



Open Report on behalf of Glen Garrod, Executive Director of Adult Social Services and Judith Hetherington-Smith, Chief Information and Commissioning Officer

Report to:	Adults Scrutiny Committee
Date:	29 June 2016
Subject:	Day Care Services Re-Procurement

Summary:

This item invites the Adults Scrutiny Committee to consider a report entitled Day Care Services Re-Procurement which is due to be considered by the Executive Councillor for Adult Care on 1 July 2016. The views of the Scrutiny Committee will be reported to the Executive Councillor, as part of her consideration of this item.

Actions Required:

- (1) To consider the attached report and to determine whether the Committee supports the recommendations to the Executive Councillor set out in the report.
- (2) To agree any additional comments to be passed to the Executive Councillor in relation to this item.

1. Background

The Executive Councillor is due to consider a report entitled Day Care Services Re-Procurement on 1 July 2016. The full report to the Executive is attached at Appendix A to this report.

2. Conclusion

Following consideration of the attached report, the Committee is requested to consider whether it supports the recommendations in the report and whether it wishes to make any additional comments to the Executive Councillor. The Committee's views will be reported to the Executive Councillor.

3. Consultation

a) Policy Proofing Actions Required

Not Applicable.

4. Appendices

These are listed below and attached at the back of the report

Appendix 1	Report to the Executive Councillor – Day Care Services Re-Procurement
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5. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
The Care Act 2014	Legal Services

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Executive/Executive Councillor

Open Report on behalf of Glen Garrod, Director of Adult Social Services

Report to:	Executive Councillor for Adult Care
Date:	1 July 2016
Subject:	Day Care Services Re-Procurement
Decision Reference:	I011461
Key decision?	Yes

Summary:

Day care services aim to give eligible adults meaningful activities during the day, which may include socialisation, help to learn new skills and work or volunteering activities. For many users day care services also gives the main carer an opportunity for a break.

To meet the needs of eligible adults, the Council utilises both in-house Day Services provision, and externally contracted Day Care Services.

The current contractual arrangements for external provision of building based day care services for working age adults and older people are a mixture of spot contracts which commenced at different times and which contain differing terms and pricing. A number of the contracts have reached the end of their term and do not contain provision to extend.

There is a consequent need to undertake a procurement process to establish an appropriate contract mechanism to update and bring consistency to externally contracted day care services across Adult Care. This report seeks approval from the Executive Councillor to commence the procurement process.

Recommendation(s):

That the Executive Councillor for Adult Care:

1. Approves a procurement be undertaken to establish an appropriate contract mechanism for provision of externally contracted building based day care services. The mechanism will enable a variety of providers to deliver services to enable choice in the market for users, and bring consistency to service quality, delivery and cost. The final commercial model, form of contract and contract duration will be determined on completion and due consideration of service user and market engagement

exercises.

2. Delegates to the Director of Adult Social Services in consultation with the Executive Councillor for Adult Care the authority to determine the final form of the contract and to approve the award of the contracts and the entering into of all contract and other legal documentation necessary to give effect to the said contracts.

Alternatives Considered:

1. Extending or Negotiating revised contracts with current providers

Continuing with the current providers in this way is not considered to be a viable solution. There is no provision to extend within many current contracts and negotiated agreements would constitute exceptions to normal tendering routes for which there is no clear justification. In accordance with local and national procurement regulations, future contracts need to be let in a fair, transparent and non-discriminatory manner. This alternative would also fail to address current inconsistencies in contract terms and pricing. In addition, Service Providers with whom we do not currently contract have expressed an interest in delivering services on behalf of the Council. This could indicate that the current contractual agreements do not maximise choice for eligible users and that there is potential to improve choice by undertaking a procurement exercise.

2. Move to a Block Purchasing Arrangement

This alternative would involve commissioning an individual or smaller number of providers to undertake all externally contracted day care opportunities in Lincolnshire. It may enable successful providers to realise economies of scale in service delivery and thus bring better value for money for the Council. However, the overall spend on day care services is relatively small compared with other Adult Care services and savings from these arrangements are likely to be limited. There are also a number of significant drawbacks associated with this alternative. First of all, it may lead to loss of choice and control for the user as the Council would need to fill its block obligations including voids to realise the associated value for money improvements. Additionally, if demand for day care decreases in the future, for example if use of direct payments increases, the Council may be left with costly voids in block purchased services. It should also be noted that a smaller number of providers would increase the distance users would need to travel in order to access day opportunities and it is likely that transport costs would increase as a result, diminishing any savings that may be achieved through this approach.

Reasons for Recommendation:

Lincolnshire County Council has a statutory duty to meet the needs of eligible adults under The Care Act 2014. Many people choose to meet their social care needs through day care services. The proposal is to establish an appropriate contract solution for building based day care services for eligible people, including all user groups, within Lincolnshire. The solution will enable a variety of providers to deliver services, offering choice in the market for users, whilst also bringing greater consistency and control over service quality, delivery and cost.

