social care to help them comply with the regulations within the Act that govern their activities. The guidance is used to decide whether to register individual providers, and also when monitoring their services afterwards to check that they are continuing to comply with the regulations. CQC also refer to this guidance when using their powers of enforcement. The Napier Unit is registered with the CQC, and at inspection was found to be fully compliant, offering high quality care. The ECU is not registered with the CQC as they do not currently regulate day care.

2. Background

- 2.1 In September 2013 the Council awarded a contract to Agincare for the sale of Robert Bean Lodge and Nelson Court and for the provision of their respective services. Robert Bean Lodge is located at Pattens Lane, Rochester. Located within the Robert Bean Lodge building is the Napier Unit, which is a discrete 8 bedded unit providing respite services for working age adults with enhanced care needs. The negotiation of the sale of Robert Bean Lodge with Agincare was based on the purchase of the whole building, including the area in which the Napier Unit is located.
- 2.2 As the original proposal for Robert Bean Lodge had been to lease the premises to the successful provider, the Council needed to look at other options for the re-provision of this service, such as the identification of suitable, alternative premises. An agreement was reached between the Council and Agincare that for a time period of 2 years the Napier Unit could remain there at a peppercorn rent in order to allow time for the Council to move the services and vacate the building. However, should the service remain on this site beyond the 2 years, the Council would be required to pay market rent.
- 2.3 A project group was established to review the options for the re-provision of the service. To establish the requirement of the new provision a number of considerations needed to be taken into account. The Council established the current footprint of the services, including the sensory room based in the Balfour centre that is currently utilised by the ECU. Additionally, the remit of the Napier Unit has changed from 18 years old and above and is now amended to include 16 year olds and above. There is a need therefore, to ensure capacity and choice going forward.

3. Options:

Taking these considerations into account, various options available to the Council and their respective advantages and disadvantages are set out below:

3.1 Option 1 - Current service remains in-house and Napier and ECU are re-provided on a new site

Advantages:

- The Council retains overall control of the service, making any changes it requires easier.
- The Council will take on any placements at the home without any challenge which may be forthcoming from an external contractor.

Disadvantages:

The re-provision would be challenging due to the two key issues identified below:

- Current budget in terms of capacity and choice going forward – there is a need to increase the provision from 8 to 10 beds at the Napier Unit due to the change in the age range of service users and also to respond to future predicted demand.
- Identification of a suitable site – to date it has not been possible to identify a suitable site to refurbish or support a new build within the available budget for this project. The site also needs to be in an accessible location for families and staff.

3.2 Option 2 – Transfer of the services to Agincare through Negotiated Procedure without a procurement exercise and without capital investment by the Council.

To transfer the service to Agincare, including all 31 staff from Napier Unit and ECU and include the transport provision for the ECU.

Advantages:

- The staff currently have contracts to work across both services and to separate these would not be cost effective and would be disruptive to the service users and their families.
- Families and service users will be able to be fully involved in the co-design of a purpose built facility, to co-locate the services. In the attached draft plans, the foot print for the bedrooms in this proposal is bigger than the current room sizes.
- Re-provision of the Napier Unit and ECU together in a newly built fit for purpose service will require no capital investment from the Council.
- Location remains the same and is a place where families are familiar and is easily assessable.
- Ensures the continuity of staff and care

- Permits capital funding identified for this project could be utilised effectively elsewhere

Disadvantages:

- The Council would no longer be directly providing the service and would need to negotiate any future changes with the provider..

3.3 Option 3: Tender the service to another external provider

To progress with a transfer to another service provider would require a competitive procurement exercise. There is an opportunity for another provider to deliver this service if they were willing to put in the capital investment.

Advantages:

- Re-provision of the Napier Unit and ECU, without any capital investment from the Council.

Disadvantages

- The Council would have limited control in the location of the new provision.
- Identifying provider willing to invest significantly in a building at the required level of specification.
- Service relocation-this would be disruptive for both services.

