



**Open report on behalf of Glen Garrod, Director of Adult Social Services**

Report to:	<b>Adults Scrutiny Committee</b>
Date:	<b>29 June 2016</b>
Subject:	<b>Transitional and Reablement Beds Block Purchase</b>

**Summary:**

This item invites the Adults Scrutiny Committee to consider a report entitled Transitional and Reablement Beds Block Purchase which is due to be considered by the Executive Councillor for Adult Care on 29 June 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 Transitional and Reablement Beds Block Purchase on 29 June 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	Transitional and Reablement Beds Block Purchase – Report to Executive Councillor 29 June 2016
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### **5. Background Papers - None**

This report was written by Alexander Craig, who can be contacted on 012522 554070 or [alexander.craig@lincolnshire.gov.uk](mailto:alexander.craig@lincolnshire.gov.uk)

**Open report on behalf of Glen Garrod, Director of Adult Social Services**

Report to:	<b>Executive Councillor for Adult Care</b>
Date:	<b>29 June 2016</b>
Subject:	<b>Transitional and Reablement Beds Block Purchase</b>
Decision Reference:	<b>I011417</b>
Key decision?	<b>Yes</b>

**Summary:**

Increasing demand for services alongside challenging market conditions within the Residential Care sector continue to place increasing pressure on the Council to find sufficient capacity within the usual costs for care. This is particularly prevalent in the south of the County. This report seeks approval from the Executive Councillor to enter into block purchasing agreements in addition to the existing Residential Framework Agreement that will offer increased and fixed capacity for residential care. By securing such capacity the Council will be in a stronger position to be able to manage increasing demand within existing financial and market based constraints.

It is proposed that this procurement will also be carried out on behalf of health (Lincolnshire's Clinical Commissioning Groups (CCGs) and Lincolnshire Community Health Services Trust (LCHS) for nursing and non-nursing beds. Approval is therefore also sought for the entering into of an agreement under section 75 of the National Health Service Act 2006 to create a pooled fund and to enable the Council to act as lead commissioner for health related provision.

Due to a limited window of opportunity to secure a number of currently available beds the competition phase for the procurement has already been initiated and will be awarded subject to the approval sought via this report and the conclusion of a suitable section 75 Agreement.

**Recommendation(s):**

That the Executive Councillor

1. Approves the procurement of a block of not more than 32 Transitional Care and Reablement beds at a cost no higher than the Council's usual

cost for Higher Dependency care (£480 per week) a further 60 beds on behalf of LCHS; 37 beds at £480 per week and 23 nursing beds at £581 per week.

2. Approves the entering into of an agreement under section 75 of the National Health Service Act 2006 with Health bodies to enable the creation of a pooled fund and lead commissioning arrangements in relation to block purchasing of Transitional Care and Reablement Nursing and Non-Nursing Beds.
3. Delegates to the Director of Adult Care in consultation with the Executive Councillor for Adult Care the authority to determine the final form and approve the entering into of the proposed section 75 Agreement and to conduct the procurement and determine the terms and final form of the contracts and to approve the award of contracts and the entering into of all contract and other legal documentation necessary to give effect to the said contract/s.

**Alternatives Considered:**

1. Do nothing: The council is beginning to experience instances of acutely limited supply of residential care in the County. Evidence now shows a trend towards increasing provider costs and stagnant or diminishing supply. In order to properly manage the existing level of demand as well as the increases anticipated within the next few years it would not be prudent to allow current pressures to increase without due regard to alternative contracting approaches.
2. Increase prices in order to encourage an increase in supply: The Council has already carried out detailed work in establishing a fair usual cost for residential care services which was approved in February 2015 which takes account of the cost of provision and affordability for the Council. The approach is lawful and it would not be affordable to vary from this approach.
3. Build capacity via in house provision and/or seek to establish new provider led care homes: While this option would provide the optimal solution in delivering brand new capacity not already available it would take a considerable amount of time and investment to achieve. That being said this option is currently being developed in more detail.
4. Not to commission on behalf of health. Two procurement processes would be required by different parts of the public sector for similar provision which would be costly and inefficient.

