

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

Report to:	Adults and Community Wellbeing Scrutiny Committee
Date:	15 January 2020
Subject:	Re-Procurement of Community Supported Living Services

Summary:

This item invites the Adults and Community Wellbeing Scrutiny Committee to consider a report on the re-procurement of Community Supported Living services, which is due to be considered by the Executive on 4 February 2020. The views of the Scrutiny Committee will be reported to the Executive, as part of its consideration of this item.

Actions Required:

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

1. Background

The Executive is due to consider a report entitled Re-procurement of Community Supported Living Services on 4 February 2020. 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 recommendation in the report and whether it wishes to make any additional comments to the Executive. The Committees views will be reported to the Executive.

3. Consultation

The Adults and Community Wellbeing Scrutiny Committee is being consulted on a proposal being submitted to the Executive on 4 February 2020.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Report to the Executive – Re-procurement of Community Supported Living Services

5. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Carl Miller, who can be contacted on 01522 553673 or carl.miller@lincolnshire.gov.uk.

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

Report to:	Executive
Date:	04 February 2020
Subject:	Re-procurement of Community Supported Living Services
Decision Reference:	I019199
Key decision?	Yes

Summary:

The Community Supported Living - Open Select List is a framework agreement of approved providers who can meet care and support, and if appropriate, accommodation needs for vulnerable adults across Lincolnshire. The current framework has 38 providers approved to deliver services; there are 21 active at this time.

The current contractual arrangement ends on the 31 May 2020. The service has been reviewed and recommendations made to ensure future demand can be met across Lincolnshire and in particular, for those who have needs of a highly complex nature.

This report gives an update on progress to date, and seeks approval for the re-procurement of the Community Supported Living - Open Select List.

Recommendation(s):

That the Executive;

1. Approves the procurement of a framework of Care Quality Commission registered Community Supported Living providers who can meet care and support needs across Lincolnshire.
2. Delegates to the Executive Director of Adult Care & Community Wellbeing, in consultation with the Executive Councillor for Adult Care, Health & Children's Services, the authority to determine the final form of the contract and to approve the award of contract(s) and the entering into of contract(s) and other legal documentation necessary to give effect to the decision.

Alternatives Considered:

1. Extend the current provision

The 5 year contract term ends 31 May 2020, with no provision to extend. In any event, extending current contracts would fail to address the challenges and opportunities for improvement identified in the service review and noted below:

- Gap in provision to meet need for those with particularly highly complex needs and/or behaviour that challenges
- Opportunity to enhance and strengthen service provision, clarifying contractual requirements to ensure consistent operational practice from commissioners and providers, strengthening contract management tools and introducing person-centred outcome reporting.
- Opportunity to mitigate risk that future tenancies in established Lincolnshire CSL schemes go to those from out of county NHS organisations or local authorities, reducing valuable provision for those in county, by introducing nominations agreements in appropriate circumstances.

2. Not to commission the service at all

The CSL services address and support statutory requirements under the Care Act 2014 which require local authorities to provide or arrange for the provision of services, facilities or resources, or take other steps, which they consider will contribute towards preventing or delaying the development by adults in its area of needs for care and support. . This service is one of a range of options to ensure there is a choice of high quality care and support services available for vulnerable adults. Not to have a framework of approved providers in place would mean a requirement to spot contract for each and every situation which would be both ineffective in terms of time and costly. This option would also be likely to have an adverse impact to the effectiveness of contract management.

3. Bring services in-house

The Council has commissioned these services and developed the market for care and support provision for vulnerable people across Lincolnshire over a number of years. This is aligned to current government policy and the personalisation agenda, the Council does not have the infrastructure or budget available to bring these services in-house.