4. Advice and analysis

- 4.1 It is recommended the Council proceeds with Option 2, to agree that Officers enter into negotiations with Agincare on the re-provision of the Napier Unit and ECU. This option ensures a smooth transition for the re-provision of this service.
- 4.2 The staff at the Napier Unit and ECU would be subject to TUPE transfer as part of this process and therefore the service will retain the level of expertise of working with service users and their families, delivering continuity of care.
- 4.3 A Diversity Impact Assessment is being undertaken and will be completed and considered before any final agreement is reached on whether to award the contract to Agincare.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
The negotiated procedure without call for competition is not successful	The Council is unable to reach agreement with Agincare on the wider contract	Regular meetings and close dialogue with Agincare	Medium
Service users and families oppose the proposal	Service users and their families do not want to the re-provision to happen	<ul style="list-style-type: none">• Close dialogue with families and service users• Families and service users will be involved in co-design of the new service	Medium

6. Consultation

- 6.1 Subject to member approval to explore the options for the re-provision of the Napier Unit and ECU, extensive consultation and engagement with services users, family carers and staff will be undertaken to co-produce the service and accommodation.
- 6.2 A project group would be established and regular meetings would take place to ensure all elements of the Council's requirements are covered in the negotiation.
- 6.3 The Council has agreed with Agincare that the service users and family carers are an integral part of the re-provision. It has been agreed that a group of families will be invited to work with Agincare, to support the design of the re-provision and co-produce the service.
- 6.4 Staff working at the Napier Unit and ECU have been briefed in advance and will be fully engaged as key stakeholders in the co-design of the service.

7. Financial implications

- 7.1 The expectation is that the cost of the recommendation contained within section 9 of this report will be met from existing revenue budgets for Napier Unit and ECU.
- 7.2 At present we do not know what the final cost of this recommendation will be. There will be finance representation on a project group in order to provide advice in relation to any budget issues. The final cost will be inside existing budgets.

8. Legal implications

- 8.1 The services which are under consideration in this report are Part B services, and so the requirement to comply with the formal publication procedures set out in the Public Contracts Regulations 2006 (“the 2006 Regulations”) does not strictly apply.
- 8.2 However, the 2006 Regulations do require that procurement exercises to which the formal procedures do not apply should still follow the principles of non-discrimination, equal treatment, transparency, mutual recognition and proportionality, and so as a matter of good practice, Medway Council follows the procedures set out in the 2006 Regulations even where this is not strictly necessary.
- 8.3 Under the 2006 Regulations, the Council may award a contract by use of the negotiated procedure without publication of a contract notice if the proposed contract meets certain criteria.
- 8.4 The Regulations relevant to the services covered in this Report are Regulation s 14 (1) (a) (iii) and 14 (1) (d) (i) (aa).
- 8.5 Regulations 14 (1) (a) (iii) provides that the negotiated procedure without prior publication of a contract notice may be used when, for technical or artistic reasons or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular economic operator.
- 8.6 Regulation 14, (1) (d) (i) (aa) provides that the negotiated procedure without publication of a contract notice may be used where the services are:
- in addition to services previously procured; and
 - which were not included in the initial procurement; and
 - through unforeseen circumstances have become necessary; and
 - for economic reasons cannot be provided separately without major inconvenience to the contracting authority.
- 8.7 It is considered that the grounds set out in 8.5 and 8.6 above apply to the provision of the services covered in this Report.
- 8.8 In addition to the above, the Council’s Contract Procedure Rules permit an exception to the Rules (in this case, by entering into negotiations without prior publication) where the procurement is not subject to European or UK legislation (Rule 1.8.1.1) and when for technical or artistic reasons or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular economic operator (Rule 1.8.1.2).

9. Recommendation

- 9.1 Cabinet is asked to instruct Officers to proceed with discussions for the re-provision of the Napier Unit and Enhanced Care Unit onto one site through the Invitation to negotiate procedure without a procurement exercise (Option 2). A paper will be brought to Cabinet in July for the final approval request to proceed with this award.

10. Suggested reasons for decision(s)

- 10.1 To ensure that options to secure the best provision possible for services users and family carers are fully explored.

Lead officer contact

Preeya Madhoo, Head of Category Management People
Preeya.madhoo@medway.gov.uk 01634 331042

Background papers

There are no background papers to this report