1. Many of the existing contract arrangements have reached the end of their term and cannot be extended further. There is therefore a legal and contractual imperative to undertake a procurement exercise to establish a new contract mechanism for delivery of these services.
2. Current arrangements represent a variety of contracts established at different times based on different terms and pricing mechanisms. This presents an opportunity to bring together arrangements under a common specification, terms and pricing mechanism to increase consistency and control over service quality and delivery.
3. The recommendation addresses and supports statutory requirements under the Care Act 2014 to provide personalised and outcome focused service for individuals.
4. The alternatives considered have been deemed unsuitable in delivering the required outcomes of the service.

1. Background

- 1.1 Lincolnshire County Council has a statutory duty meet the needs of eligible adults under The Care Act 2014. Many people choose to meet their social care needs through day care services. Day opportunities are usually part of a support package to meet the users eligible care needs and/or support the primary carer.
- 1.2 During financial year 2015/16, externally commissioned day opportunities were accessed by 152 users with a learning disability, 93 older people and 9 adults with a physical disability, a total of 254 users. This is in addition to service users across all categories of need that access in-house day provision and day services via direct payments.
- 1.3 Projected figures for 2015/16 indicate total spend of £1.85 million on externally commissioned day care services. Most (85%) of this spend was in the learning disabilities service area, with significantly less being spent in the older people (11%) and physical disabilities (4%) service areas. The

breakdown is shown in the table below. Spend on learning disability day care has stayed marginally the same since 2012/13. Spend on physical disability and older peoples' day care has decreased slightly over the same period. This is likely to reflect an increase in use of direct payments amongst these service user groups.

Spend on External Day Care by Service Area

Service Area	Projected* Net Spend on External Day Care (2015/16)	% of Total External Care Spend (2015/16)	% of Total Service Area Spend on External Day Care (2015/16)
Learning Disability	£1,571,633	84.97	3
Older People	£210,000	11.35	0.2
Physical Disability	£68,000	3.68	0.6
Total	£1,932,996		

* Final outturn spend for 2015/16 unavailable at the time of writing

- 1.4 The nature of direct payments is that they are flexible and should offer users choice and control. However, it is difficult to exactly quantify numbers and levels of spend for adults accessing day opportunities with direct payments. Although information on the total direct payments spend is collated by the Direct Payments Team, there is currently no way of accurately breaking this down according to service type.
- 1.5 The existing contractual arrangements for day care are varied. There are a number of spot contracts in place with providers across Lincolnshire for day opportunities for working age adults and older people. The Council has agreements with 22 providers delivering services to users with a Learning Disability and 32 providers delivering services to Older People and users with a Physical Disability. Contracts with providers commenced at different times and for durations, based on different pricing, and in some cases with different specifications and contract terms. The majority of these contracts have reached their end date with no explicit provision to extend. There is a resultant need to undertake a procurement exercise to establish an appropriate and current contract solution for day care services for eligible people across the County, including all user groups, that addresses the current inconsistencies.
- 1.6 Despite the inconsistencies in the current arrangements, indications are that service provision is generally performing satisfactorily and meeting service user outcomes.
- 1.7 Currently unit cost rates for services show a fairly marked variation. They range from approximately £20 to £52 per day for Older People and Adults with

a Physical Disability, and for Adults with a Learning Disability the range is from £20 to £186 per day.

1.8 Rates for services with providers have not been recently reviewed or uplifted, and there is limited clarity and consistency about what rates include. For example:

- session times vary
- some price per hour, others per session or per day
- some are inclusive of food
- some are inclusive of transport
- some are inclusive of activities
- one to one and additional support (e.g. bathing and personal care) are priced differently

1.9 Recognising that there is a need for flexible services that can be tailored to individual needs, these factors demonstrate the need to establish a clear and consistent service specification and transparent pricing mechanism.

2 Strategic Drivers

2.1 Under the Care Act (2014), the Council must focus on the promotion of personal 'wellbeing' in delivering any of its care and support functions, including the provision of day support.

2.2 This key principle means helping people to meet their assessed needs, building on their own strengths and resources to enable them to achieve the outcomes that matter to them. As such, it signifies a shift from the existing duties on local authorities to provide a particular model of 'service', and necessitates instead a personalised approach which meets those aspects of wellbeing which matter most to the individual concerned.

2.3 As one option in a diverse market of day opportunities, independently provided services therefore add an important element of choice and flexibility in meeting peoples' physical and mental health and emotional needs.

2.4 Key principles and standards in the Care Act which have a bearing on the way these opportunities will be provided under the contract mechanism include; supporting people in their participation in work, education, training or recreation, offering them as much control as possible over the care provided and having the information and support necessary to be able to participate as fully as possible in decisions about them.

3 Commercial Model

- 3.1 Work to determine the most appropriate approach to effectively commission independently provided day care services is underway and includes a programme of engagement internally with practitioners and care managers as well as externally with the Market and with Service Users.
- 3.2 The ultimate commissioning and commercial model to be adopted cannot be determined until this programme of work has been fully completed and analysed, however the model will be influenced by and incorporate a number of key factors as follows:

Contract Structure

- 3.3 Evidence collected on the current service indicates that users access a relatively large number of providers in Lincolnshire, in comparison to the annual value of all day care contracts. The reasons for this include user preference for shorter journeys to access services, preference for services in their local community that they may be familiar with, and preference for services that meet their individual needs.
- 3.4 There are a number of small providers offering day care services; in some cases providers only support one user. The ultimate contract model and procurement process will need to be proportionate to enable small and medium local providers to compete to deliver services.
- 3.5 In line with these factors and in support of the strategic drivers, the model will not be designed to reduce the levels of day opportunities available to individuals, but rather to ensure continuity of service delivery for existing users wherever possible, and to maximise the choice and flexibility of services available in the market whilst maintaining control over quality and price to ensure that the future contract is sustainable.

