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COMMISSIONING PARTNERSHIP BOARD Agenda

Date	Thursday 24 September 2020
Time	1.00 pm
Venue	Virtual Meeting https://www.oldham.gov.uk/info/200608/meetings/1940/live_council_meetings_online
Notes	<p>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 Constitutional Services at least 24 hours in advance of the meeting.</p> <p>2. CONTACT OFFICER for this agenda is Constitutional Services, email constitutional.services@oldham.gov.uk</p> <p>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, 21 September 2020</p> <p>4. FILMING – The meeting will be recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items and the footage will be on the Council's website. This activity promotes democratic engagement in accordance with Section 100A(9) of the Local Government Act 1972. The cameras will focus on the proceedings of the meeting. Disruptive and anti-social behaviour will always be filmed.</p>

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 Chauhan, Fielding, Moores and Shah
CCG Mike Barker, Graham Foulkes, Ben Galbraith, Dr. Mudiyr Gopi, Dr. Shelley Grumbridge, Nicola Hepburn, Majid Hussain, Gerard Jones, Helen Lockwood, Dr. Ian Milnes, Nadia Baig, Dr. John Patterson, Claire Smith, Rebekah Sutcliffe, Dr. Andrew Vance, Mark Warren and Dr. Carolyn Wilkins
OBE

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 Public Question Time

To receive Questions from the Public, in accordance with the Council's Constitution.
- 6 Minutes of Previous Meeting (Pages 1 - 2)

The Minutes of the Commissioning Partnership Board held on 23 July 2020 are attached for approval.
- 7 Integrated Health and Social Care Brokerage Framework (Pages 3 - 26)
- 8 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 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.
- 9 Integrated Health and Social Care Brokerage Framework (Pages 27 - 82)

COMMISSIONING PARTNERSHIP BOARD

23/07/2020 at 1.00 pm



Present: Councillors Chauhan, Fielding, Moores and Shah

Ben Galbraith	Chief Finance Officer CCG
Majid Hussain	Lay Chair Clinical Commissioning Group (CCG)
Dr. Ian Milnes	(Deputy Chief Clinical Officer CCG)

Also in Attendance:
Mike Barker

Graham Foulkes	Strategic Director of Commissioning/Chief Operating Officer
Lori Hughes	Lay Member for Patient and Public involvement
Gerard Jones	Constitutional Services
Anne Ryans	Managing Director Children and Young People
Mark Warren	Director of Finance
Dr. Carolyn Wilkins OBE	Managing Director Community Health and Adult Social Care
	Chief Executive / Accountable Officer

1 **ELECTION OF CHAIR**

RESOLVED that Councillor Chauhan be elected Chair for the duration of the meeting.

2 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Dr. John Patterson, Dr. Gopi, Claire Smith, Shelley Grumbridge, Helen Lockwood, Rebekah Sutcliffe and Nicola Hepburn.

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**

There were no public questions received.

6 **MINUTES OF PREVIOUS MEETING**

RESOLVED that the minutes of the Commissioning Partnership Board meeting held on 27th February 2020 be approved as a correct record.

7 **SECTION 75 2019-20 YEAR END POSITION REPORT**

The Commissioning Partnership Board gave consideration to the Oldham Care Section 75 pooled fund year-end position for 2019/20.

The report showed expenditure of £163.970m compared to a budget of £157.941m which resulted in an adverse variance of £6.029m. Most of the variance related to Oldham Council services, of which a significant amount was offset by favourable variances outside the S75 budget areas.

The Section 75 (S.75) agreements existed between Local Authorities and the NHS nationally for the pooling of budgets to facilitate closer working. Oldham Council and Oldham Clinical Commissioning Group (CCG) had entered into such an agreement to facilitate a whole system approach for the delivery of care to the citizens of Oldham. The agreement for 2019/20, broadened in scope and increased in value. It was enhanced by the Council's £5.9m increased contribution to the wider healthcare economy. The final 2019/20 S75 Agreement and pooled fund had been considered and approved under emergency arrangements. The Board were reminded that S75 monitoring reports had been presented at Months 6, 8 and 9 during the 2019/20 financial year.

The final budget and actual expenditure were presented in the report.

