

CABINET

13 MARCH 2012

GATEWAY 5 PROCUREMENT CONTRACT MANAGEMENT REPORT: LEARNING DISABILITY CARE SERVICES CONTRACT

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Rose Collinson, Director for Children and Adult Services

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Summary

This report seeks permission from the Cabinet to extend the Learning Disability Care Services contract for residential and nursing care by 12 months to 31 March 2013, and to include a variation to the current contract terms and conditions for the same period.

The commencement and delivery of this service pre-dates the establishment of a Procurement Board for Medway Council and no previous Gateway reports are available.

This Procurement Gateway 5 report has been approved for submission to the Cabinet after review and discussion at the Children and Adult Directorate Management Team meeting on 2 February 2012 and Strategic Procurement Board on 15 February 2012.

1. Budget and Policy Framework

1.1 Procurement Contract Management

This report is within the Council's policy and budget framework and ties in with all the identified Core Values, Strategic Priorities, Strategic Council Obligations and Departmental/Directorate service plans.

2. Background

2.1 Contract Details

The Learning Disability Care Services (LDCS) contract was commissioned in 2004 and awarded on 1 April 2005. Approval for contract awards was provided by Cabinet on 14 December 2004 (Decision number 467/2004). Following the Council's approval of the 2005/06 budgets, Cabinet agreed that the then Director of Health and Community Services be delegated authority (in consultation with the Portfolio Holder for Health and Community Services and the Director of Finance and Corporate Services) to award contracts to the preferred providers (The

Avenues Trust and MCCH Society Ltd). The provision of residential care for vulnerable adults is a statutory obligation for the Council.

This contract has been used for subsequent contracts with providers where Medway Council have residential and nursing care placements for adults with a learning disability to ensure fair, transparent and equitable services using the same service specification and terms and conditions of contract. Therefore there are multiple providers signed up to the contract.

2.2 Contract Description

All placements made from the LDCS contract are for the provision of residential care and nursing care for working age adults with a learning disability.

The LDCS contracts were awarded on the basis of a seven-year term, 1 April 2005 to 31 March 2012. The contract allows for an extension period of up to 2 years beyond the expiry date. All contracts awarded off the LDCS contract all have an end date of 31 March 2012.

2.3 Supplier Details

There are multiple providers signed up to the contract.

3 Permissions Required

- 3.1 This report seeks permission to extend the LDCS contract and all placement agreements drawn off the same for a twelve-month period to 31 March 2013. All placement agreements drawn off the LDCS contract have fulfilled the requirements of the service satisfactorily.
- 3.2 This report also seeks permission to vary the terms of the current contract in order to ensure all service providers as part of the contract, agree to the use of the Care Funding Calculator tool (*see comments within 5.4*) in order to determine a fair price for care prior to any placements being agreed.

4 Other Information

- 4.1 The following market benchmarking has been undertaken, which demonstrates that extending this contract will provide the Council with the best value for money outcomes. Medway spends just over £14m on Residential Care placements for more than 220 service users with a learning disability. The average weekly placement cost in Medway is £1,285.05. This is reflective of the market, when compared with other Local Authorities in regions such as Kent, Essex, Southend, Surrey and Thurrock where average prices are in the range of £1,341.00.

5 Options

In arriving at the preferred option as identified within Section 6.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

5.1 Conclude Current Contracts and Provide Action Plan

The option of concluding this contract has been considered, however, this is not a viable option due to the fact that having no contract will leave a high number of

vulnerable individuals without care services, something Medway Council are statutorily obliged to provide.

5.2 Continue With Current Contract and Negate Any Further Gateway 5 Reporting Requirements

The option of continuing with the current contract for the remainder of the contract term and negating any further Gateway 5 reporting requirements is not viable as the current contract term expires in March 2012.