Cost & Duration

- 3.6 In order to achieve flexibility and sustainability in the multi-provider model there is need to ensure an appropriate pricing mechanism and contract duration. These factors will significantly influence the viability and attractiveness of resulting contracts for providers and ultimately enable the Council to maximise user choice, whilst still maintaining control over the costs of the service.

Competition

- 3.7 Exposing the service to the open market will help to encourage improved value for money through quality, innovation, cost competition and the added value any potential providers may bring. It will also enable the necessary transparency to award external day care services contracts.

Risk and flexibility

- 3.8 A contract mechanism enabling multiple providers to deliver services will give flexibility in the market, help to manage risks around coverage and capacity across a large County. It will also enable providers with specialisms in a range of different users groups to contract with the Council. A new contract mechanism also gives the opportunity to improve the management of risks around service quality by ensuring that minimum standards are clearly specified and an appropriate performance monitoring and management mechanism is incorporated.

Performance Management

- 3.9 Through the recommissioning of this service we will embed performance management into the contract mechanism. This will be linked to manageable, measurable and achievable targets aligned to the agreed key performance indicators, and a formalised system of managing and monitoring performance against the contract. It will be made clear from the outset that the provider will be contractually responsible for ensuring that they are able to meet the required qualitative outcomes.

Service User choice

- 3.10 The Care Act 2014 states the importance of allowing a recipient of care the ability to make choices about how that care is delivered. By procuring the service on a framework, this will allow users to have a choice of day care provider, hopefully from a range of provision of whom are able to meet their needs in their local area. By ensuring that there is a range of high performing providers able to deliver the service across the county, service users will be better equipped to achieve their chosen outcomes. A new specification for the service will be developed. Day opportunities for under 65s will be supported to be as independent as possible in their own communities. It looks to support people to gain skills that will help them to gain employment, or skills which will support them to live independently.

Impact on the Market

- 3.11 The current operating model is based on spot purchasing placements from multiple providers offering building based day support across the County. Although not finalised, the new model will have a close resemblance to the current operating model and therefore the impact on the market is likely to be minimal. There is however the opportunity to increase the number of providers able to contract with us to delivering day services, which would improve resilience around capacity, as well as an opportunity to improve consistency around service quality, delivery and cost.

4. Tender process

- 4.1 A key phase in the procurement will be in how organisations are assessed and qualified at the tender stage. As previously stated, there is a need to ensure that a range of day care providers will be able deliver a range of quality services and deliver outcomes for users. The Council must therefore have a clear understanding of the level of financial and business capacity tenderers must have in order to deliver sustainable services. This must be set at a level that represents an acceptable assessment of the level of risk as well as not being unreasonably burdensome and therefore discouraging to SMEs.
- 4.2 The Procurement is being undertaken in accordance with regulations 74 to 76 of the Public Contract Regulations 2015 under "Light Touch Regime" utilising an Open Procedure method. The ultimate decision as to which providers are considered suitable to contract with will be based on the evaluation of their tender proposals.
- 4.3 ITT evaluation will focus on service quality and the ability of the potential providers to deliver quality outcomes across the county set against a clearly defined pricing mechanism to support effective budget controls.

5 Scope

- 5.1 It is intended that the contractual arrangements resulting from this procurement exercise will provide the following :
- A countywide day care service which offers choice and flexibility to users with a clear pricing mechanism
 - A Service that is both flexible and responsive to service user needs.
 - A Service that will be delivered with the aim of promoting personalisation and enhancing quality of life for service users and carers.
 - A Service that will focus on maximising and sustaining Service Users' choice, involvement and inclusion through the use of outcome-focused quality Support Plans, and person-centered approaches that facilitate opportunities to live fulfilled lives within a community setting.
 - Service Providers who will ensure that the service is designed to address the needs of individual service users via the achievement of identified outcomes in their Support Plan.
 - Service Providers who will work in partnership with family carers/supporters of the Service Users.
 - Service Providers whom will value difference and will respect, support, and meet the needs and preferences of people with a learning disability, whatever their: disability, ethnicity, age, gender, sexual orientation (and identity), religion or belief).

6. Market and Service User Engagement and Feedback

- 6.1 A Prior Information Notice was published on 8 April 2016. This initiated a process of pre-tender market engagement. Feedback gained from this process is providing an understanding of the market's preferred approach to a number of important issues impacting on the commercial model, including the contract duration, market capacity, performance management and pricing structure.
- 6.2 User Engagement is planned throughout July 2016, for all user groups including older people and adults with a physical disability and learning disability. The primary aims of the user engagement are to help the Council to understand the business needs, to inform the development of a specification that meets the needs of service users, and to keep users informed about the forthcoming procurement exercise.