The Council reported an adverse variance against the pooled budget of £5.99m compared with £5.35m at month 9. The increase was as a result of backdated care package payment not previously recorded. A significant amount of the adverse variance was offset by favourable variances from income generation and salaries cost. The whole of the Community Health and Adults Social Care Services portfolio had an overspend of £2.21m at the end of the 2019/20 financial year. The major contributing factors were pressures within community care placements, linked to people with learning disabilities, physical disabilities, sensory and memory and cognitive need.

The CCG reported a net pooled overspend of £0.04m compared with £0.51m at Month 9. This was principally in respect of increase usage of mental health inpatient beds. In addition there were variances within the category of health care placement, which collectively had a small net overspend.

Options Considered

1. To note the contents of the report
2. To challenge the contents and recommendations in the report

RESOLVED that the Section 75 2019-20 Year End Position report be noted.

The meeting started at 1.00 pm and ended at 1.15 pm



Health and Social Care for Oldham

Commissioning Partnership Board Report

Decision Maker	Commissioning Partnership Board
Date of Decision:	24th September 2020
Subject:	Integrated Health & Social Care Brokerage Framework
Report Author:	Lisa Entwistle, Manager, Client Finance Debra Pease, CHC Strategic Lead, Complex Care Team Laura Farnworth, Planning and Commissioning Officer, Children's Services

Reason for the decision:	The purpose of this report is to request approval to tender and implement an integrated Health and Social Care Brokerage Framework.
Summary:	This report will provide an outline for the requirements of a brokerage framework, provide some content regarding historic attempts to implement such a framework and provide assurances that full consultation has taken in place with all stakeholders.
<i>What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):</i>	<p>Option 1 – Retain the status quo.</p> <p>This option seeks to retain the current approach to brokerage services, i.e. having no framework in place. However, this poses a range of potential risks relating to safeguarding vulnerable adults, children and patients and accountability for public funds, whilst at the same time lack of appropriate oversight of the market and adherence to procurement regulations.</p> <p>This approach would not address contractual issues, nor enable the Council / CCG to ensure</p>

that robust approaches are in place by brokers to effectively support vulnerable adults and children with the plethora of functions relating to the management of direct payments.

The Care Act requires local authorities to help develop a market that delivers a wide range of sustainable high-quality care and support services, that will be available to communities. Therefore, when buying and arranging services, local authorities must consider how they might affect an individual's wellbeing. This makes it clear that local authorities should think about whether their approaches to buying and arranging services support and promote the wellbeing of people receiving those services.

Retaining the current approach would also present additional financial pressures to the local authority and CCG. The lack of contractual arrangements has led to increasing fees over previous years and will lead to a significant impact on the finite resources within the Council and CCG budget.

Option 2 – Cease Funding Brokerage Services.

Under this option, the Council would cease funding brokerage services. The funding of brokerage services is not a legal requirement, as it is not defined as an eligible social care need.

Within the Care Act 2014, Local Authorities are only required to offer 3 options:

1. A personal budget, managed by the council, on an individual's behalf;
2. The provision of a direct payment, managed by the individual or their nominated representative (where they lack capacity); or
3. As an Individual Service Fund (ISF), where the council pays the budget directly to the provider delivering their care and support services, who manages it on the individual's behalf.

Whilst the funding of brokerage services is not a statutory requirement, Adult and children's social

care and CCG recognises the invaluable support which brokers can offer to vulnerable adults and children, enabling wider choice and control over the service. Removing this funding could potentially lead to a reduction in choice for vulnerable adults and children taking up a direct payment.

Option 3 – Tender for an approved framework

Oldham Council and CCG share an ambition to see the greatest possible improvement in the health and wellbeing of residents, by the integration of services. By the introduction of a framework, there will be a list of commissioned brokers to provide services to people in receipt of social care and health direct payments, with clear expectations set of what is expected of them in regard to the services they provide. This improvement will be achieved by:

- Supporting people to be more in control of their lives;
- Having a health and social care system that is geared towards wellbeing and the prevention of ill health;
- Access to health services at home and in the community; and
- Social care that works with health and voluntary services to support people to look after themselves and each other.
- Less unwarranted variation in the service provision of brokerage.
- Revising the direct payment process and guidance, so people have full information on what is expected of them when in receipt of a direct payment, and that a broker is not used as a 'go to' where people can manage their own direct payment.

