

Committee/Meeting: Cabinet	Date: 31 July 2013	Classification: Unrestricted	Report No: CAB 015/134
Report of: Anne Canning, Corporate Director, Education, Social Care and Wellbeing		Title: Supporting Carers – Respite Care Breaks	
Originating officer: Deborah Cohen, Service Head of Commissioning and Strategy		Wards Affected: All	

Lead Member	Councillor Abdul Asad
Community Plan Theme	A Healthy and Supportive Community
Strategic Priority	Enable people to live independently

1. **SUMMARY**

- 1.1 Cabinet agreed Tower Hamlets' Carers Plan in June 2012. The Plan sets out the importance of supporting carers to stay healthy as a key objective which will both support carers' wellbeing and help them to sustain their caring roles. Effective respite care breaks are essential to achieving this as they provide short-term relief to those who are caring for family members who might otherwise require long-term residential care. Respite care breaks therefore assist the Council's objectives to transform social care and rebalance services towards prevention and early intervention.
- 1.2 Some of the Council's contractual arrangements for respite care breaks are coming to an end between January and March 2014. This provides an opportunity to recommission services to:
- achieve better outcomes, including improved user experience
 - deliver greater value for money
 - support the Mayor's broader procurement objectives e.g. local employment
- 1.3 The recommissioning will take place in the context of other changes to services as set out in the Carers Plan. The changes include the development of specialist carers' assessment, support planning and brokerage functions, as well as the creation of a new Shared Lives service which is outside the scope of this paper. There is also a focus on increasing the number and proportion of carers receiving personal budgets.
- 1.4 The permission to procure was considered by Cabinet on 7th July 2013 as part of the Contracts Forward Plan – Quarter 2.
- 1.5 Supporting Carers is a national as well as local priority. The Queen's Speech, in May 2013, announced a forthcoming Care Bill which will introduce a duty to meet carers' eligible needs for support. Effective respite support will support the Council to meet this duty.

2. **DECISIONS REQUIRED**

The Mayor in Cabinet is recommended to:-

- 2.1 Approve the approach set out to the recommissioning of respite care breaks.

REASONS FOR THE DECISION

- 3.1 The proposed approach supports:
- (1) Delivery of the agreed Council's Carers Plan
 - (2) Stated Council objectives, including the transformation of adult social care, prevention and early intervention, supporting carers to stay healthy
 - (3) Value for money whilst improving service quality

4. **ALTERNATIVE OPTIONS**

- 4.1 One option would be to maintain the status quo and extend the existing contractual arrangements for respite care breaks. This is not recommended as extending the contracts minimises the opportunity to:
- Secure better value for money
 - Change the service provision to meet current and future needs
 - Achieve better outcomes
- 4.2 Another option would be to not replace the contractual arrangements for respite care. This is not recommended as it would mean that many carers would not be able to sustain their caring roles and it would increase the need for more expensive residential care.

5. **BACKGROUND**

Carers and Respite Care Breaks in Tower Hamlets

- 5.1 Recently published results from the 2011 Census show that over 19,000 Tower Hamlets residents provide some level of unpaid care, which is 8% of the resident population. Significantly, over a quarter of local carers (nearly 5,000 residents) provide more than 50 hours of care a week. The Census also demonstrates a rise in the number of residents providing unpaid care: from 16,797 in 2001 to 19,356 in 2011. Over the same time period, the number of residents who reported having a limiting long term illness or disability increased by 1.7%.
- 5.2 The most recent Joint Strategic Needs Assessment (JSNA) for Carers (2010) highlighted the particular importance of ensuring respite care breaks are available at nights and weekends (when day centres are closed). Respite care can be home based, i.e. where additional support is provided to the service user in their home to enable the carer to temporarily take a break, or residential i.e. where the service user temporarily moves to other accommodation. The duration of respite breaks can vary from a number of hours during the day, overnight, to a period of multiple consecutive days and

nights. The provision is usually planned but in some cases may be accessed on an emergency basis.

- 5.3 The draft Care and Support Bill (published 11th July 2012), sets out legal rights for carers to assessments and to support to help them in their caring role. For the first time, carers will be recognised in the law in the same way as those they carer for. The draft Bill creates a single duty for local authorities to undertake a 'carers assessment' and then determine what their support needs are, and whether those needs are 'eligible' for support. This proposal will strengthen our response to the requirements of the Bill/Act.
- 5.4 The majority of carers live with the person that they care for although not all carers in the borough require or use Council-supported respite breaks. A local survey found that approximately a quarter (23%) of carers had received a respite break lasting over 24 hours, whilst 14% of residents had received a longer break. Whilst some carers do not wish to receive Council respite support - for example due to the assistance of friends and family – the Carers JSNA highlighted that some carers are not always aware of what respite services are available to them. In addition, there is some evidence that a more flexible respite service offer, including breaks at weekends, would encourage greater take-up.