7. Procurement implications

- 7.1 The Procurement is being undertaken in accordance with regulations 74 to 76 of the Public Contract Regulations 2015 under "Light Touch Regime" utilising an Open Procedure method.
- 7.2 It is the intention to issue a OJEU Notice for publication during August 2016 and a Contract Award Notice will be issued on any award to successful bidders.
- 7.3 In undertaking the procurement the Council will ensure the process utilised complies fully with the EU Treaty Principles of Openness, Fairness, Transparency and Non-discrimination.
- 7.4 The procurement process shall conform with all information as published and set out in the OJEU Notice.
- 7.5 All time limits imposed on bidders in the process for responding to the OJEU Notice and Invitation to Tender will be reasonable and proportionate.

8. Public Services Social Value Act

- 8.1 In January 2013 the Public Services (Social Value) Act came into force. Under the Act the Council must before starting the process of procuring a contract for services consider two things. Firstly, how what is proposed to be procured might improve the economic social and environmental wellbeing of its area. Secondly, how in conducting the process of procurement it might act with a view to securing that improvement. The Council must only consider matters that are relevant to the services being procured and must consider the extent to which it is proportionate in all the circumstances to take those matters into

account. In considering this issue the Council must be aware that it remains bound by EU procurement legislation which itself through its requirement for transparency, fairness and non-discrimination places limits on what can be done to achieve these outcomes through a procurement.

- 8.2 Ways will be explored of securing social value through the way the procurement is structured. The contract mechanism will ensure that small to medium-sized enterprises (SMEs) can continue to successfully be party of the service going forwards.
- 8.3 Under section 1(7) of the Public Services (Social Value) Act 2012 the Council must consider whether to undertake any consultation as to the matters referred to above. The service and the value it delivers is well understood. Best practice recently adopted elsewhere has been reviewed. This and the market and other stakeholder engagement, including Service Users, carried out is considered to be sufficient to inform the procurement. It is unlikely that any wider consultation would be proportionate to the scope of the procurement.

9. Equality Act 2010

- 9.1 The Council's duty under the Equality Act 2010 needs to be taken into account by the Executive Councillor when coming to a decision.

9.2 Section 149 of the Equality Act 2010:

The Council must, in the exercise of functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act.

- 9.3 Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low;
- The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities;

- Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.
- Compliance with the duties in this section may involve treating some persons more favourably than others.

9.4 The relevant protected characteristics are:

- i. Age
- ii. Disability
- iii. Gender reassignment
- iv. Marriage and civil partnership
- v. Pregnancy and maternity
- vi. Race
- vii. Religion or belief
- viii. Sex
- ix. Sexual orientation

9.5 A reference to conduct that is prohibited by or under this Act includes a reference to:

- i. A breach of an equality clause or rule
- ii. A breach of a non-discrimination rule

9.6 Decision makers duty under the Act:

It is important that the Executive Councillor is aware of the special duties owed to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the decision maker. The duty applies to all decisions taken by public bodies including policy decisions and decisions on individual cases and includes this decision.

9.7 It is fair to say that the key purpose of the service is to enable all those individuals who require day care services to live more independent and healthier lives. In that sense the delivery of the service helps to advance equality of opportunity. The providers' ability to provide services which advance equality of opportunity will be considered in the procurement and providers will be obliged to comply with the Equality Act.

9.8 To discharge the statutory duty the Executive Councillor must consider the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

9.9 An Impact Assessment has been completed for the day care service procurement which addresses the risk of adverse impact on service users which can be found as Appendix B.

9.10 A new contract mechanism may result in current providers either not being successful following the procurement process, or in providers choosing to no longer contract with the Council.

- 9.11 A change of provider will impact on persons with a protected characteristic arising out of a change in the location of the service and the employment impact on staff delivering it. The staff employed by the current provider will be affected by the conclusion of the current agreement. Mitigating factors will relate to the legal protections that will be in place through TUPE and general employment laws. The contract that will be entered into will also contain clauses requiring the contractor to comply with the Equality Act.
- 9.12 In these circumstances it is open to the Executive Councillor to conclude that having considered the duty it considers that if appropriate steps are taken to keep matters under review and address issues as they arise through the procurement process that any potential there is for differential impact or adverse impact can be mitigated. For example, affected users would either be offered the opportunity to remain with the same provider through a direct payment, or to change providers.

10. Child Poverty Strategy

- 10.1 The Council is under a duty in the exercise of its functions to have regard to its Child Poverty Strategy. Child poverty is one of the key risk factors that can negatively influence a child's life chances. Children that live in poverty are at greater risk of social exclusion which, in turn, can lead to poor outcomes for the individual and for society as a whole.
- 10.2 In Lincolnshire we consider that poverty is not only a matter of having limited financial resources but that it is also about the ability of families to access the means of lifting themselves out of poverty and of having the aspiration to do so. The following four key strategic themes form the basis of Lincolnshire's Child Poverty Strategy: Economic Poverty, Poverty of Access, Poverty of Aspiration and Best Use of Resources.
- 10.3 The Strategy has been taken into account in this instance and does not have any impact due to the specific nature of the day care services in question being provided to adults.

