

**From:** Graham Gibbens, Cabinet Member for Adult Social Care and Public Health  
Andrew Ireland, Corporate Director - Social Care, Health and Wellbeing

**To:** Adult Social Care and Health Cabinet Committee  
3 March 2015

**Decision No:** Decision 14/0009 Update – Home Care Contract Award and Mobilisation

**Subject:** **COMMISSIONING OF HOME CARE SERVICES IN KENT**

**Previous Pathway:** Social Care and Public Health Cabinet Committee  
16 January 2014

**Future Pathway:** N/A

**Classification:** Unrestricted

**Electoral Divisions:** All

**Summary:**

This report is intended to update the Adult Social Care and Health Cabinet Committee on issues experienced during the mobilisation of these contracts, the benefits and lessons learnt to inform the way forward.

**Recommendation:**

The Adult Social Care and Health Cabinet Committee is asked to:

- a) **CONSIDER** and **COMMENT** on the content of this paper and the proposed next steps.

**1. Introduction**

1.1 The majority of KCC's previous Home Care contracts were let in 2004, having been extended annually for a number of years. The market was fragmented, with little benefit to the County Council, people receiving support or providers, in terms of effective patterns of care delivery. Strategic Procurement had advised that continued extension of existing contracts would have been in breach of Procurement Regulations.

1.2 The new contract awards were designed to:

- Shape the market in preparation for outcome-based commissioning and the introduction of the Care Act;
- Prepare the market for future healthcare integration;
- Improve quality assurance and sustainable efficiencies.

1.3 The forty-three contracts commenced on 2 June 2014 for one year, with the opportunity to extend all or some of these contracts for a further two years. The list of successful providers can be found at Appendix 1.

## **2. Financial Implications**

2.1 The Home Care contract award has achieved £2.7 million annualised saving.

## **3. The Report**

### **3.1 Context**

Although action was taken to mitigate foreseeable risks, issues have arisen in two main areas 1) Geographical Coverage in some parts of Kent; and 2) Quality Issues.

#### **3.1.1 Geographical Coverage**

Issues in relation to the number of Direct Payments, the impact this had on TUPE (see 3.2.2 and 3.2.3) and emerging recruitment and workforce difficulties in some areas has led to providers refusing some packages of care. These difficulties have primarily affected South West Kent, some more rural parts of Ashford and areas of Dartford, Gravesham and Swanley where boundaries are shared with London boroughs.

#### **3.1.2 Quality Issues**

KCC previously had little oversight of the quality of home care provided by c130 providers. By introducing more robust contract management, providers have been consistently performance-managed against detailed mobilisation plans and the terms and conditions of the new contract.

The Care Quality Commission (CQC) have recently adopted a more rigorous inspection approach which includes registration, monitoring and expert inspections that come together to inform a 'judgement' and publication of an inspection report. We have seen that CQC have focused on our contracted providers.

CQC are taking enforcement action on two of our contracted providers currently, we are working closely with them to manage risks, had already sanctioned the providers and are supporting them to deliver the improvements required or to effectively de-commission.

### **3.2 Lessons Learnt**

#### **3.2.1 Lotting Strategy**

Providers were able to bid for NHS Clinical Commissioning Group (CCG) wide contracts or smaller sub lots, referred to as Middle Super Output Areas (MSOAs). MSOAs are Office of National Statistics designed with a minimum population of 5000 and there are 182 MSOAs in Kent.

The lotting strategy was designed to enable all providers, whatever their size to tender. This did, however, create some unintended consequences in that smaller providers tended to bid competitively for urban MSOAs.

The CCG-wide providers were allocated some urban packages, but they were also allocated more significant volumes in rural MSOAs than they had expected. This, with the impact of higher than expected numbers of Direct Payments and the effect they had on TUPE, led to difficulties in relation to

geographical coverage. This learning will influence the future development of lotting strategies.

### 3.2.2 Direct Payments

Of the 6100 people receiving Home Care, 1900 were able to stay with their existing provider, with the other 4200 being informed that they would need to transfer to a successful provider or pursue a Direct Payment, the County Council policy being that any assessed individual has the legal right to apply for a Direct Payment at any time. Outgoing providers, aware of this right, actively supported individuals to pursue this course of action.

It was assumed, based upon prior experience, that approximately 10% (420 people) would end up in receipt of a Direct Payment. However, the final figure was approximately 1200 individuals. This resulted in a:

- Higher volume of practitioner risk assessments (which slowed mobilisation); and
- Significant impact on TUPE, as explained below

In future contract re-lets the County Council will review how it can respond more quickly to requests for Direct Payments.

### 3.2.3 TUPE

TUPE refers to the "Transfer of Undertakings (Protection of Employment) Regulations 2006". TUPE regulations apply to organisations/employers of all sizes and are there to protect employees' rights when the organisation or service they work for transfers to a new employer. The County Council was informed by Legal that TUPE regulations should apply; however KCC's 10 year old contracts did not have satisfactory provision within them to enable support for enforcement of the regulations through planned tendering activity.

