

Cabinet	 TOWER HAMLETS
14 December 2022	
Report of: Denise Radley, Corporate Director Health Adults and Communities and Deputy Chief Executive	Classification: Unrestricted
Homecare for adults- contracts extension	

Lead Member	Cllr Gulam Kibria Choudhury Cabinet Member for Health, Wellbeing and Social Care
Originating Officer(s)	Ben Gladstone, Interim Head of Service- Ageing Well, Integrated Commissioning
Wards affected	All
Key Decision?	Yes
Reason for Key Decision	Financial threshold
Forward Plan Notice Published	9 November 2022
Strategic Plan Priority / Outcome	The provision of homecare services to residents living in Tower Hamlets supports the strategic plan priority 4: boost culture, business, jobs and leisure. Homecare workers are part of local businesses and work in the community. The contracts support local employment opportunities. The contracts also support Priority 5: Invest in public services by ensuring that all care workers employed by commissioned providers are paid at least the London Living Wage. Homecare services support vulnerable adults by providing high quality and financially sustainable services for adults receiving social care to achieve their goals, be connected to others and live as independently as possible.

Executive Summary

This report sets out the reasons for the request for an extension to the existing contractual arrangements for the provision of homecare services for adults and formally requests permission to extend these contracts to 31 December 2023.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Authorise the Corporate Director Health Adults and Communities and Deputy Chief Executive to agree with the existing providers to extend the current contracts to ensure continuity of services to protect vulnerable people until the 31 December 2023 in order to recommission, procure and mobilise the newly procured contracts aligned to the Administration priorities.

1 REASONS FOR THE DECISIONS

- 1.1 The current contracts for the provision of homecare services to adults are due to expire on 31 December 2022. A tender process that commenced in April 2022 was paused in August 2022 due to formal requests for a review of the previous administrations methodology for delivering homecare to service users in the borough by the Mayor. The review has determined that changes to the commissioning and contracting model are required in order for the Council to end up with contracts that deliver in a manner to meet the Council's new strategic priorities. The changes are a significant enough departure from the previous advertised methodology and specification to require the existing process to be abandoned and a new process to be commenced in line with the law. This also allows operators who were not interested in the opportunity to be treated fairly now that the Council's commercial requirements have changed.
- 1.2 To implement the required changes, further work will need to be undertaken to understand the implications of changes and to finalise a preferred model which can then be presented to the market via the tender process. This will need to incorporate some engagement and co-production with service users, care workers and homecare providers. Officers will need to recommence the commissioning and procurement process in early 2023.
- 1.3 The new procurement process is anticipated to take a total of twelve (12) months to complete. This will include a period of pretender market analysis and engagement (3 months), the preparation of revised tender documentation including a service specification, contract schedules and agreed price: quality weighting and scoring mechanism (3 months), a two-stage tender process (5 months) and contract award (1 month). In addition, a further period of transition and contract mobilisation will be necessary following contract award.
- 1.4 The Council is committed to protecting the most vulnerable people in the borough and in this case has a legal duty to do so. The extension of the existing contracts is necessary to ensure that there is seamless continuity of care services to those people who are reliant on them.

2 ALTERNATIVE OPTIONS

- 2.1 It would be technically and legally possible to spot-purchase any number of providers to deliver homecare in the Borough as an alternative to a framework contract. However, this would present an increased risk to the effective oversight of the quality and safety of homecare provision to vulnerable residents in need of care and support living across the Borough. In addition, each package of care would be subject to the Council's procurement procedures and therefore some form of quotation process with competition would be required each time. This could significantly delay the provision of care in many cases and would be clearly not desirable
- 2.2 During the period of the contract extension, Officers will continue to work beyond the five commissioned providers under the framework contract with a larger number of homecare providers that are commissioned under 'spot' arrangements to provide services to Tower Hamlets residents. Currently, the Council commissions work from a total of 42 'spot' providers, 11 of whom are registered in the Borough. These providers are used when the contracted (framework) providers are unable to accept the work. In addition to this, a larger number of homecare providers are directly commissioned by residents through personal budget arrangements.