11. Wellbeing Strategy

- 11.1 The Council is under a duty in the exercise of its functions to have regard to its Joint Strategic Needs Assessment (JSNA) and its Joint Health and Wellbeing Strategy (JHWS).
- 11.2 The JSNA for Lincolnshire is an overarching needs assessment. A wide range of data and information was reviewed to identify key issues for the population to be used in planning, commissioning and providing programmes and services to meet identified needs. This assessment underpins the JHWS 2013-18 which has the following themes:-
- i. Promoting healthier lifestyles
 - ii. Improving the health and wellbeing of older people

- iii. Delivering high quality systematic care for major causes of ill health and disability
- iv. Improving health and social outcomes and reducing inequalities for children
- v. Tackling the social determinants of health

11.3 Under the strategic themes of improving the health and wellbeing of older people and tackling the social determinants of health, there are a number of priorities that are relevant;

- Peoples health and well-being is improved through addressing wider determining factors of health that affect the whole community.
- Spend a greater proportion of our money on helping older people to stay safe and well at home
- Develop a network of services to help older people lead a more healthy and active life and cope with frailty
- Increase respect and support for older people within their communities

11.4 External contracted Day Care services will contribute directly to these priorities, for example by supporting adults with learning disabilities learn new skills improve access to both paid and voluntary work.

12 Conclusion

Day Care services are a fundamental part of the overall social care system in Lincolnshire. Furthermore the Council has a statutory responsibility to meet the needs of people with eligible social care needs in Lincolnshire. As an option in a diverse market of day opportunities, independently provided, externally contracted services add an important element of choice and flexibility in meeting peoples' physical and mental health, and emotional needs.

The key driver in undertaking a procurement process to establish an appropriate contract mechanism is the expiry of current agreements and need to comply with the Council's contract and procurement procedures.

The final commercial model, form of contract and contract term will be determined on completion and due consideration of service user and market engagement exercises. However it is proposed that in support of the strategic drivers for the service, the method of delivery will be fundamentally the same to ensure choice and flexibility are maintained, and that continuity of care for existing users is achieved wherever possible.

Establishing a network of qualified providers across the county that will be able to fully meet the quality requirements set out by the Council will also bring the benefit of enabling a move to a more consistent approach to services; incorporating service specification, delivery of outcomes, performance management, understanding of

capacity and management of service costs which will contribute the strengthening the market within Lincolnshire.

Legal Comments:

The Council has the power to act in accordance with the recommendations. The Decision is consistent with the Policy Framework and within the remit of the Executive. The legal issues relating to the Decision are addressed within the body of the Report.

Resource Comments:

Day Care services are a fundamental part of the overall social care system in Lincolnshire. The current cost of the external market is £1.9m. The establishment of a viable commercial Day Care model is vital in being able to establish a service that delivers at a cost that is acceptable to providers but also allows the Council to maintain costs at a level close to the current financial envelope.

14. Consultation

a) Has Local Member Been Consulted?

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report is due to be considered by the Adults Scrutiny Committee on 29 June 2016. The comments of the Committee will be reported to the Executive Councillor prior to reaching her decision

d) Policy Proofing Actions Required

Dealt with in the body of the report and Appendix A.

15. Appendices

These are listed below and found at the end of this report

Appendix A	Equality Impact Analysis
Appendix B	External Day Care Service Programme Procurement Timeline

16. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
The Care Act 2014	Legal Services

This report was written by Linda Turnbull and Carl Miller, who can be contacted on 01522 552672 or 01522 553673 linda.turnbull@lincolnshire.gov.uk / carl.miller@lincolnshire.gov.uk

Equality Impact Analysis to enable informed decisions

The purpose of this document is to:-

- I. help decision makers fulfil their duties under the Equality Act 2010 and
- II. for you to evidence the positive and adverse impacts of the proposed change on people with protected characteristics and ways to mitigate or eliminate any adverse impacts.

Using this form

This form must be updated and reviewed as your evidence on a proposal for a project/service change/policy/commissioning of a service or decommissioning of a service evolves taking into account any consultation feedback, significant changes to the proposals and data to support impacts of proposed changes. The key findings of the most up to date version of the Equality Impact Analysis must be explained in the report to the decision maker and the Equality Impact Analysis must be attached to the decision making report.

****Please make sure you read the information below so that you understand what is required under the Equality Act 2010****

Equality Act 2010

The Equality Act 2010 applies to both our workforce and our customers. Under the Equality Act 2010, decision makers are under a personal duty, to have due (that is proportionate) regard to the need to protect and promote the interests of persons with protected characteristics.

Protected characteristics

The protected characteristics under the Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

Section 149 of the Equality Act 2010

Section 149 requires a public authority to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by/or under the Act
- Advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share those characteristics
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The purpose of Section 149 is to get decision makers to consider the impact their decisions may or will have on those with protected characteristics and by evidencing the impacts on people with protected characteristics decision makers should be able to demonstrate 'due regard'.

