

**EXECUTIVE BOARD COMMISSIONING SUB COMMITTEE**  
**10 SEPTEMBER 2014**

<b>Subject:</b>	<b>RESIDENTIAL CARE COMMISSIONING AND CONTRACTING ARRANGEMENTS</b>		
<b>Corporate Director(s)/ Director(s):</b>	Candida Brudenell – Strategic Director Early Intervention		
<b>Portfolio Holder(s):</b>	Councillor Alex Norris – Portfolio Holder for Commissioning		
<b>Report author and contact details:</b>	Jo Pettifor – Strategic Procurement Manager Tel: 0115 8765026 Email: <a href="mailto:jo.pettifor@nottinghamcity.gov.uk">jo.pettifor@nottinghamcity.gov.uk</a>		
<b>Key Decision</b>	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<b>Subject to call-in</b>
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b>	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Total value of the decision:</b> Nil			
<b>Wards affected:</b> All		<b>Date of consultation with Portfolio Holder(s):</b> Councillor Norris: 20 August 2014	
<b>Relevant Council Plan Strategic Priority:</b>			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input checked="" type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>			
This report presents recommendations for the commissioning and contracting of residential and nursing care services in Nottingham City and Nottinghamshire County from April 2015. It outlines proposals to undertake an accreditation process to approve providers of these services, jointly with NHS Nottingham City and to issue those providers approved with a joint contract. The service specification developed for commissioning these services is attached at Appendix 1.			
<b>Exempt information:</b> None			
<b>Recommendation(s):</b>			
1.To commission residential and nursing care services in Nottingham City and Nottinghamshire County from April 2015 in accordance with the proposed model and service specification set out in Appendix 1.			
2.To undertake a joint accreditation process with NHS Nottingham City to procure providers of residential and nursing care services in the City and County approved to deliver these services from April 2015. Approved providers will be awarded a joint contract with the Council and NHS Nottingham City.			
3.To delegate authority to the Director of Early Intervention to approve the outcome of the accreditation process and therefore confirm the providers that will be offered a contract as a			

result of this process.
4.To agree the extension of existing contracts with providers of residential and nursing care services to 31 March 2015 to allow for the proposed accreditation process to be undertaken.
5.To delegate authority to the Head of Quality and Efficiency to sign contracts for residential and nursing care services.
6. To note that approval to spend against these contracts is covered within the Council's Constitution Part 2 – Responsibility for Functions, Section 9 – Scheme of Delegation, reference 273.

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The proposed service model and service specification for residential and nursing care services set out the core standards and service expectations for all provision in Nottingham City and Nottinghamshire County, including the adoption of a re-ablement focus where attainment of a greater degree of independence is realistic and attainable.
- 1.2 The proposal to undertake an accreditation process for residential and nursing care services will enable providers to be checked against set minimum standards prior to being awarded contracts and will provide information for the Council about providers to enable risk and performance to be managed once contracts are in place. The process will create an approved list of providers of residential and nursing care within Nottingham City and Nottinghamshire County which will support citizens and care management staff in selecting services. The proposed accreditation process will be the Council's procurement process for residential and nursing care services in Nottingham City and Nottinghamshire County. The commitment of expenditure on placements made under these contracts is approved under the Council's Constitution Part 2 – Responsibility for Functions, Section 9 – Scheme of Delegation, reference 273
- 1.3 The proposal to work jointly with NHS Nottingham City to undertake the accreditation process will streamline the contracting arrangements for these services, creating efficiencies for providers and commissioners. Additionally it will enable the responsibility for administering the process to be shared between the Council and City NHS.
- 1.4 Providers approved through the proposed accreditation process will be issued with a joint contract with Nottingham City Council and NHS Nottingham City, agreed by both commissioning parties and for which the Council will be the Lead Commissioner.
- 1.5 The terms and requirements to be included in the proposed new contract and service specification are intended to drive greater consistency and quality in service provision, a better well equipped workforce and increased choice for citizens and carers. The contracts will enable contract compliance and service quality to be monitored to ensure that appropriate and safe care is delivered to citizens. The contracts will have robust clauses to enable suspension or termination by the Council if the service does not meet the required standard.
- 1.5 The extension of the existing contracts with providers of residential and nursing care services to 31<sup>st</sup> March 2015 will enable continuity of existing services through contractual arrangements while the proposed accreditation process is completed The timescale for the implementation of the accreditation process has been revised to allow for the joint work with NHS