**Reasons for Recommendation:**

Current market conditions mean that there are real limitations on the amount of available capacity for residential services, this is only set to increase in scope

and intensity unless appropriate actions are taken. In securing a fixed number of beds at Usual Costs the council will be able to manage demand for residential care with greater control over the short to mid-term and ensure, as much as is possible, that suitable offers are available to people who require residential care. This will then allow for longer term solutions to be developed and deployed.

There are numerous benefits to all involved from a more integrated way of delivering residential services through joint working with health, including decreased funding risks to providers and ultimately increased choice to service users.

## **1. Background**

- 1.1. The Care Act 2014 sets out, amongst many other things, the Councils duties in preventing, reducing, delaying and meeting assessed needs including providing residential care services.
- 1.2. Section 5 requires that a local authority must promote the efficient and effective operation of a market of services for meeting care and support needs. The Act places new duties on local authorities to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways.
- 1.3. In addition to the Act statutory guidance has been issued by the Department of Health and further legislative provision can be found in the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.
- 1.4. The effect of the Act, Choice Regulations and Guidance is to require the Council to facilitate and shape their market for adult care and support as a whole. In turn adults are entitled to express a preference for accommodation of their choice, and provided that accommodation meets certain criteria and is in accordance with assessed need local authorities are then required to facilitate that choice.
- 1.5. There is increasing evidence that market factors, both nationally and locally, tend towards decreasing levels of supply of residential care at local authority rates and a broader shift to more profitable sectors of the market i.e. private funders.
- 1.6. It follows that where the Council is aware of emerging indications that the market for residential care is changing in such a way it may place real limitations on the Council's ability to manage its duties under the Care Act.
- 1.7. Local authority funding to the Lincolnshire market for residential services has generally been well received and has allowed the County to avoid many of the more acute pressures being faced in other parts of the Country. However the prevailing financial pressures across the entire sector

continues to represent a clear challenge to both Local Authorities and care providers in being able to respond to increasing demand.

## **2. Current Arrangements**

- 2.1. The Council has in place a Framework Agreement for the provision of residential care within Lincolnshire. Placements are made under this framework under a 'call-off' process. This process means that there are no reserved beds for the Council's requirements.
- 2.2. This arrangement provides a highly flexible and responsive method to make placements by allowing CQC registered providers to offer services thus maximising the scope for service users expressing their choice.
- 2.3. Under the Choice Regulations the Council is not required to place a person in their preferred accommodation if (amongst other things) the cost to the local authority of providing or arranging for the provision of the preferred accommodation is greater than the amount specified in the adult's personal budget that relates to the provision of accommodation of that type. This is the Council's Usual Cost
- 2.4. Analysis has shown that the number of available beds at the Council's Usual Cost has fallen both overall within the County but more specifically in the south. The analysis to date, and referenced within this report, focuses on care homes delivering Older Persons care and does not include homes focusing exclusively on Physical Disability, Learning Disability, Mental Health or Nursing.
- 2.5. While the number of registered beds has increased across the county since 2014 (7030 to 8064) vacancies have fallen (824 to 667) so overall available capacity has fallen from 11.72% to 8.27%. Actual vacancy number fluctuates on a weekly basis however evidence shows this decrease as a consistent trend.
- 2.6. In the south of the county this is more pronounced. The area covered by the South CCG has seen capacity fall from 14.4% to 7.5% and the area covered by the Southwest CCG currently only has 3.6% of beds vacancy at any time.
- 2.7. In the south, as defined by the South and Southwest CCG areas, there are 76 homes delivering Older Persons Care, 18 homes at usual cost, 58 homes with no usual cost provision.

With respect to nursing beds the numbers are even more pronounced with only three nursing beds available at Usual Cost in the South CCG and no nursing beds at Usual Cost in the South West CCG.

- 2.8. Market shaping duties and the role of choice comes into much sharper focus when there exist larger zones wherein it is hard to make placements at Usual Cost. In the case of more isolated areas that are surrounded by

less severe zones there is greater flexibility to find viable alternative offers.

