

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

Report to:	<b>Executive Councillor for Adult Care and Public Health</b>
Date:	<b>13 - 17 September 2021</b>
Subject:	<b>Strategic Market Support Services Re-Procurement</b>
Decision Reference:	<b>I022817</b>
Key decision?	<b>Yes</b>

**Summary:**

The Strategic Market Support Service (SMSS) has been the Council's external workforce development and Care Home Trusted Assessor contract awarded in April 2018, to Lincolnshire Care Home Association (LinCA) Workforce Development (WFD) Ltd. There were three Lots to the contract, with a core budget of £341,000.00 per annum; with £171,000.00 allocated to Part A and £170,000.00 allocated to Part B. Part C elements are costed for on an ad-hoc basis.

- (Part A) - Strategic Market Support

To promote and deliver workforce development and training to all care providers in Lincolnshire, specifically (i) Residential and Nursing Home Services, (ii) Home Care and Community Support Services and (iii) Extra Care Housing.

- (Part B) – Care Home Trusted Assessor Service (CHTA)

To establish a team (5.8 whole time equivalent) of suitably qualified and experienced staff to support operational hospital discharges pressures. Their role is to conduct an operational assessment of all individuals identified as medically optimised and fit for discharge from Boston, Lincoln, Grantham and Peterborough hospitals; who may require short or long term social care support. On completion of the assessment, supplementary information is collated and submitted to the provider(s), reducing the necessity for individual providers to attend the hospital to complete their own assessment and therefore reducing unnecessary delays to hospital discharge.

- (Part C) – Innovation & Initiatives to enable the service provider to seek out and submit new proposals or initiatives to the Council that relate to the strategic outcomes of the contract.

The proposal is to re-procure the services but based on a new structure and an

increased transparency of provider performance. The intention is also for the successful provider to actively source external funding so that the contract becomes self-sustaining by the end of the next contractual term.

This will mean splitting the current contract into two, one for the core market support and workforce development requirement (Parts A and C) and the other for the Care Home Trusted Assessor service (Part B). While all elements of the current contract contribute to the overall strength of the local workforce there are key differences in how Part B operates and its performance managed. The intended duration for the contract(s) would be three years with two years extensions available.

These contracts come to an end as of 31 March 2022.

### **Recommendation(s):**

That the Executive Councillor:

1. Approves a procurement be undertaken to deliver two contracts – one for the delivery of a core Strategic Market Support Service and one for the delivery of a Care Home Trusted Assessor Service – each for a period of three years with the possibility of a further two year extension.
2. Delegates to the Director of Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care and Public Health the authority to determine the final form of the contract and to approve the award of the contract and the entering into the contract and other legal documentation necessary to give effect to the said contract.

### **Alternatives Considered:**

1. Re-procure with two individual contracts, taking into account the recommendations listed above.

This is the preferred option as it recognises the operational distinction between the core SMS function and the specific character of the CHTA service.

2. Re-procure with the current model, also taking into account the recommendations listed above.

This option would be viable as it would provide continuity as well as the listed improvements however the operational distinction between the SMS and CHTA would remain.

3. To decommission either, SMS, or CHTA

This is not recommended as both elements of the service are meeting a critical need for the local health and care system. The removal of either would likely result in a significant deterioration of the ability of the local market to operate successfully.

**Reasons for Recommendation:**

1. In appointing a Provider for these services the Council's aim is to engage with care providers to support and develop the market, and to meet demand for critical adult social care service that will directly support the Councils' duties under the Care Act 2014.
2. The contracts will provide longer term stability through the delivery of a workforce strategy and supportive workforce training needs analysis, with the subsequent delivery of education and training courses to develop Lincolnshire care services and their workforce whilst ensuring the offer of support to the provider market was attractive and meaningful, leading to a longer term plan of sustainability to ensure that all Lincolnshire residents who receive their care from independent and third sector providers in Lincolnshire will have those services delivered by a skilled, competent and caring workforce.
3. The Provider will support the core principles of the need for a quality service for people in receipt of Adult Social Care Services and the need to continually seek to improve services through evaluation of working practices, performance, feedback, research, evidence and models of good practice; with effective partnership working between agencies.
4. The CHTA programme (Part B) will reduce the demand (and need) for care home managers (or care home staff) to attend an acute hospital setting to review the suitability of someone ready for discharge.
5. The CHTA team's approach to discharge assessment is conducted in a time responsive manner which supports the urgency of operational capacity and demand in the acute hospital setting and promotes the delivery of a discharge support programme seven days a week. The response time for the CHTA team is within the same working day of the request being made and aims for discharge within 48 hours, or sooner, this reduces the time an individual has to stay in a hospital setting.
6. The CHTA programme promotes a line of communication between the hospital and care home setting to enable a core team to deliver a generic assessment to evaluate suitability for individual homes to promote discharge and reduce unnecessary delays linked to individual home managers conducting their own assessments.

