

REPORT TITLE: New Residential and Nursing Care Contract

Cabinet Date	24 th July 2024
Cabinet Member	Cllr Carole Allaway-Martin Cabinet Member for Adult Social Care Commissioning
Key Decision	Yes
Purpose of Report	To seek approval to conduct a competitive procurement process for a new multi-provider agreement for the supply of residential and nursing care services for individuals with an assessed health or social care need including older people and people with a disability, autism, a mental health condition and/or complex physical health conditions.
Recommendations	<p>That Cabinet delegates authority to the Executive Director of Adult Social Care, Wellbeing and Communities, in consultation with the Cabinet Member for Adult Social Care Commissioning, to:</p> <ol style="list-style-type: none"> 1. Conduct an appropriate form of competitive procurement process (to be determined by the said Executive Director) under which the council shall procure the following residential and nursing care services for individuals with an assessed health or social care need including older people and people with a disability, autism, a mental health condition and/or complex physical health conditions: <ol style="list-style-type: none"> a) older people residential care b) older people residential care (complex and dementia) c) older people nursing / Continuing Health Care (CHC) d) learning disabilities e) physical disabilities and sensory impairments f) mental health and autism g) forensic services h) short-term placements / respite (all client groups) <p>The proposed contracting arrangements in respect of such services shall continue for a period of up to 8 years (the start date and duration of such period to be determined by the said Executive Director); and</p>

	<p>2. To award, subject to the financial restrictions set out in the Resourcing Implications section of this report below, as many contracts as may be required by the council for the provision of such residential and nursing care services and to exercise any extension options thereunder provided that the aggregate term of such contracting arrangements does not exceed 8 years.</p>
<p>Reasons for Recommendations</p>	<p>The current residential and nursing contract, known as the Pre-Placement Contract ('PPC') is now around 20 years old and does not contain provisions in relation to significant legislative changes that have been introduced in the meantime. Elements such as the equipment schedule and service specifications are out of date and the contractual escalation process for when there are service delivery or quality concerns is not robust enough.</p> <p>The proposed new contracting arrangements will be for residential and nursing care services not commissioned with the council's block provider and will align with other adult social care contracts and policies for consistency of approach for providers and will reflect the integrated funding and delivery of health and adult social care services in Gloucestershire.</p> <p>The local care home provider market is supportive of longer-term contracting arrangements to enable business planning, allocation of resources, stability and continuity of contract terms.</p>
<p>Resource Implications</p>	<p>There will be no financial impact on the current level of spending solely because of the recommendations set out in this report. Demand remains the main influencing factor on expenditure.</p> <p>The proposed new contracting arrangements will set out a clear pricing structure for each of the service categories set out in Recommendation 1 above hence there will be no fundamental changes from the PPC in this respect. The commissioning of residential and nursing care will continue to operate within the relevant adult social care budgetary framework.</p> <p>Based on the annual gross spend for residential and nursing care services in the financial year 2023-4, the estimated value for the proposed new contracting arrangements over an 8-year term is £816,000,000.</p>
<p>Background Documents</p>	<p>Gloucestershire's Market Position Statement 2024</p> <p>Decision - Market Position Statement (MPS) for Adult Social Care Services 2024 (gloucestershire.gov.uk)</p>
<p>Statutory Authority</p>	<p>The Care Act 2014 – Part 1 Care & Support - Section 5 Promoting diversity and quality in provision of services</p> <p>Section 5(1) of the Act provides that a local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market—</p>

