

CABINET MEETING: 17 SEPTEMBER 2020

**EXTRA-CARE AND SUPPORTED LIVING SERVICES FOR
OLDER PEOPLE AND ADULTS WITH DISABILITIES**

**SOCIAL CARE, HEALTH AND WELL-BEING (COUNCILLOR
SUSAN ELSMORE)**

AGENDA ITEM: 14

Reason for this Report

1. To ensure that formal and appropriate contract arrangements for the recommissioning of the existing extra-care and supported living services for older people and vulnerable adults are in place for 1st April 2021.
2. To authorise the personal domiciliary care contractual arrangements for the provision of extra-care and supported living services for older people and adults with disabilities as set out in the proposed recommendations.
3. To delegate authority to the Assistant Director of Adult Services in consultation with the Cabinet Member (Social Care, Health and Well-Being), the Council's Section 151 Officer and the Council's Monitoring Officer, to determine all aspects of the procurement process and the supported living model (including approving the evaluation criteria to be used, and authorising the award of the contracts) and all ancillary matters pertaining to the procurement.

Background

4. Extra Care Housing is housing designed to meet the needs of older people, with varying levels of care and support available on site. People who live in Extra Care Housing have their own self-contained homes, their own front doors and a legal right to occupy the property. The support provider is different to the housing provider. If the support provider changes, this does not affect the tenancy. Extra Care Housing is also known as very sheltered housing, assisted living, or simply as 'housing with care'. In addition to the communal facilities often found in sheltered housing (residents' lounge, guest suite, laundry), Extra Care often includes a restaurant or dining room, health & fitness facilities, hobby rooms and computer rooms.

5. Supported Living is a service designed to help people with a wide range of support needs retain their independence by being supported in their own home. People in supported living have their own tenancy, their own front door. The support provider is different to the housing provider. If the support provider changes, this does not affect the tenancy.
6. The landlords are the registered freeholders of the properties and agree to grant the Council nomination rights and other rights, such as rights of access to and from the properties as to facilitate the provision of personal domiciliary care services. This will be secured via a Management Agreement.
7. For the current provision and proposed recommissioning, the extra-care schemes are Llys Enfys and Plas Bryn.
 - Llys Enfys, in Llanishen, opened in 2010. It has 102 self-contained flats predominantly 2 bedrooms but with some 1 bedroom. 68 of the flats are available as part of the extra-care facility; 7 of which are for older people with memory loss or dementia and 8 are for young adults with disabilities. The landlord is Linc Cymru Housing Association. The remaining 34 flats are sheltered housing and are not part of these arrangements.
 - Plas Bryn, in Fairwater, opened in 2008. It has 40 self-contained flats either 1 or 2 bedrooms. All of the flats are available as part of the extra-care facility. The landlord is Linc Cymru Housing Association.
8. For the current provision and proposed recommissioning, the supported living schemes are Dol-Yr-Hafren and Cwrt Hir.
 - Dol-Yr-Hafren, in Trowbridge, opened in 2013. It has 15 self-contained 1 bedroom flats, of which one flat is used as respite provision. The landlord is Hafod Housing Association.
 - Cwrt Hir, in Trowbridge, opened in 2016. It has 13 self-contained 1 bedroom flats and 3 self-contained 1 bedroom bungalows. The landlord is Hafod Housing Association.
9. With regard to Llys Enfys and Plas Bryn Extra-care, the Director of Social Services authorised the award of the most recent Personal Domiciliary Care Services contract to the successful tenderers with contracts to commence on 12th December 2016. The contract was awarded for a fixed term of three years with the option to extend for a further period of up to 12 months. In December 2019, the option to extend the contract was taken up and authorised by the Assistant Director Social Services.
10. With regard to Dol Yr Hafren and Cwrt Hir Support Living Schemes, the Director of Social Services authorised the award of the most recent Personal Domiciliary Care Supported Living Service contract to the incumbent service provider. The contract was awarded for a fixed period

of 1 year with the option to extend for a further period of up to 12 months. In December 2019, the option to extend the contract was taken up and authorised by the Assistant Director Social Services.

