



**Author/Lead Officer of Report: Joe Fowler,
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Report of: *Phil Holmes*
Report to: *Cate McDonald*
Date of Decision: *16 January 2017*
Subject: *Home Care Stabilisation*

Is this a Key Decision? If Yes, reason Key Decision:-

Yes No

- Expenditure and/or savings over £500,000

- Affects 2 or more Wards

Which Cabinet Member Portfolio does this relate to? **Health and Social Care**

Which Scrutiny and Policy Development Committee does this relate to?

Healthier Communities and Adult Social Care

Has an Equality Impact Assessment (EIA) been undertaken?

Yes No

If YES, what EIA reference number has it been given? *(Insert reference number)*

Does the report contain confidential or exempt information?

Yes No

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-

Purpose of Report:

This report seeks authority to implement a number of measures to secure reliable and good quality home care provision for the people of Sheffield – including targeted procurement activity, contract extensions, fee negotiations, and potentially some pilot schemes.

The backdrop of constantly changing conditions in the home care market means that this report seeks delegated authority to employ and vary the stabilising measures used – providing these remain within agreed financial and strategic parameters.

Recommendations:

1. That the Leader gives delegated authority to the Director of Adult Services in consultation with the Director of Commercial Services and the Cabinet Member for Health and Social Care to take action - including procurement and contract negotiation as appropriate - to secure reliable and good quality home care for the people of Sheffield, *providing that*:
 - a) The increased cost of home care in 2017/18 resulting from any actions taken do not exceed a maximum of £1.625m
 - b) The measures taken are consistent with meeting the objectives set out in this report (at 1.7) – and in particular the need to continue to improve the quality of Sheffield’s home care offer and the working conditions of care workers
 - c) That commercial and legal risks are assessed and monitored
 - d) Updates on actions taken and any emerging risks are provided monthly to the Leader, Cabinet Member for Health and Social Care, and any other Committees that they advise

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

| Lead Officer to complete:- | | |
|---|--|--|
| 1 | I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required. | Finance: Liz Gough |
| | | Legal: Sarah Bennett |
| | | Equalities: Liz Tooke |
| <i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i> | | |
| 2 | EMT member who approved submission: | <i>Eugene Walker</i> |
| 3 | Cabinet Member consulted: | <i>Cate McDonald</i> |
| 4 | I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1. | |
| | Lead Officer Name: <i>Phil Holmes</i> | Job Title: <i>Director of Adult Services</i> |
| | Date: 20/12/16 | |
| | | |

1. Proposal

1.1. The last 12 months have been a turbulent time for home care providers and commissioners as market conditions across the home care sector have changed considerably. This has caused problems across the country¹, including:

- home care providers serving notice on their contracts at short notice as increasing cost pressures and regulatory changes make their business models unviable
- commissioners having to procure new contracts and home care at short notice (and increased cost)
- providers being embargoed by regulatory bodies meaning they are no longer able to take on new customers – meaning local authorities have to ‘spot purchase’ home care
- procurement exercises failing to secure enough new providers to deliver the level of home care needed
- home care providers securing new contracts and then (almost immediately) failing to fulfil their commitments
- people waiting too long in hospital due to home care providers struggling to meet their needs at short notice

1.2. The Council has had to take a range of action to make sure that people get the home care they need. This has included, for example:

- More than doubling the number of contracted home care companies we work with (from 9 to more than 20)
- Providing direct staff support to home care providers
- Managing the exit of a major home care provider at short notice
- Supporting dozens of people to find a new home care provider following the closure of a provider (this provider was not contracted to the Council)
- Using the Council’s internal care and support service to meet urgent need
- Increasing fee levels mid-contract in recognition of the significant pressures facing providers (e.g. from increases in National Living Wage)

1.3. The quality and capacity of home care providers in Sheffield has demonstrably improved over the last 6 months.

1.4. However, there is continuing uncertainty in the market – with several large national home care providers that operate in Sheffield considering the future

¹ <http://www.leicestermercury.co.uk/senior-tory-councillor-apologises-after-fiasco-of-county-hall-home-care-scheme/story-29965786-detail/story.html>
<http://www.harrogateadvertiser.co.uk/news/health/harrogate-facing-home-care-crisis-after-second-provider-pulls-out-of-contract-1-8269394>
<http://www.liverpoolecho.co.uk/news/liverpool-news/home-care-provider-pulls-out-11866110>

of all of the contracts. Our main home care contracts are also due expire at the end of March 2017.

