

Cabinet Member for Adults and Health	Ref No: AH6 17.18
February 2018	Key Decision: Yes
Procurement of a Direct Payment and Personal Budget Support Service	Part I
Report by Director Childrens, Adults, Families, Health and Education and Director of Adult Operations	Electoral Divisions: All

Summary

The contract for the County Council's Direct Payments Support Service ends on 30 September 2018.

The County Council is committed to giving customers choice and control over their support services; one method of enabling this is through Direct Payments, where the customer receives a cash allocation to spend in a way which they consider will meet their assessed care needs. A Direct Payment Support service is required to ensure that people can receive the appropriate advice and support to make the best use of their money. It will also support the County Council to ensure that Direct Payments are used lawfully, effectively and are affordable within the budget.

Recommendations

That the Cabinet Member approves:

- (1) The commencement of a competitive procurement process for the re-procurement of a Direct Payment Support Service as set out in paragraph 2, up to a value of approx. £547,000 per annum, of which Continuing Health Care will contribute £40,000 per annum, for a period of three years commencing on 1 October 2018, with an option to extend for two further two year periods, up to a maximum of seven years, until 30 September 2025. Allowing for an annual inflationary uplift, this means a maximum total value over the life of the contract of £4,070,000; and
- (2) delegates authority to the Director Adult Operations to award the contract and to extend the contract, if appropriate, in accordance with the County Council's Standing Orders on Procurement and Contracts, subject to this being affordable within the limits of planned budgets.

Proposal

1.0 Background and Context

- 1.1 The County Council awarded the Direct Payment Support Service (DPSS) to Independent Lives, a West Sussex based, charitable, user-led organisation, following an open and compliant procurement in 2010. This contract was due to end in March 2018 but the existing contract has been extended by six

months to align it with a contract between Continuing Healthcare (CHC) and Independent Lives. This alignment will allow for the joint procurement of a new service from 1 October 2018.

- 1.2 The County Council is committed to giving customers choice and control over their services and being at the centre of the Assessment and Planning process through Self Directed Support. The County Council also has a duty to run a Direct Payment scheme. Direct payments, which allow an individual to arrange their own help instead of using the services arranged by the County Council, are one of the methods in which money can be paid under Self Directed Support. People may choose to use the money to directly employ personal assistants or to access services from voluntary sector organisations or through other means.
- 1.3 Direct payments are available to people who are assessed as eligible for social care funding, including those who experience the following:
 - A Physical Disability
 - A Learning Disability
 - A sensory Impairment
 - Mental Health issues
 - Brain Injury
 - Frailty in old age
 - Being a carer looking after a disabled person
 - Parents or guardians of disabled children
- 1.4 The service comprises a universal information and advice service on all aspects of direct payments and a more intensive service to eligible customers who wish to use a Direct Payment (DP) to employ a Personal Assistant (PA). The customer receives support as required at any stage from advertising for a PA, through to managing complex issues such as redundancy or termination of employment. The annual value of the service is £547K, of which the value for the CHC contribution is £40K.
- 1.5 In 2016/17 the current support service received 4143 enquiries regarding information and advice from 2775 individuals. In the same year they received 252 referrals to support customers to start employing a personal assistant. In September 2017 there were a total of 1333 WSCC customers employing personal assistants.

2.0 **Proposal**

- 2.1 It is proposed that a new Direct Payment Support Service is procured. The new service will start in October 2018 for a period of three years with the possibility of two extension periods, each consisting of two years (3 & 2 & 2 years).
- 2.2 The purpose of the service is to provide accurate information and advice on all aspects of Direct Payments and Personal Budgets and to support eligible customers to have their care and support needs met by effectively managing the employment of a Personal Assistant. It also supports the Council to meet its statutory duty to ensure customers become good employers.

2.3 The service specification will be shaped to reflect the feedback received from the customer and staff consultation, to include factors which have been identified as making the employment of personal assistants by customers easier for them to manage effectively.

3.0 **Resource implications and value for money**

3.1 The annual value of the contract is £547K, of which £40k will be provided by the West Sussex Clinical Commissioning Groups to support CHC customers. The County Council's share is £507k, which is funded by the Better Care Fund (BCF) as part of protecting adult social care services. The contract will include provision for an annual inflationary uplift to be paid, subject to an inflation allocation being made available through BCF. Recognising that possibility the lifetime value is £4,070,000.

3.2 In real terms this is the same level of funding for the Council as the existing service. The new service specification will require more from the service provider by requiring them to include the following new areas for no additional funding:

- PA recruitment support
- PA matching with customers
- Managed bank account for customers assessed as not suitable for a pre-paid card
- PA Identity checks and submission of applications for Disclosure and barring check.

3.3 The above services are currently provided outside of the current contract and are paid for indirectly by the Council via the customer's Direct Payment. By including these elements in the support contract better value for money is achieved for the Council and customers also benefit financially by having more of their DP available to spend on meeting their assessed care needs.