Reasons for Recommendation:

1. The proposed model will allow the Council continued access to approved providers who offer good performance and quality, committed to meeting the care and support needs for vulnerable adults across Lincolnshire. It will also allow access to new providers who can meet future demand, particularly where need is of a highly complex nature.
2. The established delivery model is flexible in meeting need, capable of offering the best value, in terms of price and quality, to the Council. All providers are effectively contract managed with strong working relationships developed and support given proportionate to current risk ratings and provider knowledge.
3. A framework offering a choice of approved providers with the ability to meet wide ranging levels of client needs is advantageous to commissioners.
4. Where new accommodation is part of the requirement, a mini-competition process enables value for money and specific outcomes for the individual(s) concerned to be established at the point of contract call-off.

1. Background

- 1.1 The Council currently commissions care and support in the community for vulnerable adults, and where appropriate, access to accommodation through the Community Supported Living (CSL) - Open Select List (OSL) framework agreement. CSL services provide care and support to individuals who live in a variety of settings including dedicated single or shared supported living schemes, rented accommodation, owner occupied property, extra care schemes or live with family, carers or friends.
- 1.2 Where rented accommodation is required, suitable vacancies within existing and established schemes are utilised wherever possible. Where existing schemes are fully occupied or unsuitable, care and support providers may work with housing providers in order to meet a requirement to establish new dedicated community supported living schemes. The person supported has their own tenancy agreement, and the accommodation always remains separate from the provision of care and support, enabling a level of independence not possible in a residential care setting.

1.3 The framework was established on 1 June 2015 and concludes on 31 May 2020. It has 38 providers, 21 of which are actively delivering services in the form of call off contracts. Across Lincolnshire 903 people are currently supported (excluding those who access services via direct payment), 569 of whom are supported within a dedicated accommodation setting and 334 are supported at home. Over 90% have a primary diagnosis of learning disability. Support for a wide range of needs is in scope of the framework, so an opportunity exists for greater utilisation to support other primary support needs, including Mental Health and Physical Disabilities in future.

2. Duty to Deliver

2.1 CSL services address and support statutory requirements under the Care Act 2014 which require local authorities to provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will contribute towards preventing or delaying the development by adults in its area of needs for care and support. . This service is one of a range of options to ensure there is a choice of high quality care and support services available for vulnerable adults.

3. Compliance with Legislation, Policy & Guidance

3.1 There has been a policy shift to utilise supported living schemes that have a focus on enablement and independence in order to meet care and support needs and outcome expectations.

3.2 In reviewing the service and updating the service specification, national legislation and the principles, guidance and standards outlined in the following key publications have been considered;-

- Valuing People (DOH 2001)
- Our Health Our Care Our Say (DOH 2006)
- Valuing People Now (DOH 2009)
- Health and Social Care Act (2012)
- Care Act (2014)
- Mental Capacity Act (2005)
- The Building the Right Support nine core principles and golden threads in the national service model published in October 2015 to support commissioners of health and social care services
- Registering the Right Support 2017
- NICE Guidance published in March 2018
- Transforming Care guidance

3.3 It is expected providers will deliver high quality services that will recognise and promote the rights of the people they support as citizens and encourage their independence, choice and inclusion through a person centred approach.

4. Service Performance

4.1 The service is performing well. The performance metrics available demonstrate improvement when comparing an extract of data two years apart.