- 2.9. Further work is underway to analyse the entire Lincolnshire market for all adults services and will form part of a broader strategy to address ongoing pressures, identify specific areas of concern or opportunity within the Council, and develop evidence based solutions that meet the needs of Lincolnshire residents.
- 2.10. In the meantime there are clear issues within the south of the county requiring immediate action to identify and reserve capacity..
- 2.11. Furthermore, the current health contracts for Intermediate Care beds expire in August and as a result there are 33 beds under this arrangement in which can be brought into scope for potential bidders. There are a further 28 Health commissioned Intermediate Care beds which may also be made available to the market as part of these arrangements. This will require joint working with health which is explored in the next section.

#### **JOINT WORKING WITH HEALTH**

- 2.12. As Lincolnshire Health bodies operate within the same market and face the same challenges as the Council with regard to securing capacity and managing costs LCC and CCGs, via LCHS, have reached an agreement which would see the establishment of a single contracting arrangement that will meet the needs of all parties. By doing so there would be numerous benefits to all involved from a more integrated way of delivering residential services, decreased funding risks to providers and ultimately increased choice to service users. The proposal is that the proposed procurement would be led by the Council but also on behalf of LCHS in turn acting with the authority of the Lincolnshire CCGS.
- 2.13. Any subsequent contracts would be between providers and LCC. LCC would make payment from a pooled fund containing a contribution from health sufficient to cover the cost of the beds purchased on their behalf.
- 2.14. Consideration has been given to how to secure the the joint working and funding between LCC and Health bodies. It is proposed that this should take the form of a section 75 agreement between LCC and LCHS creating a pooled fund including a contribution from health and lead commissioning arrangements under which LCC is authorised to exercise LCHS's commissioning function in procuring the health requirement for beds.
- 2.15. In addition to the Council's 32 beds LCHS on behalf of the CCGs aim to secure a further 60 beds, 23 nursing and 37 non-nursing beds, to be distributed across the county.

- 2.16. Funding from Health has been agreed at £1.9m p.a. for the next three years which also takes into consideration the impact of Funded Nursing Care void liabilities.
- 2.17. Contract monitoring and management would be the responsibility of LCC Commercial Team and as such the Council would be paid by LCHS for this work through the section 75 Agreement. Further detail relating to the section 75 Agreement is set out later in this report.

### **3. THE BLOCK PURCHASING MODEL**

- 3.1. The proposed new block Purchase arrangement would be a supplementary measure in addition to the longstanding Residential Framework that seeks to establish a degree of certainty of supply to meet the Council's requirements.
- 3.2. It is proposed that a maximum of 32 beds be procured for LCC to be distributed in areas that have the highest need for capacity at the Council's Usual Cost. Health beds would be distributed in a similar manner based upon the areas defined by Health.
- 3.3. Work will continue on a wider basis to seek longer term solutions to emerging pressures within the Residential market however many of these may require new capacity in the County.
- 3.4. Commercial arrangements are already in place with over 98% of Lincolnshire care homes and any Block Purchasing agreement will be based squarely on these existing contracts. In effect these arrangements merely formalise and secure existing arrangements into a longer term with the benefit of the Council have surety of supply and the opportunity for bidders to secure a guaranteed level of income.
- 3.5. The specification for services will not change materially and as such will not directly affect service users. In fact these measures are wholly designed to improve the ability of the Council to make effective residential placements and increase choice to service users. There will be minimal changes to the specification to reflect the Multi-Functional nature of the beds being purchased.
- 3.6. Beds will be 'Multi-Functional' and inherently more flexible than a standard residential bed. The beds will be utilised in such a way to take fullest advantage of the additional flexibility provided.
- 3.7. The maximum costs associated for LCC requirements are based on an expected maximum of 32 beds along with the previously agreed increases to HD costs for 2 years and a similar increase for the final 3 years. As the underlying Usual Cost rate may change over the duration of the proposed contracts the cost of the service may be required to change as a result.



