

# Public Document Pack



## **COMMISSIONING PARTNERSHIP BOARD** **Agenda**

- Date Thursday 25 April 2019
- Time 1.00 pm
- Venue Rooms 4,D,E, Level 4 Civic Centre, West Street Oldham
- Notes
1. DECLARATIONS OF INTEREST- If a Member requires advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Elizabeth Drogan at least 24 hours in advance of the meeting.
  2. CONTACT OFFICER for this agenda is Tel. 0161 770 5151 or email [elizabeth.drogan@oldham.gov.uk](mailto:elizabeth.drogan@oldham.gov.uk)
  3. PUBLIC QUESTIONS - Any Member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the contact officer by 12 noon on Monday 22<sup>nd</sup> April 2019.
  4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

**MEMBERSHIP OF THE COMMISSIONING PARTNERSHIP BOARD**  
Councillors Chadderton, Chauhan, Fielding and Shah  
CCG Ben Galbraith, Majid Hussain, Dr. Ian Milnes, Dr. John Patterson

Item No

- 1 Election of Chair  
The Panel is asked to elect a Chair for the duration of the meeting.
- 2 Apologies For Absence
- 3 Urgent Business  
Urgent business, if any, introduced by the Chair
- 4 Declarations of Interest  
To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.
- 5 Minutes of the Commissioning Partnership Board held on 28th March 2019 (Pages 1 - 4)
- 6 Public Question Time  
To receive Questions from the Public, in accordance with the Council's Constitution.
- 7 Award of the Thriving Communities Social Action Fund  
Report to follow.
- 8 Contract Extension for Supported Living Provision (Pages 5 - 12)
- 9 Health and Adult Social Care Fee Proposals for 2019/20  
Report to follow.
- 10 Exclusion of the Press and Public  
That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under paragraph(s) 3 of Part 1 of Schedule 12A of the Act, and it would not, on balance, be in the public interest to disclose the reports.
- 11 Award of the Thriving Communities Social Action Fund
- 12 Contract Extension for Supported Living Provision (Pages 13 - 20)
- 13 Health and Adult Social Care Fee Proposals for 2019/20

**Present:** Majid Hussain (Chair)  
Councillors Chadderton, Fielding and Shah  
Dr John Patterson, Dr Ian Milnes

Also in Attendance:

Mike Barker	Strategic Director of Commissioning/Chief Operating Officer
Graham Foulkes	Lay Member for Patient and Public involvement
Helen Lockwood	Deputy Chief Executive - People and Place
Claire Smith	Executive Nurse
Dr. Andrew Vance	GP Governing Body Member - North Cluster
Mark Warren	Director, Adult Social Care
Carolyn Wilkins OBE	Chief Executive / Accountable Officer

1           **ELECTION OF CHAIR**

RESOLVED – That Majid Hussain be elected Chair for the duration of the meeting.

2           **APOLOGIES FOR ABSENCE**

There were no apologies for absence received. / Apologies for absence were received from Councillor Chauhan and Ben Galbraith.

3           **URGENT BUSINESS**

There were no items of urgent business received.

4           **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

5           **PUBLIC QUESTION TIME**

6           **MINUTES OF THE COMMISSIONING PARTNERSHIP  
BOARD HELD ON 28TH FEBRUARY 2019**

RESOLVED - That the minutes of the Commissioning Partnership Board held on 28th February 2019 be approved as a correct record.

7           **CONTRACT AWARD: PROVISION OF STAIRLIFTS,  
CEILING TRACK HOISTS, VERTICAL AND STEP LIFTS  
AND GANTRY HOISTS IN DOMESTIC PROPERTIES  
WHERE RESIDENTS HAVE DISABILITIES**

The Board gave consideration to a report of the Planning and Commissioning Manager, Oldham Cares which sought approval to a for provision of stairlifts, ceiling track hoists, vertical and step lifts and gantry hoists in domestic properties where residents have disabilities. **Page 1**

The provision was funded from the Disabled Facilities Grant, a statutory duty was placed on Local Authorities to approve an eligible application and therefore the provision must be available.

The procurement exercise was led by Oldham Council on behalf of Oldham Council and Tameside Council although there was no pooling of budgets between both Authorities and each would pay for its own activity.

Options/alternatives considered

Option 1 - Allow the current contract to expire at the end date without other provision in place.

Option A was not the preferred option as the legislative framework governing DFGs places a statutory duty on Local Authorities to approve an 'eligible application'. The provision must therefore be available.