5.3 Continue With Current Contract and Subject Contract to Further Gateway 5 Reporting Requirements

Please refer to point 5.2

5.4 Extend Current Contract and Negate Any Further Gateway 5 Reporting Requirements

The option of extending the current contract for 12 months has been considered and below are the advantages and disadvantages of this option:

Advantages

1. A one-year extension to the contract is necessary as residential and nursing care placements for working age adults made by Medway Council are currently being considered under the Council's Better for Less programme. The Council is reviewing third party spend on residential and nursing care and as such recommissioning the contract at this time may pre-empt the requirements of a future contract. A contract extension would allow sufficient time for work to be completed and inform future commissioning activity. It is intended that this work will run in conjunction with work with the Institute of Public Care (IPC), who are working in partnership with the Social Care Commissioning Team to develop a robust service specification catering for all client groups, including learning disabled service users, which will include consultation and engagement with key stakeholders.
2. The Commissioning Team has been rolling out a work programme for the implementation of the Care Funding Calculator (CFC) Tool across learning disability and physical disability residential placements funded by Medway. The implementation includes working closely with care management teams who identify suitable placements to meet the needs of service users. The CFC is a national tool for determining a fair price for residential placements and supported living placements based on an analysis of individual needs. This tool has been developed by the Regional Improvement and Efficiency Partnerships¹ to support commissioners in ensuring improved outcomes for service users, whilst at the same time ensuring best use of resources and value for money. The use of the CFC by the Commissioning Team, to date, has achieved in year cashable and non-cashable savings of £104,609.42 and annualised savings of £287,313.46. This report seeks approval from Cabinet to vary the terms of the current contract in order to ensure all service providers agree to the Council provision of the Care Funding

¹ <http://www.southeastiep.gov.uk/categories/adult-social-care-and-services-for-children/projects/care-funding-calculator>

Calculator and the need for providers to engage with us prior to any placements being agreed.

3. The Council has a statutory obligation to provide residential and nursing care.
4. Extending the current contract would allow continuity of care for all service users, who have been resident in these properties for many years.
5. Negating the need for additional Gateway 5 reporting will allow officers to dedicate their time to restructuring of the services post March 2013.

Disadvantages

1. Any potential benefits of retendering the LDCS contract will not be realised for an additional twelve months.

5.5 Invoke Contract Variation Into Current Contract

A variation to the terms of the current contracts will ensure providers engage with the Council in respect of the provision of the Care Funding Calculator prior to any placements being agreed to ensure best use of resources and value for money. Please refer to point 5.4 regarding the variation of the current contract terms.

5.6 Other Alternative Options

Providing the LDCS service in-house has been considered. However, it is not viable for Medway Council to provide an in-house care service due to the decision taken to out-source some of its in-house provision.

6 Advice and analysis

6.1 Preferred Option

The preferred options are 5.4 and 5.5 above.

6.1.1 Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs have been appraised in the table below to demonstrate how the procurement contract and corresponding suppliers have continued to deliver aid outcomes/outputs as part of ongoing contract management.

Please note these outcomes/outputs do not relate to any previous Gateway reports as the service was commissioned prior to the introduction of the Council's Gateway processes.

Outputs / Outcomes	How has success been measured?	Who has measured success of outputs/ outcomes	When was success measured?	How has procurement contract delivered outputs/outcomes?
1. Continued care service to vulnerable individuals	Regular Performance and Compliance Officer monitoring.	Performance and Compliance Officers, Care Managers.	2011	The needs of all users continue to be met in line with their Person Centred Plan.
2. Maintaining good quality care provision	Regular Performance and Compliance Officer monitoring.	Performance and Compliance officers, Care Managers and Care Quality Commission.	2011	Careful service provider monitoring to ensure appropriate levels of provision are met.

6.1.2 Procurement Project Management

As this is a continuation of existing contracts there will be no specific need for procurement project management.

6.1.3 Contract Management Resources and Skills

The management and review of the existing contracts will continue to be undertaken by Performance and Compliance Officers. The continued implementation of the Care Funding Calculator tool will be resourced by the Social Care Commissioning and Care Management Teams.

6.1.4 Other Issues

There are no other issues that could potentially impact the remainder of this contract term.

6.1.5 TUPE Issues

Further to this, there are no further TUPE issues to consider at this stage given we are seeking an extension to contract. There would be TUPE issues if the contract were not extended – with services either coming in-house or being contracted through a new provider.