4.0 **Consultation**

4.1 All WSCC customers in receipt of a Direct Payment were sent a questionnaire for completion in March 2017 to seek views on the helpfulness of the current support service and to identify what changes customers would find helpful.

4.2 An on-line survey was developed for WSCC staff to again seek views on the helpfulness of the current support service and to identify what changes customers would find useful.

4.3 The results of the above consultations helped to shape the service model for the new contract. Members of the senior management group in Adults Services, the DPSS Working Group and other relevant managers were consulted on recommendations for the new contract in January 2018.

5.0 **Risk Management Implications**

5.1 Extensive legal, financial, procurement and HR advice has been taken in relation to the re-procurement of these services. This advice has shaped the procurement model and financial structure of the services to ensure that there is limited reputational risk to the County Council.

- 5.2 In the event that the current incumbent providers are not awarded their existing business, it is anticipated that staff will be entitled to TUPE transfer to the new organisation. Sufficient time has been allowed in the procurement timetable to facilitate a smooth mobilisation period from contract award to contract start date. However, if accurate TUPE information is not obtained prior to the commencement of the procurement process this could lead to delays in awarding the new contract or affect the bid prices submitted by bidders for the new contract. To mitigate this risk, due diligence to gather employee information from current provider shall be undertaken at the earliest opportunity and in any event prior to issue of the invitation to tender and the procurement timescales will be regularly reviewed in relation to this aspect.
- 5.3 It is possible that there will be unforeseen costs e.g. redundancy, where there are changes in the model of service which may result in a change of staffing structure. All such changes will be discussed at the commercial stage of the tender process and made in agreement with the County Council.
- 5.4 If – as seems most likely - TUPE applies to the new procurement, there is likely to be continuity of staff to provide existing service provision for most customers and in this case, there would be minimal disruption to customers and their families. In the event that TUPE does not apply to the new procurement, there would be substantial change to the staff delivering the service and therefore recruitment activity would be necessary. In this instance, the new organisation would be required to demonstrate how they would provide the service without disruption or risk to customers prior to award.
- 5.5 One risk is that the tender process fails to provide bid/s which can be selected and thus deliver services. The risk is considered to be low because the current service provider has expressed interest in bidding. This risk will be mitigated by advertising widely on the County Council's website and by issuing an OJEU notice. (A Prior Information Notice has also been submitted to highlight that the opportunity may be coming up and to promote interest.)The market for specialist providers of such services is small, but well developed and competition is expected.
- 5.6 The financial risk is that the bids received are not affordable. If this is the case, the service required will need to be reconsidered.
- 5.7 In any tender there is a risk of legal challenge. This will be mitigated through legal advice on the process and ensuring that all bidders are treated fairly and scored and evaluated in the same way.

6.0 **Other Options Considered**

- 6.1 These services could be insourced. This option does not appear to offer any advantages either to the County Council or to customers. User-led organisations have specialised and developed expertise in this sector of service provision. Such benefits to customers were discussed within the Procurement Group and it was concluded that there should be a continuation of the current model.

7.0 **Equality Duty**

7.1 Eligibility for the proposed service will include all customer groups and therefore will not have a negative impact on any group with protected characteristics. The tender process will require bidders to demonstrate how they will ensure they deliver the service to meet the needs of all customers including those with protected characteristics.

7.2 This support service will assist the Council to meet its duties under the Equality Act by enabling potentially disadvantaged customers to exert choice and control over how their care and support needs are met via employing a PA.

8.0 **Social Value**

8.1 Commissioning of the DPSS for all customer groups will make reference to County Council policy on social value and will take full account of the social, environmental and economic impacts of any decisions upon the local communities concerned.

8.2 The service has an inherent social value in that support is commissioned to enable customers to exert choice and control and maintain independence within their communities.

8.3 As the service is largely telephone based, there is not a significant environmental impact created by providing this service. To mitigate any risk and to ensure a positive impact on the environmental well-being of the area, the service specification will require service providers to ensure that sustainability, and the corporate priorities set within the Sustainability Strategy are embedded into service delivery and continuous service improvement. The County Council will engage with providers in relation to their carbon monitoring and reporting.

8.4 All of the service provision is delivered from within the county and as such supports local employment. Through the procurement, providers' approaches to recruitment, retention and workforce development will be evaluated to ensure an approach to employment which supports recruitment and incentivises retention.

9.0 **Crime and Disorder Act Implications**

9.1 There are no foreseeable crime and disorder implications associated with this proposal.

10.0 **Human Rights Implications**

10.1 There are no foreseeable Human Rights Act implications associated with this proposal.

Kim Curry
Executive Director CAFH&E

Mark Howell
Director of Adult Operations

Contact: Liz Merrick, Commissioning Manager ext. 23733

Background Papers: None