

North Tyneside Council

Report to Cabinet

Date: 8th September 2014

ITEM 7(a)

Title: Procurement exercise for the establishment of a Framework Agreement for Providers to meet Complex Care Needs

Portfolio(s): Adult Social Care

Cabinet Member(s): Lesley Spillard

Report from Service

Area: Adult Social Care

Responsible Officer: Jacqui Old, Head of Adult Social Care Tel: (0191) 643 7317

Wards affected: All

PART 1

1.1 Purpose:

This report seeks Cabinet approval to carry out a tender exercise, in accordance with the Authority's procurement rules under its Contract Standing Orders, for the procurement of a framework agreement for the provision of health and social care services for adults with learning disabilities and/or mental health problems. In accordance with the Authority's Contract Standing Orders, this report requests approval to proceed with a procurement exercise as the estimated contract value of the framework is expected to exceed £500,000. The framework agreement will be for the provision of appropriate services to meet the specialist health and social care of clients with highly complex care needs.

1.2 Recommendation(s):

It is recommended that Cabinet:

- a. authorises the Head of Adult Social Care, in consultation with the Cabinet Member for Adult Social Care, the Head of Law and Governance and Chief Executive (S151 Officer), to undertake a competitive procurement exercise and establish a framework agreement, for a period of three years, with an option to extend for up to a further year; and
- b. Notes the value of the contracts to be awarded under the framework agreement and authorises the Head of Adult Social Care to award such contracts as are necessary under the framework to meet client needs and endorses the waiving of Contract Standing Orders relating to those contracts.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on the 4th August 2014.

1.4 Council Plan and Policy Framework:

This report relates to the following priorities in the 2014-18 'Our North Tyneside Plan':

- (1) Our people will be cared for and kept safe if they become vulnerable
- (2) Our people will be listened to by services that respond better and faster to their needs.

1.5 Information:

1.5.1 Background

- 1.5.2 In June 2012, Cabinet approved the procurement of two framework agreements for Independent Supported Living Services and Community Support Services for people with a learning disability and/or a mental health need. While the frameworks cover a number of clients that require these types of services, there are a number of clients with more specialist health and social care needs who fall outside of this arrangement. The frameworks procured in 2012 assessed providers on their ability to meet the social care needs of clients as it was intended that the packages of care commissioned through this framework would be in relation to their social care needs. This procurement exercise provides an opportunity to jointly commission providers to meet both health and social care needs.
- 1.5.3 The value of the contracts under this framework may exceed the thresholds as detailed in the Authority's Contract Standing Orders and further approval from Cabinet will not be sought to award packages of care, Adult Social Care will award contracts directly to a provider appointed to the Framework subject to waiving Contract Standing Orders. (If providers on the framework are unable to deliver a particular package of care, Adult Social Care will award contracts directly to an alternative provider subject to waiving Contract Standing Orders.)
- 1.5.4 A national programme of work has been developed by the Department of Health following the abuse of people with learning disabilities living at Winterbourne View hospital. The programme of work challenges Health and Social Care commissioners to review all current hospital placements and support everyone inappropriately placed in hospital moving to community-based support. A key challenge for local areas is to ensure that there are appropriate community based services in place to meet the needs of those individuals and minimise the risk of re-admission into hospital. The development of this framework provides an opportunity to develop appropriate community based services.
- 1.5.5 Adult Social Care commissions a range of different services for people with a learning disability and/or mental health problems to help support them to live in the community. These services are integral to maintain their independence and promote social inclusion. The Complex Commissioning Group and the Learning Disability Integration Board, both of which reports up through to the Health and Wellbeing Board, have identified the need to put in place a robust framework agreement to meet the specialist health and social care needs of clients.
- 1.5.6 The development of this framework will establish a list of providers who are able to meet the specific specialist needs of individuals. This will include a number of people who are currently in services as well as new people coming through into services, which could include people coming out of hospital or those in transition from Children's Services. The framework will specifically cover the health and social care needs and we will seek to

include providers on this framework who are competent to meet all of these requirements.

- 1.5.7 A majority of the people supported under this agreement will be known to both health and social care and the funding arrangements will be shared between the two organisations. There may be some people who have identified primary care needs and meet continuing health care criteria and are the responsibility of the NHS. Either way, this framework agreement gives both the Authority and the NHS the ability to commission services. Where the Authority takes lead commissioning responsibility for individuals this will be subject to the provisions of Section 256 of the National Health Services Act 2006 (the NHS Act).
- 1.5.8 The commissioning of services under this framework agreement and lead commissioning under Section 256 of the NHS Act will support the management of risk for those individuals where there is a joint responsibility between the Authority and the NHS. This will include joint arrangements to:
- be involved in the selection of individual provider organisations to the framework;
 - monitor and review the performance and quality of service provision to individuals receiving services under the framework;
 - agree in advance levels of funding from each organisation for each individual under current joint panel arrangements; and
 - jointly develop and agree a Memorandum of Understanding in relation to the governance arrangements required by each respective organisation.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1 - Agree the recommendations set out at section 1.2.