Nottingham City and development of a joint contract. An extension by way of a variation of the contracts is covered within the Council's Constitution Part 2 – Responsibility for Functions, Section 9 – Scheme of Delegation, reference 17.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 In March 2013 a project was initiated within the Quality and Commissioning Directorate to review the arrangements for residential and nursing care and develop an appropriate model of provision to meet the needs of citizens. The vision was: 'Citizens in nursing and residential care will receive a quality, consistent service which maximises their choices and potential'. Through consultation with stakeholders and service providers, a revised service model and service specification was developed for the commissioning of these services from April 2015.
- 2.2 As part of the review of residential and nursing care services it was agreed to develop an accreditation process to determine which service providers should be awarded a contract to deliver these services in accordance with the new model and service specification developed. It was proposed that the accreditation process should remain open for applications on an ongoing basis to enable any providers not initially accredited or new providers entering the market to be considered as required.
- 2.3 Negotiations have been undertaken during 2014 with NHS Nottingham City about the potential to undertake a joint accreditation process for providers of residential and nursing care services in the City and for a joint contract to be issued to providers approved through this process. In April 2014 it was reported to Executive Board Commissioning Sub Committee that a further report would be presented with recommendations for these joint arrangements and the proposed commissioning model and service requirements.
- 2.3 There are currently 77 contracts in place with Nottingham City based residential and nursing care services care homes, 265 with services in the County and 119 with services outside the County. The current process for issuing contracts with providers has been in place for a number of years and is based solely on their registration with Care Quality Commission. Core contracts are issued to all homes within Nottingham City and Nottinghamshire and spot contracts are issued when individual placements are made outside of the County. Placements made outside of the County are based on citizen choice and appropriate checks are made on the suitability of providers prior to issuing contracts. For all residential and nursing care contracting arrangements, the commitment of expenditure on placements is approved under the Council's Constitution Part 2 – Responsibility for Functions, Section 9 – Scheme of Delegation, reference 273.
- 2.4 In order to provide as wide a choice as possible for citizens the Council currently contracts with the majority of residential and nursing care providers in the City. The contracts issued allow Nottingham City Council to commission residential care placements for citizens in these services but make no commitment to the provider either financially or in terms of number of placements. The choice of care home in most cases lies with the citizen and their families.

2.6 In April 2014, Executive Board Commissioning Sub Committee approved recommendations for the level of fees to be paid for residential and nursing care services in the City for 2014/15 onwards. The recommendations arose from a review of the pricing arrangements for these services and were based on the findings of an independent 'Fair Price for Care' review undertaken to ascertain the actual costs of delivering care, financial modelling of the impact on budgets and the outcome of a full consultation exercise undertaken with service providers on the proposals.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 Do nothing. The current service model and specification require updating and the contracts currently in place for residential and nursing care services have not been awarded through any formal process. For this reason, this option was rejected.

3.2 To undertake a full competitive tendering process for residential and nursing care services. The Council wishes to contract with any provider that meets minimum standards as the choice of provider for each placement is made by individual citizens. The accreditation process which will be the Council's procurement process for residential and nursing care services in Nottingham City and Nottinghamshire County will enable an approved list to be established based on minimum criteria being met. The process does not need to address pricing because fees for all residential and nursing care placements are set consistently based on a standard basic rate and the specific needs of citizens. A full competitive tendering process would be resource intensive for both the Council and providers however would deliver no benefit in terms of value for money. For these reasons, this option was rejected.

3.3 To undertake an accreditation process and contract separately from NHS Nottingham City. This would not realise the benefits of streamlining commissioning and procurement processes across the commissioners and would result in duplication and increased bureaucracy for providers and commissioners. For this reason, this option was rejected.

### **4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)**

4.1 The council's external gross spend in 2013/14 for all external residential and nursing care provision was c. £47.5m. This spend will vary depending on the need and numbers of citizens.

4.2 As detailed in 1.1, the proposed accreditation process will be the procurement mechanism for residential and nursing care provision in Nottingham City and Nottinghamshire County. On this basis no further approval or dispensation from Contract Procedure Rules within the Council's Financial Regulations is required this decision is deemed nil value as approval to spend on care placements is covered within the council's scheme of delegation.

4.3 The extension of existing contracts for a further 6 months (Recommendation 4) is covered under reference 17 in the scheme of delegation and therefore whilst authorisation is being sought to extend, no dispensation is required as no value is attached to this decision.