	<b>Yearly Costs</b>	<b>Cumulative cost</b>
9 months of 2016/17	£552,960	£552,960
2017/18	£828,598	£1,381,558
2018/19	£858,608	£2,240,166
2019/20	£885,283	£3,125,450
2020/21	£915,293	£4,040,742

- 3.8. The cost model has been based upon the existing Usual Cost for Higher Dependency services as the beds may be utilised for HD needs as the highest tier of care available under the contract for Council requirements. However, given the 'multi-purpose' nature of the beds, it is highly likely that beds will be utilised for other purposes such as respite or standard residential care and as such the reduced cost of delivering these services will form part of the providers ability to offer the necessary flexibility and responsiveness particular to Transitional Care and Reablement beds. Similarly by paying for the beds while they are 'Void' there is increased incentive for bidders to offer beds where they may not have previously done so under existing arrangements.
- 3.9. These costs are a theoretical maximum given that the Council would indeed be purchasing some of the beds in scope for this procurement over the next 3-5 years but on a spot basis under the existing framework.
- 3.10. The variable cost in the Block Purchasing approach is in that the Council will pay for beds with no residents (voids) to reserve them for LCC requirements.
- 3.11. Through the procurement process bidders will be asked to offer an optional discounted rate for voids depending on the overall levels of occupancy. Therefore costs may be lower if bidders are willing to offer discounted rates
- 3.12. The proposed duration for these arrangements is three years with a two one year extensions available resulting in a maximum of five years. No extension would be provided for health beds unless continued funding has been secured.
- 3.13. Block bed contracts will be awarded on the following basis and awarded in two lots.

#### **LCC Beds**

- 3.13.1. Proximity to the identified areas understood to have the most difficulty in making placements at Usual Cost
- 3.13.2. Any potential discount on void payments
- 3.13.3. First preference will be for 'new' beds i.e not already utilised under current arrangements
- 3.13.4. Secondary to this are beds already in use – by turning these into block beds ongoing capacity is secured
- 3.13.5. Top ups are not available with these beds

- 3.13.6. A quality threshold process
- 3.13.7. Care Homes must not have a CQC rating as inadequate
- 3.13.8. Suspensions, breaches, or prior defaults may exclude a provider based upon the severity, timeliness, and relevance of each incident

#### **Health Beds**

- 3.13.9. Any potential discount on void payments
- 3.13.10. First preference will be for 'new' beds i.e not already utilised under current arrangements
- 3.13.11. Secondary to this are beds already in use – by turning these into block beds ongoing capacity is secured
- 3.13.12. Top ups are not available with these beds
- 3.13.13. A quality threshold process Care Homes must not have a CQC rating as inadequate
- 3.13.14. Suspensions, breaches, or prior defaults may exclude a provider based upon the severity, timeliness, and relevance of each incident

#### **4. LEGAL**

- 4.1. In reaching decision to approve the entering into of new section 75 Agreements for corporate and proactive care, the Executive must have regard to certain statutory pre-conditions, namely
  - (a) the partnership arrangements must be likely to lead to an improvement in the way in which the functions are exercised; and
  - (b) the Partners must have consulted jointly such persons as appear to them to be affected by the arrangements.
- 4.2. The way in which the statutory pre-conditions apply to the Corporate Section 75 Agreement is as follows.
  - (1) The partnership arrangements must be likely to lead to an improvement in the way in which the functions are exercised.
  - (2) The Partners must have consulted jointly such persons as appear to them to be affected by the arrangements.

The partners will keep under review through other mechanisms including LHAC the potential impacts of the services commissioned and undertake consultation as appropriate.

- 4.3. The proposed section 75 Agreement enables procurement activity to be jointly carried out This will lead to improved efficiency of procurement and greater integration of decision-making.

- 4.4. No specific consultation has taken place concerning the proposals set out in this Report. These proposals are essentially about governance and do not change the way in which individual services are delivered. There are not therefore considered to be any persons who will be affected by these particular arrangements.

### **Equality Act 2010**

- 4.5. The Council's duty under the Equality Act 2010 needs to be taken into account by the Executive Councillor when coming to a decision.
- 4.6. The Council must, in the exercise of its functions, have due regard to the need to:
- 4.7. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- 4.8. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 4.9. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 section 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation: section 149(7).
- 4.10. Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:
- 4.11. Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- 4.12. 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.
- 4.13. 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.
- 4.14. 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.
- 4.15. 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.

