

**COMMISSIONING AND PROCUREMENT SUB-COMMITTEE – 09/07/19**

<b>Subject:</b>	Care Homes Commissioning Proposal		
<b>Corporate Director(s)/ Director(s):</b>	Candida Brudenell, Corporate Director for Strategy and Resources Alison Michalska, Corporate Director for Children’s and Adults		
<b>Portfolio Holder(s):</b>	Cllr Adele Williams, Cllr Webster		
<b>Report author and contact details:</b>	Clare Gilbert Commissioning lead <a href="mailto:Clare.gilbert@nottinghamcity.gov.uk">Clare.gilbert@nottinghamcity.gov.uk</a> 0115 8764811c		
<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Subject to call-in</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b> <input checked="" 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 checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Total value of the decision: £418.5 million</b>			
<b>Wards affected: All</b>	<b>Date of consultation with Portfolio Holder(s): 11/6/19 18/6/19</b>		
<b>Relevant Council Plan Key Theme:</b>			
Strategic Regeneration and Development			<input type="checkbox"/>
Schools			<input type="checkbox"/>
Planning and Housing			<input type="checkbox"/>
Community Services			<input type="checkbox"/>
Energy, Sustainability and Customer			<input type="checkbox"/>
Jobs, Growth and Transport			<input type="checkbox"/>
Adults, Health and Community Sector			<input checked="" type="checkbox"/>
Children, Early Intervention and Early Years			<input type="checkbox"/>
Leisure and Culture			<input type="checkbox"/>
Resources and Neighbourhood Regeneration			<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>			
<p>A review has been undertaken into the provision of residential and nursing care homes. This work has been used to inform the development of a new specification for the procurement of care homes for Nottingham’s most vulnerable citizens, where no other suitable options are available. The proposed new specification considers how Nottingham City Council and Nottingham and Nottinghamshire Clinical Commissioning Group will work with care homes to better support residents to live more independently, where this is possible and appropriate.</p> <p>This is a joint contract with Nottingham and Nottinghamshire Clinical Commissioning Group (CCG). It includes provision for older people, people with mental health problems, learning disabilities and autism as well as for those with long-term conditions or drug and alcohol issues.</p>			
<b>Exempt information:</b>			
None			
<b>Recommendation(s):</b>			
1. To approve the procurement of Residential and Nursing care services via a joint accreditation process with NHS Nottingham City. The contracts awarded will be for a term of up to 5+4 years depending on the commencement date. The contracts awarded to providers carry no guarantee of business during that time.			

2. To delegate authority to the Director of Commissioning and Procurement) to approve the outcome of the tenders and award contracts to providers as a result of the process.

3. To delegate authority to the Head of Contracting and Procurement to sign the contracts arising from the tender process once the tender outcome is agreed.

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 The contract for Residential and Nursing Homes is due to end in on the 31<sup>st</sup> March 2020. This is in the form of an Accredited List utilising the Light Touch Regime. The current contract was jointly commissioned with Nottingham Clinical Commissioning Group utilising the standard NHS Contract. This enables placements to be jointly, or fully funded by the Clinical Commissioning Group (CCG). The performance management of the contract is undertaken by Nottingham City Council on behalf of the CCG for residential homes. The CCG performance manage registered nursing homes.
- 1.2 In order to effect a new contract, to continue to provide residential care to Nottingham citizens, Nottingham City Council will need to undertake a procurement process on behalf of its citizens.
- 1.3 The proposed model for procurement is to commission services through an Accredited List. This will require all current care home providers to complete an application process. By completing this process, the care homes are required to meet a minimum set of required standards and to be subject to regular council oversight. The accreditation process remains open so any new provider can be directed to apply for accreditation at any time.
- 1.4 Through the proposed accreditation process, failure to meet the criteria set out in the procurement process means failure to gain accreditation and NCC will not commission providers that are not accredited. However, providers can re-apply if they remedy the reason for failure, therefore promoting a culture of constant improvement of services.
- 1.5 The proposed new contract is a joint contract on behalf of Nottingham and Nottinghamshire Clinical Commissioning Group as well as Nottingham City Council. This means that citizens will be able to access residential care homes or nursing homes as required and that the same contract can be used, whether or not the citizen is entitled to health-funded care.

