Decision maker: Cabinet member: Health and wellbeing

Decision date: 17 December 2015

Date decision may be implemented: 17 December 2015

Title of report: Extension to the home and community support services (HACS) framework agreement and approval to award additional framework agreements

Report by: Contracts, quality and review lead

Classification

Open

Key Decision

This is key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council’s budget for the service or function to which the decision relates.

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards Affected

Countywide

Purpose

To extend the home and community support services framework agreement, for a 13 month period, as permitted within the scope of the agreement. Also, to obtain approval to award contracts to Herefordshire Headway, Kemble Care, Sun Care, Surecare and The Gath, under the hand communities support service framework.

Recommendation(s)

Further information on the subject of this report is available from
Laura Lloyd Contract, Quality and Review Lead on Tel (01432) 261905
THAT:

(a) The Home and Community Support services framework, covering 37 current registered providers, is extended by 13 months, to 30th June 2017

(b) Approval is given to award additional contracts to Herefordshire Headway, Kemble Care, Sun Care, Surecare and the Garth under the home and community support service framework which include the end date of 30th June 2017 described in recommendation (a) above.

(c) By virtue of this decision report an exemption to paragraph 4.6.13.2e of the council contract procedure rules be granted to enable the award of contracts described in recommendation (b) for the reasons set out within this report below.

Alternative options

1 The home and community service is decommissioned; this option is not recommended as the services provides care and support to vulnerable adults and support them to remain in their own homes, living as independently as possible and to achieve and maintain their desired potential in relation to their physical, intellectual, emotional and social capacity

2 Not to award the additional framework agreements to Herefordshire Headway, Kemble Care, Sun Care, Surecare and The Garth in respect of this service. This option is not recommended as these providers formed part of a consortium bid under the auspices of Aspire Living Limited. This consortium subsequently disbanded, due to differences within the partnership and the individual providers have continued to deliver packages of care in their own right.

Reasons for recommendations

3 The 13 month extension is built into the framework and the council is seeking to utilise this to provide the opportunity to explore service redesign, to ensure improve outcomes for service users, provide a seamless provision and care pathway, whilst providing continuation of care and support for service users and complete the re-procurement.

4 The service enables people to remain in their own home, living as independently as possible and to achieve and maintain their desired potential in relation to their physical, intellectual, emotional and social capacity

5 Herefordshire Headway, Kemble Care, Sun Care, Surecare and the Garth formed a consortium under the auspices of Aspire Living Limited to tender for a place on the home and community support framework in February 2014. This consortium subsequently disbanded and the individual providers have continued to deliver packages of care in their own right.
Therefore, awarding Herefordshire Headway, Kemble Care, Sun Care, Surecare and the Garth with individual contracts for the provision of home and community support will enable the council to formalise its contractual position with the aforementioned providers who are currently delivering a home and community support service within Herefordshire and thereby ensure the council is adequately protected in line with the intentions of the framework agreement.

In addition, if the recommendation to award the aforementioned providers with a framework agreement is not adopted, there is a risk that vulnerable adults who currently receive care and support from one of these providers may experience a gap in the provision of the care which meets their assessed needs. This would exacerbate the council’s current difficulty in allocating packages of care within the county and prevent it from complying with its statutory obligations under the Care Act 2014.

Key considerations

The HACS framework agreement commenced on 1 April 2014 for a two year period and has 37 registered providers. The service encompasses a wide range of services and activities, delivered in the community to those with an eligible need. The provision of care and support to service users that enables them to remain in their own homes, living as independently as possible and to achieve and maintain their desired potential in relation to their physical, intellectual, emotional and social capacity, preventing or delaying the need for more intensive interventions.

The proposal to award the contracts to the providers referred to within recommendation (b) will formalise the current arrangements, bringing them in line with the other contracts under the home and community services framework. Electing not to award these providers with an individual contract under the framework would pose a risk that vulnerable adults would not receive the care and support services which they require to meet their needs. Hence, affected service users would endure a gap in the continuity of their service provision which may exacerbate their vulnerability and cause undue concern amongst themselves, their friends and relations.

In addition, Herefordshire Headway provides a bespoke domiciliary care service in respect of service users with an acquired brain injury. There is no similar provision of this element of the home and community support service from other providers; who would either need their staff to undertake specialist training in order to deliver a similar service; or recruit carers who are already trained in this specialised area of care. This additional training or recruitment would necessitate a delay in delivering packages of care; thereby resulting in a gap in the continuity of care which is contrary to the council’s obligations to provide the requisite care and support services to meet service users’ assessed needs under the Care Act 2014.

Sun Care and Surecare currently deliver domiciliary care in remote rural communities of Herefordshire, which are areas in which the council experiences considerable difficulty in allocating packages of care to providers. Therefore, if these providers were not allocated a place on HACS framework, the council’s brokerage team would

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experience considerable difficulty in reallocating these packages to alternative providers. This may result in a gap in the continuous provision of domiciliary care as the councils in-house rapid response and reablement services are already experiencing capacity issues and may not be able to deliver an similar domiciliary care service immediately.

12 All of the five providers referred to in recommendation (b) currently deliver domiciliary care services to service users within Herefordshire without any recorded instances of quality concerns. However, should any safeguarding concerns arise, the council may experience difficulty in enforcing the contractual provisions within the framework agreement against these providers unless they are awarded individual agreements for the provision of a home and community support service.

Community impact

13 The service supports vulnerable adults who have an eligible need. The service providers care and support to those living in the community and enables service users to maintain and where possible to improve their independence.