- 4.16. Compliance with the duties in this section may involve treating some persons more favourably than others.
- 4.17. A reference to conduct that is prohibited by or under this Act includes a reference to:
- (a) A breach of an equality clause or rule
  - (b) A breach of a non-discrimination rule
- 4.18. It is important that the Executive Councillor is aware of the special duties the Council owes to persons who have a protected characteristic as the duty cannot be delegated and must be discharged by the Executive. The duty applies to all decisions taken by public bodies including policy decisions and decisions on individual cases and includes this decision.
- 4.19. To discharge the statutory duty the Executive must analyse all 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.
- 4.20. Given these arrangements do not alter the provision of residential care with regard to the quality of services being delivered or any cost to service users no additional adverse impacts are to be expected.
- 4.21. Child Poverty Strategy**
- 4.22. 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.
- 4.23. 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.
- 4.24. The Strategy has been taken into account in this instance and does not have any impact due to the specific nature of the Residential and Nursing Care services in question being provided to adults.

## **Wellbeing Strategy (JHWS)**

- 4.25. 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 Wealth & Wellbeing Strategy (JHWS).
- 4.26. 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:-
- Promoting healthier lifestyles
  - Improving the health and wellbeing of older people
  - Delivering high quality systematic care for major causes of ill health and disability
  - Improving health and social outcomes and reducing inequalities for children
  - Tackling the social determinants of health
- 4.27. Under the strategic theme of improving the health and wellbeing of older people in Lincolnshire there are 3 relevant priorities;
- 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.
- 4.28. The proposed measures to increase residential capacity and assuredness of provision will contribute directly to the delivery of these priorities by helping to ensure that services for older people (including those who are frail or suffering from dementia) are locally based, cost effective and sustainable.
- 4.29. Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.
- 4.30. Due regard has been had to the section 17 matters and the proposals in this Report are not considered to have any direct effect on the matters listed.

## **2. Conclusion**

Current commercial arrangements for residential care allow the council to meet its duties under the Care Act however as market conditions become more challenging the need for additional measures to manage capacity in the market become clear. The approach taken in this report seeks to establish a rationale, the evidence for, and a way of, realising such a measure and that by implementing an additional layer of block purchased beds over and above our traditional framework the Council, and Health partners, will be in a stronger position to ensure vital services continue to be delivered successfully.

### **3. Legal Comments:**

The Council has the power to contract in the way proposed and to enter into the proposed section 75 Agreement. The detailed legal considerations are dealt with in the Report.

The proposal is consistent with the Policy Framework and within the remit of the Executive Councillor if it is within the budget.

### **4. Resource Comments:**

Increasing demand for services alongside challenging market conditions within the Residential Care sector continue to place increasing pressure on the Council to find sufficient capacity within the usual costs for care. The proposal to purchase beds via a block contract arrangement will help enable Lincolnshire County Council to maintain a certainty of supply of residential care across the county and in areas where purchasing at its "usual cost" is becoming increasingly difficult.

## **5. Consultation**

**a) Has Local Member Been Consulted?**

**b) Has Executive Councillor Been Consulted?**

**c) Scrutiny Comments**

The Adults Scrutiny Committee is due to consider this report on 29 June 2016. Its comments will be reported to the Executive Councillor.