Incoming providers had to make assumptions regarding the number of staff likely to transfer to them, to develop their mobilisation plans and to understand the size of the recruitment challenge – the County Council could not make outgoing providers share any information. In some areas with high numbers of individuals applying for Direct Payments, outgoing providers claimed that TUPE did not apply. In most cases, less staff transferred than was assumed.

New contracts contain the latest TUPE provision and the County Council is in a far stronger position in relation to any future tenders.

### 3.2.4 Recruitment

Provider market testing in some areas of Kent has identified other local employers; including supermarkets and the NHS are attracting people likely to apply for home care positions. Acute Trusts in some cases are paying an hourly rate comparable to our total hourly unit cost for home care for Health Care Assistants. Providers are evidencing recruitment efforts which are reaping little or no result in some of the more affluent and rural parts of Kent. Information shows that the female population, who fit the traditional demographic home care worker profile (female 45 – 55), is reducing.

The County Council is working with the Business Research and Intelligence Team, Employment and Skills team, NHS Continuing Healthcare and Children's Social Care to better understand:

- The demographic issues in the most challenging areas of Kent
- The ways in which we might influence schools, colleges and the apprenticeship agenda
- How to jointly better develop a holistic workforce development plan

The County Council must also pay due regard to the *Burstow Commission on the future of the home care workforce* in developing future commissioning strategies.

### 3.3 Benefits and Insights

#### 3.3.1 Complaints and Safeguarding Alerts

There have been fifty-two complaints or enquiries received during the tender, award and mobilisation period (June – December 2014), which suggests a well managed process. This compares reasonably to the twenty-two complaints or enquiries received from June – December 2013, when considering the activity being undertaken.

The number of safeguarding alerts raised in relation to individuals in their own home (not all will relate to a home care service) have reduced from 277 (Oct – Dec 2013) to 232 (Oct – Dec 2014).

#### 3.3.2 Improved Performance Management

Strategic Commissioning's Home Care Team have introduced a new performance management process from the start of the contracts in June 2014. Performance management is an integral part of the commissioning cycle and allows those commissioning services to both keep track of and improve service delivery and quality. It also enables us to receive continuous feedback that helps form thinking for the future design of services.

The Home Care Team consists of a commissioning manager, six commissioning officers and two commissioning assistants. The team have a proactive approach to contract management. Commissioning Officers have been allocated a specific number of providers relative to the number of contracts/value, with the largest providers being solely managed by a specific Commissioning Officer. The Commissioning Officers have met weekly with the largest providers, bi weekly with the medium size providers and 3 – 4 weekly with the smaller providers.

KPIs (Key Performance Indicators) have been collected and analysed on a quarterly basis and are beginning to give us further insights into provider and market behaviours. There has been learning on the part of commissioning and providers with regard to the best KPIs to collect and most efficient and effective ways to capture data.

As well as working with providers individually, Strategic Commissioning brings them together as a group monthly to discuss issues, to reflect upon and share best practice. These meetings are used as both an information exchange and also an action learning set, where providers are encouraged to

innovate and think about how they can best work individually and collectively to improve the support they offer.

### 3.3.4 Contractual Sanctions

Improved performance management has ensured the County Council has complete oversight of its contracted providers. There are some performance issues with a small number of providers but the necessary contractual sanctions are being applied to their contracts to support improvements and the County Council is also jointly working with the regulator.

The new terms and conditions and specification support sanctioning, based on Care Quality Commission (CQC) findings as well as our own, enabling the County Council to invest time and dedicated resources in improvement as opposed to re-evidencing non-compliance.

### 3.3.5 Delayed Transfers of Care

Delayed Transfers of Care have remained fairly steady from March 2014 through to November 2014. Kent performs well against national comparators, although the County Council is currently experiencing a pressure in the number of double handed requests coming through the system.

## 5. **Conclusions and Next Steps**

- 5.1 The County Council has achieved greater visibility, improved patterns of care and enhanced its performance management approach with providers. Annualised savings of £2.7m have also been achieved.
- 5.2 Issues in relation to the number of Direct Payments, the impact this had on TUPE and emerging recruitment difficulties in some areas need to be addressed in any future re-let.
- 5.3 In the short term, preparations are being made to retender contracts in specific geographical areas.
- 5.4 It is proposed that contracts will be extended in other areas to enable Members to consider the outputs of the Adults Transformation Programme Phase 2 design, which will report in May 2015, and include proposals for how we continue to move towards outcome focussed care.

## 6 **Recommendation:**

6.1 The Adult Social Care and Health Cabinet Committee is asked to:

- a) **CONSIDER** and **COMMENT** on the content of this paper and proposed next steps.

## 7. **Background Documents**

- 7.1 Key Decision Report and Record of Decision 14/00009

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