- 1.5. The Council needs to do all it can to make sure that people in Sheffield who need home care get good quality support to help them stay independent, safe and well.
- 1.6. This report therefore seeks authority to implement a number of measures to secure reliable and good quality home care provision for the people of Sheffield – including:
 - targeted procurement activity to secure providers to take on the management of home care businesses (branches and staff) from providers that no longer intend to operate in Sheffield
 - negotiated contract extensions with providers that intend to stay in Sheffield, which may result in re-procurement activity
 - new framework contracts to enable us to *continue* to work with more smaller, local, home care providers that do not want to take on large Council contracts
 - pilots of different home care models to inform future commissioning
 - preparation of a full procurement of new home care contracts
- 1.7. The backdrop of constantly changing conditions in the home care market means that this report seeks delegated authority to employ and vary the stabilising measures discussed above – providing that the financial impact is contained within the available budget, and that the actions taken are consistent with the following objectives:
 - Improve customer satisfaction by making sure that (a) care workers have the skills, attitude, and time to deliver care and support with dignity and respect; (b) customers see *the same* care workers as much as possible; (c) care is provided at the promised time; and, (d) home care providers are flexible, responsive and communicate effectively
 - Improve quality / safety of home care in Sheffield by supporting providers to improve and making greater use of better rated providers
 - Increase the responsiveness of home care market so that we can reduce waiting lists in the rest of the system
 - Increase the capacity of care workers in the city – reducing turnover rates and vacancy levels
 - Increase market resilience – avoiding single points of failure wherever possible (e.g. single providers in any area)
 - Improve customer choice and control so that people are not limited in choice because they are unable to afford or arrange their own home care
 - Reduce legal and commercial risks

- Continue to move towards the real living wage and promote ethical employment practices
- Build stronger partnerships with home care providers so they can contribute more to the challenges faced by the health and care economy

2. How does this decision contribute?

2.1. This decision will:

- help to stabilise the home care market so that more people can get reliable and good quality personal care and support in their home
- reduce the pressure on the health and care system
- support new and smaller providers (including charitable organisations) to build their capacity and market share in Sheffield – creating greater resilience
- allow the Council to work proactively with home care providers to reduce waiting lists in areas that are under pressure

Has there been any consultation?

2.2. There has been extensive consultation with home care providers.

2.3. The evidence base of what customers want from home care is well established (summarised in first bullet paragraph 1.7 above).

3. Risk Analysis

Financial Risks

3.1. The financial risks associated with this decision relate primarily to our ability to contain the cost of any fee increase within the £1.625m budget allocated for 2017/18.

3.2. This risk will be mitigated by~:

- continuous modelling and monitoring to forecast impacts and guide management action
- developing the home care market so that we have multiple home care providers across the city. This prevents us being left in a position where we have 'no choice' but to agree to higher fee levels
- Using the Council's detailed understanding of the home care market across the city – including how costs vary across the city and between providers. This allows for more informed and assertive fee negotiations. For example, we know that the cost of providing home care is lower in densely populated urban areas in the north and east of the city where there are people wanting to work in the care sector, and customers that

live within walking distance of each other. We also know that smaller local providers can afford to operate at similar fee levels to larger national providers because whilst they have reduced economies of scale, they do not have to pay centrally imposed overheads (e.g. franchise fees).

- 3.3. The residual financial risk is considered to be medium likelihood / medium impact.

Commercial Risks

- 3.4. A significant amount of analysis has been undertaken to fully understand the current and future commercial impacts of establishing stability in the home care market in Sheffield.
- 3.5. The proposed strategy of using this market analysis to negotiate fees for contract extensions for 17/18 will allow providers to consider their business plans and the commercial impact of staying in Sheffield. Some providers may still intend to terminate their contracts as at 31st March 2017 (indeed we know that one provider will). This requires us to be fleet of foot – e.g. to agree short-term extensions (with associated uplifts) and / or commence a procurement process as a matter of urgency if required.
- 3.6. A key risk is that the current contract has a fixed contract period of 3 years from April 2014 to March 2017. The services that are the subject of this briefing note are social care services covered by the “light touch” regime set out in the Public Contracts Regulations 2015. The value of these services are significantly above the threshold set out in those Regulations and the Council does have a duty to act in accordance with its general European Treaty principles. Any extension of this contract(s) need to be in accordance with the Public Contracts Regulations 2015 and for internal compliance would require a waiver of standing orders to be authorised by the Director of Commercial Services. As an extension is not specifically provided for within the existing contracts (or any extension provided for has already been exercised) any extensions offered should be for the shortest period practicable and should be an interim position with plans in place to procure new arrangements through a compliant process as soon as possible.
- 3.7. A procurement strategy and ‘pricing model’ for the tender based around a strong understanding of the cost of care must be agreed quickly to develop a framework of provision to ensure capacity across the City. Any gaps in service delivery arising from the framework tender will attempt to be covered by offering successful providers specific work through ‘mini competitions’ from the framework.
- 3.8. The residual commercial risk is considered to be low likelihood / medium impact.