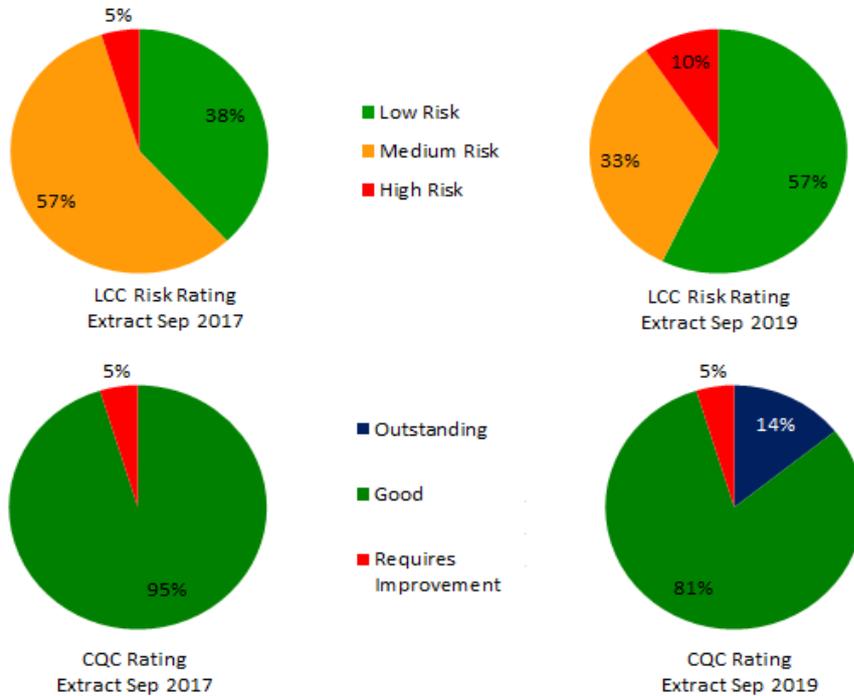


Figure 1: LCC Risk Rating & CQC Rating Sep 17 v Sep 19

4.2 The risk rating is the Council's own internal measure and encompasses the CQC rating, safeguarding concerns, poor practice concerns as well as current intelligence related to key areas which are thought to impact providers i.e. staff turnover, management changes, financial situation. The Council's contract management support is proportionate to the providers' CQC rating. The current CQC ratings demonstrate an improvement with 3 (14%) achieving an outstanding rating by September 2019 though it is recognised that some suppliers still require improvement.

4.3 The approach to comprehensive contract performance and risk management of care and support providers on the current framework will continue under the new framework; and will be supplemented by the use of service credits, KPI's based on outcomes for individuals, a strengthened service specification and a contract call off document which improves clarity of expectation for delivery in all packages of care and support. These are all tools to enhance contract and performance management in supporting provider excellence.

5. Future Demand

- 5.1 Projecting future demand for Adult Social Care is challenging. As well as estimating how many new people will be assessed as eligible for care and support it is also necessary to estimate attrition. Whilst the overall net number of people eligible for CSL is increasing year on year the complexity of needs is also increasing. The 2019-20 budget for Learning Disability Services (which represents 90% of the current CSL activity) was based on 67 new placements and 40 discharges. Latest activity levels still suggest that these figures will hold true for 2019-20. Similar activity levels will also inform the 2020-21 financial year.
- 5.2 A service review has been undertaken by the Commercial Team in relation to future demand and estimates that 200 people currently known to Adult Care may require CSL services at some point in the future (12 transforming care; 42 children transitioning to adult services; 146 where they may be in own home, family home or residential care). However, it is difficult to predict with certainty when estimated demand will become need, as many factors impact this. In recent years, existing and established dedicated accommodation settings have met the majority of the accommodation need.
- 5.3 Of the 200 people who may feed into future demand, there are twelve individuals under S.75 through transforming care and 40 leaving educational / residential settings who are likely to fall into a highly complex need category over the next 5 years though at this stage, it is unknown if all will require community supported living. The review established that several providers on the framework had the ability to meet highly complex need, but only one willing to do so within our current ceiling rate. Therefore, the new framework needs to address the barriers of the current ceiling rate payment mechanism.
- 5.4 Additional demand may also come through future integrated working opportunities, such as teams supporting those with physical disability or mental health accessing the CSL framework.

6 Current Contract Call Off Process

- 6.1 There are three current methods of contract call off from the framework
- 1) **Direct by Practitioner:** where care and support need is identified at the family or own home, and where the support requirement is less than 24/7, practitioners select a provider who can meet need.
 - 2) **Brokerage into Existing Setting:** Where accommodation is part of the requirement, placement into a suitable vacancy from existing scheme accommodation options is brokered wherever possible. The care and support provision will usually already be in place in this scenario.
 - 3) **Mini Competition:** Where there are either no vacancies or no suitable vacancies in existing CSL settings, providers are invited to participate in a mini competition according to geographical area, capability and

specialism. Mini competitions may require providers to identify suitable new accommodation solutions as part of the proposal.