	<p>(a) has a variety of providers to choose from who (taken together) provide a variety of services;</p> <p>(b) has a variety of high-quality services to choose from;</p> <p>(c) has sufficient information to make an informed decision about how to meet the needs in question.</p> <p>Section 5(2) of the Act provides that in performing that duty, a local authority must have regard to “the importance of ensuring the sustainability of the market (in circumstances where it is operating effectively as well as in circumstances where it is not)”.</p>
Divisional Councillor(s)	All
Officer	<p>Name: Chris Gratton</p> <p>Tel. no: 01452 583851</p> <p>Email: chris.gratton@gloucestershire.gov.uk</p>
Timeline	<p>The current indicative timeline for this project is as follows:</p> <p>On-going engagement with key stakeholders: Until end December 2024</p> <p>Developing new contract and service specifications: Until end December 2024</p> <p>Procurement processes: January – May 2025</p> <p>New contractual arrangements commence: 1st July 2025</p>

Background

1. The council's current residential and nursing care contract, known as the Pre-Placement Contract ('PPC'), was first drafted around 2003 and is no longer fit for purpose.
2. As the PPC is around 20 years old, it does not contain provisions in relation to significant legislative changes that have been introduced in the meantime. This includes the Care Quality Commission (CQC) as regulator, the Care Act 2014 and the General Data Protection Regulations (GDPR). Elements such as the equipment schedule and service specifications are out of date. The contractual escalation process for when there are service delivery or quality concerns is not robust enough.
3. The objective is to put in place new contracting arrangements which:
 - a) properly reflect residential and nursing care services and how as an integrated health and social care system in Gloucestershire the council commissions them;
 - b) are based on a robust set of terms and conditions which meets legislative requirements; and
 - c) contain dedicated service specifications for each type of service being delivered ensuring that the council's expectations and the care home's obligations are clearly set out.
4. The proposed new contracting arrangements will cover the full range of residential and nursing care services not commissioned with the council's block provider, with individual lots for:
 - a) older people residential care;
 - b) older people residential care (complex and dementia);
 - c) older people nursing / Continuing Health Care (CHC);
 - d) learning disabilities;
 - e) physical disabilities and sensory impairments;
 - f) mental health and autism;
 - g) forensic services; and
 - h) short-term placements / respite (all client groups).

A summary of the proposed main contract terms are set out in Appendix 1.

5. Gloucestershire has a mature local market of over 200 care homes. Following feedback from the market that a longer-term contract would be more beneficial in terms of business planning, allocation of resources and stability, it is proposed to implement a new contract that shall continue for a period of up to 8 years. This procurement falls within 'Light Touch' exemptions of the Procurement Act 2023 and the Council will use this to ensure a flexible and appropriate approach to marketplace. This includes but is not limited to allowing for a longer contract term, with the exact procurement process subject to approval by the Executive Director.

Options

6. Commissioners have undertaken a review of the PPC and for the reasons set out in paragraphs 1 to 3 above, have concluded that in order to align how we commission and contract residential and nursing care services with community-based support services, a new contract is our preferred option.

Risks

7. In consultation with the council's Senior Risk Management Advisor, any risks associated with the project have been identified and a risk register prepared which is regularly reviewed by the project team. The key risks and mitigating factors are:
 - a) insufficient interest from the local care home market. Commissioners will continue to engage with providers to anticipate and address any issues;
 - b) providers not meeting the requirement to obtain the Cyber Essentials standard (or equivalent minimum ICT security). Commissioners will work with the council's Information Management and Information Technology teams to engage with and inform providers prior to the procurement process. The procurement will allow additional time (post-contract award) for providers to meet the standard; and
 - c) providers having insufficient skills and resources to engage in the procurement. Commissioners will engage with and inform providers in advance to ensure that they understand the procurement process which is intended to be as streamlined as possible.

Financial implications

8. The budgetary challenges faced by the council and the resulting impact on funding and budgets at a national, regional and local level are well known. However, the council recognises its statutory obligations and the importance of these services in supporting some of the most vulnerable people in Gloucestershire.