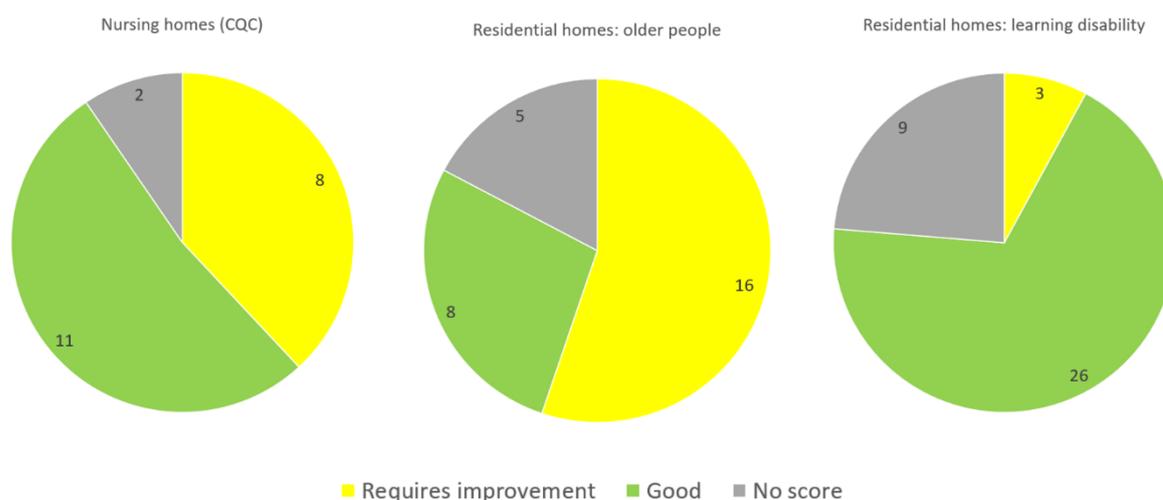
## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 In 2017, Nottingham City Council supported just over two thousand citizens in residential (84%) or nursing (16%) care. 66% were placed in City care homes, 29% in the County and the remaining 5% were placed elsewhere. In the City there are 39 care homes.
- 2.2 Use of care homes is made up of 37% of citizens with a primary support reason of learning disability or mental health issues whilst the majority of residential and nursing provision is used for older people. This is primarily linked to frailty and dementia. Although the numbers are much lower, due to the complexity of the care required, the percentage of net spend on residential and nursing care for those with a primary support reason of learning disability or mental health issues makes up 65% of the total spend.
- 2.3 The total cost of residential and nursing care in 2018/19 commissioned by the City Council was c£67.207m. This cost comprises contributions from Nottingham City Council, health (including continuing healthcare) and citizens. This does not

include citizens who fully self-fund their care. Nottingham City Council contributed 72% of the cost of residential care. The remaining cost was met by citizen contributions (15%) and health (13%). These proportions were similar for nursing care in that Nottingham City Council contributed 69% of the overall cost with citizens and health contributing the remaining 21% and 10%, respectively. Nottingham City Council's contribution in 2018/19 was c£44.268m.

2.4 Population studies that assessed change in demand for care homes (Kingston, et al., 2017), estimated that up to 52% of citizens in residential and nursing care could be more suited to a more independent package of care. This was echoed in the local report undertaken by Newton Europe. This means that whilst future numbers of older people and working age adults with complex needs are likely to increase, future need is not estimated to increase beyond the current level of provision. In fact the demand for care home places in all categories is likely to decrease over the next decade.

2.5 The quality of care homes is evaluated by the Care Quality Commission (CQC) and through the annual service reviews undertaken by the City Council and CCG performance teams. The diagram below shows the quality scores for nursing and residential care homes in Nottingham City. Residential homes for older people show the greatest need for improvement.



2.6 The new specification for care homes is also informed by the Adult Social Care, Better Lives, Better Outcomes Strategy as well as reflecting the vision of the NHS Long Term Plan 2019. This supports people to live as independently as they can, and that where formal care and support is needed, to retain and restore independence. This means that no one will live in residential or nursing care unless all other options are exhausted. Where a care home is the right option this approach has implications for the expectations of care homes and how care is delivered. All citizens will be supported to maintain their independence and to be a part of their community. For working age adults, care homes will no longer be seen as a home for life. Instead, alternative options will be looked at including care at home, Extra Care, and Supported Living options.

2.7 There can be times when a care home will continue to offer the best care for younger adults:

- When it is not possible to place someone in his or her own accommodation right away, because the right accommodation or the

right support is not yet available. In these circumstances, someone may need an interim stay in a care home for up to two years.