These changes will mean people in Oldham are

less dependent on public services and will reduce demands on services to the point where a more efficient and effective health and social care system is able to provide the best treatment and care.

The ambition is to ensure that services are complementary, work with people's own resources and are committed to achieving the best possible outcomes for people in Oldham. To achieve the ambition, a number of working models need to be adopted to boost people's sense of control, capability and independence so that links between socioeconomic factors, behaviours and ill health, equip people to manage existing health and social care conditions themselves.

Tendering for a closed framework agreement for brokerage services, is one of the proposed models. It would ensure appropriate market oversight of brokerage arrangements, and ensure services purchased are compliant with Care Act responsibilities. It would also address concerns about the existing lack of contractual arrangements with brokers.

More importantly, it would seek to ensure appropriate safeguards are in place for vulnerable adults and children in the management of their direct payments, public health payments, whilst providing accountability and assurance for public funds.

This option would seek to allow the use of only approved brokers on the framework. This would ensure appropriate oversight of market stability, with a view to re-tendering the service every 5 year (3+1+1 contract).

It is proposed that the framework is divided into 'Lots' within the specification, as the following:

Lot One -**Support Planning** to develop a person-centred support plan and agree final budget from the indicative budget allocated (CCG only)

Lot Two – **Implementing the Support Plan, Account management & Payroll** –

(Council and CCG): Complex packages only, this includes multiple providers, selection of staff, induction and engagement of PA's).

Lot Three - **Payroll Only**, (Council and CCG)

Due to market stability for a brokerage service, within this option we would also add to the tender document as a statement; 'if the local market cannot provide the service requirements, the council can look within GM to provide alternative providers.

This approach would not seek to limit the choice for individuals, as it is intended that the tender process would identify a range of brokers providing a range of services and support models from which service users could choose a broker per 'Lot'.

Recommendation(s):

Option 3 is the recommended option as it will:

- Ensure adherence with statutory responsibilities. Provide appropriate safeguards for vulnerable adults and children;
- Enable market oversight and lead to stability within the local brokerage economy, and;
- Ensure robust mechanisms and controls for the accountability of public funds, by setting fixed rate for brokerage fees.

If this option is agreed a procurement group will be established with representatives from adults and children's services, the CCG, procurement, commissioning, legal and finance to ensure that the tender process reflects the requirements and values of all partner organisations.

It is also proposed that the procurement process will include representation from service users who utilise local brokerage services.

Option 1 is not considered to be a viable option because it poses a range of potential risks relating to safeguarding vulnerable adults, children and patients and lack of accountability for public funds, whilst at the same time not ensuring appropriate oversight of the market and adherence to procurement regulations.

Option 2 is not considered to be viable option as removing this funding could potentially lead to a reduction in vulnerable adults and children taking up a direct payment, which would in effect reduce choice and control over their service.

Recommendations to Commissioning Partnership Board:

The board are asked to consider the information provided and approve for the implementation of the framework in accordance with the drafted specification. The board are asked to consider delegating authority to award contracts to the successful brokers, following full procurement to the following:

Mark Warren - Managing Director Community Health and Adults Social Care (DASS) in consultation with Gerard Jones - Managing Director, Children and Young People and Mike Barker – Strategic Director of Commissioning / Chief Operating Officer for NHS CCG

Implications:

What are the ***procurement*** implications?

The Commercial Procurement Unit supports the option in this report to go out to Procure. Given the nature of the services that are being procured in this commission, and the challenges within the market, Commercial Procurement will work with the services to develop a service specification that is in accordance with procurement obligations such as value for money and transparency.

Commercial Procurement Unit intends to advertise this opportunity on the Chest Portal and the requirement will need to be sufficiently mature in a timely manner to develop the suite of procurement documentation required.

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

Having taken Counsel's advice the Council can be reassured that, in Leading Counsel's opinion, the proposal to tender for brokerage services to provide service users with the appropriate level support required to handle their direct payments is within the scope and remit of the statutory guidance issued by the Secretary of State under the Care Act 2014 and the proposal is capable of withstanding a legal challenge should such a challenge be made.