9. The following shows the actual for the 2023-4 financial year and therefore gives an indication of the annual gross spend for residential and nursing care services:
- a) Older People Residential: c.£33.82m
 - b) Older People Nursing: c.£36.97m
 - c) Learning Disabilities Residential: c.£26.25m
 - d) Mental Health Residential: c.£5.09m
10. Commissioners will continue to keep rates under review, particularly for the types of services for which there is the greatest need in Gloucestershire (such as dementia and nursing), whilst taking every opportunity to ensure such services deliver efficiency, provide best value and remain within budgetary constraints.

Climate Change and Ecological implications

11. Has the Climate Impact Assessment Tool (CIAT) been completed? Yes
12. Has an Ecological Impact Assessment (EclA) been produced, or will one be undertaken at a later stage? Yes
13. The Climate Impact Assessment Tool (CIAT) has been completed and several climate areas have been flagged. However, positive social impacts have been observed. Regarding climate impacts, commitments can be made to mitigate decline such as care home buildings meeting all reasonable energy efficiency standards for their type / age and care home providers minimising their impact via the recycling or refurbishment of certain equipment and other sustainable practises.

Equality implications

14. Has an Equalities Impact Assessment (EqIA) been completed? Yes
15. Cabinet Members should read and consider the Equalities Impact Assessment to satisfy themselves as decision makers that due regard has been given.

Data Protection Impact Assessment (DPIA) implications

16. A Data Protection Impact Assessment (DPIA) checklist has been undertaken and the outcome showed a high risk. A full DPIA will be completed for this project. Care home providers will be required to have Cyber Essentials accreditation alongside the relevant minimum ICT security standards, as sensitive personal data will be processed.

17. The council's Information Management Service will be consulted to ensure relevant data processing clauses are in the new contract and eventual call-off contracts.

Social value implications

18. For those care home providers with whom we spend over the relevant threshold, the new contract will contain a requirement to demonstrate social value in accordance with the council's Social Value policy. It will focus on engagement with the local community, improving the lives and outcomes of individuals and for working-age adults, on employment opportunities. Social value will be included in the provider evaluation element of the procurement process.
19. The council will be using a performance and evidence-based approach to Social Value, based on the National TOMs (Themes, Outcomes and Measures). Tendering care home providers will be required to propose credible targets against which performance (for the successful care home provider) will be monitored.
20. The council recognises that the process of measuring and delivering social value requires flexibility and a collaborative approach. Agreed social value commitments may require a certain amount of refinement as a result. A key requirement is the willingness of the care home provider to work openly and transparently with the council whilst bearing in mind that the overall value of the commitments made must be delivered.
21. Full details on the Social Value Portal and the National TOMs framework is available here: <https://socialvalueportal.com/national-toms/>.

Consultation feedback

22. Extensive engagement is being undertaken to evaluate the current PPC and to develop the new contract and associated procurement arrangements. Feedback from a range of partners and stakeholders has been considered to include views from:
 - a) external care home providers;
 - b) the Partnership boards;
 - c) user-led organisations;
 - d) individuals with lived experience;
 - e) the Gloucestershire Care Providers Association (GCPA); and
 - f) commissioning and operational teams across the council and ICB.

23. Care home providers and the GCPA welcome the prospect of a new, updated contract with clearer terms and conditions and which reflects how the different types of residential and nursing services are now delivered.
24. The partnership boards, user-led organisations and individuals with lived experience are keen to help develop certain sections of the service specifications to ensure that they reflect how individuals wish to be supported.
25. Colleagues from across the council and ICB are keen for a comprehensive new contract to be put in place which reflects our current commissioning processes, has clear and detailed service specifications and contains robust provisions where there are service level or quality concerns.

Officer recommendations

26. It is recommended that Cabinet delegates Authority to the Executive Director Adult Social Care, Wellbeing and Communities, in consultation with the Cabinet Member for Adult Social Care Commissioning to implement the Recommendations contained in the corresponding section of this report.

Performance management/follow-up

27. The new contract will contain robust contract management provisions and will be underpinned by quality monitoring arrangements which are currently being developed.