

CABINET

13 MARCH 2012

GATEWAY 5 PROCUREMENT CONTRACT MANAGEMENT REPORT: COMMUNITY MEALS SERVICE

Portfolio Holder: Councillor David Brake, Adult Services

Report from: Rose Collinson, Director of Children and Adults

Author: Ben Gladstone, Commissioning Portfolio Manager

Summary

This report seeks permission from the Cabinet to review the progress of the Community Meals contract currently delivered through the supplier Apetito Ltd as highlighted within paragraph 2.2 of this report and extend the contract. Further information relating to permissions is detailed within paragraph 2.2 of the report.

This is based upon the procurement process which was undertaken during 2002 2003 and which led to an award of contract on 3 February 2003.

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.

The original contract was agreed by Cabinet on 29 October 2002. The Cabinet subsequently considered a single-source exemption report and agreed to delegate to the Assistant Director, Corporate Services to award a contract to the current service provider on 19 February 2008.

This Procurement Gateway 5 report has been approved for submission to the Strategic Procurement Board after review and discussion at Children's and Adult's Directorate Management Team meeting on 12 January 2012 and Strategic Procurement Board on 15 February 2012.

1. Budget and Policy Framework

1.1 Procurement Contract Management

- 1.1.1 This procurement contract management report and its subsequent review 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.

1.1.2 The community meals service directly contributes to one of the Councils core priorities as set out in the Council Plan, 'adults maintain their independence and live healthy lives'.

1.1.3 This service plays a key role in the wider prevention agenda, which focuses on enabling individuals to maximise their potential for maintaining their independence, as well as helping to minimise unnecessary admission into hospital or residential care.

1.2 Other Information

1.2.1 An exemption request to contract rules was approved by Strategic Procurement Board on 31 March 2011 granting approval to offer the current provider a one-year extension to the contract pending a review of the business case and future options for the provision of meals.

2. Background

2.1 Contract Details

2.1.1 This contract is a Services contract.

2.1.2 Supplier Details

This Gateway 5 Report relates to the community meals contract currently delivered through Apetito Ltd.

2.1.3 Contract Description

This contract is for the supply and delivery of community meals (reheated from frozen). The service is currently provided to approximately 220 Medway residents assessed as having either substantial or critical needs (using Fair Access to Care criteria) by care management. The contract is for a 365 day a year service and deliveries are made between 11.30 a.m. and 1.30 p.m. daily.

Meal volumes are currently running at approximately 65,000 p.a. (1,250 per week). The total cost of a standard two-course meal is £5.81 and service users contribute towards this cost at a rate of £3.90 per meal, as agreed at the budget meeting of Full Council on 24 February 2011. Therefore, the cost to Medway Council (less client contribution) is approximately £137,000 per annum.

2.2 Permissions Required

2.2.1 This report seeks permission to extend this contract for a period of one year to 31 March 2013 on the basis that this contract has fulfilled requirements in accordance with the service specification and associated contract terms and conditions from the contract commencement date of 3 February 2003 to present and because no major issues have been identified which cause concern.

- 2.2.2 The service provision had been of a high standard throughout the 10 years. Whilst meal volumes have declined significantly since 2008, satisfaction levels as reported by current service users remain high. Results from a needs analysis carried out in 2011 indicate that the service users value the service in helping them to remain independent in their own home (92% of responses).
- 2.2.3 Complaints have remained very low when compared to other social care services and the number of late deliveries at an average of only 1% of deliveries p.a.
- 2.2.4 However, with the continued move towards personalisation to provide service users with increased choice and control the Council will move towards including the cost of meals within a personal budget for those assessed as in need of a meals service by care management.
- 2.2.5 This will allow the user to make their own choice as to how they access their meals and their preferred supplier.
- 2.2.6 The personalisation of this service would mean that in the future, there will be no requirement for the Council to continue to operate under a block contract with the provider.
- 2.2.7 In addition the following market benchmarking has been undertaken which demonstrates that continuing with this contract via the provisions to extend in accordance with the contract terms and conditions, will provide the Council with the best value for money outcomes. This includes benchmarking against other Local Authorities such as, Kent County Council, Bradford and Nottingham amongst others, Medway's price compares favourably with these.

2.3 Other Information

- 2.3.1 The personalisation of the community meals service will mean that the requirement for set terms and conditions of service and the ongoing monitoring and management of the contract will cease to be a Council function.
- 2.3.2 Community meals are a non-statutory service and therefore the Council is not legally obliged to provide such a service.
- 2.3.3 The Social Care Commissioning Team are aware of local authorities that have already made the decision to end block contracts for community meals provision and signpost service users to providers in the wider market.

3. Options

In arriving at the preferred option as identified within Section 4.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

3.1 Conclude Current Contracts and Provide Action Plan

The option of concluding this contract with immediate effect for supplier non-performance and providing an action plan to retender requirements has been considered. Although there are provisions within this termed contract's terms and conditions to cancel contractual arrangements, is not a viable option because the Council will need to work in partnership with the current supplier to ensure continuity of service whilst the personalisation option is being explored

Exploring this option will take time to achieve and will need to take into account the needs of service users and the arrangements for them to manage a personal budget.