#### **d) Policy Proofing Actions Required**

### **6. Appendices**

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

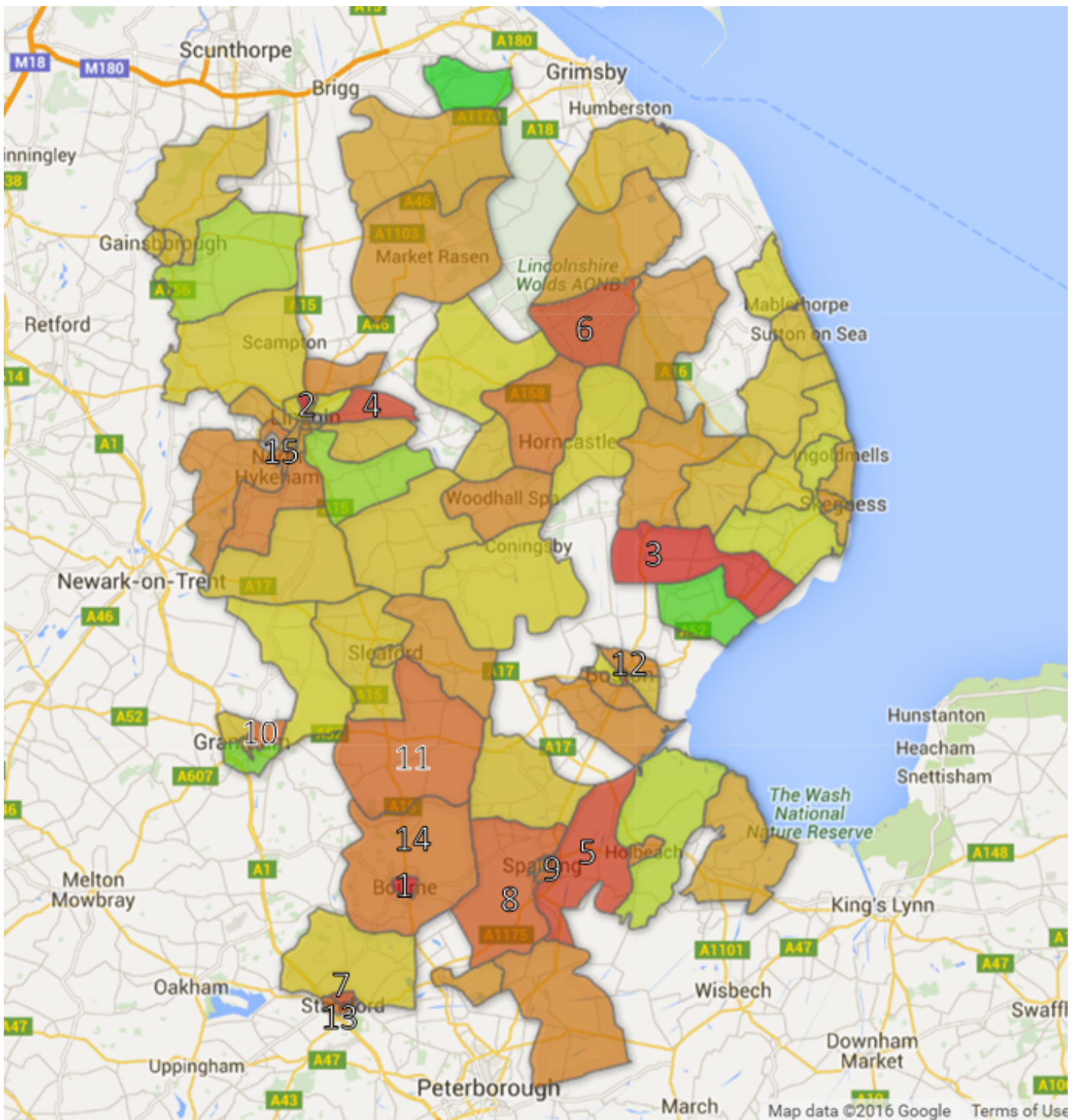
Appendix A - Postcode Areas

Appendix B - Block Purchasing Equality Impact Assessment

### **7. Background Papers - None**

This report was written by Alexander Craig, who can be contacted on 012522  
554070 or [alexander.craig@lincolnshire.gov.uk](mailto:alexander.craig@lincolnshire.gov.uk)

## Appendix A – Postcode Areas



### Postcode Ranking

- |   |        |    |        |
|---|--------|----|--------|
| 1 | PE10 9 | 9  | PE11 2 |
| 2 | LN1 3  | 10 | NG31 9 |
| 3 | PE22 8 | 11 | NG34 0 |
| 4 | LN3 4  | 12 | PE21 6 |
| 5 | PE12 6 | 13 | PE9 2  |
| 6 | LN11 9 | 14 | PE10 0 |
| 7 | PE9 1  | 15 | LN6 8  |
| 8 | PE11 3 |    |        |



