
RESIDENTIAL FRAMEWORK AGREEMENT FOR DISABLED ADULTS

**Responsible Cabinet Member - Councillor Veronica Copeland,
Adult Social Care and Housing Portfolio
Responsible Director - Murray Rose, Director of People**

SUMMARY REPORT

Purpose of the Report

1. To seek Cabinet approval for the award of contracts for the provision of Residential Care for Disabled Adults.
2. To seek Cabinet approval to increase the number of Homes on the Framework for people with a learning disability from 15 to 20 and for Mental Health from 10 to 11. This will ensure a wider choice of contractors.
3. To set the usual rate for residential fees where no contract exists between the local authority and the provider.

Summary

4. At their meeting held on the 4th February 2014, Cabinet agreed the strategic procurement of a framework agreement for Residential Care for Disabled Adults. All Contractors who were successful in being placed on the framework would then be invited to submit a "mini tender" for each individual which the Local Authority requires a placement for.
5. The framework was tendered as three separate Lots and the tender submissions for each Lot were evaluated by three separate panels. The panels consisted of a combination of Council Officers from Operational Services, Commissioning, Contracting and Procurement.
6. In accordance with the procurement strategy for this tender, submissions were evaluated on a 40% price and 60% quality ratio.
7. The Evaluation Panel recommends the award of contracts to the highest scoring tenderers as set out in paragraph 24 of this report.

Setting the usual rate

8. Where the Council have a contract with the care home the contract will set out what the Council would usually expect to pay for the accommodation. However, where the

Council do not have a contract with the care home, the placement is governed by the National Assistance Act 1948 (Choice of Accommodation) Directions 1992 and connected guidance "the Choice Guidance".

9. The Council has a duty to provide residential care for disabled adults where a social care assessment has identified the need for 24 hour care. The direction for this provision is set out in LAC (2004)20: Guidance on National Assistance Act 1948 (Choice of Accommodation) Directions 1992 and National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) (England) Regulations 2001.
10. The Guidance on the National Assistance Act 1948 (Choice of Accommodation) Directions 1992 states that the Council should set a 'usual cost' which is sufficient to meet the assessed needs of an individual. As a consequence of the tender process the Council has received a range of fee rates for each of the 3 Lots and also within the lots the individual bands of need. This has given the Council a sound evidence base for the actual cost of care for disabled adults.
11. The costs provided by the successful tenderers have been considered and it is proposed that the "usual cost" in accordance with the Choice Directions be confirmed as the minimum cost for each band within each of the 3 Lots, this being sufficient to meet the assessed needs of an individual. The "usual cost" will be kept under regular review to ensure it remains appropriate.

Recommendation

12. It is recommended that :-
 - (a) Cabinet approve the Evaluation Panel's recommendation to award contracts as detailed in paragraph 30 of this report.
 - (b) Cabinet agree the 'usual cost' as set out in paragraph 37 of this report

Reasons

13. The recommendations are supported by the following reasons :-
 - (a) In accordance with the agreed selection criteria, the tender process identified these organisations as the most suitable contractors to achieve the outcomes identified within the service specification.
 - (b) Appointing a range of contractors will ensure that there is a diverse range of providers who are able to meet assessed need and ensure that people are supported locally whenever possible.
 - (c) To comply with the guidance for setting 'usual costs' where no separate contract exists.

Murray Rose
Director of People

Background Papers

Cabinet Report – 4 February 2014 – Residential Framework Agreement for Disabled Adults

Mark Humble/Jeanette Crompton Extension 2856/2327

S17 Crime and Disorder	There is no direct impact on S17 Crime and Disorder
Health and Well Being	The provision of residential accommodation ensures that the assessed social care needs of individuals can be met in a way that both meets their needs and is cost effective.
Carbon Impact	There are no carbon impact implications in this report
Diversity	Residential accommodation needs to be available that is able to meet the diverse needs of a range of individuals and is able to meet and support these individuals Human Rights.
Wards Affected	Not all Wards contain a residential care home however people from all Wards will use the service.
Groups Affected	This will impact on a small number of working age adults whose needs are such that they require residential care.
Budget and Policy Framework	This falls within the Council's budget and policy framework.
Key Decision	This is a not a Key Decision.
Urgent Decision	This is not an Urgent Decision
One Darlington: Perfectly Placed	The provision of residential care ensures that people are healthy and supported.
Efficiency	An effective competitive framework will ensure that whenever residential care is required to meet an individual's needs it can be provided in a way which has through an open and transparent procedure been established as cost effective.