3 DETAILS OF THE REPORT

- 3.1 Homecare supports the delivery of Tower Hamlets Adult Social Care Vision and Strategy to promote choice, control and wellbeing focusing on the outcomes that are important to people. It also supports the Tower Hamlets Together Outcomes Framework, so that people's experience of care is positive and joined up to achieve the best health and wellbeing outcomes. The service will enable Service Users who require Council-funded care to continue to live at home to receive ethical, high-quality care and support that promotes individual outcomes, independence, wellbeing, and dignity.
- 3.2 The overall aims for the service are to achieve:
- **Outcome focused**, high quality services that deliver the best possible outcomes for Service Users. The move to an outcomes-based way of working monitored by an outcomes framework coproduced with people who use services, enables a shift from time and task approaches to a focus on supporting individual outcomes.
 - **Preventative Support** that enables Service Users to remain as independent as possible or to rebuild their independence and resilience so they can continue living in their own homes in their own communities. This includes developing innovative approaches and use of technology and equipment that enhance people's independence. Through this the Contract also helps the Council to manage future demands for this Service and for other services.
 - **Partnership & Contract Management** – the Contract is based on sound Partnering principles (including getting the basics right) to ensure that it is effectively managed and delivered. The Contract is

underpinned by high quality systems and processes to ensure that there is clarity in the performance of the Contract and the Payment Mechanism.

- **Self-directed support** - the Contract enables self-directed support so Service Users can use their personal budgets to achieve outcomes that are important to them. Service Users should be fully involved and lead, as much as possible, in designing and agreeing their care and support on an ongoing basis. Increasingly, this will include using Service Provider managed personal budgets / Individual Service Funds (ISFs) and direct payments to facilitate maximum choice, control and flexibility over their own support arrangements.
- **Value for Money** – the Contract delivers better value for money through preventative support and more flexible and innovative support targeting support on what matters to Service Users.

3.3 During the lifetime of the current and future contracts, workforce development will be key to ensuring that Tower Hamlets residents continue to receive high quality homecare. Officers will work in partnership with homecare providers on a workforce plan aligning this wherever possible to the NHS North East London Integrated Care System (ICS) so that care workers and their employers can both benefit from improved retention and career development opportunities and there is a clear plan to support their learning and development.

3.4 Homecare for adults is currently commissioned across four localities in Tower Hamlets (North West, South West, North East and South East). These locality areas align with the structure of the Adult Social Care operational teams and the operational teams of our partners in the NHS including the Primary Care Networks (PCNS). This operational model facilitates close partnership working and joint resolution of problems and issues arising during the contract. Across the four localities, there are currently five homecare providers supporting approximately 2,000 adults at any one time with their care and support needs. Annual spend with the five commissioned providers is £30.17 million out of total homecare spend of approximately £31.36 million pa.

3.5 The commissioned providers are:

- Diversity Health and Social Care
- Mi Homecare
- Excel Care
- Care Solutions Bureau
- Apasen Home and Community Services

3.6 All of the five commissioned providers are currently rated by the Care Quality Commission (CQC) as 'Good'. Officers from the Council also carry out regular monitoring visits and performance monitoring activity to ensure that providers are evidencing that they are consistently providing good quality, safe care to residents. As part of this monitoring framework, service users are asked for their views on the satisfaction with the homecare they are receiving. From the most recent quarterly survey (Q2 July- September 2022), 92% of users

reported that "Overall I have a positive experience of the services I am receiving from the homecare agency".

- 3.7 The current plans for the recommissioning of homecare services for adults in Tower Hamlets commenced in 2021. A homecare programme and project structure were established including an extensive period of consultation, engagement and coproduction to develop a new outcomes-based service specification and model, the development of revised contract management and monitoring systems, the parallel transition to outcomes-based care and support planning using the IT system Mosaic and revisions to the payments process for providers.
- 3.8 A tender was issued on 29th April 2022 to commence the procurement process. The first phase the procurement resulted in a total of 22 homecare providers being accepted to proceed to the second phase. The tender process has now been aborted.
- 3.7 Following a review of the contractual basis on which the current tender was based four principles relating to the Council's new proposals emerged as follows:
- A. A reduction in the proposed length of contract from the previously proposed 9 years (5+1+1+1+1) to a total of between 3-4 years
 - B. To exclude the requirement for all homecare providers to use an Electronic Home Care Monitoring System (EHCMS) in order to receive work from Tower Hamlets Council
 - C. An increase in the number of commissioned providers of homecare from the currently proposed maximum of 12 (3 per locality) to a suggested number of 25 providers
 - D. An increase in the guaranteed hours offered to all care workers delivering homecare to Tower Hamlets residents from the current 12 hours to 25-30 hours per week.
- 3.9 The impact of these changes is currently being considered by Officers and a preferred model of homecare to address these changes will be presented to Cabinet in early 2023. This will be the subject of a separate paper.