- 6.2 There have been occasions when it has not been possible to establish a call off from the framework by one of these routes. This occurs when providers are unable to meet the needs of the individual(s) concerned because of a lack of capability or capacity, or because they are unable to do so within the constraints of the framework pricing mechanism. In these circumstances an exception route is used to commission services from a provider outside of the framework, utilising a spot contract, often at a price point above that of the framework. Whilst this does work in the small number of cases in which it is necessary, it is also challenging in the context of constrained timescales, choice, control and leverage for the Council. Given the predicted higher future demand for highly complex needs, a clear pathway to manage these cases within scope of the new framework is proposed to help to address the associated challenges.

7 Pricing

- 7.1 The framework operates with an hourly rate for provision of care and support, determined by providers subject to a cap or ceiling rate, currently set at £16.01 p/h. This has been very successful in managing service delivery costs. For the majority (99.98%) of care and support needs, the current rate is sufficient with just 13 exceptions above the current ceiling rate. When compared with other local authorities, the current ceiling rate is comparative in meeting general need, but other local authorities engaged through the review process have identified similar issues in meeting highly complex needs. Recognising this, some have started to introduce a higher tier rate.

8. Sleep in Support

- 8.1 In April 2017 the CSL-OSL framework was varied to account for an emerging risk about the qualification of 'sleep-in' support as working time and payment of the National Minimum Wage. The variation introduced an "Enhanced Sleep In Rate" equal to the minimum wage for sleep in support. This move was welcomed by providers; a proportion of whom were already, or were intending to voluntarily pay the minimum wage for sleep in. In part this was to avoid any future potential liability related to this issue and followed the outcome of employment tribunal rulings.
- 8.2 On Friday 13 July 2018, in the case *Royal Mencap Society v Tomlinson-Blake and Shannon v Rampersad (t/a Clifton House residential Home)*, the Court of Appeal ruled that workers who 'sleep-in' at or near their place of work are not entitled to the minimum wage for the time they spend asleep. This overturned previous employment tribunal rulings.
- 8.3 Although the Court ruled in their favour, Mencap now pay the minimum wage for sleep in to their workers.

- 8.4 There remains uncertainty on this position, Unison applied for an appeal to the Supreme Court which was granted, the date set for this hearing is the 12 and 13 February, 2020. The decision is expected by July 2020.
- 8.5 Subject to the final decision reached by the Supreme Court in this appeal case, the Council may need to review its sleep in payment and arrangements. The intention to review sleep in arrangements and associated payment following this decision will be described within the procurement documentation and service specification, to ensure the provider market is aware of this eventuality.

9 Market Engagement & Feedback

- 9.1 A prior information notice was published on 9th September, 2019. This initiated a process of pre-tender market engagement. Feedback gained from this process has provided an understanding of the market's preferred approach to a number of important issues affecting the commercial model, including contract duration, market capacity and resource, ability to manage highly complex individuals within the current cost model. The results of the engagement exercise are summarised below:
- A preference that the contract duration of five years is not reduced, and includes an option(s) to extend.
 - A theme of being unable to meet highly complex need within the current ceiling rate was identified, which is in line with experience of operating the current framework. This will be addressed with the introduction of a 'highly complex' pathway, as described in section 9, point (a).
 - A desire for full transparency and fairness of opportunity in the way that the Council allocates new placements was identified. This is acknowledged and will be addressed with the proposal for centralised oversight of all new placements under this contract as part of the new framework (section 9, point d).
 - Comments about limited opportunities to deliver new placements. This is acknowledged and improved clarity in the new framework regarding future demand projections and mechanisms for call off and the allocation of new placements are intended to help to address this.