**1.0 Background**

This contract supports the Councils' duties under the Care Act 2014 to ensure that local provision undertakes regular training activities and that all staff have the opportunity to enhance the skills and knowledge.

Over the current contract period the current provider has largely met the key performance measures under the contract. They have been able to show that they have engaged with 100% of the local market (insofar as to make contact and to try to encourage further interaction) and over 195 providers have attended local training events. A Draft Workforce Strategy has been co-produced with the Council and will be crucial in the further development of the workforce. The current provider continues to also be highly successful in securing additional funding from other organisations to bolster wider workforce development efforts. There are, however, a number of key areas of improvement that can and should be made in any future contract(s), specifically the need for greater transparency in how outcomes are being met and the success measures used to measure performance and how resources are being allocated under the contract.

The CHTA team has continually flexed to respond to demand and played an important role in making hospital discharges much safer and effective. During the onset of Covid-19 the CHTA team members commenced remote working from May 2020, which initially led to a reduction in assessments. A further reduction occurred as hospitals were cleared to make way for Covid patients, so there was not the usual volume of discharges. Grantham & District General Hospital then changed its status and admitting priorities in June 2020, so the CHTA capacity was transferred to Lincoln County Hospital in response to a high volume of referrals. All homes have accepted CHTA remote working with additional homes that have not usually accessed the service, requesting engagement.

The CHTA team have consistently sought to respond to referrals within the same day, but this response rate is not always reflected in the discharge figures, due to changes in whether the individual is medically fit, and/or whether the home will accept the referral. This has been a positive service which has impacted positively on patient flow, but given the specific operational characteristics of this service which are quite different from Parts A and C it would be beneficial to separate it out into its own contract. This will allow an even greater focus on tracking the benefits of the CHTA interactions and could appeal to a wider market.

Part C innovations have also delivered some notable achievements, including;

NHS digital scheme - Implementation of NHS mail to support secure sharing of information. A further project promoted the countywide implementation of Whyzan equipment, which has enabled staff in residential settings to monitor and record cardiovascular and respiratory changes in residents, to include temperature, pulse, blood pressure and oxygen saturation levels. In the event of a person's condition deteriorating the equipment can electronically liaise with primary care colleagues so the readings can be reviewed and a plan of clinical care implemented for the individual.

Home Care Assessors – A pilot scheme along the same lines as Care Home trusted assessors but focused on improving discharges back into homecare. This was discontinued due to insufficient evidence of effectiveness.

Clinical Skills Workshops – A specific focus on increased focus on enhancing Clinical skills within the training scheme.

### **1.1 Future Demand Levels and Budget**

The budget for the current contract is set at £286,000 per year with the Part A services representing £116,000 p.a. and the Part B services being £170,000. This budget has been confirmed as part of the core ACCW funding.

Additional 'innovation' elements have also been included in the contract under the Part C mechanism in which the council and provider can develop and approve new initiatives. Budgets for these initiatives are separate to the core funding and new services will not be approved if there is no secured funding available. Under the current contract the following initiatives have been undertaken via the contract.

- NHS digital - £110,000 (anticipated to continue next year if external NHS funding is made available)
- Home Care Assessors - £260,000 (discontinued)
- Clinical Skills Workshops - £23,760 (one off)

In addition to the core funding arrangements the new contract(s), it is proposed to invest an additional £55k in the Part A element of the service in order to support the implementation of the External Workforce Delivery Group's strategy. This is a new working group led by the Council, but including Skills for Care and LinCA, which has recently developed the new external strategy that brings together the Council's desired outcomes as well as the views of the sector. New objectives have been developed from this work and the additional funding will provide broad support implementing the strategy which includes specific support Individual Employers and Personal Assistants, via focused training and developing stronger and clearer links between each party. This funding has been secured as a proof of concept initiative that will span the initial three year duration of the contract. The contract terms will allow for the Council to monitor the specific performance of this element and will have the power to end it early if necessary, it will also be subject to the increased transparency standard in the new contract(s).

### **1.2 Compliance with Legislation, Policy and Guidance**

The proper functioning of the local adult care workforce is crucial to all of our key services and the support provided by these services plays a vital part in doing so.

Every single care worker in Lincolnshire (over 21,000 staff) requires training on a wide range of activities that often changes due to improvements in practice or changes of law. In addition the high level of turnover within the sector demands that training is repeated very often in order to bring new workers up to standard. Much of the training content provided by LinCA under the current contract is absolutely fundamental and without such a service there would be a very likely be a serious deterioration in the ability of many providers to operate a safe and effective workforce. The Council had previously

undertaken this duty in-house but the decision was taken to outsource the delivery in 2015, this was based on the judgement that the knowledge, insight and relationships that are necessary for this service are best found in the market itself.