## 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

<b>Title of the policy / project / service being considered</b>	Transitional and Multi-Purpose Residential Beds Block Purchase	<b>Person / people completing analysis</b>	Alexander Craig
<b>Service Area</b>	Adult Social Care	<b>Lead Officer</b>	Pete Sidgwick
<b>Who is the decision maker?</b>	Portfolio holder/Lead Member	<b>How was the Equality Impact Analysis undertaken?</b>	Desktop exercise by Alexander Craig. Alongside engagement activity being undertaken through the Commercial Team and Adults Operational Teams.
<b>Date of meeting when decision will be made</b>	29/06/2016	<b>Version control</b>	V1
<b>Is this proposed change to an existing policy/service/project or is it new?</b>	Existing policy/service/project	<b>LCC directly delivered, commissioned, re-commissioned or de-commissioned?</b>	Commissioned
<b>Describe the proposed change</b>	A procurement activity to purchase a fixed number of Transitional and Multi-Purpose Residential Beds for a period of no longer than 5 years. This measure acting as a supplementary layer of contracts in addition to the existing Residential Framework agreement which remains the primary way in which residential care is delivered.		

### **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 1<sup>st</sup> 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*'.

<b>Age</b>	The procurement of number of Transitional and Multi-Purpose Residential beds is designed to provide enhanced choice of residential care to Older People within Lincolnshire as well as improve the overall stability of the local residential care market. These beds will, as per the existing Residential Framework agreement, be available for the provision of residential care for over 65s.
<b>Disability</b>	No positive impact
<b>Gender reassignment</b>	No positive impact
<b>Marriage and civil partnership</b>	No positive impact
<b>Pregnancy and maternity</b>	No positive impact
<b>Race</b>	No positive impact

<b>Religion or belief</b>	No positive impact.
<b>Sex</b>	No positive impact
<b>Sexual orientation</b>	No positive impact

**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.**

**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'.**

<b>Age</b>	No perceived adverse impact. The proposed arrangements are supplementary and an enhancement of the existing provision for Older Persons residential care. The fundamental elements of the Council's residential provision will remain the same with no changes to the nature of the services being delivered or the funding available to providers.
<b>Disability</b>	The proposed arrangements do not alter the existing service provision for Physical Disability residential care and therefore there are no perceived adverse impacts.
<b>Gender reassignment</b>	No perceived adverse impact.
<b>Marriage and civil partnership</b>	No perceived adverse impact.
<b>Pregnancy and maternity</b>	No perceived adverse impact.



<b>Race</b>	No perceived adverse impact.
<b>Religion or belief</b>	No perceived adverse impact.
<b>Sex</b>	No perceived adverse impact.
<b>Sexual orientation</b>	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.**

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### 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](mailto: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.

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#### Objective(s) of the EIA consultation/engagement activity

No additional consultation activity

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

<b>Age</b>	NA
<b>Disability</b>	NA
<b>Gender reassignment</b>	NA
<b>Marriage and civil partnership</b>	NA
<b>Pregnancy and maternity</b>	NA
<b>Race</b>	NA
<b>Religion or belief</b>	NA

<b>Sex</b>	NA
<b>Sexual orientation</b>	NA
<b>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?</b> The purpose is to make sure you have got the perspective of all the protected characteristics.	Due to the manner of the proposed changes being supplementary, and not regressive ,of the existing provision the scope of impact is understandable without wider consultation.
<b>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?</b>	Benefits will be based upon

**Further Details**

<b>Are you handling personal data?</b>	<p>No</p> <p>If yes, please give details.</p> <p>.</p>
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<b>Actions required</b>	<b>Action</b>	<b>Lead officer</b>	<b>Timescale</b>
Include any actions identified in this analysis for on-going monitoring of impacts.			
<b>Signed off by</b>		<b>Date</b>	Click here to enter a date.

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