10 Scope and Proposed Changes to Current Arrangements

- 10.1 The framework mechanism has proved successful and it is proposed to maintain this approach when re-commissioning services, with only a small number of relatively minor but important changes identified following the review of the service. These are intended to support the Council to improve transparency and control, strengthening the specification in support effective contract management, allowing for the potential of further integrated working with health, and meeting the full range of care and support needs for vulnerable adults over the next contract term through the framework. The proposed changes are:

- a) Introduction of a highly complex pathway where, if required, there is the ability to go above the ceiling rate within scope of the framework. This is intended to attract more suppliers who specialise in meeting this type of highly complex need to join the framework, offering the Council more choice and leverage. This will replace the current exception route and is necessary because future demand shows that there is increased demand in the area of those who will fall into a 'highly complex' category where it is likely we would need to use an exception route. The mechanism proposed is to first seek to place within the ceiling rate for the framework, and where that is not possible, to use a mini-competition to establish a bespoke rate for the individual or group. The pricing requirements for such a competition will give full transparency of rate calculation to ensure value for money is maintained.
- b) The second recommendation is that providers are incentivised to bid lower than the ceiling rate at the point of joining the framework, with ongoing centralised oversight for all new opportunities, by making cost a consideration in all new placement requirements. This should help to mitigate the risk that existing and potential new framework providers bid to join the new framework at the maximum ceiling rate, and ensure ongoing value for money. If all existing providers were to re-join the framework at the ceiling rate, based on current year costs and care packages, the resulting additional cost would be £135k per annum.
- c) The Council establishes a nominations agreement whereby it secures first refusal for a period to be determined for new accommodation settings. The precise terms could be negotiated according to the characteristics of the setting, but a general principal of exclusivity on nominations a reasonable period is proposed. It may be necessary to share the risk of void costs with the provider during this period, and the Council's appetite for this could be determined on a case by case basis according to prevailing demand, and the costs and quality of the setting. This is intended to address a risk whereby Lincolnshire County Council loses vacancies in existing schemes to competing local authorities. Engagement with providers has shown that out of county commissioners placing in Lincolnshire are willing to pay higher rates. On occasion, the Council has lost potential tenancies in dedicated accommodation settings. This change will also give clarity to providers of the potential maximum vacancy period expected prior to accepting referrals from elsewhere.
- d) Strengthen the specification in the specific areas identified through review, engagement and analysis. These are described at Appendix 1, and include the introduction of service credits, clear detailing of processes for contract call-off, creating outcome focussed and person centred KPI's, setting clear expectations of support hours, options for flexibility and associated payment, and inclusion of health partners named as potential commissioners.

11 Budget and Cost Implications

- 11.1 The 2019/20 budget for Community Supported Living – Open Select List contract is £32m; with a projected spend of £31.8m. Budget setting for 2020/21 is underway and will take account of inflationary cost increases applied to the ceiling rate (average 4.7% annual increase over current framework period), and estimated net increases in service utilisation (an average net growth of 6.4% p.a. over the last three years).
- 11.2 A risk has been identified in the financial exposure of existing providers all bidding at the ceiling rate in the forthcoming tender process, as noted at section 9.1(b). This is quantified as £135k per annum based on current year costs and volumes. Having identified this risk we are seeking to mitigate as described in that section.
- 11.3 The proposal to add a 'highly complex' pathway will allow the Council greater choice of highly specialised provider. Whilst this will enable prices for services to exceed the ceiling rate mechanism, this will remain a small proportion of total service utilisation and is therefore not anticipated to have a significant impact on overall service costs. Additionally, there will be controls in the pricing requirements for such cases, giving full transparency of rate calculation to ensure value for money is maintained.
- 11.4 The CSL-OSL framework has been used primarily for those with Learning Disability and/or Autism. The budget relates to the use of this framework for those individuals. As the framework is intentionally wider in scope i.e. refers to care and support for vulnerable adults; a wider group of commissioners could use this framework to engage providers e.g. LPFT mental health teams, physical disability teams. Initial conversations indicate this is desirable as the flexibility of this framework represents value for money and it will establish clear pricing at the level of provider. Individuals with other primary support needs will already be supported by, or be entitled to support from the Council in a variety of support settings. However those currently supported to live in the community will be, in the main, utilising direct payments, so the opportunity for the Council to directly commission support through the CSL framework more widely should have the effect of increasing choice and improving control over costs.