Decision makers duty under the Act

Having had careful regard to the Equality Impact Analysis, and also the consultation responses, decision makers are under a personal duty to have due regard to the need to protect and promote the interests of persons with protected characteristics (see above) and to:-

- (i) consider and analyse how the decision is likely to affect those with protected characteristics, in practical terms,
- (ii) remove any unlawful discrimination, harassment, victimisation and other prohibited conduct,
- (iii) consider whether practical steps should be taken to mitigate or avoid any adverse consequences that the decision is likely to have, for persons with protected characteristics and, indeed, to consider whether the decision should not be taken at all, in the interests of persons with protected characteristics,
- (iv) consider whether steps should be taken to advance equality, foster good relations and generally promote the interests of persons with protected characteristics, either by varying the recommended decision or by taking some other decision.

Conducting an Impact Analysis

The Equality Impact Analysis is a process to identify the impact or likely impact a project, proposed service change, commissioning, decommissioning or policy will have on people with protected characteristics listed above. It should be considered at the beginning of the decision making process.

The Lead Officer responsibility

This is the person writing the report for the decision maker. It is the responsibility of the Lead Officer to make sure that the Equality Impact Analysis is robust and proportionate to the decision being taken.

Summary of findings

You must provide a clear and concise summary of the key findings of this Equality Impact Analysis in the decision making report and attach this Equality Impact Analysis to the report.

Impact – definition

An impact is an intentional or unintentional lasting consequence or significant change to people's lives brought about by an action or series of actions.

How much detail to include?

The Equality Impact Analysis should be proportionate to the impact of proposed change. In deciding this asking simple questions “Who might be affected by this decision?” “Which protected characteristics might be affected?” and “How might they be affected?” will help you consider the extent to which you already have evidence, information and data, and where there are gaps that you will need to explore. Ensure the source and date of any existing data is referenced.

You must consider both obvious and any less obvious impacts. Engaging with people with the protected characteristics will help you to identify less obvious impacts as these groups share their perspectives with you.

A given proposal may have a positive impact on one or more protected characteristics and have an adverse impact on others. You must capture these differences in this form to help decision makers to arrive at a view as to where the balance of advantage or disadvantage lies. If an adverse impact is unavoidable then it must be clearly justified and recorded as such, with an explanation as to why no steps can be taken to avoid the impact. Consequences must be included.

Proposals for more than one option If more than one option is being proposed you must ensure that the Equality Impact Analysis covers all options. Depending on the circumstances, it may be more appropriate to complete an Equality Impact Analysis for each option.

The information you provide in this form must be sufficient to allow the decision maker to fulfil their role as above. You must include the latest version of the Equality Impact Analysis with the report to the decision maker. Please be aware that the information in this form must be able to stand up to legal challenge.

Background Information

Title of the policy / project / service being considered	Buildings Based Day Care	Person / people completing analysis	Linda Turnbull
Service Area	Adult Social Care	Lead Officer	Justin Hackney/Pete Sidgwick
Who is the decision maker?	Portfolio holder/Lead Member	How was the Equality Impact Analysis undertaken?	Desktop exercise by Linda Turnbull. Alongside engagement activity being undertaken through the Commissioning Team. A pre-market engagement activity was also undertaken with existing and potential new providers. A user engagement is planned to be released in the very near future.
Date of meeting when decision will be made	01/07/2016	Version control	V0.6
Is this proposed change to an existing policy/service/project or is it new?	Existing policy/service/project	LCC directly delivered, commissioned, re-commissioned or de-commissioned?	Commissioned
Describe the proposed change	A review of externally commissioned, buildings based day services are being carried out, which could result in new services being commissioned, with the use of a new service specification and procurement exercise.		

Evidencing the impacts

In this section you will explain the difference that proposed changes are likely to make on people with protected characteristics. To help you do this first consider the impacts the proposed changes may have on people without protected characteristics before then considering the impacts the proposed changes may have on people with protected characteristics.

You must evidence here who will benefit and how they will benefit. If there are no benefits that you can identify please state 'No perceived benefit' under the relevant protected characteristic. You can add sub categories under the protected characteristics to make clear the impacts. For example under Age you may have considered the impact on 0-5 year olds or people aged 65 and over, under Race you may have considered Eastern European migrants, under Sex you may have considered specific impacts on men.

Data to support impacts of proposed changes

When considering the equality impact of a decision it is important to know who the people are that will be affected by any change.

Population data and the Joint Strategic Needs Assessment

The Lincolnshire Research Observatory (LRO) holds a range of population data by the protected characteristics. This can help put a decision into context. Visit the LRO website and its population theme page by following this link: <http://www.research-lincs.org.uk> If you cannot find what you are looking for, or need more information, please contact the LRO team. You will also find information about the Joint Strategic Needs Assessment on the LRO website.

Workforce profiles

You can obtain information by many of the protected characteristics for the Council's workforce and comparisons with the labour market on the [Council's website](#). As of 1st April 2015, managers can obtain workforce profile data by the protected characteristics for their specific areas using Agresso.

Positive impacts

The proposed change may have the following positive impacts on persons with protected characteristics – If no positive impact, please state 'no positive impact'.

Age

The possible re-procurement of building based day services will potentially allow new and innovative day service providers onto the Council contracted list. This may include a greater variety of providers. This may be beneficial to specific ages of users groups.