11. There is a current review of the service delivery and there is ongoing consultation and engagement to ensure people are satisfied with how their care and support needs are being met and a high quality provision is being delivered. The supported living and extra-care models of support are tailored to the needs, wishes and interests of individuals and in line with the requirements of the Social Services and Well Being (Wales) Act 2014.

12. The quality of delivered personal care is registered with, and regulated by, Care Inspectorate Wales (CIW). Social workers review care and support plans and the Contracts and Service Development Team monitor the quality of services and contract compliance.

The contract value for the domiciliary care element of the contracts currently amounts to circa £1.15m per annum.

13. Social Services statutory obligation is to meet eligible assessed need; how that need is met will be through a variety of means, to be determined by the individual, their family members and with the social worker. The aim is to enable people to remain as independent as possible, utilising a mix of dedicated care and support packages and support from universal services in their community.

14. The Council's value-based principles for supported living and extra-care are based on the principles of ensuring that there is an appropriate balance of arrangements, which offer greater choice and control of care and support for individuals as well as offering best value.

15. The Council's expenditure is significant, hence it is proposed to secure the future extra-care and supported living service via a tender/procurement process on the basis of the "most economically advantageous tender" (known as MEAT) using quality and price criteria.

16. It is proposed to issue a longer term contract to secure the outcomes for individuals as directed in the Social Services & Wellbeing Act (Wales) 2014. The benefits of a longer term contract will allow the market to be sustainable, to work in partnership with the Council and be creative in delivering a strengths based practice approach, focusing on well-being, assessment, care and support planning and reviews.

17. In the model of provision in the future, consideration to accommodate Respite service for older and vulnerable people and re-ablement is required.

18. The Directorate will continue to develop a sustainable extra-care and supported living model with an outcome-based service provision, offering individuals more choice, control and independence in their lives. The

Directorate will work with care provider organisations to ensure this happens and to promote inclusion for individuals, their families and the market place.

Issues

19. The extensions to the contracts were put in place for 12/12/19 to 11/12/20. The contract terms do not allow for a further extension.
20. The Covid-19 situation delayed the setting up of a project group and the commencement of the procurement process to the point that there has not been sufficient time to complete a tender exercise and appoint a provider/s allowing for a period of transition.
21. One of the service providers indicated that it did not wish to continue providing the service beyond the end of the contract on 11/12/20. Discussions have taken place regarding them continuing to provide the service to 31/3/21 as due to the Covid-19 situation we were not able to secure another provider in time. Discussions have also taken place with the other service provider regarding them continuing to provide their contracted service to 31/3/21 for the same reason.
22. Recent Welsh Government regulation change and guidance in response to the Covid-19 situation allows some changes to contract and procurement rules.
23. Discussions are taking place between the current providers, the Council's Commissioning & Procurement section, Finance and Legal Services, regarding appropriate contractual arrangements to be put in place for the delivery of the services from 12th December 2020 to 31st March 2021.
24. Given the current and ongoing Covid-19 situation the market may not be focussed on acquiring new opportunities so there could be a limited response to our tender opportunity.
25. From 1 April 2016, the UK Government introduced a requirement for all employers to pay a mandatory National Living Wage (NLW) for workers aged 25 and above. The NLW increases since then have had a significant impact on the market and workforce. From 1 April 2020 the rate saw a rise from £8.21 to £8.72 per hour, an increase of 6.2 per cent. As a result, there is a potential for tender prices submitted by the market to be an increase on previous provision.
26. Similarly, in April 2018 the law changed with the introduction of the Regulation and Inspection of Social Care (Wales) Act 2016. This has had an impact on registration, training, and qualifications for the workforce.
27. There is the potential application of TUPE (the Transfer of Undertakings (Protection of Employment) regulations. These regulations provide protection for employees where the business in which they are engaged or service which they are performing is transferred to another party.