Legal Services notes that the very thorough consultation exercise which has taken place with all stakeholders and that the Council has incorporated the feedback into the detailed service specification. However, it should be noted that the consultation exercise with service users/patients took place in June 2019 and that the recent update consultation in February 2020 was only with the brokers. There is nothing to suggest that the feedback from service users/patients would have changed in the intervening period but the delay in considering the matter must be acknowledged.

"In making any decision which may affect individuals/ groups with protected characteristics the Council must have due regard to consider its duties under section 149 of the Equality Act 2010 and have due regard to consider the impact of such individuals affected by its decision in the light of the information provided in the accompanying Equality Impact Assessment. Having due regard does not mean Members cannot make decisions which have the potential to impact disproportionately, it means that Members must be clear where this is the case and must be able to demonstrate that the Council has consulted, understood and mitigated the impact". The Council must have due regard to the outcome of the Equality Impact Assessment before making any decisions in relation to procuring a brokerage service because the service users/patients for the procured services would fall into those groups with protected characteristics.

(Elizabeth Cunningham Doyle, Salma Yasmeen)

What are the **Human Resources** implications?

Not Applicable

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



EIA - Brokerage Framework.docx

What are the **property** implications?

Not Applicable

Risks:

The risks associated with this decision are around:

Option 1: Option 1 – Retain the status quo.

This option seeks to retain the current approach to brokerage services, i.e. having no framework in place.

Risks:

- Safeguarding vulnerable adults, children and patients, as there would be no appropriate oversight of spending in regard to the care and support plan.
- No appropriate oversight of the market and adherence to procurement regulations.
- Present additional financial pressures, due to no contractual arrangements, therefore resulting in no oversight of fee increases.

Option 2 Option 2 – Cease Funding Brokerage Services.

Under this option, the Council would cease funding brokerage services. The funding of brokerage services is not a legal requirement, as it is not defined as an eligible social care need.

Risk:

- Reducing choice of control for person in regard to their care and support plan.
- Although a broker service is not a statutory responsibility, the Care Act 2014, states a person should be offered

options, which includes a direct payment and a person may need a broker to support them with this option.

Option 3: Tender for an approved framework

Oldham Council and CCG share an ambition to see the greatest possible improvement in the health and wellbeing of residents, by the integration of services. By the introduction of a framework, there will be a list of commissioned brokers to provide services to people in receipt of social care and health direct payments, with clear expectations set of what is expected of them in regard to the services they provide

Risks:

- As a framework is being implemented with agreed associated costs, it may not be as feasible for providers, therefore may result in a reduction of brokers applying for the tender.
- As costs will be monitored in regard to the amount spent on brokers, it may see some brokers withdrawing from the market.
- There could also be a potential challenge from brokers that do not meet the framework.

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
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Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the S.75 budget?	Yes
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Are any of the recommendations within this report contrary to the Policy Framework of the Council/CCG?	No
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Reason(s) for exemption from	Not Applicable
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publication:

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
- (2) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the area of the local authority.

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 13th November, unless exempt from call-in.

This item has been included on the Forward Plan under reference CPB-14-20

List of Background Papers under Section 100D of the Local Government Act 1972:
(These must be Council documents and remain available for inspection for 4 years after the report is produced, there must be a link to these documents on the Forward Plan).

Title	Available from
Not Applicable	

Report Author Sign-off:	Lisa Entwistle
Date:	July 2020

Please list any appendices: -

N/a	
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1. Background

- 1.1 There isn't currently a framework in place to monitor and specify the requirements of a broker, therefore the Council and CCG have very limited oversight on the use of public funds and ensuring the direct payment provided is being used as the assessment states.
- 1.2 There have been several attempts to implement a brokerage framework. In 2016 a proposed framework was approved by Cabinet. However, this approved provider list was suspended following a potential legal challenge.
- 1.3 A further consultation exercise took place in summer 2017, where it was proposed to tender for an open framework. This meant that any providers who were unsuccessful could reapply at any time.
- 1.4 When exploring this proposal further and taking additional advice from internal colleagues, it was agreed that an open framework was no longer an option. An open framework would be too resource intensive both from a council, CCG and service user perspective and would not provide the end product in the best interest of the service user / representative.
- 1.5 Further consultation took place in 2019 with members of the public and brokers to proceed with a closed framework. The proposal was planned to be taken through the governance process in September 2019, with a view to implement, if agreed, early 2020. However, this was delayed for numerous reasons, which included a general election, redesign of services, EU exit and COVID pandemic in early 2020.