For example, younger adults may benefit from day care providers of who may have specific links to education provision, which would provide an improved transition for these users. An increased range of provision may provide a wider range of opportunities, for example, providers who are more specialised at supporting young adults with disabilities into paid or voluntary work, as part of their day opportunities.

Additionally, the re-procurement may be beneficial to older adults, the over 65s age group. This is because it may attract applications from providers who specialise in working with this client group. This will mean that this client groups will potentially have services tailored to their individual needs and a greater choice of provision.

2.8. Age of OP/PD DayCare Users

Age Category	Number of Users	Sum of Full Year Cost
16-25	1	£2,314
26-35	4	£66,513
36-45	1	£5,385
46-55	1	£3,598
56-65	2	£2,860
66-75	6	£11,882
76-85	49	£131,024
86-95	32	£91,998
96-105	6	£9,516
Grand Total	102	£325,091

Age of LD DayCare Users

Age Category	Number of Users	Sum of 15/16 PROJECTION	Per/User
18-25	26	£283,924	£10,920
26-35	32	£411,549	£12,861
36-45	42	£498,229	£11,863
46-55	22	£241,629	£10,983
56-65	12	£62,840	£5,237
66-75	9	£19,305	£2,145
76-85	3	£15,585	£5,195
(blank)	6	£38,602	£6,434
Grand Total	152	£1,571,663.41	£10,339.89

Disability

The recommissioning of day opportunities should increase the quality and widen choice of services for people with disabilities.

The data used for the project reports, details the team the user is assigned to, which is the primary need of the individual, i.e. Learning Disability, Physical disability or older person. More comprehensive data on disability, for this protected characteristic has not been collated for this day care project as it wasn't included in the data from finance. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.

Gender reassignment

A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services

Data on this protected characteristic has not been collated for this day care project. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.

Marriage and civil partnership

A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services

	<p>Data on this protected characteristic has not been collated for this day care project. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.</p>
Pregnancy and maternity	<p>A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services.</p> <p>Data on this protected characteristic has not been collated for this day care project. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.</p>
Race	<p>A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services.</p> <p>Data on this protected characteristic has not been collated for this day care project. The main data has been collated from the finance system which does not include details on this protected characteristic. It is possible for this data to be collated from AIS – however this would involve manually cross referencing the data. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.</p>
Religion or belief	<p>A re-procurement of day care, will be open to all potential day care providers. This could include applications from religious groups, and therefore would potentially improve the variety of day opportunities that support peoples religious beliefs.</p> <p>Data on this protected characteristic has not been collated for this day care project. The main data has been collated from the finance system which does not include details on this protected characteristic. It is possible for this data to be collated from AIS – however this would involve manually cross referencing the data. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.</p>
Sex	<p>A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services.</p> <p>Data on this protected characteristic has not been collated for this day care project. The main data has been collated from the finance system which does not include details on this protected characteristic. It is possible for this data to be collated from AIS – however this would involve manually cross referencing the data. It is hoped that the new integrated</p>

	IT system will support the ease of collection of data for all protected characteristics.
Sexual orientation	<p>A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services.</p> <p>Data on this protected characteristic has not been collated for this day care project. The main data has been collated from the finance system which does not include details on this protected characteristic. It is possible for this data to be collated from AIS – however this would involve manually cross referencing the data. It is hoped that the new integrated IT system will support the ease of collection of data for all protected characteristics.</p>

If you have identified positive impacts for other groups not specifically covered by the protected characteristics in the Equality Act 2010 you can include them here if it will help the decision maker to make an informed decision.

It is anticipated that a new contract will result in positive benefits for all service users .

- There is no proposal for a reduction in service. The re-procurement exercise for new contracts as likely to offer users more choice and flexibility in the types of service they are able to offer.
- A clear contract with a detailed service specification with clear outcomes and performance measures, including equality monitoring, subject to robust contract management against delivery ensuring that service users receive good quality inclusive services

Day care opportunities are for people who have assessed social care needs that can be met by day care services. It is provided regardless of the protected characteristics above.

Adverse/negative impacts

You must evidence how people with protected characteristics will be adversely impacted and any proposed mitigation to reduce or eliminate adverse impacts. An adverse impact causes disadvantage or exclusion. If such an impact is identified please state how, as far as possible, it is justified; eliminated; minimised or counter balanced by other measures.

If there are no adverse impacts that you can identify please state 'No perceived adverse impact' under the relevant protected characteristic.

Negative impacts of the proposed change and practical steps to mitigate or avoid any adverse consequences on people with protected characteristics are detailed below. If you have not identified any mitigating action to reduce an adverse impact please state 'No mitigating action identified'.