Option 2 - That the contract for the provision of stairlifts, ceiling track hoists, vertical and step lifts and gantry hoists be awarded to the suppliers listed below:

- Lot 1 - Starlifts: Platinum Stairlifts Ltd
- Lot 2 - Ceiling track hoists: Handicare Accessibility Ltd
- Lot 3 - Vertical and step lifts: Wessex Lifts Ltd
- Lot 4 - Temporary free standing and pressure fit Gantry hoists: Prism UK Medical Ltd

That the contract would commence on or after 1<sup>st</sup> June 2019 for two (2) years with an option to extend by an additional two (2) years on one (1) year increments.

RESOLVED – That the Commissioning partnership Board would consider the commercially sensitive information contained at Item 11 before making a decision.

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### **APPROVAL TO AWARD CONTRACTS FOLLOWING A TENDERING EXERCISE FOR ADULTS CARE AT HOME AS PART OF THE MULTI - CATEGORY CARE AT HOME TENDER**

The Board gave consideration to a report of the Planning and Commissioning Manager, Oldham Cares which sought approval to award of contracts to a maximum of 10 providers following a competitive mini-competition exercise under the Provision of Oldham Care at Home, Extra Care & Specialist Care at Home Flexible Purchasing System (FPS) (DN373470) to deliver Adults Care at Home services within the 5 clusters (2 providers to be appointed per cluster).

Options/Alternatives considered

Option 1 – To approve Option 1 – Not to award the contract following the conclusion of this tendering exercise and to continue with existing arrangements.

Option 2 – To cease commissioning the Adults Care at Home services covered by this tender.

Option 3 – To award contracts to the 10 providers in accordance with the results of the tendering exercise. To approve

continuing to work with existing providers if required during the implementation phase.

Option 4 – To award contracts to 10 providers (2 per cluster) in accordance with the results of the tendering exercise for new packages of care only and to continue working with existing providers to enable them to continue delivering their current packages of care.

RESOLVED – That the Cabinet would consider the commercially sensitive information contained at Item 12 of the report before making a decision.

9

## **SECTION 75 BUDGET MONITORING**

The Board gave consideration to a report of the Director of Finance, Oldham Council and Chief Financial Officer, Oldham Clinical Commissioning Group which set out the budget monitoring position as at month 9 in respect of the Section 75 pooled budget arrangements for Oldham Cares.

It was reported that Oldham Council was reporting a pressure of £1.615m within the Pooled Aligned Budgets for which it was the lead commissioner/ provider. This was an increase of £0.809m from the month 8 reported figures mainly due to increases in the complexity of care packages for people receiving care at home plus an increase in the number of people in short stay placements. The forecast over spend related to community care placements, linked to Learning Disability and Mental Health and also Older People and Safeguarding. The over spend was offset by favourable variances from income generation and salaries costs; these variances related to budgets which were not currently within the Section 75 agreement. This therefore meant that, the Health and Adults Social Care Community Services portfolio was forecasting a balanced outturn and as such did not currently present a financial risk to Oldham Cares or the wider integrated health economy in Oldham.

Correspondingly the CCG was reporting an adverse variance of £3.493m within the Pooled Aligned Budget for which it was the lead commissioner. This had been principally caused by under-delivery of CCG efficiency measures (“QIPP schemes”) of £2.511m as at month 9 due to delayed implementation of the CCG’s Choice and Equity Policy. This was offset by forecast savings from the CCG reducing the number and cost of out of borough placements. This was an increase of £0.774m from the month 8 reported figures mainly due to an increase in the number of mental health & CHC placements. The over spend within CCG elements of the pooled fund was to be managed through non-recurrent resources held by the CCG outside the section 75 agreement.

During the month, Oldham Cares had reviewed its forecast expenditure from the Transformation Fund. As a result of slippage against the schemes, the forecast expenditure for 2018/19 had reduced. The funding supporting this expenditure had been agreed with Greater Manchester Health and Social Care Partnership to be re-phased into 2019/20. A final forecast exercise would take place in Q4 to ensure the funding matches

the forecast expenditure, with any slippage to be carried forward in to future years.

Previously it had been reported that Oldham Council's contribution to the pooled budget had increased by £5.900m in 2018/19 to allow the system to access funds in 2019/20 to benefit the coordinated approach to Health and Social Care. Subsequently alternative resources had been identified by Oldham CCG that would enable the local system to achieve the same objectives without the additional contribution from the Council.

RESOLVED – That:

1. The month 9 position be noted.
2. The contents of this report and its approval by the Joint Leadership Team on Monday 18th March 2019 be noted.

10 **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED** that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they contain exempt information under paragraphs 3 of Part 1 of Schedule 12A of the Act, and it would not, on balance, be in the public interest to disclose the reports.