Current Contractual Arrangements

- 5.5 This report is seeking approval for the recommissioning of respite care services with an annual value of approximately £1.6 million. This consists of eight separate block contracts via five providers for home-based respite care breaks (£0.5 million), one block contract for residential respite care (£0.6 million) and spot purchasing residential respite care with two other providers (£0.5 million). The home-based providers are:
- Age UK - formerly Age Concern and Help the Aged
 - Apasenth - focusing on carers of Asian residents with learning difficulties
 - Jewish Care
 - St Hilda's - focusing on carers of Bangladeshi and other Asian residents
 - TLC Care Services
- 5.6 The existing residential respite provider with a block contract is the Camden Society which operates Hotel in the Park - in Sewardstone Road (E2) - for people with learning disabilities. The Hotel in the Park building is a Council asset and is currently leased to the Camden Society at a peppercorn rent. The formal lease arrangement has expired and so this recommissioning process provides an opportunity to review this arrangement and secure best value for the Council. In addition, the Council spot purchases out of borough residential respite with Sahara Homes and Apasenth.
- 5.7 All of the respite break services detailed in paragraphs 5.5 and 5.6 are focused on carers of adults with a physical or learning disability. Respite breaks for those caring for people with mental health conditions or substance misuse needs, for example, are procured separately. It should also be noted that this proposed commissioning process does not cover the totality of respite support for carers of people with a physical or learning disability. It

excludes, for example, respite care which is paid for independently by local carers through their directly managed personal budgets (PBs); these carers can use any respite break provider. However, where a provider is used that is contracted by the Council; it cannot charge a rate to a Tower Hamlets PB user which exceeds that secured by the Council. This ensures that directly managing PB holders can also benefit from the efficiency advantages of the Council's procurement.

- 5.8 Council-funded day care and home care for people with a physical or learning disability may also provide respite support to carers. A key difference between this provision and the services provided through the arrangements highlighted in paragraphs 5.5 and 5.6 is that the former is focused on the needs of the service user (i.e. the person cared for) whilst the latter is provided primarily to support the carer. Whilst in some cases there are mutual benefits from both sorts of provision, the services being recommissioned, and subject to this report, can only be accessed following an assessment of the needs of the carer.

Future contractual arrangements

- 5.9 The contractual arrangements for this provision have not been reviewed for a number of years. Since then, the sub-regional market for respite care has developed. There are, for example, a number of additional providers of residential respite care breaks in East London available, with which the Council is now spot purchasing services. This increased competition in the market may mean that the Council can support better outcomes for users whilst incurring lower costs.
- 5.10 The Council is proposing to replace the existing nine block contracts with a two year framework agreement, with the option of a one year extension, with a range of providers. The current block contract arrangements mean that the Council purchases, in advance, an agreed amount and level of service with each provider. Under the proposed framework agreement, the Council will set out its terms, for example in relation to price and quality, but does not commit to purchasing a prescribed amount of support from each supplier over the period of the contract. This means that the Council - and carers - have greater flexibility to purchase respite care breaks, including both residential and care in the home, to best suit carers' individual needs. The Council will also include spot-purchased residential respite support (with a current value of £0.5 million) within the framework agreement. The Council will seek a wide range of providers. In setting up this framework, overlaps with the Domiciliary Care framework (which is being renewed in the Autumn 2013) will be considered to ensure best value for money is achieved where services can be brought together.
- 5.11 The Council is seeking to maintain and improve the amount and quality of respite care available through the commissioning process, whilst also seeking to secure a cashable saving. The total value of the existing respite care contracts and spot purchased services referred to in paragraphs 5.5 and 5.6 above is approximately £1.6 million per annum. The procurement will take place in accordance with the Council's guidance, including the tollgate

process. The Mayor in Cabinet is asked for approval for the recommissioning process to commence using the approach set out in this report. Both the Lead Member and Mayor will be kept informed and involved in the commissioning process prior to the decision about contract award being made, which is scheduled for Cabinet in December 2013.

5.12 Key deadlines for the recommissioning process are set out below.

Activity	Deadline
Cabinet approve respite plan	31 st July 2013
Advert placed	5 th August 2013
Tenders submitted	8 th November 2013
Contract award recommendations formulated	22 nd November 2013
Cabinet consider recommendations	4 th December 2013
Contract commencement	1 st January 2014

5.13 The recommissioning of respite care breaks is a part of a broader programme of work set out in the Carers Plan. This includes the development of specialist carers' assessment, support planning and brokerage functions. It is also proposed that a Respite Care Policy is developed. The Policy will provide a framework and principles to support the fair and equitable allocation of respite support across all carer groups.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

6.1 The authority spends approximately £1.6 m per annum on respite care services for carers. Currently these services are provided through a number of block contracts and spot purchased support which provide both home based and residential respite care.

6.2 The current in-borough residential respite provider, the Camden Society is provided from a Council owned asset, see paragraph 5.6. It will need to be concluded whether this asset is continued to be offered as part of the retender exercise.

