

**Open Report on behalf of Glen Garrod,
Executive Director of Adult Care and Community Wellbeing**

Report to:	Executive Councillor for Adult Care, Health Services and Children's Services
Date:	Between 13 – 17 April 2018
Subject:	Shared Lives Services Re-Procurement
Decision Reference:	I015180
Key decision?	Yes

Summary:

Shared Lives services offer people an opportunity to receive their care and support in a family based environment. This arrangement is often an alternative to residential care, or a person living independently with support. Shared Lives services can also be utilised when placements with the service users own family come under pressure or completely break down.

There is a range of national evidence that confirms that Shared Lives services help to deliver community and family based living, and promote independence and control to the service user. There is also evidence that suggests Shared Lives provision can often provide improved Value for Money in comparison to some residential based placements and community based packages of care, although Shared Lives placements are traditionally only used for people with lower level needs and not those with complex needs.

Currently just 0.53% of the adult social care population in Lincolnshire benefit from Shared Lives compared to 2.2% in the 'best performing' North West region. There is an ambition to achieve growth in the use of Shared Lives services in Lincolnshire, and this has been confirmed as a priority area of work by the Adult Care and Community Wellbeing Senior Management Team.

The Council's existing contract for Shared Lives services is approaching its maximum duration, which coupled with the lack of growth, necessitates a review of the contract scope and a re-procurement of the service in 2018. This report gives an update on the proposed re-commissioning and seeks approval to proceed with the re-procurement.

Recommendation(s):

That the Executive Councillor:

1. Approves that the Shared Lives Service be re-commissioned and a procurement undertaken to deliver a contract, to be awarded to a single provider of a county-wide service for Shared Lives effective from the 3 January 2019.
2. Approves the scope of the commissioned service generally set out in paragraph 7.1.1 of the Report and the contract duration set out in paragraph 7.4.1 of the Report.
3. Delegates to the Executive Director of Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care Health and Children's Services the authority to determine the final form of the contract, to approve the award of the contract and entering into the contract, and any other legal documentation necessary to give effect to the decision set out in paragraphs 1 and 2 above.

Alternatives Considered:**1. Negotiate a revised contract with the current provider**

The current contract has been extended by a year and a half of its available two year extension. Therefore this option will only provide an opportunity to extend by a maximum of a further six months.

2. Deliver the Service In-house

A commissioning review considered alternative delivery channels, including bringing the service in-house. However the associated risks, coupled with evidence from market engagement that there is a viable market for external delivery of the service, led to a decision that a contracted service remains the preferred delivery mechanism.

3. To do nothing

Shared Lives Services are an important strand of adult social care provision by Lincolnshire County Council. They meet the Council's commitment to "Quality Matters" and the person centred elements of the Care Act 2014. In addition the services are seen as providing a better quality of life for the individual at the same time as being a cost effective care and support mechanism.

Reasons for Recommendation:**1. Current Contract Expiry**

The current service contracts expire on 30 June 2018 and a further extension has been agreed with the principal provider through to 31 December 2018. It is recommended to commence the procurement in order to facilitate both the re-tender and a mobilisation period sufficient to allow potential for new entrants to the market to mobilise effectively, and to

commence the new contract in January 2019.

2. The Need for Service Growth

The service has not seen any significant growth in placements during the current contract term. Various factors have contributed to the lack of growth, and a re-procurement provides an opportunity to address these issues and support the development and growth of the service.

3. Supports Statutory Requirements

The recommendation addresses and supports statutory requirements under the Care Act 2014 for Local Authorities to enable access to services that contribute towards preventing or delaying the development of health and care needs.

1. Background

- 1.1 Shared Lives services offer people an opportunity to receive their care and support in a family based environment. This arrangement is often an alternative to residential care, or a person living independently with support. Shared Lives services can also be utilised when placements with the service users own family come under pressure or completely break down.
- 1.2 Shared Lives provides highly personalised arrangements where decisions about support and care are made in partnership with the service user. This also ensures that wherever possible the service user and the Shared Lives carer share the same interests and that the Shared Lives carer can support the service user to pursue their hobbies and interests and help them remain part of the community.
- 1.3 It is a regulated form of social care which has traditionally been used primarily for people with learning disabilities.
- 1.4 In many ways Shared Lives services are similar to Foster Care placements for Children, but for Adults with social care and or health care needs. Service users will normally move into the home of the person who provides care and support, or alternatively the carer can provide the care and support in the service users own home. Shared Lives carers are normally recruited and trained by a Shared Lives agency. The agency pays a fee to the carer but the carer can also charge the service user rent and a contribution for food and other household expenses. These costs are paid directly by the service user from their own funds and benefits rather than by the Council.
- 1.5 One of the key benefits of Shared Lives is that it offers trained and professional care, as part of a regulated service, without taking people away from their friends, families and communities, instead helping people to maintain and widen their social support networks.