Legal Risks

- 3.9. The relevant guidance to the Care Act is attached as Annex A.
- 3.10. The Council has an obligation to support a viable market place which these proposals are intended to support. Decisions need to be supported by evidence as set out in the Care Act.
- 3.11. Supporting a viable market place must include paying a viable market rate to providers. This includes taking into account NMW, staff retention, quality etc. We have to evidence that we have meaningfully understood and applied the Care Act guidance.
- 3.12. The Council has strong evidence that it has taken account of, and has knowledge of the cost of care and that our proposed fees are based on robust analysis of reliable data. This reduces the legal risks and makes us less vulnerable to challenge from the market.
- 3.13. The residual legal risk is considered low likelihood / medium impact.

Service and Customer Risks

- 3.14. The Council has taken action over the last year to make sure that people who need home care get good quality support in a timely way. This has led to reduced delays for home care, improvements in the quality of support provided, and a reduction in the pressure on the rest of the health and care system.
- 3.15. However, the level of waits in some areas, where large national home care providers are unable to take on new customers due to regulatory / quality concerns, are still leading to individual risks and the wider health and care system. This decision will enable us to continue to work flexibly with other providers and continue to reduce the number of people waiting for home care – despite the rapidly shifting market conditions
- 3.16. The level of residual risk to individuals is considered to be low likelihood / high impact.
- 3.17. The level of residual risk to the wider health and care system is considered to be medium-likelihood / medium-impact.

4. Equality

- 4.1. The proposals are designed to improve the stability, availability and quality of home care services delivered to vulnerable adults with eligible social care needs. The resulting improvements will not impact disproportionately on any section of the service user population.

5. Financial and Commercial

- 5.1. The financial and commercial implications of the proposal will depend on the balance of measures taken – as described at paragraph 1.6. Risks are discussed above.

6. Alternative Options Considered

Do nothing

- 6.1. There is no realistic “do nothing” or “status quo” alternative. Our home care contracts end in April 2017 and we know that at least one national provider will not be prepared to extend contracts in Sheffield.

Complete re-procurement

- 6.2. Our priorities over the last 12 months have been to increase stability in the home care market – by actively engaging and contracting with new providers and supporting existing providers through challenging times. This has left us without enough time to complete a full re-procurement of home care. However, we have also known for some time that a complete re-procurement presented too high a risk given the level of fragility in the market.
- 6.3. This fragility is a result of falling margins, rising costs and changes to regulation that have put unprecedented pressure on providers – many of whom are now considering whether to remain in the market at all.
- 6.4. The national fragility has been compounded locally by inherent weaknesses in our approach to home care (e.g. reliance on single providers, blanket use of time and task) and considerable changes in demand patterns – with home care providers being asked to provide 3,000 more hours of home care in just six months (23,500 hours per week currently compared to 20,500 hours per week in May 2016).
- 6.5. Just as importantly, we need to take a more fundamental look at what home care needs to look like in Sheffield in the medium-term to support our ambitions.
- 6.6. Other local authorities have attempted to re-tender their contracts in this highly dynamic environment and have had significant problems, which have driven up costs and negatively impacted on customers. Our recommendation is there that we remain flexible over the coming 6 – 12 months – increasing stability and doing detailed work on a future model.

7. Reasons for Recommendations

- 7.1. Our clear goal is to make sure that we have good quality home care available in Sheffield for people that need it to stay independent, safe and well in their own home.
- 7.2. The proposals and recommendations in this report allow us to focus on this goal whilst navigating through a period of significant uncertainty in the home care market; and, balancing the commercial, legal, financial, and customer risks.

Annex A

Care Act Guidance

*“4.31 When commissioning services, local authorities should assure themselves and **have evidence that** contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support, and allow for the service provider ability to meet statutory obligations to **pay at least the national minimum wage** and provide effective **training and development** of staff. It should also allow **retention of staff commensurate with delivering services to the agreed quality**, and encourage innovation and improvement. Local authorities should have regard to guidance on minimum fee levels necessary to provide this assurance, taking account of the local economic environment. This assurance should understand that reasonable fee levels allow for a reasonable rate of return by independent providers that is sufficient to allow the overall pool of efficient providers to remain sustainable in the long term.”*