4 EQUALITIES IMPLICATIONS

- 4.1 As part of the commissioning process, Officers will undertake an Equalities Impact Assessment to assess whether the changes to the service and contractual model would have any impacts on those with protected characteristics. Mitigations will then be identified and acted on to minimise any adverse impacts.
- 4.2 The Council is committed to employing a workforce that reflects the diverse communities of the borough with regard to ethnicity, languages and culture, and expects homecare providers to demonstrate the same commitment. Currently, there is a large under representation of White British ethnicity in the

homecare workforce in comparison to service users and the population of the Borough; 2 % of the workforce are White British when they make up 28% of service users and 45% of the Borough residents. There is also an underrepresentation of male carers in the workforce

- 4.3 Officers will work proactively with homecare providers to target groups that are underrepresented through recruitment, retention and career development initiatives.

5 OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment

- 5.2 The contracts awarded to homecare providers will need to ensure Best Value for the Council whilst ensuring that these contracts are compliant with the UNISON Ethical Care Charter and that all care workers are paid at least the London Living Wage.

- 5.3 It will be important to ensure that all personal data processed and stored by the providers is kept secure and in compliance with the General Data Protection Regulations (GDPR). This will form part of the contract conditions.

- 5.4 Officers will seek evidence of Social Value both during the tender period and subsequently work with homecare providers to ensure this is realised including increasing employment and training opportunities for residents of Tower Hamlets. Homecare providers will therefore actively seek to improve local employment and where possible offer opportunities to local individuals. This will include opportunities for Service Users as appropriate to the outcomes they are seeking.

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 Homecare services for adults are a significant part of the Adult Social Care budget. The 2022/23 budget for homecare services is projecting an overspend position against the £30.74m budget by £0.62m, with expenditure currently projected at £31.36m.

- 6.2 Demand and budget pressures are increasing in this area, with a rise in the number of people assessed as needing care and support and a move towards

caring for people in their own home rather than in bed-based care settings e.g., care homes.

- 6.3 The current framework provides for annual inflation increases to providers based largely on London Living Wage, which is due to increase by £0.90 from April 2023 (an 8.14% increase). Further risk pressures will result from the Fair Cost of Care exercise and Funding Reforms, in addition to the financial risks highlighted in this report. These will be in addition to the existing financial challenges of meeting increasing costs within the available budget envelope and an existing overspend position.
- 6.4 Further financial risks associated with potential changes to the retender proposals identified in the report will need to be quantified prior to recommending the programme of re-commissioning, along with the impact of the potential mitigations. These will need to be assessed against available budget resources.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The Council has a legal duty to provide this care to people who need it. The Council also has a legal duty to ensure that the way in which its legal functions are delivered represent Best Value. Acquiring these services following a tender process where bids are subjected to evaluation based on pre-advertised evaluation criteria will meet both these legal imperatives.
- 7.2 Commencing a new procurement process will lead to a delay to the start of the contract. The Council's legal duty to provide this care means that the Council is not allowed to have a break in the provision of the services by law. Therefore, the Council needs to extend the existing contracts to ensure that the care duty continues to be met. This also demonstrates that the extensions are out of necessity rather than to act anticompetitively.
- 7.3 The Council should only abandon a procurement process where the Council has reasonable grounds for so doing. If the Council continued with the current process and awarded contracts under the current basis it would be obliged to purchase services where the mode of their delivery does not meet the Council's new requirements. This represents reasonable grounds for abandonment. Award of contracts under the current tender basis would not meet the Council's vision for the delivery of this legal function. Therefore, the Council must abandon the process and start on a new basis that does meet the Council's vision in order to achieve Best Value.
- 7.4 Many of the stakeholders in these services are people who have a protected characteristic for the purposes of the Equality Act. Therefore, any changes will be subject to appropriate measures such as an equality assessment so that the Council can determine the impact of any changes with people who have protected characteristics prior to implementing the changes in a new specification or procurement methodology.

Linked Reports, Appendices and Background Documents

Linked Report

Cabinet Contracts Forward Plan Q3 2021-22 at [6.6a Appendix. 1 for Contracts Forward Plan 202122 Quarter Three.pdf \(towerhamlets.gov.uk\)](#)

Cabinet report 22 September 2021 [AHSCS5019 Domiciliary and Personal Care Contracts Extension](#)

Appendices

None

Background Documents – Local Authorities (Executive Arrangements)(Access to Information) (England) Regulations 2012

None

Officer contact details for documents:

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