2 Strategic Drivers

- 2.1 The Care Act 2014 places a duty on local authorities to enable access to services that contribute towards preventing or delaying the development of care needs. It also establishes the “wellbeing principle”, making promoting wellbeing the core purpose of local authorities’ exercise of their care and support functions. Wellbeing is defined as relating to a range of factors including social wellbeing, contribution to society and personal and family relationships.
- 2.2 There is a range of national evidence that confirms that Shared Lives services help to avoid the need for Residential based services, promotes community and family based living, and promotes independence and control to the service user. There is also evidence that suggests Shared Lives provision can often provide improved Value for Money in comparison to Residential based placements and some community based packages of care.
- 2.3 The national shortfall in suitable and affordable housing is becoming a key issue for Adult Care. Whilst housing has not been a direct responsibility of the County Council, the absence of housing options for service users means it is becoming more and more difficult to support people in the community. Whilst the Council is exploring the use of capital to provide new and additional accommodation options, Shared Lives services provide a further option for community based living without the need for capital investment.
- 2.4 In statistics provided to us by Shared Lives Plus (Network Organisation for Shared Lives Scheme operators) in their 2017 report 'Lincolnshire County Council Baseline Analysis and Expansion Modelling', the shared lives sector has seen 31% growth over the last three years and positive outcomes experienced by people using Shared Lives are reflected in 92% 'good' or 'outstanding' ratings awarded to schemes by CQC; with cost analysis indicating significant cost savings of Shared Lives over other more traditional forms of social care at £26,000 per annum for people with a learning disability and £8,000 per annum for those with mental ill health (although to re-iterate it should be noted that this does not take account of differences in the complexity of needs between those supported in shared lives arrangements and those in other types of care).
- 2.5 These factors are recognised and as a consequence, the ambition to achieve growth in the use of Shared Lives services in Lincolnshire has been confirmed as a priority area of work by the Adult Care and Community Wellbeing Senior Management Team.

3 Service Delivery

- 3.1 Originally Shared Lives services were provided directly by the County Council until a decision was made in 2005 to out-source the service. The out-sourced service became the company now operating as Adults Supporting Adults (ASA).

- 3.2 In 2014 the Council retendered the Shared Lives service, establishing a framework contract for Long Term Shared Lives provision for a maximum duration of 5 years. Two providers were successful in joining the framework, the incumbent ASA and a new provider, Olympus Care Services. The existing Long Term Placements with ASA transferred to the new contractual arrangements and the new provider had no existing provision within Lincolnshire.
- 3.3 There are currently 43 people using the service for the purpose of long term accommodation through ASA, as per the breakdown in the table below:

People with a learning disability	38
People with a mental health problem	4
Older people	1

- 3.4 The service is also available for people that have a physical disability and/or sensory impairment although there are no current placements for these user groups.
- 3.5 The current service model, in which there are two providers of SL arrangements on a framework contract with a scope limited to long-term placements; has not achieved growth in long term SL placements over the last 3 years of operation. Only one provider has any placements, with the other not actively pursuing opportunities for initial placements or growth.

4 Challenges for the Current Service

- 4.1 It has been identified that there are a number of potential barriers to growth within the existing service model. These include:
- 4.1.1 The need for upfront investment by the provider to recruit and train potential carers, which coupled with a contract that offers no commitment to future demand or pipeline of future placements has resulted in a reluctance on the part of the providers to invest in building their capacity to accept new referrals;
 - 4.1.2 Challenges associated with having carers in the right locations where care is needed (given the size and rurality of Lincolnshire as a County);
 - 4.1.3 Referral pathways into the service may not be functioning effectively, thus inhibiting growth of the service.
 - 4.1.4 Associated Shared Lives services such as short breaks and respite placements, sitting services and daytime support could support the development of long-term placements but these are outside the scope of the current contract.

5 Opportunity for Growth

- 5.1 Currently just 0.53% of the adult social care population in Lincolnshire benefit from Shared Lives compared to 2.2% in the 'best performing' North West region. Lincolnshire is consistent with East of England region which has the lowest use of Shared Lives at 0.5% of its adult social care population and Lincolnshire falls behind the East Midlands region which has an average of 1.1%.
- 5.2 Adult Care and Community Wellbeing DMT would like to achieve growth in the use of Shared Lives provision in Lincolnshire over the next three years in comparison to the current baseline position. In relation to growth, volume of shared lives provision should compare well if not exceed that of Audit Family comparator group in relation to benchmarking data. The best opportunity to exceed the best existing performance is to target a growth in short term placements that may then lead to longer term arrangements. This is a strategy that the Council has attempted to pursue with existing providers but without success.