Current Position

- 1.6 As there are no current framework agreements in place, it is very difficult to monitor and manage funds in relation to brokerage services, and there are potential risks for the council in regard to being accountable for public funds. As more areas of health are delivered via a personal health budget brokerage costs may increase however it is unsure which of the health products will be delivered via a direct payment as yet.
- 1.7 The introduction of this framework is more apparent than ever, especially following the implementation of other project workstreams, such as the Care at Home contract, which resulted in an increase in brokerage services.
- 1.8 Currently around 50% of those on a direct payment require a broker to manage it on their behalf, with the majority of direct payments being with the same broker. The cost of brokerage service varies, with a number of brokers increasing their costs.
- 1.9 As the commissioner of the service, the Council and CCG currently fund the fees as it is not a statutory health and social care need. The Council and CCG pay brokers directly for this service.

- 1.10 In order to be accountable for public money and ensure service users, patients and children / young family members receive a quality service, it is imperative to implement a brokerage framework, which delivers the requirements of all key stakeholders.
- 1.11 Year in year there has been a significant increase in brokerage costs. By implementing a framework, option 3, this will give partners clear contracted specifications and fixed fees for brokers to adhere to. This will ensure partners are able to provide a consistent approach when financially forecasting spend on brokers.
- 1.12 It is recognised that as Oldham was a pilot for personalisation, it seems brokerage is the 'go to' option when offering a direct payment from an Adult Social Care perspective. The Care Act 2014 does not have a specific requirement where local authorities have to provide this as one of their options. Oldham Council currently offers this as they recognise not all recipients are able to manage the responsibility of managing a direct payment. Therefore, it is essential other options are made available to a service user when determining their care and support plan.
- 1.13 Communication to staff in regard to when to use a broker is also being implemented alongside this framework. This will ensure staff are not using brokerage as the first point of contact and managers are completing scrutiny of the use of a broker. Clear communications will be issued to staff and a direct payment guide will be developed for all staff to use when considering the use of a broker, to be able to support in their decision making.
- 1.14 All current care packages in place with a broker will also be assessed to determine whether it is appropriate for all packages to remain with them under a direct payment. This will be completed inline with the implementation of the framework, therefore giving practitioners sufficient time to complete over 900 reviews. A task and finish group will be set up to monitor the progress of the reviews and ensure they are kept on track. This will commence from April 2021.
- 1.15 It has also been identified that we need to change the expectations of the council and what is provided to members of the public in regard to the direct payment process. Therefore, a full review of the direct payment policy and toolkit will be completed in order to share with the public and practitioners. This will clearly articulate where and when a brokerage service is required.
- 1.16 The production of the guidance for practitioner's and also updated toolkit will provide them with the tools to make an informed choice for the use of a broker when deciding if a direct payment is the most suitable option for their service user.

Consultation

- 1.17 An in-depth consultation has taken place with all key stakeholders, in the form of surveys, focus groups and a market engagement event.

