

## **Title of report: New Arrangements for Commissioned Home Care**

**Meeting: Cabinet**

**Meeting date: 24<sup>th</sup> June 2021**

**Report by: Cabinet member health and adult wellbeing;**

### **Classification**

Open

### **Decision type**

Key Decision

### **Wards affected**

(All Wards);

### **Purpose**

To approve the tender for a new home care framework which will commence from 1 November 2021 due to the cessation of the current framework. This will ensure high quality providers support the eligible needs of adults to remain safe and independent in their own home.

### **Recommendation(s)**

**That:**

- a) A framework for the purchasing of commissioned home care services be introduced from 1 November 2021;**
- b) The duration of the framework will be four years with the option to extend for a further 12 months;**
- c) Applicants admission to the framework will be determined via competitive tender;**
- d) The director for adults and communities is authorised to take all operational decisions necessary to implement the above recommendations.**
- e) That cabinet approves the response to the scrutiny recommendations in Appendix 2.**

## Alternative options

- 1 Entirely insourcing the provision of home care; this is not recommended due to the significant additional costs.
- 2 Partially insourcing the provision of home care for rural packages. This could address the challenge of providing commissioned care in rural areas. This is not recommended; rural packages would increase the cost of home care. It would also reduce the amount of commissioned care by around 25%. This could undermine the operational and financial viability of providers.
- 3 An open approved list could be introduced as an alternative to a closed framework. This is not recommended because this could increase the number of providers with an associated increase in competition for home care packages which would further erode provider's operational and financial viability.
- 4 With the relevant approvals and consent of service providers the current notice period under the existing home care agreement could be extended for a further specified period. This is not recommended: commissioners have been working with providers for a considerable time on the co-produced proposal. The market is expecting the tender, which has already been delayed by 12 months as a result of the on-going pandemic. A further extension would prolong the period of uncertainty. It would also only provide a short-term solution and not address the structural issues associated with the current arrangements.

## Key considerations

- 5 The Care Act 2014 places a statutory duty on the council to manage the market to ensure the availability of home care and to have arrangements in place to commission home care services on behalf of people with eligible assessed needs. Therefore, alternative arrangements must be in place on the cessation of the notice period of the current arrangements, 31 October 2021.
- 6 The primary aim of the new arrangements is to improve the customer experience of commissioned home care by ensuring the timely availability of quality care throughout the county.
- 7 The home care services will be aligned with key strategic initiatives and services including; the Market Position Statement commissioning intentions, Talk Community, Home First and technology enabled living.
- 8 The introduction of the framework and the associated consolidation of the market will create a solid foundation for further innovation within the market.
- 9 Demand for home care services has been managed effectively by the application of strengths based approach to assessments and the provision of re-ablement services and assistive technology. The Covid-19 pandemic has further suppressed the level of commissioned home care provided. However, demographic changes are likely to result in an increase in demand.
- 10 There are usually around 750 people in receipt of commissioned home care at any one time. The pandemic suppressed demand for a time however, the trajectory is showing provision returning to previous levels of need. The majority of customers are

elderly, 85% are over 65 and of those 37% are over 85. The primary need is for physical support which is required by 87% of people in receipt of care.

- 11 The commissioned home care purchased averages 9,500 hours per week. This equated to an annual gross expenditure of £10.2m during the 2020/21 financial year.
- 12 The current arrangement for purchasing commissioned home care is an open approved list called Care @ Home. This commenced on 1 February 2018.
- 13 There are currently 28 approved providers delivering commissioned home care under Care @ Home. The majority of these providers are local, small to medium enterprises.
- 14 In excess of 70% of commissioned home care is delivered by the top 10 providers, expressed in terms of hours
- 15 However, one of the key weaknesses of the current arrangement is the volume of commissioned care is insufficient to offer providers operational and financial viability. This is illustrated by the fact that 65% of providers deliver less than 300 hours per week of commissioned home care. Whilst many will be delivering care to people who fund their own provision either from their own resources or via a direct payment this makes them vulnerable to changes in market conditions, staffing issues etc.
- 16 It should be noted that the high level of competition for packages does not equate to real choice for customers as it results in providers being unable to form operationally and financially viable rounds of care calls. This is particularly the case in very rural areas due to the small number of packages commissioned.
- 17 This situation is compounded by an imbalance of supply and demand with a degree of oversupply in Leominster and the surrounding area and a lack of provision in the rural areas in the west and south of the county.
- 18 During the engagement phase of co-producing the proposal, many providers requested that the council reduces the number of approved providers to improve their operational efficiency and financial viability.
- 19 In the 12 months preceding the pandemic six providers made a strategic withdrawal from the market. It is likely this trend would have continued were it not for the council's and government's extensive financial and resource support package during the pandemic.
- 20 The inclusion of a cap on the number of providers on the framework and the requirement that providers deliver on a locality basis will assist the integration of home care provision within health and social care.
- 21 This will create the opportunity for strategic collaboration between providers to improve the efficiency of service delivery.
- 22 It will also be a contractual requirement that providers pick up a quota of rural packages in their area(s) of operation. The increased volumes will assist with the creation of viable rounds and ensure that there is no undue delay in placing rural packages.
- 23 The reduction in the number of providers will also lower transaction costs and enable the council to target quality assurance activity to support continuous improvement.