The CHTA component has proved to be invaluable in supporting operational pressures in the acute Health system as well as making discharges to care homes much safer and more successful. In addition this could be a resource that is utilised more flexibly and would prove suitable in developing stronger 'discharge to assess' pathways for both homecare and residential care.

The proposed scope of the services draws upon guidance in the following legislation:

- The National Health Service and Community Care Act 1991
- Mental Capacity Act (2005)
- The Deprivation of Liberty Amendments to the Mental Capacity Act 2005
- Health and Social Care Act 2008
- The Equality Act 2010 (ensuring compliance with ISB1605, Accessible Information)
- The Health and Social Care Act 2012
- Care Act 2014

### **1.3 The Invitation to Tender Document (ITT)**

The ITT will include the following:

- A revised specification has been drafted incorporating key findings and lessons to be learned identified through the review and feedback from stakeholder consultation;
- A specification that is clear in scope, interpretation and expectations;
- Bespoke 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 mechanisms.

### **1.4 Commercial Model**

Evidence collected on the current service indicates that where provision has taken place it has been to a good standard. The proposed new model of separating the contract into two with an emphasis on delivery of outcomes will help ensure that the future contract is sustainable.

There will be two contracts going forward, one for the core market support and workforce development requirement (Parts A and C) and the other for the Care Home Trusted Assessor service (Part B). The Provider will be encouraged to source external funding and be permitted to charge care providers to attend the training. It is hoped this will make the contract self-sustaining by the end of the new contractual term.

## **1.5 Cost and Duration**

A core principle of the commercial model is that it creates a strong commercial base for a provider and as such will help support them to deliver better value back to the Council. The Council's commitment will increase economies of scale for a provider, providers may wish to sub contract to, as well as allow them to build better business plans, optimise resources, better manage recruitment and the opportunity to plan reablement routes better, thus improving efficiency and lowering costs.

The contracts will be for an initial three year period with the option to extend by up to a further two years. The total budget allocated is £341,000 per annum which includes the proposed additional £55,000. If the contract runs for the whole five year term, the cost to the Council will be £1,705,000 but this does not include any additional funds for innovative projects (part C).

## **1.6 Payment Mechanism**

The Provider will be paid an equal block payment monthly in arrears. Price will be competed on at tender stage and form part of the contract award criteria.

## **1.7 Competition**

Exposing the service to the open market will help to encourage improved value for money through quality, innovation, possible reduction in costs and the added value any potential providers may bring.

## **1.8 Risk and flexibility**

- Market choice – there are very few organisations that have the standing within the local market, as well as the knowledge and expertise to deliver such a specific service. When the current contract was exposed to competition in 2018 there was only one bid. Hopefully, by separating out the Market Support and CHTA elements it will increase the potential for competition. It is also important that the provider has a detailed understanding of the local health and care system, is able to operate with impartiality, and ultimately is able to properly represent the needs of the workforce. This will form a key part of the evaluation methodology. In addition a new focus in the contract(s) will be a requirement to promote and establish sector-led solutions e.g. 'provider federations' that could act as leaders in specialities and skills leadership. This would increase both availability of expertise as well as greater independence and choice in the local market.
- Since the establishment of the original contract Adult Care and Wellbeing have established an External Workforce Strategy Group which includes membership of LinCA but also wider stakeholders including Skills for Care, commercial team representation and Economic Development and digital skills colleagues. This

strategy group have supported LinCA to develop an External Workforce Strategy and have developed a draft plan of what is needed to address the priorities identified within the strategy. The current contract investment with LinCA is insufficient to deliver what is needed from the SMS provider and therefore needs additional investment as part of a proof of concept. The work completed by the strategy group has provided intelligence that can be used to strengthen the specification of the existing contract and future contracts. This will in turn strengthen accountability and performance management arrangements in relation to the provider. Without this additional investment there will be priority areas in relation to the external workforce that are not addressed.

- Transparency and assurance of value for money – The nature of the services means it can be difficult to definitively assess the impact of the provider. It relies on both the provider offering a quality training service but also the engagement and willingness of the rest of the market to utilise the service which may then, in turn, result in an overall improvement of quality of care. The new contract and specification will be designed to provide much greater clarity of how contract resources are deployed and how their benefits can be accurately identified. It should also be noted that given the limited number of potential providers it may be the case that the winning bidder could attempt to negotiate the 'open book accounting' clause within the contract. It will be important to remain resolute on this point as having a form of open book accounting will be crucial to ensuring clarity and assurance of value for money. Another important factor in how the service provider operates is the provider's ability, and success, in securing additional funding streams. This funding can come from a variety of other organisations in the Health and Care system (e.g. Health Education England), as well as income generation from training events, and with it comes specific objectives and outcomes which are separate to that of the contract but often very closely aligned. This often makes it difficult to be precise about what funding has been directly responsible for the reported outcomes.