- 4.4 Table 1 below sets out the process for ensuring that the rates paid for the different types of residential and nursing care placements deliver value for money (VfM). These processes will continue alongside the recommendations of this report

<b>TABLE 1: PROCESSES TO ENSURE VfM IN CARE RATES</b>	
<b>Placement Type</b>	<b>Basis of care rates</b>
Residential and Nursing Care Placements in the City	Fee rates approved for the period 2014/15 to 2017/18 in the 'Pricing of Residential and Nursing Care Report' at EBCSC in April 2014.
Residential and Nursing Care Placements in the County	The fee is based on Nottinghamshire County Council's local agreed rate.
Residential and Nursing Care Placements Out of County	Local agreed fee rate of the authority in which the care home is located.
Specialist Residential and Nursing Placements	Internal process that reflects citizen choice but also ensures the fee rate is appropriate to the citizen's needs.

## **5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

- 5.1 The proposed joint contract to be awarded to providers approved to deliver residential and nursing care services has been developed in conjunction with the Council's Legal Services and has been amended as appropriate to meet the Council's requirements and to manage risk to the Council. The contracts awarded will enable contract compliance and service quality to be monitored to ensure that appropriate and safe care is delivered to citizens. The contracts will have robust clauses to enable suspension or termination by the Council if the service does not meet the required standard.
- 5.2 There is a risk of providers with citizens currently placed by the Council not being approved through the proposed accreditation process, either through not engaging with the process or failing to meet the requirements for approval. This would present a risk to continuity of service for vulnerable citizens placed and have an operational impact in terms of availability of services for new placements. This risk will be mitigated by the accreditation process being as inclusive as possible for providers and by being open for applications on an ongoing basis to avoid new providers being excluded. Any issues identified through the accreditation process will inform the ongoing management of contracts following award of the contracts by identifying any areas of risk.
- 5.3 Legal observations. The proposals in this report raise no legal issues and are supported. The extension of the existing contracts will allow the Council to undertake and implement an accreditation process whilst ensuring continuity of existing services. Legal Services will support the Early Intervention team as necessary in the documentation of the accreditation process. The team needs to consider the time period for which an accreditation will be awarded and the process for renewal. All providers will be invited to participate in the accreditation process. These contracts do not commit the Council to expenditure and can therefore be categorised as £nil value. The financial

commitment in relation to the contracts to individual citizens is authorised under a separate process. The EU Commission has adopted a new set of Procurement Directives. It is anticipated that the Directives will be implemented in England and Wales in early 2015. Legal Services will work with the Early Intervention team to keep under review the potential impact of the new Directives on the recommendations set out in this report.

## **6 SOCIAL VALUE CONSIDERATIONS**

- 6.1 The proposals for the commissioning and contracting of residential and nursing care in the City and County aim to improve the economic, social and environmental well being in Nottingham. The new model and service specification developed aim to facilitate a well equipped and sustainable workforce in residential and nursing care services. The revised service specification includes minimum standards for the training of care staff employed in these services. The new service specification includes an appendix which specifically addresses employment and training opportunities, including details of the Nottingham City Employer Hub. The contracts awarded will support appropriate terms and conditions for care staff employed, including compliance with National Minimum Wage. Social improvements for citizens receiving services as the service specification and contract will require services to be delivered to minimum quality standards.

## **7 REGARD TO THE NHS CONSTITUTION**

- 7.1 The proposals to work jointly with NHS Nottingham City to undertake an accreditation process for residential and nursing care services and to award a joint contract are in accordance with the key principle within the NHS Constitution to work across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.

## **8 EQUALITY IMPACT ASSESSMENT (EIA)**

- 8.1 An EIA is not needed as the report does not contain proposals for new or changing policies, services, functions, financial decisions, or decision about implementation of policies development outside the Council. The potential requirement for an EIA will be reviewed during the accreditation process and an EIA will be undertaken if appropriate to mitigate any possible negative impact. The new contract proposed includes requirements for providers in relation to equality and diversity and compliance with the public sector equality duties.

## **9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

- 9.1 None

## **10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- 10.1 Pricing of Residential and Nursing Care – Proposals and Budget. Executive Board Commissioning Sub Committee, 16 April 2014
- 10.2 The NHS Constitution for England, 26 March 2013

## **11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

11.1 Rasool Gore, Lead Commissioning Manager, Early Intervention Directorate.

11.2 Andrew James, Team Leader, Legal Services

11.3 Dionne Screamon, Solicitor, Contracts and Commercial, Legal Services

11.4 Darren Revill, Finance Analyst, Children & Adults Departmental Finance Support