- 1.18 In February 2020 a further market engagement session took place with brokers, very similar to the one in 2019, to refresh the proposals that were being suggested to implement to the providers of the brokerage session, with one minor change, which was the agreed recommendation to bring the invoice only packages back in-house, which is part of a direct payment project. The feedback from brokers at the session in 2020, was that they were very much on board with the implementation of the framework.
- 1.19 A questionnaire survey was designed and issued by the council on behalf of all leads of the framework. Service users were defined as those in receipt of a direct payment, public health budget and in receipt of a brokerage service.
- 1.20 Over 1000 clients were sent a copy of the questionnaire to complete, via a hard copy, as well as access to an online survey. Telephone support was offered for any client requiring assistance. In total there were 155 completed surveys returned, meaning a response rate of 15%.
- 1.21 Two focus groups also took place in June 2019 for those in receipt of services. Although there was poor attendance to these meetings, for those who did attend provided key information for requirements for the brokerage framework.
- 1.22 A short online survey was also designed and issued by the council on behalf of all leads of the framework for providers of a brokerage service, where 3 providers responded.
- 1.23 In addition to the survey, there were also two Q&A sessions in June 2019 arranged for current providers to attend, to obtain their views on the requirements of a brokerage framework. The sessions were not heavily attended, however key providers were there and contributed towards the proposed framework.
- 1.24 To ensure a wider audience was captured, as part of this consultation process, a market engagement event took place in July 2019 and February 2020; this was advertised by the council's procurement section, via The Chest. This way capturing existing and new providers. This event was extremely useful and allowed the Council and Oldham CCG to gather further information from providers that all provide services outside of Oldham.
- 1.25 The outcome of the consultation identified the following, demonstrating the importance of a framework with an agreed specification on what the brokerage service should look like, this included;
- there was lack of communication between the broker and service user
 - regular statements should be issued to the service user on a monthly basis to ensure they are aware of their available balance
 - a fact sheet for families regarding brokers should be implemented to explain what they should expect from a broker
 - brokers should communicate with the council when a carer requires a break

- the fee to a broker should be based on the work they do, i.e. processing invoices / payroll
- a fact sheet should be provided to service users re: all brokers and what they offer
- no clear system to match families to a broker
- inconsistencies between services offered by brokers
- no formal monitoring system in place to ensure brokers are delivering a high-quality person-centred service
- there can be a lack communication between the Local Authority and brokers
- happy and open to the idea of working with a framework
- brokers having to collect client contribution
- if Brokers are invoice only – there are no contact details
- families being able to “add on” different care needs and hours if they have money still in the personal budget, that this is currently not possible and would need to be assessed by a social worker beforehand
- following the last consultation – providers felt they were not treated very well
- lack of a consistent approach for mandatory training for PAs
- not given a choice – informed which broker to use
- correspondence not user friendly
- no holiday cover when PA is on holiday
- struggle to recruit Pas

1.26 The new specification that has been compiled has been completed in line with all stakeholder’s feedback, but also in line with Council and CCG requirements.

Next Steps

- 1.27 The proposal of an integrated brokerage framework, has been the direction in which the Council and CCG have aimed to implement for the previous 4 years, following numerous consultation events, it is also evident that this is the request of the service users and brokers that they require some guidance and clear direction in regards to what to expect when delivery / receiving such a service. The implementation of the framework will also support frontline staff when completing care and support plans, as they will enable them to provide clear and robust information on the service provided by a broker.
- 1.28 Therefore, in regard to next steps, if approved to go ahead with the implementation and tender process, the aim is to have this framework implemented for the April 2021, and the mitigation plan will be completed in line with implementation.

	Reference:	
Responsible Officer	Lisa Entwistle – Team Manager, Client Finance	
Cabinet Member:		
Support Officer		

Equality Impact Assessment Tool

Service Area:	Business Community Services
Budget Reduction Title:	

Stage 1: Initial Assessment

1a	<p>Which service does this project, policy or proposal relate to?</p> <p>The proposal relates to implementing a brokerage framework for service users, patients and children / young people who are eligible for health and social care support. Following a needs assessment, a direct payment (personal budget) maybe awarded and the recipient can choose to take this as a cash payment rather than having a package of support arranged for them.</p> <p>The aim of a direct payment is to enable people to have more choice and control over the support they receive. Many people choose to employ Personal Assistants (PA) to meet their services needs and manage any employment related processes.</p> <p>There is currently no framework in place to monitor and specify the requirements of a broker, therefore the Council and Oldham Cares have very limited oversight on the use of public funds and ensuring the direct payment provided is being used as the assessment states.</p> <p>There have been several attempts to implement a brokerage framework. In 2016 a proposed framework was approved by Cabinet. However, this approved provider list was suspended following a potential legal challenge by an existing broker who had not been successful in the tender process.</p> <p>A further consultation exercise took place in summer 2017, where it was proposed to tender for an open framework. This meant that any providers who were unsuccessful could reapply at any time.</p> <p>When exploring this proposal further and taking additional advice it was agreed that an open framework was no longer an option. An open framework would be too resource intensive both from a council and service user perspective and would not provide the end product in the best interest of the service user / representative.</p>
1b	<p>What is the project, policy or proposal?</p> <p>It is proposed to implement an integrated health & social care brokerage framework in compliance with the Care Act 2014, the SEND Code of Practice 2014 and the NHS (Direct Payment Regulations) 2013. This would be a closed framework.</p> <p>This would involve a tender process and award of contract to the successful providers. This would inevitably ensure appropriate oversight of market stability and ensure appropriate pre-checks are completed on providers during a through procured process.</p> <p>This would also ensure those in receipt of this service are not limited and can be provided a choice of services and providers.</p>