- When there is an emergency where current care arrangements break down and a care home is the best short-term solution.
- Where the citizen lives at home with their family, but because of their level of need, the family requires a planned break from care.

2.8 There are existing arrangements in place with Nottinghamshire CCG by which the City Council procures residential and care homes on behalf of the CCG and performance manages residential provision on their behalf, including for health-funded placements. The CCG makes a financial contribution for contracts that the City Council manages on their behalf.

2.9 Many City Council citizens are placed in care homes in the County. Discussions have taken place with Nottinghamshire County Council around whether it is possible to develop one shared integrated specification. Given a range of differences that currently exist around; differing contractual arrangements for younger adults, different performance criteria and different pricing structures, it has not been felt possible to fully integrate at this stage. However, considerable co-operation is taking place between the two authorities to ensure that there is close alignment between the two specifications including a shared NHS contract, shared timelines and where possible a shared description of expectations for care homes. Not only will this provide greater consistency for care homes that support City and County residents, but it will make full integration easier at a later stage. This will provide greater consistency across the Nottinghamshire Integrated Care System.

2.10 Currently, Nottingham City Council has a set, standard funding level, which is agreed on an annual basis as part of the wider Adult Social Care Price setting process, and higher funding rates for more specialist providers. These rates are agreed on a home-by-home basis, or may vary in some cases depending on the needs of the individual. Work is currently underway in order to determine a more consistent mechanism for determining the rate for high cost placements. There is currently insufficient information to robustly set these mechanisms, so it is intended through the Accreditation process to require homes to submit to an 'Open Book' process, which will allow this information to be collated.

2.11 The City Council Contracting Team undertake regular and needs based reviews with residential homes and the CCG Quality monitoring team undertake reviews on a similar basis with nursing homes, against a set quality criteria. Where concerns are raised about quality or safeguarding issues within a home, additional visits will take place. Where there is a cause for concern, a Performance Improvement Plan is be put in place. Where there are significant concerns, the contract can be suspended or even terminated.

2.12 As part of the review, consultation has been undertaken with internal staff, the CCG, providers and other stakeholders. Other information came from national Healthwatch reports on care homes and from a consultation report by Age UK Nottingham and Nottinghamshire on Nottingham City Care Homes. Care homes recognise the changing aspirations that are being set around the promotion of independence. Some care homes demonstrate a clear commitment to embracing this approach with residents, whilst it is clear that other homes will struggle to make these adjustments.

- 2.13 Citizens and carers identified; 'Greater Independence, Choice and Autonomy' and 'More Opportunity to Improve or maintain Health' as their main priorities. These priorities were shared by carers, with a focus maintaining health being seen as more important.
- 2.14 In order for care homes to address the issues that have been identified through the review, the specification, alongside arrangements regarding the placement of citizen will:
- Strengthen expectations around quality care, linked to a skilled and well supported workforce
  - Have clear, person-centred plans and approaches which support residents to enable them to do things for themselves and where possible to develop and strengthen skills for independence
  - Provide time-limited, medium term care for working-age adults, and to work with the citizen and their families to support the transition to community-based support
  - Work with their local communities to bring benefits to both the lives of those living in the home and to the community
  - Provide emergency placements where this is compatible with current residents
- 2.15 A Stakeholder event is taking place on the 27<sup>th</sup> June to confirm and finalise the model with providers, health and social care practitioners, voluntary sector services and representatives of carers and citizens.

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

- 3.1 **Do nothing:** This is not an option, as the current contract will end on 31/3/2020.
- 3.2 **Procure a closed Framework of Providers:** This approach would enable the Council to impose a more stringent application procedure and reduce the number of providers being contracted. However, if this were undertaken based on CQC or Council Quality Standards, this would not enable improvements in lower rated care homes to be recognised and would pose difficulties for care homes who subsequently receive a bad rating. The principle concern would be, that if a home was unsuccessful, then current residents would then have to be moved out to alternative provision. This could be very disruptive for citizens and may well lead to a deterioration. It would also have negative reputational implications for the City.
- 3.3 **Develop a joint integrated contract with Nottinghamshire County Council.** This approach would standardise arrangements for care home providers who have contracts with both the City and the County Council and would provide a consistent approach with the CCG. However, given the significant differences between the current approaches of the two authorities around contracting and pricing this has not been achievable at this point. However, working is taking place to ensure that the specifications will be fully aligned.

### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

4.1 The Council's external gross spend in 2018/19 for all external residential and nursing care provision was c£67.207m, the net spend was c£44.268m due to Health and citizen contributions. This spend will vary depending on the need and numbers of citizens and given the commitment within the Better Lives Better Outcomes programme to reduce residential care numbers, it is likely that there will be a significant reduction in numbers and therefore spend.

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 Nottingham and Nottinghamshire CCG. 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 (no 274).

4.3 Although the potential value of this report is £604.863m, this is based on the gross contract spend for a total of 9 years (on a 5+4 year contract term) and does not address pricing proposals in relation to care homes. There is work ongoing to review and remodel high cost placement rates. Spend will be contained within the available funding allocations for the provision of care, as incorporated within the MTFP.

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 2019/20 in the 'Fee Rates for Adult Social Care Services' at CPSC in December 2018.
Residential and Nursing Care Placements in the County	The fee for 2019/20 is based upon a 2% Increase on County standard rated homes.
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.  There is ongoing work to review the pricing process.

Hayley Mason, Strategic Finance Business Partner, 18 June 2019

## **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND INCLUDING LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

5.1 **Procurement Observations** - The proposed procurement of Nursing and Residential Care Homes through an accreditation process will be undertaken by the Procurement Team, whereby all providers that meet the required quality standards will be awarded a contract. These services fall within the remit of the Light Touch Regime in the Public Contracts Regulations, which allows the Council to determine the most suitable procedure for awarding contracts, provided that certain regulations are met and the Council ensures compliance with the principles

of transparency and equal treatment to all economic operators. (Julie Herrod – Lead Procurement Officer)

- 5.2 **Legal Observations** – The proposals in this report raise no legal issues and are supported. The current contract for residential and nursing care services is due to expire, a review of the services has been undertaken and so the commissioning of a new contract is required to be established to ensure ongoing service provision.

The services are considered light touch services under the Public Contracts Regulations and an accreditation process will operate as a flexible ‘pseudo Dynamic Purchasing System’ in accordance with procurement parameters. Whilst evaluating a provider against set criteria and adding them to the ‘accreditation list’ means they will be on a list capable of offering services, they are offered no guarantee of work and the contracts with providers at the outset does not commit the Council to expenditure until services are actually called off.

Legal services will support the service area as necessary in the documentation of the accreditation process to ensure service quality is effectively monitored and to reflect any feedback from consultation and any concerns from earlier contracts within the contractual obligations. (Dionne Screaton- Solicitor).

## **6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE (STRATEGIC REGENERATION COMMITTEE REPORTS ONLY)**

- 6.1 *Not applicable*

## **7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 The care home contract will continue to support the employment of locally based workers to provide the care and support required. Care homes will be encouraged to use suitably checked and trained volunteers where this enhances the experience and opportunities of residents.

The new model puts a greater emphasis on greater independence and community connections. This will support care homes to bring additional benefits to their local community through developing local alliances.

## **8 REGARD TO THE NHS CONSTITUTION**

- 8.1 The proposals to work jointly with Nottingham and Nottinghamshire CCG 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. The Collaborative Commissioning Agreement between Nottingham City Council and Greater Nottingham and Nottinghamshire Clinical Commissioning Groups will endorse joint accreditation and contracting practices.

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

- 9.1 Has the equality impact of the proposals in this report been assessed?

No   
An EIA is not required because:  
(Please explain why an EIA is not necessary)

Yes   
Attached as Appendix 1, and due regard will be given to any implications  
identified in it.

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

**11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- Kingston, A., Wohland, P., Wittenberg, R., Robinson, L., Brayne, C., Matthews, F., & Jagger, C. (2017). Is late-life dependency increasing or not? A comparison of the Cognitive Function and Ageing Studies (CFAS). *Lancet*, 1676–84.
- Newton Europe. (2017). Nottingham City Council Adult Social Care Diagnostic Findings.  
[https://www.healthwatch.co.uk/sites/healthwatch.co.uk/files/20171117\\_-\\_whats\\_it\\_like\\_to\\_live\\_in\\_a\\_care\\_home.pdf](https://www.healthwatch.co.uk/sites/healthwatch.co.uk/files/20171117_-_whats_it_like_to_live_in_a_care_home.pdf) and  
<https://www.healthwatch.co.uk/news/2017-08-10/eight-signs-quality-care-care-homes>
- Age UK (2015) Nottingham City Care Homes Consultation Report