6 Market Engagement

- 6.1 A Prior Information Notice was published on 3 August 2017. This initiated a process of pre-tender market engagement which incorporated a questionnaire and an engagement event that was held on the 7th September 2017. The process was effective in engaging existing Shared Lives Providers in the market, as well as some potential new entrants to the market currently operating in other parts of the care sector, and provided assurance that there is interest and capacity in the market to deliver the proposed Service.
- 6.2 Additionally, members of the project team have visited a Shared Lives scheme operating in another area and were able to gain useful insight into the way in which Shared Lives schemes operate with a broader scope than the existing Lincolnshire service.
- 6.3 Final stage of the market engagement activity involves sharing the draft Specification with providers who have expressed an interest in the procurement process for comments and feedback. This feedback will be used to test, validate the proposed Shared Lives Model, described below, prior to finalisation.

7 Commercial Approach

7.1 Contract Scope

- 7.1.1 The service specification has been comprehensively reviewed and revised to ensure it is fit for purpose for the new contract, and in particular the new scope of the service is designed to address some of the key challenges inhibiting the growth of the current service. For example, it will be inclusive of a broader range of shared lives service options, including long term placements, short term placements, day

time or sessional support, and transitional care (designed to facilitate timely discharge from hospital) which will strengthen referral pathways into the long term support service.

7.2 Contract Structure

- 7.2.1 It is proposed that the Council procure a countywide service from a single service provider. This structure will offer commitment of future demand and, alongside a clear, transparent and fair payment structure, will allow the successful provider to invest in building the capacity required to support the Councils growth ambitions for the service.

7.3 Payment and Performance Management

- 7.3.1 The annual budget for the Shared Lives Service is currently £616,000. If growth is to be achieved, the budget will need to increase accordingly. To enable this, additional budget will need to be allocated each year either through virement from other budget codes and or through the Council's annual budget process.
- 7.3.2 The payment and performance mechanism will be designed to ensure ongoing value for money and service quality is achieved. It is likely to include pre-determined aspects, such as the level of payments to be made to placement providers according to the level of support they offer, and a management fee to cover the costs of service of the provider for which there will be a greater level of transparency than in the current contract.
- 7.3.3 The final cost of services will be determined through the tender process.
- 7.3.4 Contract performance will be driven through a performance framework linked to manageable, measurable and achievable targets aligned to the agreed key performance indicators. In this way the provider will be accountable against the required minimum activity expectations and the qualitative outcomes. The detail of the payment and performance mechanism will be finalised following analysis of feedback from the final stage of Market Engagement, but it is anticipated that service credits will be levied where performance falls short.
- 7.3.5 A clear governance, reporting and monitoring structure will be incorporated that will allow for efficient coordination of activities as well as gateways to enable any new initiatives to be introduced.

7.4 Contract Commencement and Duration

- 7.4.1 The optimum duration for the new contract has been tested as part of the market engagement exercise, and it is proposed that the contract term will be three years with an option to extend for a period or periods of up to a further two years, or a maximum of five years. This term being intended to provide confidence and financial assurance for the successful provider, and to make the opportunity sufficiently attractive to potential providers, who do not already have established infrastructure in the County, to tender.

- 7.4.2 The contract will enable the Council to terminate early in the event of poor performance.
- 7.4.3 The current contract end date is 30 June 2018, but a six month extension has been agreed with the incumbent provider to 31 December 2018. This will allow for a generous mobilisation period to enable the successful provider to implement the contract effectively.

7.5 Tender process

- 7.5.1 The Procurement will be 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 provider is awarded the single provider status will be based on their evaluation performance.
- 7.5.2 Re-procuring the service will allow the Council to ensure the funding provided to the Provider is part of a legally compliant and effective commercial arrangement.
- 7.5.3 The Invitation to Tender (ITT) evaluation will focus on service quality and the capability of the provider and any organisations they may wish to form sub-contracting arrangements with to deliver the required work and quality outcomes across the county set against clearly defined financial budgetary controls.
- 7.5.4 The Invitation to Tender Document will include the following:
- A specification that is clear in scope, interpretation and expectations;
 - Full terms and conditions;
 - Appropriate award and evaluation criteria;
 - A realistic, appropriate and robust performance management framework; and
 - An emphasis on partnership working and effective referral/signposting mechanism.

7.5.5 Tender Timescales

Issue the ITT	23 April 2018
Evaluation period	29 May 2018 to 8 June 2018
Standstill period	19 June 2018 to 29 June 2018
Contract Award	2 July 2018
Mobilisation period	2 July 2018 to 2 January 2019
Go Live	3 January 2019

8 Procurement implications

- 8.1 Under the Public Contracts Regulations (PCR) 2015 activities relating to social care are generally dealt with under a 'Light Touch Regime' (LTR) which conforms to the general principles of the EU Procurement Directive but does not impose any strict procedural requirements. Training services are also captured under this regime.