Age	<p>No perceived adverse impact. The new day services will be open to eligible adults, aged over the age of 18. Services for children aged under 18 years are provided by Children's Services.</p> <p>If the decision is to move all day care to direct payments this may negatively affect older people because older people may not want or be able to manage a direct payment themselves. The adverse effects of this would be minimised because users/their carers would be offered the support of Penderels Trust. Penderels Trust is a direct payment support service and helps people to use direct payments to support them to live independently in the community.</p> <p>If LCC chooses to re-procure the day opportunities contracts, there is no perceived adverse effects specific to people with this protected characteristic.</p>
Disability	<p>If the decision is to move all day care to direct payments this may negatively affect people with a disability because people may not want or be able to manage a direct payment themselves. The adverse effects of this would be minimised because users/their carers would be offered the support of Penderels Trust. Penderels Trust is a direct payment support service and helps people to use direct payments to support them to live independently in the community.</p> <p>If LCC chooses to re-procure the day opportunities contracts, there is no perceived adverse effects specific to people with this protected characteristic.</p>
Gender reassignment	<p>No perceived adverse impact.</p>

Marriage and civil partnership	No perceived adverse impact.
Pregnancy and maternity	No perceived adverse impact.
Race	No perceived adverse impact.
Religion or belief	No perceived adverse impact.
Sex	No perceived adverse impact.
Sexual orientation	No perceived adverse impact.

If you have identified negative impacts for other groups not specifically covered by the protected characteristics under the Equality Act 2010 you can include them here if it will help the decision maker to make an informed decision.

There may be a negative impact on those people who are not eligible for adult social care. These people could potentially fall into any of the protected characteristics detailed above. These people would not be able to access the services through adult social care. This negative impact is potentially similar for all services provided by adult social care. Those people who are not eligible for adult social care will be offered information and advice on alternative services they may be able to access and/or services they may be able to purchase themselves privately.

There may be a negative impact on users if the provider who currently delivers their day services is not successful in meeting the minimum standards in order to gain a place on the ultimate contract mechanism, or indeed if their current provider chooses to not participate in the procurement process because they do not like an aspect or aspects of the process or of the updated contract mechanism. These users would be offered a direct payment, if they wished to remain with the same provider. However some users may not want to have a direct payment. These users would potentially need to change provider. If this was to occur, each case would be reviewed and considered on an individual basis. Adequate timescales would be agreed for a suitable transition. These users could include people with any of the protected characteristics noted above. However older people may be may less likely to want a direct payment.

As noted, procurement process leading to a new contract mechanism may result in current providers either not being accepted, or choosing not to contract with the Council based on an objection to the new form of contract. Users will either be offered the opportunity to remain with the same provider through use of a direct payment, or to change providers. A change of provider will impact on persons with a protected characteristic arising out of the location of services and/or employment impact on staff delivering the service. The staff employed by the current provider will be affected by the termination of the current agreement. Mitigating factors will relate to the legal protections that will be in place through TUPE and general employment laws. The contract that will be entered into will also contain clauses requiring the contractor to comply with the Equality Act.

Stakeholders

Stake holders are people or groups who may be directly affected (primary stakeholders) and indirectly affected (secondary stakeholders)

You must evidence here who you involved in gathering your evidence about benefits, adverse impacts and practical steps to mitigate or avoid any adverse consequences. You must be confident that any engagement was meaningful. The Community engagement team can help you to do this and you can contact them at consultation@lincolnshire.gov.uk

State clearly what (if any) consultation or engagement activity took place by stating who you involved when compiling this EIA under the protected characteristics. Include organisations you invited and organisations who attended, the date(s) they were involved and method of involvement i.e. Equality Impact Analysis workshop/email/telephone conversation/meeting/consultation. State clearly the objectives of the EIA consultation and findings from the EIA consultation under each of the protected characteristics. If you have not covered any of the protected characteristics please state the reasons why they were not consulted/engaged.

Objective(s) of the EIA consultation/engagement activity

A pre-market engagement activity was undertaken, to gain the thoughts and views of potential day care providers. The pre-market test was advertised locally and nationally and current providers and potential new providers were all invited to reply. The paper based questionnaire aims to collate views from potential providers on contracting issues, pricing, barriers to day care provision and areas of good practice.

Additionally, the Adult Social Care Commissioning Team has supported the development of a user questionnaire. The questionnaire has been developed alongside users, through the LD partnership and its sub groups. The final questionnaire has been put into Easy Read format and will be sent out in a variety of different formats.

Who was involved in the EIA consultation/engagement activity? Detail any findings identified by the protected characteristic

Age	TBC
Disability	TBC
Gender reassignment	TBC
Marriage and civil partnership	TBC
Pregnancy and maternity	TBC
Race	TBC
Religion or belief	TBC

Sex	TBC
Sexual orientation	TBC
Are you confident that everyone who should have been involved in producing this version of the Equality Impact Analysis has been involved in a meaningful way? The purpose is to make sure you have got the perspective of all the protected characteristics.	
Once the changes have been implemented how will you undertake evaluation of the benefits and how effective the actions to reduce adverse impacts have been?	

Further Details

Are you handling personal data?

Yes

If yes, please give details.

Personal data has been collated in order to understand day care user information. For example the number of users, spend, client group etc.

In addition some users may give personal information in the user consultation that may be considered sensitive. All data will be managed in line with the Data Protection Act and in line with LCC policy on data protection.

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Actions required	Action	Lead officer	Timescale
Include any actions identified in this analysis for on-going monitoring of impacts.			
Signed off by		Date	Click here to enter a date.

Appendix B – External Day Care Service Indicative Programme Procurement Timeline