- 24 The introduction of the proposed framework applies to new customers only from the date of implementation. This will allow providers to retain their current customers in receipt of commissioned care. It also gives time for providers to focus on the delivery of services to people who fund their own care. Incumbent providers will be encouraged and supported to sign up to the terms and conditions of the proposed framework. However, this will be subject to the providers consent, those who do not consent will continue under the current arrangements
- 25 The proposed framework will be procured via a competitive tender process and it is envisaged that it will be operational from 1 November 2021.
- 26 Herefordshire's home care fee levels compare very favourably with other local authorities in the West Midlands and beyond. Fees are reviewed annually using a model adapted from the industry's trade body the United Kingdom Home Care Association, this ensures quality of provision and value for money.
- 27 However, the sector faces challenges both nationally and locally in respect of the recruitment and retention of care staff. Recent research undertaken by Skills for Care found that in 2019/20 the vacancy rate in the West Midlands was 7.3% and the turnover of staff 30%. Furthermore, 27% of the workforce are over 55 years old.
- 28 It is estimated that 1,700 people are employed in the home care sector in Herefordshire. Many of these will be on a part time basis. The council is providing significant support to the sector through the Care Hero initiative including recruitment drives and subsidised training. However, it could be argued that the comparatively small scale of operation of many providers means that they are currently unable to offer opportunities and career development that might contribute to improvements in staff retention.
- 29 It is acknowledged that the possibility of change of care provision can be a source of anxiety for customers. Customers will have the option to retain their current provider either on a commissioned basis or via a direct payment. As a result, any disruption will be kept to a minimum.
- 30 A communications plan has been devised to ensure that customers are kept informed.
- 31 Whilst it is accepted that the a framework should only last for 4 years the option of a 12 month extension is in recognition that it will be in the order of 18 months before the majority customers are receiving commissioned home care services under the proposed framework.

## **Community impact**

- 32 Herefordshire Council's corporate plan has four priorities, one of which is the improvement of the health and wellbeing of people in Herefordshire to 'enable residents to live safe, healthy and independent lives'. The council will be proactive in helping and encouraging people to live healthier lifestyles and developing resources that offer more choice and control in remaining independent, therefore reducing or delaying the need for formal social care. This proposal supports the council's priorities by offering choice of services and support to help residents remain independent at home for longer.
- 33 The principles that underpin the service design will ensure that individuals' outcomes are improved through supporting the sustainability of home care services and investing in initiatives that will enhance people's lives. It will align to the council's health and

wellbeing strategy, which underlines how Herefordshire aims to be a vibrant county where good health and wellbeing is matched with a strong and growing economy and the vision for the council's adults and wellbeing directorate of 'all adults in Herefordshire live healthy, happy and independent lives within their local communities, for as long as possible with support when they need it.'

- 34 In line with the council's commitment to social value outcomes, providers will be expected to deliver social, economic and environmental benefits beyond the direct delivery of the purchased service. These requirements will be included in the service specification and the outcomes achieved will be monitored as part of contract management.

## **Environmental impact**

- 35 The development of the framework has sought to minimise any adverse environmental impact associated with the delivery of commissioned home care and will actively seek opportunities to improve and enhance environmental performance.
- 36 The requirement that providers operate within specified localities will support the creation of more efficient call rounds and reduce the mileage undertaken to deliver home care services.
- 37 The largest six providers in terms of hours delivered have confirmed that around 30% of commissioned home care is currently delivered by people who walk or cycle. Locality working may lead to a further reduction in the car usage.