MAIN REPORT

Information and Analysis

14. It was agreed as part of the Annual Procurement Plan in April 2012 that the procurement of residential care for disabled adults would be undertaken as a strategic procurement. In line with the Councils Contract Procedure Rules the outcome of this strategy is brought to Cabinet for approval.
15. The provision of residential care still remains a cost effective way of meeting some individual's assessed needs. Recently there has been a move away from institutional models of support to more community based models. However there are still some individuals for whom residential care meets their assessed needs and, individual outcomes and for whom it is cost effective.
16. The Council currently has three separate spot purchase contracts that are used to commission residential care for disabled adults. These contracts are for people with a learning disability, people with a physical and or sensory impairment and people with a mental health problem. All three contracts are due to expire on 30 September 2014. Residential care for older people and older people with a mental health problem is commissioned through a separate contract.
17. The bringing of the three separate contracts together into a single framework agreement will ensure consistency across adult social care.
18. The procurement strategy for the proposed Framework was approved at the February 2014 meeting of Cabinet.
19. The tender was advertised through the North East Purchasing Organisation (NEPO) Portal.
20. There was a slight delay in bringing this contract award to Cabinet, as the procurement process was briefly halted and restarted following a clarification question asked on the NEPO Portal. This question related to what would happen to someone who reached the age of 66 under what was ostensibly a residential contract for people under the age of 65. The tender was restarted clarifying the position to be, that if an individual is supported in a residential home under this contract, the agreement continue beyond their 65th birthday if they continue to need the support available.

Evaluation of Tenders

21. An open tender exercise was undertaken. The first part of the process involved evaluating the Business Questionnaire and tenderers were required to meet the standards within that document in order to move onto the second stage of the evaluation.

22. Tenderers were asked to submit a methodology statement, for the 60% quality score in respect of the following areas:-
 - (a) Aims, Objectives and Outcomes (36%)
 - (b) Partnership Working (8%)
 - (c) Safeguarding (8%)
 - (d) Quality Assurance / Continuity and Reliability of Care and Support (8%)
23. A financial audit was undertaken for each tender.
24. Tenderers were required to sign a Health and Safety declaration as well as completing the Health and Safety questionnaire appropriate to their organisation.
25. Three submissions were deemed non-compliant and were excluded from the evaluation process for the following reasons:
 - (a) One contractor failed to nominate a home which was an essential requirement of the tender
 - (b) Two contractors were excluded from the tender process as it was deemed that they had colluded in their tender bid. They both submitted identical bids for two separate services.
26. The report to Cabinet in February 2014 recommended that in relation to Lot 1, people with a learning disability the 15 highest scoring compliant tenders were placed on the Framework. In relation to Lot 2 people with a physical and/or sensory impairment and Lot 3 people with mental health problem the 10 highest scoring compliant tenders would be placed on the framework.
27. Following evaluation it is recommended that in relation to Lots 1 and 3 there is an increase in the numbers of contractors on the Framework.
28. In relation to Lot 3 it is recommended that the numbers increase by 1 to 11. Bids were received from 13 homes for this Lot; however 2 homes were disqualified from the tender process. The point's difference between contractor 10 and 11 is small and the inclusion of the contractor will ensure greater choice of provider.
29. In relation to Lot 1, once evaluations were completed the top 15 homes were owned by only 3 contractors with two of these running 14 homes. The expansion of the Framework to 20 ensures a further 3 contractors, thus increasing choice of provider.

30. The following recommendations are made to Cabinet in relation to the Disabled Adults Residential Framework.

Lot 1 – People with a learning disability	
Home	Score
1	63.59%
2	63.14%
3	63.14%
4	61.80%
5	58.55%
6	57.01%
7	56.98%
8	55.29%
9	53.44%
10	53.08%
11	52.66%
12	52.61%
13	50.96%
14	49.89%
15	49.66%
16	49.53%
17	46.28%
18	46.28%
19	46.28%
20	45.93%

Lot 2 – People with a physical and/or sensory impairment.	
Home	Score
1	75.51%
2	74.97%
3	74.97%
4	74.33%
5	69.47%
6	67.71%
7	65.99%
8	64.80%
9	61.27%
10	60.77%

Lot 3 – People with a mental health problem	
Home	Score
1	70.32%
2	69.77%
3	69.77%
4	65.99%
5	64.28%
6	62.43%
7	55.18%
8	55.13%
9	55.00%
10	54.66%
11	52.33%

'Usual Cost'