14 In 2013/14 the council funded adult social care for 4,200 people aged 18 and over. 72 per cent received this care mainly because of a physical disability, frailty or sensory impairment, 14 per cent for a learning disability, 14 per cent for mental health and less than half a per cent for substance misuse and the general category of 'vulnerable people'. Nearly three quarters of adult social care clients are aged 65 and over.

15 The continued care and support service contributes to the Councils adults and wellbeing directorates aims and objectives “to enable residents to live safe, healthy and independent lives and to maintain service provision, to those with need, within the available resources”. The service contributes to this by reducing demand on services, targeting care and support and increasing integration to support the most vulnerable within the community.

16 Adopting the proposal to award Herefordshire Headway, Kemble Care, Sun Care, Surecare and the Garth with a framework agreement to provide a home and community support service would enable vulnerable adults across Herefordshire to continue to receive the services which meet their assessed needs without any gap in provision. Therefore, this proposal will enable the Council to comply with its obligations under the Care Act 2014, in relation to the provision of a domiciliary care services to vulnerable adults.

Equality duty

17 The council is committed to equality and diversity using the Public Sector Equality Duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

18 The equality duty covers the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision does not discontinue service and has no detrimental impact to eligible service users.
Consultation with current service users indicated that the model of provision being proposed was the preferred option.

Financial implications

19  The expenditure for the aforementioned framework agreements is accounted for within the current budgets and as these providers will continue to provide services at standard HACS rates there are no direct financial implications as a result of this report.

20  The table below details the spend for the providers:

<table>
<thead>
<tr>
<th></th>
<th>2014/15</th>
<th>2015/16 YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Herefordshire Headway</td>
<td>£117,387</td>
<td>£67,384</td>
</tr>
<tr>
<td>Kemble Care,</td>
<td>£663,795</td>
<td>£721,690</td>
</tr>
<tr>
<td>Sun Care,</td>
<td>£58,987</td>
<td>£122,653</td>
</tr>
<tr>
<td>Surecare</td>
<td>£205,527</td>
<td>£318,985</td>
</tr>
<tr>
<td>the Garth</td>
<td>£334,769</td>
<td>£212,096</td>
</tr>
</tbody>
</table>

Legal implications

21  The Council has a statutory duty under the Care Act 2014 to provide care services to vulnerable adults as identified and assessed. To assist it in meeting that statutory duty, the Council, in 2014, carried out a competitive process and put in place a framework agreement with 37 providers. This arrangement allows the Council to call-off services from those providers without, in most circumstances, the need to undertake further competition.

22  The framework was set to run for a period of two years to the 30th June 2016, with the option for it to be extended by one year, at the Council’s discretion, so that the framework would expire on 30th June 2017. The Council may, therefore, exercise the option to extend the framework until 30th June 2017 if it wishes to do so.

23  It is noted that the five providers referred to in recommendation (b), were originally part of the framework as a consortium and were not appointed to the framework as individual providers.

24  Frameworks of this nature are ‘closed’ and ‘new’ providers cannot be added to it during the period that the framework is to run. The Council must therefore consider whether permitting contractual arrangements to be formalised with the providers identified in recommendation (b), would breach public procurement regulations.

25  Regulation 72(1)(c) of the Public Contracts Regulations 2015 permits frameworks to be modified without the need for a new procurement procedure where all of the following conditions are fulfilled: (i) the need for the modification has been brought about by circumstances which a diligent contracting authority could not have
Taking each of the parts of regulation 72(1)(c) in order: (i) The need for the modification has been brought about by the consortium which was originally appointed to the framework being disbanded. As long as this circumstance is one which the Council did not foresee when it procured the framework originally, then under part (i) the Council can appoint each of the providers identified in recommendation (b) to the framework. (ii) The modification would not appear to alter the overall nature of the contractual arrangements. New providers cannot be added to a framework but, the providers identified in recommendation (b) were already part of the framework, albeit as part of the consortium. Thus, there would appear to be no actual increase in the total number of providers as these providers were always expected to be part of the supply base. Thus part (ii) would appear to be satisfied. Part (iii) of regulation 72(1)(c) requires that any increase in price does not exceed 50% of the value of the original framework. The formalisation of these providers on the framework will not impact on, or increase in any way, the value of the original framework as the value of the framework is driven by demand for the services and therefore, part (iii) is satisfied also.

On the basis that all three parts of regulation 72(1)(c) of the Public Contracts Regulations are satisfied then contractual arrangements with each of the providers identified in recommendation (b) may be formalised.

The precise value of the contracts to be awarded to each of the providers identified in recommendation (b) cannot be identified at this point but, they are likely to be substantial. However, given that each of these providers would be on a framework the requirement to undertake further competition as required under paragraph 4.6.13.2e of the Council's Contract Procedure Rules should be waived.

Risk management

If the recommendations of this report are not followed, there is a risk that vulnerable adults in Herefordshire who require a domiciliary care service will not receive the care and support which meets their assessed needs. This is due to a lack of alternative providers who can deliver the required care packages which Herefordshire Headway, Kemble Care, Sun Care, Sure Care and the Garth currently deliver. This may result in a gap in service provision and contravene the council’s obligations under the Care Act 2014 in relation to home and community support services.

All risks have been appropriately identified and recorded within the commissioning service risk register, where they will be escalated from there if required.

Consultees

The framework providers have been consulted with regarding the extension proposal. Service users have not been made aware of this proposal or consulted on it at this stage in order not to raise distress or anxiety by any imagined impact on them. Only if there is likelihood of change to their service would it be considered appropriate to engage with service users to discuss this.

Further information on the subject of this report is available from
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Appendices

None

Background papers

None identified.