6.3 A number of these existing contracts are due to expire between December 2013 and March 2014. In addition to this, there are a number of other market factors and strategic service changes within the Council, detailed in this paper, that necessitate a review of current arrangement for respite care services.

6.4 This report seeks approval to commence the recommissioning process for this range of respite care services and recommends the authority set up a framework agreement for a two year period with the option of a one year extension, as opposed to current block and spot purchase arrangements, for the provision respite care services.

6.5 Following the commissioning process the suppliers that are recommended to go onto the framework will be subject to a separate approval process.

6.6 This approach will secure value for money for the authority by ensuring we only purchase service hours required and future spend is expected to be contained within existing budgets.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

7.1 The Council is required to carry out carer's assessments in circumstances specified under the Carers (Recognition and Services) Act 1995 and, separately, under the Carers and Disabled Children Act 2000 ("the Carers Acts"). The circumstances giving rise to the duty are complicated but, broadly speaking, the obligation to assess arises in circumstances where a carer is providing a substantial amount of care to an adult in respect of whom the Council may provide community care services or to a relevant disabled child and where the carer requests an assessment. The duty may arise and be discharged either on a stand-alone basis or in the context of needs assessments carried out by the Council of the person cared-for, under section 47 of the National Health Service and Community Care Act 1990, Part 3 of the Children Act 1989 or section 2 of the Chronically Sick and Disabled Person's Act 1970.

7.2 The services the Council may provide to a carer depend on the avenue by which the carer's assessment is carried out. The range of services includes: community care services within the meaning of the NHS & Community Care Act 1990; services that it may provide under Part 3 of the Children Act 1989 or section 2 of the Chronically Sick and Disabled Person's Act 1970; or services under section 2 of the Carers and Disabled Children Act 2000, being services that the Council considers will help the carer to care for the person cared for. The power is broad enough to support the provision of respite care.

7.3 The Care Bill which is currently at the committee stage in the House of Lords proposes to create a single duty for local authorities to undertake a 'carer's assessment'. This duty would replace the existing law, and it removes the requirement that the carer must be providing "a substantial amount of care on a regular basis". This will mean more carers are able to access an assessment, and that the duty is comparable to that for the people they support. As the Bill started its passage in the House of Lords it will need to go through the House of Commons stages, prior to receiving Royal assent. Most of the provisions are expected to come into force in 2015.

7.4 Section 3 of the Local Government Act 1999 requires best value authorities, including the Council, to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". The Public Services (Social Values) Act 2013, which came into force on 31st January 2013, requires the Council to consider how the services it commissions and procures might improve the economic, social and environmental well-being of the area. The procurement procedure described above complies with these statutory duties and the Council's procurement procedures and it should be

open to conclude that the proposed contracts will result in best value having regard to the duty outlined above.

- 7.5 When awarding the contract, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Information relevant to these considerations is set out in the report.
- 7.6 The Council has a duty to subject this expenditure to competition. However, the full European Regulations (Public Contracts Regulations 2006 as amended) do not apply. However, under case law the duty is that the Council must still subject this expenditure to "a reasonable level of advertising".
- 7.7 However, the Council must also recognise the Service User's ability to exert choice over the place where they stay. This is somewhat lessened by the fact that the stay is temporary in nature. However, any procured contract must take this into account and the likelihood that a service user may want to return to a particular establishment where they have stayed before.
- 7.8 This creates a clear clash in two legal duties of the Council. Therefore the final contractual arrangement must be flexible enough to allow choice whilst still operating in a fair and transparent manner where choice is not an issue.
- 7.9 Clear and current consultation must also be made with the lead member.
- 7.10 Where this tender results in a significant change to existing services the Council must also consider consultation with Service User's their families and other key stakeholders.
- 7.11 Where this tender leaves an organisation in the position to use a council owned property, a lease needs to be concluded and a fair market rent charged.

8. ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 It is essential that respite break provision reflects the diverse needs of carers. Existing services includes dedicated support to carers of people from different backgrounds; the need for culturally sensitive provision remains. For example, the Council will consider provision of care to Asian elders who are traditionally looked after in the home by a family member. Equality implications will be considered as part of relevant equality analyses at key stages of the process.
- 8.2 A key requirement will be for the successful organisations to demonstrate appropriate equality considerations both in their provision and workforce. In addition, the development of a Respite Care Policy will provide a clear framework for the allocation of respite support ensuring fair access to the support available.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1. There are a number of risks in commissioning respite care breaks. This includes the risk that there is insufficient capacity available in the market to meet the Council's quality criteria. All risks are being managed through a project management approach that seeks to identify and manage risk effectively.

10. EFFICIENCY STATEMENT

- 10.1 The recommissioning of respite care provides an opportunity to secure both a cashable saving (i.e. reduced cost to the Council) and a non-cashable efficiency (i.e. improved provision). These aims will be central to the commissioning process.

**Local Authorities (Executive Arrangements) (Access to Information)
(England) Regulations 2012**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
None	