- 8.2 While this regime allows for a much greater degree of flexibility as well as unique exceptions it does not mean the Council is free to award contracts without any regard to competition
- 8.3 The threshold at which LTR contracts must be formally competed for is procurements is €750,000 or approximately £640,000.
- 8.4 It is the intention to issue an OJEU Notice for publication on 23 April 2018 and a Contract Award Notice will be issued on any award to a successful bidder.
- 8.5 To verify that there will be sufficient competition within the procurement, a Prior Information Notice was published on 3 August 2017. This initiated a process of pre-tender market engagement.
- 8.6 In carrying out this procurement the Council will ensure the process utilised complies fully with the EU Treaty Principles of Openness, Fairness, Transparency and Non-discrimination.
- 8.7 The procurement process shall conform to all information as published and set out in the OJEU Notice.
- 8.8 All time limits imposed on bidders in the process for responding to the OJEU Notice and Invitation to Tender will be reasonable and proportionate.

9 Legal Issues:

9.1 Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, 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 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.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

- 9.2 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
- 9.3 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
- 9.4 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.
- 9.5 Compliance with the duties in section 149 may involve treating some persons more favourably than others.
- 9.6 The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker 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.

The key purpose of the service is to support people to improve their social inclusion, provide better integration into communities, gives consistency of people and place and allows the continued use of life skills. Most tend to come from characteristic groups of e.g. disabilities and age. 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.

An Impact Assessment will be completed, it is emphasised that as the core model has not changed the client journey will not be adversely affected.

There is a risk that a change of provider will impact on persons with a protected characteristic arising out of the employment impact on staff. The staff employed by the current provider will be affected by the end of the current contract. 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.

9.7 Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

Lincolnshire's JSNA shows that the trend towards an ageing population profile will continue, with the proportion of people aged 65 and over projected to increase from 22% in 2014 to 30% in 2039. Furthermore the likely increase of 3.2% in adults with learning disabilities by 2020, as well as a predicted 11.1% rise in older people, is likely to put considerable

pressure on health and social care. The Shared Lives Service will positively support on three of the 6 theme areas:

- Adult Health and Wellbeing
- Older People
- Wider Determinants of Health

Shared Lives Services contribute to three of the five themes of the JHWP Strategy for Lincolnshire:

- Promoting Healthier Lifestyles: Through improvement in people's sense of mental wellbeing
- Improving Health and wellbeing of Older People in Lincolnshire through increasing respect and support for older people within their communities
- Tackling the social determinants of health through supporting more vulnerable people into good quality work.

9.8 Crime and Disorder

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.

The proposals in the report relating to Shared Lives services in Lincolnshire are unlikely to directly contribute to the furtherance of the section 17 matters.

10 **Conclusion**

10.1 The Shared Lives Services are an important part of the care and support system in Lincolnshire and play a significant role in reducing the burden on the overall system. By providing appropriate placements for Service Users, they can help to decrease the need for longer-term and higher cost social care and health services, and reduce pressure on an already overburdened system.

10.2 The challenges posed by the current contract scope and mechanism means the procurement needs to go ahead in 2018. However by revising the contract structure and scope, updating the payment mechanism, and implementing an effective performance management mechanism, the issues that are affecting the service will be more suitably addressed.

10.3 The focus of the procurement will be to establish a single provider for the county that will be able to fully meet the quality requirements set out by the

Council, guarantee that they are able to properly meet demand, manage the wider subcontractor market effectively as appropriate, and ultimately to strengthen the market for delivery of Shared Lives Services in Lincolnshire.

11. Legal Comments:

The Council has the power to commission the services referred to. The proposed process will ensure that the Council complies with its obligations under procurement law.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor

12. Resource Comments:

The current budget for the Shared Lives Service is £616,000 and as the report states, if growth is to be achieved, the budget will need to increase accordingly. As the expectation is for services delivered via Shared Lives to provide improved value for money compared to residential and community based placements, the funding required should come from areas where that activity is diverted from, and as such should not result in wider budget increases to those commissioning strategies involved.

13. Consultation

a) Has Local Member Been Consulted?

N/A

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

This report will be considered by the Adults and Community Wellbeing Scrutiny Committee on 11 April 2018 and the Committee's comments will be passed on to the Executive Councillor: Adult Care, Health and Children's Services.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

See section 9

14. Background Papers

Shared Lives Plus (Network Organisation for Shared Lives Scheme operators) 2017 report 'Lincolnshire County Council Baseline Analysis and Expansion Modelling'	Commercial Team
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