31. Where the Local Authority has a duty to provide residential accommodation to an individual then that individual can express a preference/choice for particular accommodation anywhere within England and Wales. If an individual expresses that preference then the Local Authority must arrange for care in that accommodation, provided :-
- The accommodation is suitable to meet the individual's assessed needs
 - It would not cost the local authority more than it would usually expect to pay for accommodation for someone with the individual's assessed needs. This is known as the "usual cost"
 - The accommodation is available
 - The provider of the accommodation is willing to provide accommodation subject to the Local Authority's usual terms and conditions for such accommodation.
32. If an individual requests it, the Local Authority must also arrange for care in accommodation that is more expensive than the "usual cost" provided a, b, c and d have been complied with. If the local authority provide this accommodation then a third party must be willing and able to pay a third party top up (the top up is the difference between the cost the council would usually expect to pay and the actual cost of the accommodation). Without a 'usual cost' this 'top up' cannot be determined.
33. If the individual expresses a preference/choice to reside in accommodation which is not on the council's procured framework or which is 'out of borough' then the Council should pay the receiving authorities or the Council's own "usual cost". If the care home selected is more expensive than the "usual cost" then the issue of top ups may arise. Without a "usual cost" the additional costs and any top ups cannot be determined.

34. Where the care home is on the Council's framework there is a basis for establishing a cost of the placement. However, where the care home is not on the framework, the Council will pay the 'usual cost' determined in accordance with the Choice Guidance.
35. If an individual's assessed social care needs show that their needs can only be met in that particular care home, even if that care home is more expensive than what the Council would usually expect to pay, then the Council will be responsible for the full cost of the accommodation. This is based on the individual's specific circumstances and will be looked at on a case by case basis.
36. The Council therefore needs to set a "usual cost" for residential accommodation, to apply where an individual has expressed a preference/choice to reside in a care home which is not on the Council's framework.
37. The costs provided by the successful tenderers have been considered and it is proposed that the "usual cost" in accordance with the Choice Directions be confirmed as the minimum cost for each band within each of the 3 lots being the minimum sufficient to meet the assessed needs of an individual, as shown in Table 1 below. The "usual cost" will be kept under regular review to ensure it remains appropriate.

Table 1: Usual Cost of Care

Lot 1	BAND A	BAND B	BAND C	BAND D
Weekly Cost (£)	570	647	724	801
Lot 2	BAND A	BAND B	BAND C	BAND D
Weekly Cost (£)	491	568	660	801
Lot 3	BAND A	BAND B	BAND C	BAND D
Weekly Cost (£)	491	568	687	750

Outcome of Consultation

38. The outcomes detailed within the service specification were developed in consultation with a small group of disabled people. This was undertaken through discussions with the Darlington People's Parliament, through the Learning Disability Network and a focus group with a small group of people living in residential care.

Financial Implications

39. Whilst we cannot give a definitive indication of the cost of these new residential placements, there is an indication that there will be a potential cost pressure as the tendered costs are on average higher than the current costs for placements, based on the current individuals we have in these placements, this would be an additional £335k per annum.
40. There will be a saving in the additional one to one hours as the rates that were tendered were less than the rates that are currently paid.

Legal and Procurement Advice

41. The tender exercise has been conducted in accordance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2006. This has enabled an open, fair and transparent process for the selection of contractors and ensures value for money and quality services for the Council and the people of Darlington.

Equalities Considerations

42. When making its decision, Members will be aware of the requirement to have 'due regard' to the Public Sector Equality Duty under section 149 Equality Act 2010. This duty requires the Council, when exercising its functions to have 'due regard' to the need to:
 - (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
 - (b) advance quality of opportunity between those who share a 'protected characteristic' and those who do not share that protected characteristic, and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (this involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding).
43. Section 149 (3) of the Act states in general terms that having 'due regard' to advancing equality of opportunity involves having due regard to:
 - (a) the need to remove or minimise disadvantages;
 - (b) taking steps to meet the needs of people from protected groups;
 - (c) encouraging people from protected groups to participate in public life or other activities where their participation is disproportionately low.
44. An Equalities Impact Assessment (Appendix 1) has been carried out to identify any potential impacts of entering into a Framework Agreement with the successful contractors. Members are required to read this document prior to taking its decision to enter into this Framework Agreement and address their minds to the requirements of the Public Sector Equality Duty.
45. No direct impacts have been identified in relation to any of the protected characteristics, as any individual who currently resided in a care home which is not on the framework will not be expected to move to alternative accommodation. Similarly, when an individual who resides within one of the homes reaches the age of 65 years, they will not be expected to move to accommodation commissioned for those over 65 years, unless, they choose to do so.
46. The framework agreement will ensure that disabled adults with similar support needs will receive equitable support, which is based on need. By utilising a framework agreement which is focussed within a 30 mile radius of the borough individuals are offered a choice of care home which is within a reasonable

distance of their family, friends and social networks and hence will ensure they can retain their links to their community.