11 **CONTRACT AWARD: PROVISION OF STAIRLIFTS, CEILING TRACK HOISTS, VERTICAL AND STEP LIFTS AND GANTRY HOISTS IN DOMESTIC PROPERTIES WHERE RESIDENTS HAVE DISABILITIES.**

The Cabinet gave consideration to the commercially sensitive information contained at Item 7 - Contract award: provision of stairlifts, ceiling track hoists, vertical and step lifts and gantry hoists in domestic properties where residents have disabilities.

RESOLVED – That the recommendations as contained within the commercially sensitive report be approved.

12 **APPROVAL TO AWARD CONTRACTS FOLLOWING A TENDERING EXERCISE FOR ADULTS CARE AT HOME AS PART OF THE MULTI - CATEGORY CARE AT HOME TENDER**

The Board gave consideration to the commercially sensitive information in relation to Item 8 - Approval to Award Contracts following a tendering exercise for Adults Care at Home as part of the multi - category Care at Home tender.

RESOLVED – That the recommendations contained in the commercially sensitive report be approved.

The meeting started at 1.00pm and finished at 1.47pm



## Commissioning Partnership Board Report

<b>Decision Maker</b>	<b>Commissioning Partnership Board</b>
<b>Date of Decision:</b>	<b>25<sup>th</sup> April 2019</b>
<b>Subject:</b>	<b>Contract Extension for Supported Living Provision</b>
<b>Report Author:</b>	<b>Jo Charlan, Planning and Commissioning Manager</b>

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**Reason for the decision:** This report requests approval for an exemption from the Council's Contract Procedure Rules to extend current commissioning arrangements for the provision of Supported Living for adults with learning disabilities and/or complex needs in line with the Council's corporate procurement rules.

**Summary:** **Background**

Supported Living is a term which refers to a form of arrangements where social care and support is provided to adults with learning disabilities in their own homes. Supported living services are for people who need extra help to live in their own homes, whether as tenants or owner occupiers, living alone or with others. Support can mean 24-hour care or simply a few hours a week to help with every-day tasks. Supported living aims to ensure that people have choice and control in their lives and can live as independently as possible.

The key objectives of supported living are to ensure people with learning disabilities and complex needs are provided with the best possible service with regards to their living and accommodation needs, and that they are fully supported to live their lives as independently as

possible

Following a competitive tendering process in December 2015, contracts were awarded to 6 providers under what is collectively known as “the supported living framework”, ensuring a balanced market share across the borough.

The original contract duration period was from 1st September 2016 until 31 March 2019.

The current arrangements with each provider expire on 31<sup>st</sup> March 2019. There is no specific option to extend the individual contracts within the existing terms and conditions, although mention is made of a possible extension to the term and there are provisions for a variation of the contract. However, these are not specific enough to come within the ambit of Rule 17.1 (a) of the Council’s Contract Procedure Rules and in view of the overall value of the contracts an exemption from the Rules is felt appropriate.

The prices for Supported Living provision will remain in line with the provision set in the original contract, but will be subject to uplifts which will be applied following Cabinet agreement in April.

### **Quality Standards**

The providers are monitored through the standard quarterly monitoring process, and Commissioners meet regularly with the delivery organisations through the provider forum network. The Contract Monitoring Officer meets with providers to ensure that high quality standards are consistent and of the highest quality. There have been no concerns regarding performance of the delivery of the contracts noted and no wider concerns raised.

The providers are working well with the Local Authority and feedback from service users is positive. It is therefore felt to be within the Council’s and service users best interests to continue with the existing delivery arrangements and secure the commissioning of services for a further 12 months.

### **Planning for the future**

A project team will be brought together and made up of individuals from the following teams,



commissioning (Adult Social Care and Health), Income and Payments, Learning Disability and Mental Health practice, procurement, and quality monitoring. The project team will undertake a joint approach to commissioning a new supported living delivery model which can explore the possibilities of the GM learning disability flexible procurement system to support people within the borough clusters.

The Council will need to conduct statutory consultation on continuous improvement in services with service users and stakeholders and statutory consultees to involve providers and service users in the planning stages. This will involve:

- Consultation with the wider public and providers on supporting living provision
- A value for money review of the current provision
- Undertaking a market engagement event
- Development of an options appraisal for services required
- Undertake an equality impact assessment (EIA)

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

#### **Options/Alternatives**

Option 1: To **approve** the exemption from the Council's Contract Procedure Rules to grant an extension to existing contracts with the 6 existing providers for a period of up to 12 months from 1<sup>st</sup> April 2019. This will ensure the least disruption to service users in their own homes and ensure business continuity.