12 Procurement Implications

- 12.1 The procurement is being undertaken in accordance with regulations 74-76 of the Public Contract Regulations 2015 under "Light Touch Regime" utilising an open procedure method.
- 12.2 It is the intention to issue an OJEU notice for publication week commencing 3 February 2020 and a contract notice award will be issued to bidders who are successful in being admitted onto the framework.

- 12.3 In undertaking the procurement the Council will ensure the process complies fully with the EU treaty principles of openness, fairness, transparency and non-discrimination.
- 12.4 All time limits imposed on bidders in the process for responding to the OJEU notice and invitation to tender will be reasonable and appropriate.

13 The Invitation to Tender (ITT) document

- 13.1 The ITT will include the following
- A revised specification drafted incorporating key findings and input from stakeholder consultation
 - Revised contract terms and conditions
 - Clarity of award and evaluation criteria in relation to becoming an approved provider via this framework
 - Clarity for the subsequent contract call-off process
 - Clear requirements for submission of evidence in relation to quality and performance with the development of key performance indicators

14 Competition

- 14.1 Exposing the service to the open market has generated a high level of interest. Following the publication of the Prior Information Notice in September 2019, over 100 organisations have expressed interest. This will encourage improved value for money in terms of quality and price. It will also open up the option of attracting those providers who can address the identified gaps in provision (geographical area; specialism) in this market. It offers the Council flexibility of provider to meet future care and support requirements.

15. Contract Commencement and Duration

- 15.1 The existing CSL OSL come to a conclusion on 31st May 2020, with the new framework (if approved) commencing on 1st June 2020. Call off contracts created under the existing framework are separate contracts in their own right and will continue unless and until they expire or are terminated under their own terms. Continuity of provision is therefore preserved for existing recipients of services.
- 15.2 The proposed term for the new Open Select List framework is five years, in line with existing arrangement, and it is further proposed to include an option to extend by up to a further two years (5+1+1). Evidence from market engagement feedback suggests that this is an acceptable term for the arrangement and would provide sufficient financial assurance for the provider.

16. Contract Structure

- 16.1 The aim for CSL services will be to have multiple providers to ensure full coverage and capacity geographically and in terms of service specialisms, enabling vulnerable adults to access the services they need. This is also intended to enable continuity of care for individuals already in receipt of CSL services wherever possible.
- 16.2 Service providers will deliver high quality CSL provision to the eligible population, and will be required to work in collaboration with the Council and other stakeholders and partners to ensure effective and high quality services are delivered and maintained.
- 16.3 In order to achieve this, an Open Select List (OSL) will be re-established. This is a flexible framework approach which ensures that the market can remain dynamic by periodically giving new providers to opportunity to join. This will help to ensure that the market remains sustainable in the long term, and enable the Council to ensure that all providers are suitably qualified based on consistent application of Lincolnshire County Council requirements and policies.

17. Payment and Performance Management

- 17.1 The OSL will continue to operate with an hourly rate for provision of care and support, determined by providers at the point of joining the framework, subject to a cap or ceiling rate. The rates will then be subject to an annual inflationary cost review, with any uplift determined by the Council. This has proved effective in the current service contracts and remains a cost effective solution, enabling a flexible approach to changing user needs.
- 17.2 Comprehensive contract performance and risk management of care and support providers will also continue. This proposal adds the use of service credits, user outcome linked KPI's, a strengthened service specification and a contract call off document which improves clarity of expectation for delivery in all packages of care and support. These are all tools to enhance contract and performance management in supporting provider excellence.