3.2 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 has been considered and below are the advantages and disadvantages of this option:

Advantages

➤ Continuing with the current contract will allow the Council to continue to oversee the quality of service provision and monitor complaints.

Disadvantages

➤ Gateway 5 reports are the formal mechanism for monitoring the performance of the contract. Negating future reporting requirements will mean that this information will be kept at a local level and not reported formally to Members and Officers at Strategic Procurement Board and Cabinet.

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

The option of continuing with the current contract for the remainder of the contract term and subjecting the contract to further Gateway 5 requirements has been considered and below are the advantages and disadvantages of this option:

Advantages

➤ Continuing with the current contract will allow the Council to continue to oversee the quality of service provision and monitor complaints.

Disadvantages

- Gateway 5 reports would appear to be an onerous requirement on this contract given the long history of satisfactory performance and the low level of complaints received from service users/care management.

3.4 Extend Current Contract

The option of extending the current contract for a further year until 31st March 2013 has been considered and below are the advantages and disadvantages of this option:

Advantages

- A one-year extension would allow more time for the effective project management during the period of extension and whilst the personalisation option is being explored.

Disadvantages

- The Council would continue to need to dedicate resources to manage and monitor the contract as part of a portfolio of community-based services

3.5 Invoke Contract Variation Into Current Contract

The option of invoking a contract variation within the current contract is not a viable option because this contract has been the subject of several extensions and there is a need to move towards a more personalised approach to provision in line with the Government's Vision for Adult Social Care.

3.6 Other Alternative Options

The following alternative options have been identified for consideration including advantages and disadvantages:

- Alternative Option 1 – Re-tender for the current service model in partnership with Kent County Council.

Discussions have taken place with the Contracts Manager in Kent County Council (KCC) and with Apetito regarding the advantages of procuring a service jointly across Kent and Medway. Apetito Ltd also provides a meals on wheels service across Kent and the company employs some of the infrastructure across both contracts e.g. depot, vans and staff.

KCC are currently undecided on their longer-term future intentions regarding the commissioning of the community meals service in Kent. Their current contract expires in March 2013.

Apetito advise that combining with KCC would not result in any financial benefit to Medway Council. KCC currently subsidise a percentage of the

Medway infrastructure and a formal joint arrangement would highly likely result in cost increases for Medway.

- Alternative Option 2 – Terminate the current contract after 31 March 2012 and move to a frozen meal only service with no contract arrangements.

As a non-statutory service the Council could, if it wished, not provide any subsidy for this service after the end of the current contract and take no part in arrangements for future service delivery. Other local authorities have already followed this route and provide a contacts list of suppliers of frozen meals.

However, there are considerable risks to this approach:

- Some of the existing clients would be unable to cope with using a microwave to heat meals from frozen
- The preventative role of the service would be withdrawn with resulting increases in homecare costs for those unable to prepare their own meals

Results from a needs analysis completed in August 2011 indicate that only a third of current clients would be able to cope with a frozen meal and that care managers expressed concern that the majority of service users would need increased homecare calls if their hot meal service was withdrawn.

4. Advice and analysis

4.1 Preferred Option

Further to an extensive review of procurement options as highlighted within Section 3 'Options' above, the following preferred option is recommended to the Cabinet.

The preferred option is 3.4 - Extend contract arrangements for a further year until 31st March 2013 whilst the personalisation option is being explored.

4.1.1 Procurement Project Outputs / Outcomes

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

These outcomes/outputs are in relation to outcomes/outputs identified as important to the delivery of this procurement requirement, identified as justification for awarding the contract and outlined as part of the post project appraisal.

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.	Complaints from service users/care managers at an acceptably low level	Complaints are monitored by the Performance and Compliance Officer within the Social Care Commissioning Team.	Complaints are collated and included in a quarterly contract review meeting with the current supplier.	Complaints have remained at a very low level at less than 1% of completed deliveries.
2.	Late deliveries held at no more than 2% of weekly total	Late deliveries are monitored by the Performance and Compliance Officer within the Social Care Commissioning Team.	The supplier returns a weekly monitoring sheet.	Late deliveries remain at less than 2% of total deliveries.
3.	Service user satisfaction levels	Apetito carry out a six-monthly customer survey. Satisfaction levels are also monitored by the Performance and Compliance Officer within the Social Care Commissioning Team.	The Social Care Commissioning Team surveyed customers in June 2011 and held a focus group in September 2011 as part of a needs analysis.	Results indicate high levels of satisfaction with the service and low levels of negative responses to the survey.

4.1.2 Procurement Project Management

The Social Care Commissioning Team will continue to provide project management support whilst the personalisation option is being explored.

4.1.3 Contract Management Resources and Skills

The Social Care Commissioning Team will continue to dedicate resources to ensure the effective contract management of the community meals service for the remainder of the contract term, working in close partnership with the service provider.