1c	<p>What are the main aims of the project, policy or proposal?</p> <p>The aims of the proposal are to Comply with legislation, such as Care Act 2014, SEND Code of Practice 2014 and NHS (Direct Payment Regulations) 2013.</p> <p>To implement a new brokerage model where providers can be selected against an agreed specification and complete a legal contract between the council, CCG and provider.</p> <p>It will provide choice to individuals, as those in receipt of services would be provided with an agreed list of successful providers, to choose from and also be given clear information of what each provider delivers in regard to services.</p> <p>Once the proposed framework is implemented, it will also support the local authorities and CCG to have accountability for public funds.</p>
1d	<p>Who, potentially, could this project, policy or proposal either benefit or have a detrimental effect on, and how?</p> <p>People identified that will be affected by the implementation of the Brokerage Framework are those that fall into the following groups:</p> <ul style="list-style-type: none"> • Disabled people • People in particular age groups • Vulnerable Adults • Parent / Carers of Children • People on low income <p>The above groups can be further identified further into the following categories:</p> <p>Service users:</p> <ul style="list-style-type: none"> • If their current broker is not successful in the tendering process following the implementation of the new model, service users may not want to change brokers as they would have built a relationship and trust with the existing one. However the council would not continue to provide funding to pay the broker where they are not on the framework. • If service users have to be transferred to a new broker because of the new framework list, it may cause upset to them and delays with commence of support from their new brokers. • There will also be a positive effect to service users as the implementation of the new model would ensure that service users are receiving consistent support in accordance with legislation and in line with charging policies. It would also ensure that the service they receive is vetted and 'fit for purpose'. <p>Service Providers –</p> <ul style="list-style-type: none"> • Service providers will be expected to meet certain criteria to be awarded a contract and added the framework. This could impact business in relation to finances as where some may not be successful, the loss of business may mean the closure of their company. • Providers will be expected to enter into an agreed framework and adhere to the terms and conditions of that framework.

	<ul style="list-style-type: none"> Providers will also be expected to comply with the cost of brokerage services as implemented by the council, therefore could result in a loss of income. Following the implementation of the framework, the council will be able to obtain oversight of the market. This would lead to stability within the brokerage economy as there is currently only one of the seven providers still providing this service from the approved list from 2011. <p>General Public –</p> <ul style="list-style-type: none"> The framework would ensure that public funds are safeguarded and that the council can be accountable. Protecting the council from litigation, ensuring compliance with legislation, ensuring service users are in receipt of their eligible needs and are charged only for their contribution towards the cost of care services. 																																																																	
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1f	What do you think the overall NEGATIVE impact on groups and communities will be?	None / Minimal	Significant
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

1g	Using the screening and information in questions 1e and 1f, should a full assessment be carried out on the project, policy or proposal?	Yes <input checked="" type="checkbox"/>
		No <input type="checkbox"/>
1h	How have you come to this decision?	

	There are currently over 1000 service users in receipt of a broker service and 9 providers if a brokerage service.
	To ensure all options are captured and that impact on each group is made clear, it is in the interest of the service to complete a full Equality Impact Assessment.

Stage 2: What do you know?