18. Public Services Social Value Act

- 18.1 In January 2013, the Public Services (Social Value) Act came into force. Under the Act the Council consider during the pre-procurement phase how they can secure wider social, economic and environmental benefits. This is consideration of how what is proposed to be procured might improve the economic social and environmental wellbeing of Lincolnshire. 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.

18.2 This framework agreement will allow Lincolnshire County Council to improve the social wellbeing of vulnerable citizens across Lincolnshire. Related to this, the council has engaged with those supported to develop 5 statements shown below that providers are expected to provide outcome for. This will demonstrate how this framework is enhancing the social wellbeing of those supported.

1. "I am supported to exercise choice and control in all aspects of the care I receive and my quality of life is enhanced"
2. "My health and wellbeing are promoted at all times and I am supported to maintain my independence wherever possible"
3. "I am included and have the support required to join in activities and social events and be part of my local community"
4. "I feel safe – protected from avoidable harm and free from any kind of abuse, harassment and discrimination"
5. "My staff team are experienced, well trained and effectively supported to meet my needs"

18.3 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 framework has been operational since 1st June 2015; therefore, there the market is well understood. As part of the pre-procurement work, a wide ranging market engagement and stakeholder consultation have been undertaken. A wider consultation would be unlikely to be proportionate to the scope of this procurement.

19 Legal Issues:

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

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 section 149 may involve treating some persons more favourably than others

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

19.1 An Equality Impact Assessment (EIA) has been completed (Appendix 2). The re-commissioning of this service will have a positive impact on those with disability. This service will apply to adults, where the threshold to have needs met is placed on the local authority by the Care Act 2014, and will be open to all in line with the Equalities Act 2010.

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

19.2 Health & Wellbeing are two of the core themes of the JSNA. There is a key priority to reduce health inequality and improve health for individuals. The CSL service provides care and support which helps those supported to achieve these outcomes.

19.3 Successful providers will be expected to understand Lincolnshire, rurality and demographics. They will be expected to have a local presence appropriate to the service delivery.

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

19.4 This service is unlikely to directly impact section 17 of the Crime and Disorder Act 1998. Providers', who deliver CSL services, have a responsibility to deliver successful outcomes for individuals. In some cases, this may result in a lowering the risk and/or instances of anti-social behaviour in communities.

18.5 For individuals in receipt of CSL services, providers have a responsibility to meet their outcome of "feeling safe – protected from avoidable harm and free from any kind of abuse, harassment and discrimination" which has relevance to section 17 of the Crime and Disorder Act 1998.

20. Conclusion

20.1 CSL services address and support statutory requirements under the Care Act 2014. They form a critical element of a range of service options to ensure there is a choice of high quality care and support services available for vulnerable adults, supporting and enabling them to live as independently as possible in the community.

20.2 The conclusion of the existing CSL Open Select List framework at the end of June 2020 means a procurement process needs to commence in February 2020. The service has been reviewed, and engagement undertaken with key stakeholders to help to ensure that a sustainable and high quality service for vulnerable adults requiring care and support in the community continues. The recommended changes and improvements are intended to ensure future demand can be met across Lincolnshire, in particular for those who have needs of a highly complex nature. The key principles of future service delivery are summarised below:

- a) Meeting the care and support needs for vulnerable adults in a range of settings including their own home, family home, rented accommodation and/or dedicated accommodation settings.
- b) Invitation of framework providers for future opportunities to deliver care and support, and if required, accommodation that will meet outcomes detailed within an agreed care plan for those individuals supported.
- c) To develop a highly complex placement pathway, to allow the Council greater choice of provider, replacing the current 'exception route', ensuring contract compliance and value for money.

- d) To include tender scoring as part of future provider selection, incentivising existing providers to bid lower than the ceiling rate and maintain value for money.
- e) To establish nominations agreements in appropriate circumstances, to ensure that eligible Lincolnshire residents benefit from services established in the county.
- f) To make improvements to the current specification to improve oversight and offer greater clarity of expectations for the provider market, including; the introduction of service credits, clear detailing of processes for contract call off, creating outcome focussed and person centred KPI's, examples of tailoring hours to achieve outcomes, clear expectations of support hours, options for flexibility and associated payment, and ensure health partners are named as potential commissioners.