4.1.4 Other Issues

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

4.1.5 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it was previously identified that although this procurement contract award is related to a Services procurement,

TUPE did not apply to this procurement process. There were no TUPE implications resultant from this recommended procurement contract award. However, there may be TUPE implications if the current contract terminates if any of the staff providing the contract services are considered to be “assigned” to that contract and the undertaking or part of the undertaking is transferred. While the principle of personalisation is that service users are given funding in order to access their own provision, in some cases, this has led to part of an undertaking being effectively transferred as service users have accessed their new services from organisations who have taken on the staff of the existing contractor and therefore legally it has been held that part of the undertaking was transferred. Likely future service provision will need to be assessed in order to determine whether there are any such TUPE implications when the contract comes to an end.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement contract at this Gateway 5 Stage:

Procurement process	<input type="checkbox"/>	Equalities	<input type="checkbox"/>
Contractual delivery	<input type="checkbox"/>	Sustainability / Environmental	<input type="checkbox"/>
Service delivery	<input checked="" type="checkbox"/>	Legal	<input type="checkbox"/>
Reputation / political	<input checked="" type="checkbox"/>	Financial	<input type="checkbox"/>
Health & Safety	<input type="checkbox"/>	Other/ICT*	<input type="checkbox"/>

For each of the risks identified above in OPTION B, further information has been provided below.

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
a) Procurement process				
b) Contractual delivery				
c) Service delivery	Moving to personal budgets and individual commissioning of this service could potentially put at risk a comprehensive service across Medway.	C	II	Medway Council will need to work in partnership with the current supplier to ensure continuity of services across Medway.
d) Reputation / political	Community meals is a sensitive service and the Council has experienced difficulties in increasing the client contribution in previous years.	C	II	Medway will work with the communications team to ensure that key messages are delivered as to the reasons for these changes and that service users are consulted on the changes.
e) Health & Safety				
f) Equalities				

g) Sustainability / Environmental				
h) Legal				
i) Financial				
j) Other/ICT*				

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

As part of this ongoing procurement contract management, no internal stakeholder consultation is required. However, the Social Care Commissioning Team will work closely with colleagues in adult social care and performance management to ensure that the implications of this proposal are worked on and the disruption to service users minimised.

6.2 External Stakeholder Consultation

As part of this ongoing procurement contract management, the following mandatory external stakeholder consultation is required.

The Social Care Commissioning Team will work with the current supplier to establish working relationships beyond the lifetime of the block contract.

Service users will need to be consulted on these changes and options for those unable to manage personal budgets will need to be included in the project plan.

7. Strategic Procurement Board (SPB)

7.1 This report was presented to SPB on 15 February 2012. SPB supported the proposals set out in paragraph 9 of the report.

8. Financial and legal implications

8.1 Financial Implications

8.1.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the

recommendations at Section 9, has the following financial implications which the Cabinet must consider. This contract continues to be funded from the Adult Social Care revenue budget. Final contract value will depend on the number of meals provided.

- 8.1.2 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.

8.2 Legal Implications

- 8.2.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following legal implications which the Cabinet must consider. The proposed option is to grant a one year contract from 1 April 2012 to 31 March 2013 to the current contractor. A contract for the provision of community meals is a Part B contract under the Public Contracts Regulations 2006 and therefore the full extent of the Regulations regarding competitive tendering do not apply.

- 8.2.2 If the Cabinet were to determine to allow the contract to expire and not to re-provide the service in the same way there would be a change in service provision. When considering making changes to service provision, the decision maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

- 8.2.3 Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Having due regard to the above needs involves

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

- 8.2.4 In order to comply with its equality duties, the Council is required to engage with service users etc and to use the information and views gathered as a result of such engagement (together with other equality information the local authority has) in assessing the equality impact of the proposals.

8.3 Procurement Implications

8.3.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following procurement implications which the Cabinet must consider. This contract is now coming to its natural conclusion and due to the changing landscape of the personalisation agenda, social care legislation and the needs of both the service users and supplier market, future requirements should be appraised as part of a robust commissioning and procurement process. Any such future requirements must be delivered in accordance with the Council's Contract Procedure Rules and Gateway Procurement Process. There are clear lessons to be learnt from this contract, which has spanned a period of 10 years and as such, these lessons should be positively and effectively considered as part of any new procurement process, specifically in respects to the creation of the specification and contract management strategy.

8.4 ICT Implications

8.4.1 This procurement requirement does not have any ICT implications.

9 Recommendations

9.1 Cabinet is requested to grant approval to allow an extension to the contract to 31 March 2013 with the current community meals supplier, in its current form and explore a move towards a personalised approach to the provision of a community meals service.

10 Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis of the requirement to provide social care service users with increased choice and control about the services that they receive.

Lead officer contact

Name	Ben Gladstone	Title	Commissioning Portfolio Manager
Department	Social Care Commissioning	Directorate	Children and Adults
Extension	3063	Email	ben.gladstone@medway.gov.uk

Background papers

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

Description of document	Location	Date
Exemption to contract rules- approved in March 2011 (report to Strategic Procurement Board)	Available on request from Procurement Team	31/03/2011
Community Meals Service – Procurement Exemption Cabinet report	Available on request from Democratic Services	19/02/2008
Contract Award Report Cabinet report	Available on request from Democratic Services	29/10/2002