## **1.9 Tender process**

A key phase in the procurement will be in how organisations are assessed and qualified at the tender stage. As previously stated it is essential that the single provider or any organisation the provider sub contracts work to will be able deliver the required scope and outcomes. The Council must therefore have a clear understanding of the level of financial and business capacity a tenderer must have before being allowed to proceed to bid. This must be set at a level that represents an acceptable assessment of the level of risk as well as not being unreasonably burdensome and therefore restricting consortia bids.

The Procurement is being undertaken in accordance with regulations 74 to 76 of the Public Contract Regulations 2015 under "Light Touch Regime" utilising an Open Procedure method. The ultimate decision as to which provider is awarded the single provider status will be based on their evaluation performance.



ITT evaluation will focus on service quality and the capability of the single provider and any organisations they may wish to form sub contracting arrangements with to deliver the required volume and quality outcomes across the county set against clearly defined financial budgetary controls.

#### **1.10 Scope**

The full scope for these new arrangements are being developed, provider engagement and service user consultation will be undertaken to gain market intelligence and stakeholder feedback in terms of key aspects of future services.

#### **1.11 Market Engagement and Feedback**

A Prior Information Notice and a process of pre-tender market engagement. Feedback will be undertaken in August 2021. This process will provide an understanding of the market's preferred approach to a number of important issues impacting on the commercial model, including the contract duration, market capacity and resource, payment mechanism and budget viability, contract attractiveness and mobilisation.

#### **1.12 Procurement Implications**

The Procurement is being undertaken in accordance with regulations 74 to 76 of the Public Contract Regulations 2015 under "Light Touch Regime" utilising an Open Procedure method.

It is the intention to issue a Contract Notice for publication week commencing 20<sup>th</sup> September and a Contract Award Notice will be issued on any award to a successful bidder.

In undertaking the procurement the Council will ensure the process utilised complies fully with the EU Treaty Principles of Openness, Fairness, Transparency and Non-discrimination.

The procurement process shall conform with all information as published and set out in the Contract Notice.

All time limits imposed on bidders in the process for responding to the Contract Notice and Invitation to Tender will be reasonable and proportionate.

#### **Public Services Social Value Act**

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

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

Ways will be explored of securing social value through the way the procurement is structured. The operation of sub-contracting and consortium arrangements will be explored as a means of ensuring a role for local small to medium-sized enterprises (SMEs) in the delivery of the services. Evaluation methodologies will be explored so as to incentivise the delivery of a skilled and trained workforce.

Under section 1(7) of the Public Services (Social Value) Act 2012 the Council must consider whether to undertake any consultation as to the matters referred to above. The service and the value it delivers is well understood. This and the market and other stakeholder consultation, carried out is considered to be sufficient to inform the procurement. It is unlikely that any wider consultation would be proportionate to the scope of the procurement.

## **2.0 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

An Equality Impact Assessment (EIA) has been carried out and included at Appendix A. No adverse impacts have been identified for people with a protected characteristic. The service will impact positively on older people and people with a disability who will benefit from a more skilled workforce and a smoother transition from hospital discharge to residential care.

### **3.0 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

Adults Health and Wellbeing is a core theme of the JSNA, with a key priority being to improve health and reduce health inequalities for individuals. The Strategic Market Support Service engages and upskills the Adult Social Care workforce enabling them to improve the health and living conditions of residents accessing Adult Social Care services.

The successful Provider for Strategic Market Support Services will be expected to demonstrate good knowledge of Lincolnshire and its demographics. The Provider will be expected to have a local presence appropriate to service delivery.

### **4.0 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

This service is unlikely to contribute to the furtherance of the section 17 matters.

### **5.0 Conclusion**

Both initiatives are recommended to be re-commissioned but with an enhanced focus on securing transparency and assurance of outcomes.

## **6.0 Legal Comments:**

The Council has the power to enter into the contracts proposed.

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

## **7.0 Resource Comments:**

The budget for the current contract is set at £286,000 per year and forms part of the core ACCW budget. An additional £55,000 has been set aside per year for three years to fund the proposed External Workforce Delivery Group's strategy. The £55,000 funding ceases at the end of year three.

## **8.0 Consultation**

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

**b) Has The Executive Councillor Been Consulted? - Yes**

**c) Scrutiny Comments**

The proposed decision will be considered by the Adults and Community Wellbeing Scrutiny Committee on 8 September 2021. The comments of the Committee will be made available to the Executive Councillor.

**d) Has a Risks and Impact Analysis been carried out? - Yes**

**e) Risks and Impact Analysis**

Risk management have been addressed within the report.

**9.0 Appendices** – These are listed below and attached to the report.

Appendix A	Equality Impact Assessment
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## **10.0 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

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