21. Legal Comments:

The Council has the power to commission and enter into the Open Select List framework as proposed.

The decision is consistent with the policy framework and within the remit of the Executive.

22. Resource Comments:

This report seeks to present the case for the commissioning of a Community Supported Living (CSL) service. I can confirm that the changes proposed are not anticipated to have any significant impact on overall costs, however it should be noted that the following factors will influence budget allocations over the next five year contracting period:-

- 1) Population growth in demand, particularly for highly complex individuals
- 2) Inflationary cost pressures, in particular wage inflation
- 3) Continued impact of the policy shift to utilise supported living schemes that have a focus on enablement and independence in order to meet care and support needs and outcome expectations.

This is being addressed through the budget 2020 process which full Council will receive in February 2020. I can also confirm that current commissioning intentions and delegated approvals recommended within this report meet the criteria set out in the Councils published financial procedures.

23. Consultation

- a) **Has Local Member Been Consulted?** - N/A

b) Has Executive Councillor Been Consulted? – Yes

c) Scrutiny Comments

The decision will be considered by the Adults and Community Wellbeing Scrutiny Committee on the 15 January, 2020 and the comments of the Committee will be reported to the Executive.

d) Have Risks and Impact Analysis been carried out? Yes

e) Risks and Impact Analysis

See body of report and Appendix 2 Equality Impact Assessment. A summary project risk analysis is also included below.

<u>Risk Description</u>	<u>Mitigating Action</u>
Re-procurement may result in higher costs. Two providers indicated during engagement they would increase their standard hourly rate to ceiling. Potential £135k per annum additional cost if all providers increase to ceiling.	Implement incentive for providers to come in at lower rate, tiered for new opportunities.
Level of Interest – interest overall is high confirmed by expressions of interest in prior information notice and return of market engagement questionnaires. Also current lack in some geographical areas of providers, particularly meeting moderate to high needs.	Implement a cap on no. of providers admitted based on application form
Established care and support providers do not meet the minimum standard required for new framework.	In this event, following extended contract support transitional arrangements will be implemented to support continuity of care in the short term and until alternative support is established.

24. Appendices

These are listed below and attached at the back of the report	
Appendix 1	Specification Gap Analysis
Appendix 2	Equality Impact Assessment

25. Background Papers

No background papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Eilidh French, who can be contacted on 01522 553670 or eilidh.french@lincolnshire.gov.uk.

SPECIFICATION GAP ANALYSIS SUMMARY

Area	Reason
Introduction of Service Credits	Financial incentive to help to drive good performance, helpful tool to support effective contract management and aligned with other similar contractual mechanisms
Housing	Greater clarity of expectation of housing providers to meet the requirements of the Mental Health Act, separation of care and support, and guidance on fair rental charges
Contract Call Off Process	Greater clarity on the process for placement call off and further competitions covering all circumstances for award of new opportunities
Contract Call Off – Specific Outcomes	Set expected outcomes relevant to new packages of care and support, supporting contract management and care management.
Mencap sleep in ruling	Review sleep in payment in light of decision expected by Supreme Court expected July 20
Sharing of Core Hours & 1:1 Support	Provide example and expectation that supported living care and support is a flexible and responsive service within service specification
Tiering Providers	Include how providers will be tiered based on their application to the framework, requires scenario planning
Clear Nomination Rights	As an appendix for providers to return to formalise process that vacancies are offered to LCC first for an agreed length of time
Key Performance Indicators	Move to an "outcome focused & person centred" KPI expectation that providers will submit as part of their annual reporting; also strengthening reporting arrangements for providers on workforce statistics e.g. vacancy rates, turnover rates and recruitment and retention rates
Payment schedules	Ensure providers are signing for hours delivered. Clear expectation they do so defined in the specification.