Option 2 - Not agree the recommendations set out at section 1.2 and request that further options are identified and brought back to Cabinet for consideration

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is the recommended option as this will enable Adult Social Care to put in place contracting arrangements with providers that best meet the health and social care needs of individuals under those arrangements.

1.8 Appendices:

There are no appendices to this report.

1.9 Contact officers:

Scott Woodhouse, Strategic Commissioning Manager, Adult Social Care tel: (0191) 643 7082.

Helen Wells, Commissioning and Procurement Manager, Adult Social Care tel: (0191) 643 7561.

Alison Campbell, Finance Business Manager tel: (0191) 643 7038

1.10 Background information:

The following background documents have been used in the compilation of the report and are available at the office of the report author:

- (1) Transforming Care – A National Response to Winterbourne View Hospital; Department of Health December 2012.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213215/final-report.pdf

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources:

Service commissioned for individuals under this framework will be met in a number of different ways dependent on the agreed funding agreements between the Local Authority and the NHS / Clinical Commissioning Group:-

- By Adult Social Care from its learning disability / mental health commissioning budget
- Jointly by Adult Social Care and the Clinical Commissioning Group where shared funding is agreed via the current Shared Funding Panel. The relevant care manager from either the CCG or the LA will take responsibility for funding the full placement. Where the relevant care manager sits within the Local Authority, a recharge to the CCG will be set up and claimed for the agreed level of funding.
- By the Clinical Commissioning Group where the individual meets continuing health care criteria and is the responsibility of the NHS

2.2 Legal:

The range of services to be provided under the proposed Framework Agreements are categorised as “Part B” services for the purposes of the Public Procurement Regulations 2006, therefore strict procurement rules do not apply. However, the procurement of the Framework Agreements must be in compliance with the basic principles of transparency and equal treatment as set out in the EC Treaty.

As the total value of the contracts to be awarded will exceed £500,000, this procurement requires Cabinet approval. Any procurement process will be undertaken in accordance with the Authority’s Contract Standing Orders and EU and UK public procurement requirements. An award will be based on the most economically advantageous tender (which takes account of both quality and price) and the successful tenderer will be appointed on terms and conditions approved by the Head of Law and Governance.

The framework agreements will establish a structure for selection exercises to take place in respect of services as and when required and should be carried out in compliance with Contract Standing Orders. All resulting contracts under the framework will be awarded on terms and conditions as approved by the Head of Law and Governance.

2.3 Consultation/community engagement:

2.3.1 Internal Consultation

Full consultation with relevant stakeholders including relevant care / case managers from health and social care will be undertaken to support the development of the new framework agreement as set out in this report.

2.3.2 External Consultation/Engagement

Between September 2014 and spring 2015, a project team will be established to develop the specific details of the framework and the consultation required to support its development. This includes the development of the specification, service standards, the tender evaluation process and the detail for awarding individual contracts. The individual procurement exercises will take place thereafter for specific individuals or groups of individuals.

Full consultation with the Clinical Commissioning Group, current and prospective providers, service users, carers and advocates will be undertaken as part of the procurement exercise for the development of the new Framework Agreement as set out in this report.

A consultation plan will be produced with these key stakeholders to recognise the stages of the process for developing this framework and the methods of consultation with stakeholders to ensure effective engagement. Furthermore, there will be consultation on an individual basis when commissioning individual contracts from this framework to recognise the level of involvement people would like to contribute to the commissioning process for the individual or group of individuals.

2.4 Human rights:

The proposals and actions contained in this report support the following Human Rights principles:

1. Right to liberty and security
2. Right to respect for private and family life
3. Freedom of thought, belief and religion
4. Protection from discrimination
5. Freedom of expression

These will also be supported in the development of individual service specifications and design options for how people will be supported to live in the community.

2.5 Equalities and diversity:

The use of Framework Agreements for the provision of services for people with specialist health and adult social care needs. The procurement process and service specifications will be used to assess and monitor the values and practices of providers in relation to equal opportunities.

As part of the consultation exercise an Equality Impact Assessment will be undertaken.

2.6 Risk management:

Undertaking this procurement exercise and establishing a Framework Agreement will ensure that effective market testing is undertaken and that the Council is able to attract more providers

into the market place, introducing competition for providers and increasing choice and control for service users.

The Social Work lead assessment process for individuals will also identify the risks to independence for those individuals subject to services under this framework and these risks will be not only identified, but also managed and minimised through the delivery of care and support.

2.7 Crime and disorder:

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability:

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X