## **Equality duty**

- 38 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 39 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.

- 40 The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
- 41 The decision does not discontinue any service and has no detrimental impact to eligible service users.

## **Resource implications**

- 42 It is not anticipated that the proposed framework will have any impact on the current resources available. The new arrangements should reduce any delay in the provision of home care. This will also ensure the resources of the Home First service are focussed on reablement and hospital discharge.
- 43 The council's annual gross expenditure on commissioned home care during the 2020/21 financial year was £10.2m. The expenditure will continue the strength based ethos to ensure people receive the right amount of care at the right time in the right place.

## **Legal implications**

- 44 The Care Act 2014 articulates the principles of wellbeing and prevention, and the recognition that an individual, their family, and/or carer must be enabled to make decisions regarding their care. These principles inform the council's delivery of social care services of which this proposal forms a key part.
- 45 Regulation 33 of the Public Contracts Regulations 2015 states that a framework agreement 'shall not exceed 4 years, save in exceptional cases duly justified, in particular by the subject-matter of the framework agreement.'

## **Risk management**

- 46 If the recommendations described in the report are not approved, it will result in the council not having appropriate arrangements in place to purchase homecare services. This means the council could fail to meet its statutory duties under the Care Act 2014 when the current framework expires on 31 October 2021.
- 47 The introduction of a framework will enhance the customers experience by improving provider's operational and financial viability.
- 48 Providers may choose not to apply or their application may be unsuccessful. However, extensive and ongoing engagement has indicated that the majority will continue to deliver to current commissioned customers and realign their businesses to focus on providing home care services to people that fund their own care. Therefore, it is doubtful that any significant discontinuity of service provision will occur directly as a result of the introduction of the framework.

49 There is a risk register underpinning this project, which is reviewed regularly.

50 The key risks are summarised below and illustrated in Appendix One.

<b>Risk / opportunity</b>	<b>Mitigation</b>
Destabalising the market	The proposal has been co-produced with council approved providers during the last two years. A Provider Reference Group was created to inform the new approach and model. Ongoing market enagement indicates significant levels of interest in the opportunity both from current suppliers and prospective providers wishing to deliver commissioned home care on behalf of the council.
Lack of interest from current providers in the new arrangements	Providers may discontinue the delivery of commissioned care and focus their activity on self-funders. It is estimated that provision to people who purchase their own care equates to 30% of the care delivered by approved providers. However, as stated in the previous mitigation there is currently no indication that there will be insufficient interest in this opportunity
Disruption to continuity of service provision for customers	Incumbent suppliers who choose not to apply or are unsuccessful in the tender will have the option to continue to deliver commissioned care to current customers. Should providers decide to exit the market support will be offered to ensure a timely and seamless transition of provision.
Damage to the council's reputation as a result of enforced changes of service provision to customers as a result of the tender	A communication plan is in place which will ensure customers and stakeholders are aware of the process and outcome of the tender
Delay in awarding the contract as a result of challenge from applicants regarding the delivery and /or outcome of the tender process	The tender process will be compliant with legislation and council processes. In the event of delay the current contract can be extended on a time limited basis with providers consent

If the approach is approved the project board will manage any risks through Verto and escalate to service, directorate or corporate risk register if required.

## **Consultees**

- Care at Home Approved Providers – A Provider Reference Group was established in October 2019 for providers to inform the design of the approach and model
- Making It Real Board meetings attended on 02/10/2019 and 17/03/2021
- All Member Briefing Session 13/04/2021
- Adult Social Care Operations
- Political Groups Consultation 22/04/2021-06/04/2021. All Councillors were included in the Political groups' consultation on a key decision proposal. The feedback received was positive "*The new arrangements still firmly put the customer of the service at the heart of them, I am happy to support your proposals*".
- The New Arrangements for Commissioned Home Care report was reviewed by the Adults and Communities Scrutiny Committee on the 02<sup>nd</sup> June 2021, the recommendations and proposed responses can be found in Appendix Two
- Cabinet Briefing 10/06/2021

## **Appendices**

Appendix One - Presentation

Appendix Two - Summary of proposed recommendations to the executive and executive responses (New Arrangements for Commissioned Home Care)

## **Background papers**

Data Protection Impact Assessment

Equality Impact Assessment