Option 2: To **not approve** to award the contracts and cease delivery of supported living provision across Oldham.

**Recommendation(s):**

Option 1 - To **approve** the exemption from the Council's Contract Procedure Rules to grant an extension to existing contracts with the 6 existing providers for a period of up to 12 months from 1<sup>st</sup> April 2019.

**Implications:**

*What are the **financial** implications?*

Budgetary provision has been fully built in to the Medium Term Financial Strategy and provision has been made from the Adult Social Care

Council Tax Precept to fund the anticipated uplift in fees, which for 2019/20 is expected to be £0.172m.

(Danny Jackson)

What are the **procurement** implications?

The report recommends that the current provision could be extended under direct award provision for one-year period until 31<sup>st</sup> March 2020 allowing sufficient time to formulate commissioning intention, procure and mobilise the new supported living service. This service is currently being delivered under a framework agreement which was awarded in Sept 2016 and due to expire on 31<sup>st</sup> March 2019. The spend on such services falls under Light Touch Regime of PCR2015 and the Council Contract Rules requires the award of contracts of such spend via a competitive tendering process. The Council has recently awarded Flexible Purchasing System and a further competition could be carried out under the Cat 5 of FPS to procure the service in compliance to Contracting Rules. The provision supports the vulnerable service users therefore it is essential that there are no disruptions to the services they receive. In view of the continued need for this service the procurement supports the decision to extend by a further one-year period with incumbent providers allowing sufficient time to explore the options to procure the service in a compliant manner. The procurement team also recommends the following:

- a. A full financial check to be carried out to ascertain the sustainability of the provider for the duration of proposed contract.
- b. A clear KPI's must be agreed with the provider and the commissioning team manages and monitors KPI's.
- c. A contract document must be agreed and signed with the provider that includes full financial information such as rates we pay i.e. per hourly or daily; not just the financial envelope.
- d. Further advice MUST be sought about TUPE implications at the time of direct

- award i.e. to address TUPE implications at the tendering stage
- e. Set up a working group (project board) involving Procurement team at early stage ensuring no further requests will be made to extend these contracts in the future.
- f. Ensure appropriate consultation is undertaken at pre-procurement stage with the provider market, service users and other public sector organisations such as CCG in compliance to the Social Value Act.

Raj Ahuja – Interim Sourcing Consultant  
12.03.19

*What are the **legal** implications?*

There is provision under Rule 21.3 (h) of the Council's Contract Procedure Rules to grant an exemption from the Rules in exceptional circumstances where the contract is for services which are required in circumstances of extreme urgency. The existing framework contract for supported living services is due to expire on 31<sup>st</sup> March 2019 and in view of the vulnerability of the service users, it is imperative that the existing service provision continues for their safety and welfare whilst the Council begins to explore its options for the procurement of new supported living services. An extension to the existing contracts would in effect be a direct award of a contract to each of the six providers. The Council may wish to consider publication of a Voluntary Transparency Notice to flush out any potential legal challenge but it may be advisable to accompany the VEAT Notice with confirmation that the Council will be retendering the opportunity within the next financial year which would reduce the likelihood of any challenge.  
(Elizabeth Cunningham Doyle)

*What are the **Human Resources** implications?*

None

**Equality and Diversity Impact Assessment** attached or not required because (please give reason)

Not required at this stage as there are no changes to current provision. A full EIA will be completed as part of the new tender process during 2019/20 and will ensure any changes are taken into account.

*What are the **property** implications*

None

**Risks:**

Not extending the current commissioning

arrangements would have a detrimental impact on support to service users and business continuity for providers. This would leave service users vulnerable and would risk the reputation of the Council in its responsibility to deliver services to vulnerable people.

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution/CCG's Standing Orders? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the S.75 budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council/CCG? No

**Reason(s) for exemption from publication:** 3. Information relating to the financial or business affairs of any particular person including the Council

**Reason for urgent report** NA

**Reason for exemption from call in** NA

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***Reason why this is a Key Decision*** (1) to result in the local authority incurring expenditure or the making of savings which are, significant (over £250k) having regard to the local authority's budget for the service or function to which the decision relates; or  
 The Key Decision made as a result of this report will be published within **48 hours** and cannot be actioned until **five working days** have elapsed from the publication date of the decision, i.e. before 03/05/19, unless exempt from call-in.

This item has been included on the Forward Plan under reference CPB-09-19

**The background papers to this report contain exempt information under Schedule 12A of the Local Government Act 1972.**

<b>Report Author Sign-off:</b>	
	Jo Charlan
<b>Date:</b>	14.03.19

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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