

Record of officer decision

Date of decision:	27.07. 2017
Decision maker (job title):	Director for Adults and Wellbeing
Authority for delegated decision (e.g. cabinet decision or scheme of delegation – provide reference):	Scheme of Delegation – Officer decision limits
Ward:	Ross On Wye
If relevant, summarise cabinet member and/or ward member consultation:	
Decision made:	<p>To extend the current contract by issuing a variation notice to Brandon Trust to deliver part of the service only (Ryefields) in Ross On Wye, to 16 people with a learning disability, and to continue to manage this service and staff beyond the agreed early termination date of contract.</p> <p>The original authorisation for this contract can be viewed on the report at the link below: http://hc-modgov:9070/documents/s50019609/2014-15.HWB.002%20R%20Day%20Opps%209Jul14%20KEY.pdf</p> <p>Recent decisions were approved regarding re procurement of this contract and can be viewed via the link below. http://hcmogov:9070/documents/s50046541/Direct%20award%20of%20learning%20disability%20day%20opportunities%20Report%2027Apr17%20Key.pdf</p> <p>The cost of the continuation of part of the service will be at a day rate of £575 which is higher than the previous cost by an additional total £100 per day. This would be on the same terms at the previous variation notice issued for the month of June 2017.</p> <p>Social work reviews and support plans will form next steps to set out how needs will be met, and will determine TUPE or redundancy for existing staff.</p>
Reasons for decision (if a report was produced to support the decision, refer to and attach the same):	<p>The service meets assessed social care needs for a cohort of 16 adults with a learning disability.</p> <p>At the point of planned transfer the incoming provider gave 2 days' notice that they were not going to transfer the service. All options have been explored. There was only one provider whom expressed an interest in this service after the recent procurement exercise, and we have also gone back to the market to providers who previously applied to the process, but no provider has stepped forward.</p> <p>The current provider has been requested to provide a holding</p>

	<p>position whilst we seek a resolution. It is anticipated that through choices based exercise of current options and social work reviews and new support plans that the needs can be met in a different way by using existing services from the community activities framework, and utilisation of a block contract with Shaw, this will result in fragmented TUPE for staff or redundancies.</p> <p>The progress will be reviewed on a week by week basis and it is anticipated that new solutions will be in place by 31 October 2017</p>
Highlight any associated risks/finance/legal/equality considerations:	<p>The risk of not extending this contract would mean the service would close prior to alternative support being in place. The council would then fail to meet assessed eligible social care needs.</p> <p>The option to extend the current provider both is the preferred option for the service users and the most cost effective and presents least risk.</p> <p>This will enable us to then provide a smooth transition for service users to the new model of service.</p> <p>Consultation with legal services has taken place and the legal view is indicated below.</p>
Details of any alternative options considered and rejected (together with reasons):	<p>To end the service without a valid option for service users would be both reputational and put the council at risk of not meeting assessed social care needs and therefore judicial challenge.</p> <p>To deliver care through home care is not a preferred option for service users and would be a more costly option.</p> <p>These options are not recommended.</p>
Legal considerations	<ul style="list-style-type: none"> • This report indicates the variation of an existing contract rather than entering into a new contract. • According to the Contract Procedure Rules, any variation must be in accordance with procurement legislation. • A contract can be varied without requiring a new procurement if any of the conditions in regulation 72(1) of the Public Contracts Regulations are met. • Regulation 72(1)(c) appears to apply here. This allows a variation (i.e. without a new procurement) where all of the following are met: <ul style="list-style-type: none"> - <i>the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;</i> - <i>the modification does not alter the overall nature of the contract;</i> - <i>any increase in price does not exceed 50% of the value of the original contract or framework agreement.'</i> <p>According to the Contract Procedure Rules, any variation must also be approved by commercial services, legal services and the budget holder for the contract. In particular, officers should consult with Legal Services to ensure the proposed variation is validly documented.</p> <p>It is understood Brandon Trust has already given notice to terminate this contract. For this variation to be made, that notice must be revoked in writing, indicating mutual consent of both parties.</p>
Details of any declarations of interest made:	None.

Signed... Martin Samuels Date: 1.8.17