7 Risk Management

7.1 Risk Categorisation

Risk Categories	Outline Description	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Plans To Mitigate Risk
1 Contractual delivery	Provider does not agree to contract extension	E	II	Officers will consult closely with all current service providers to ensure they are fully signed up to an extension.
2 Service delivery	Provider fails to maintain satisfactory service provision	D	III	Officers will continue to proactively monitor all service provision and address areas of non-compliance. The contract terms and conditions allow for the service of notice on any provider that is not meeting the full service specification.
3 Legal	Legal challenge to contract extension	F	III	The current contract terms and conditions allow for the appropriate contract extension. Officers will work closely with colleagues in legal services during this process.
a) Financial	Provider fails to maintain satisfactory service provision	D	II	Officers will ensure that should a service provider fail to meet the service specification and a replacement provider is placed, the new provider offers a cost effective service.

8 Consultation

8.1 Internal (Medway) Stakeholder Consultation

As part of this ongoing procurement contract management, no internal stakeholder consultation is required.

8.2 External Stakeholder Consultation

As part of this ongoing procurement contract management, no external stakeholder consultation is required.

9 Strategic Procurement Board

9.1 The Strategic Procurement Board considered this report on 15 February 2012 and supported the recommendation set out in paragraph 11 of this report.

10 Financial, Legal, Procurement and ICT implications

10.1 Financial Implications

10.1.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 6.1 'Preferred Option' and the recommendations at Section 11, has the following financial implications which the Cabinet must consider:-

- The cost of the service is currently being met within existing budgets.
- There are potential savings to be realised through the use of the Care Funding Calculator. However it should be considered that existing providers may fail to engage with the Council regarding the use of the CFC tool and all potential savings may not be achieved.

10.1.2 Detailed finance and whole-life costing information is contained within **Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix** at the end of this report.

10.2 Legal Implications

10.2.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 6.1 'Preferred Option' and the recommendations at Section 11, has the following legal implications which the Cabinet must consider: -

- The existing contracts terms and conditions allow for the extension of the contract term for up to a period of two years. As officers are recommending a contract extension of one year, this is acceptable under existing terms.
- Any contract may be varied by agreement between the parties, subject to compliance with any EU procurement regulations.

10.3 Procurement Implications

This procurement contract and its associated delivery as per the preferred option highlighted at Section 6.1 'Preferred Option' and the recommendations at Section 11, has the following procurement implications which the Cabinet must consider:-

- The original procurement was conducted in accordance with EU procurement regulations and the mechanisms for future contract extensions was clearly stipulated within the tender documentation and within the tender advertisement. This report is the seventh annual report required by the gateway procurement procedures and clearly demonstrates that the contract and contractor are performing well, working in partnership to ensure effective service delivery and continuous improvement.

Strategic Procurement supports the recommendation for an additional one-year extension (year 8 of a potential 9-year contractual arrangement)

10.4 ICT Implications

This procurement requirement does not have any ICT implications.

11 Recommendations

11.1 Cabinet is requested to:

- a) Approve the extension of the current contract for the provision of residential and nursing care for Adults with a Learning Disability
- b) Approve the variation to the existing terms of the LDCS contracts to include the mandatory requirement for all providers to complete and comply where requested with the outcomes of the Care Funding Calculator tool.

12 Suggested reasons for decision(s)

12.1 The recommendations contained within Section 11 'Recommendations' above are provided on the basis of:-

- The extension of the LDCS contracts will allow for the continuation of a successful and necessary service. It will also allow officers additional time to prepare for the restructuring of the service post March 2013 to ensure further continuity, service improvements and potential cost savings. The contract variation and inclusion of the Care Funding Calculator tool will ensure that for the remaining twelve-month period the service is operating with improved efficiencies. The additional twelve-month period will also allow for more robust analysis of the operation of the Calculator and its possible future use.

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The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
Gateway 1, 3 and 4 Report	N/A	N/A
Acceptance of Tenders: Provision of Residential Care for Adults with a Learning Disability	http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=1314&Ver=4	Report to Cabinet 14 December 2004