Consultation (where appropriate)

28. Delivery against the communication plan will ensure that all partners are informed of decisions and progress to manage anxiety and distress for people, their families and stakeholders.

Scrutiny Consideration

29. The Community & Adult Services Scrutiny Committee is due to consider this item on 14 September. Any comments received will be circulated at the Cabinet meeting.

Reason for Recommendations

30. To ensure that formal and appropriate contract arrangements for the provision of Extra – care and supported living services for older people and vulnerable adults by 1st April 2021.

Financial Implications

31. The report seeks approval for the recommissioning of extra-care and supported living services for older people and vulnerable adults from 1 April 2021. Changes since the contracts were last retendered could potentially result in a cost increase. However, the outcome of any procurement process cannot be predicted in advance and full financial implications will need to be quantified once the procurement exercise has been completed. The recommissioning process will be monitored as a potential consideration in the Council's Medium Term Financial Plan.
32. The report also outlines the need for an extension of contract arrangements in the current financial year. Any financial implications of this extension will need to be considered and agreed via the appropriate mechanisms, once the terms of the extension are finalised.

Legal Implications

33. The proposed recommendation is, to put it simply, ask Cabinet to approve the overarching approach to the recommissioning of the extra care and supported living services for older people and vulnerable adults and to delegate authority to the Assistant Director to determine and put in place the arrangements for recommissioning of such services.
34. Full legal advice should be sought on the proposals, the procurement process and in relation to the drafting of the draft terms and conditions of contract, as the same are developed.

TUPE

35. It is noted that currently the services are provided by an existing provider and accordingly, TUPE may apply to the award of the new contracts.

Equality Duty.

35. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of ‘protected characteristics’. The ‘Protected characteristics’ are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.
36. The report identifies that an Equality Impact Assessment has been carried out and is attached as Appendix 1. The purpose of the Equality Impact Assessment is to ensure that the Council has understood the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty. The decision maker must have due regard to the Equality Impact Assessment that has been carried out in making its decision.
37. Where a decision is likely to result in a detrimental impact on any group sharing a Protected Characteristic, consideration must be given to possible ways to mitigate the harm. If the harm cannot be avoided, the decision maker must balance the detrimental impact against the strength of the legitimate public need to pursue the recommended approach. The decision maker must be satisfied that having regard to all the relevant circumstances and the public sector equality duties, that the proposals can be justified, and that all reasonable efforts have been made to mitigate the harm.

Social Services and Well Being (Wales) Act 2014

38. In considering this matter, the decision maker must have regard to the Council’s duties pursuant to the Social Services and Well Being (Wales) Act 2014. In brief the Act provides the legal framework for improving the well-being of people who need care and support and carers who need support and for transforming social services in Wales

Well Being of Future Generations (Wales) Act 2015

39. The Well-Being of Future Generations (Wales) Act 2015 (‘the Act’) places a ‘well-being duty’ on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
40. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in

Cardiff's Corporate Plan 2019-22. When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

41. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
42. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below:<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

General

43. The decision maker should also have regard to, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

HR Implications

44. There are no direct HR implications for this report. However there is the possibility of Transfer of Undertakings (Protection of Employment) Regulations applying between the outgoing and incoming contractors and in this case, the Council as the commissioner of the service will act as a conduit for information in order for any bidders to be able to price in full knowledge of any TUPE requirements.

RECOMMENDATIONS

Cabinet is recommend to:

1. Agree the proposed overarching approach to the recommissioning of extra-care and supported living services for older people and vulnerable adults; and
2. Delegate authority to the Assistant Director of Social Services in consultation with the Cabinet Member (Social Care, Health and Well-Being), the Council's Section 151 Officer and the Council's Monitoring Officer, to determine all aspects of the procurement process (including approving the evaluation criteria to be used, commencement of the procurement process, the award of the contracts and all ancillary matters pertaining to the procurement).

SENIOR RESPONSIBLE OFFICER	Claire Marchant Director of Social Services
	11 September 2020

The following appendix is attached:

Appendix 1 – Equality Impact Assessment