What do you know already?
<p>The council and CCG currently spend over £1,200,000 on brokerage services annually. There are currently 9 brokers providing the brokerage service, where there is no accountability of public spend or service delivery.</p> <p>Within Adult Social Care there are currently 803 service users in receipt of direct payment, 573 of which use service from a broker.</p> <p>Children services have 220 service users, of which 202 use services from a broker.</p> <p>The CCG have 69 service users currently in receipt of a Personal Health Budget (PHB), 52 of which use the service from a broker.</p> <p>18 packages outstanding that will require conversion to a PHB all of which will need at least Lot 1 service and on average 40% of these will want to use a direct payment leaving 7 people wanting to use Lot 2 and 3 of the broker service.</p> <p>Children services have 13 service users with a PHB all of which use services from a broker</p>
What don't you know?
<p>Although a consultation process has been completed, there was a low response rate of 15% in regard to the survey's sent to those in receipt of services. Therefore, the impact on service users can only be determined from the limited responses received</p> <p>There were also 2 focus groups that took places for those in receipt of services, however only a handful of people attended. Although there was limited attendance, the information provided by those that attended, was invaluable to the requirements of the proposed framework.</p>
Further Data Collection

Summary (to be completed following analysis of the evidence above)

1e	Does the project, policy or proposal have the potential to <u>disproportionately</u> impact on any of the following groups?	None	Positive	Negative	Not sure
	Disabled people	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Particular ethnic groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Men or women (includes impacts due to pregnancy / maternity)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	People of particular sexual orientation/s	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	People in a Marriage or Civil Partnership	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	People who are proposing to undergo, are undergoing, or have undergone a	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	process or part of a process of gender reassignment				
	People on low incomes	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	People in particular age groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Groups with particular faiths or beliefs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Are there any other groups that you think may be affected negatively or positively by this project, policy or proposal?				
	Vulnerable residents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Stage 3: What do we think the potential impact might be?

3a	Who have you consulted with?														
	<p>Consultation has taken place with colleagues to ensure that the implementation of the framework is compliant with The Care Act 2014 and other supporting guidance / regulations. Confirmation from legal colleagues has confirmed that the proposed scheme is within compliance of the statutory guidance.</p> <p>A benchmarking exercise has also been undertaken across the North West region to identify models of support in relation to brokerage services fellow local authorities adopt.</p> <p>Service users, patients, family and carers, who are in receipt of brokerage services were contacted to request for them to take part in the consultation. This was by asking for a survey to be completed to identify the experience they had received, whether or not they pay for current services from brokers and to identify their views</p> <p>Members of the public were contacted to request for them to take part in the consultation on the brokerage framework, a survey was issued with various questions relating to their experience with brokers and to identify their views on the introduction of a framework.</p> <p>As a result of the consultation process, identified groups have been given the opportunity to contribute towards the proposed framework, therefore ensuring that the council and CCG'S duty to have regard to the need to advance equality of opportunities are met.</p> <p>People consulted with, were representatives from the following groups:</p> <p><u>Primary Needs</u></p> <table border="1" style="width: 100%;"> <thead> <tr> <th>Primary Need</th> <th>Number</th> </tr> </thead> <tbody> <tr> <td>Learning Disability</td> <td>315</td> </tr> <tr> <td>Mental Health Support</td> <td>65</td> </tr> <tr> <td>Physical Support: Access & Mobility</td> <td>11</td> </tr> <tr> <td>Physical Support: Personal Care</td> <td>223</td> </tr> <tr> <td>Sensory Support: Hearing Impairment</td> <td>4</td> </tr> <tr> <td>Sensory Support : Visual</td> <td>9</td> </tr> </tbody> </table>	Primary Need	Number	Learning Disability	315	Mental Health Support	65	Physical Support: Access & Mobility	11	Physical Support: Personal Care	223	Sensory Support: Hearing Impairment	4	Sensory Support : Visual	9
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Sensory Support: Memory & Cognition	6
Sensory Support: dual impairment	1
Social Support: Isolation / Other	1

Age Groups

<u>Age Group</u>	<u>Number</u>
18-65	<u>543</u>
<u>65-74</u>	<u>73</u>
<u>75-84</u>	<u>35</u>
<u>85+</u>	<u>21</u>

Gender Groups

<u>Gender</u>	<u>Number</u>
Male	<u>335</u>
<u>Female</u>	<u>301</u>

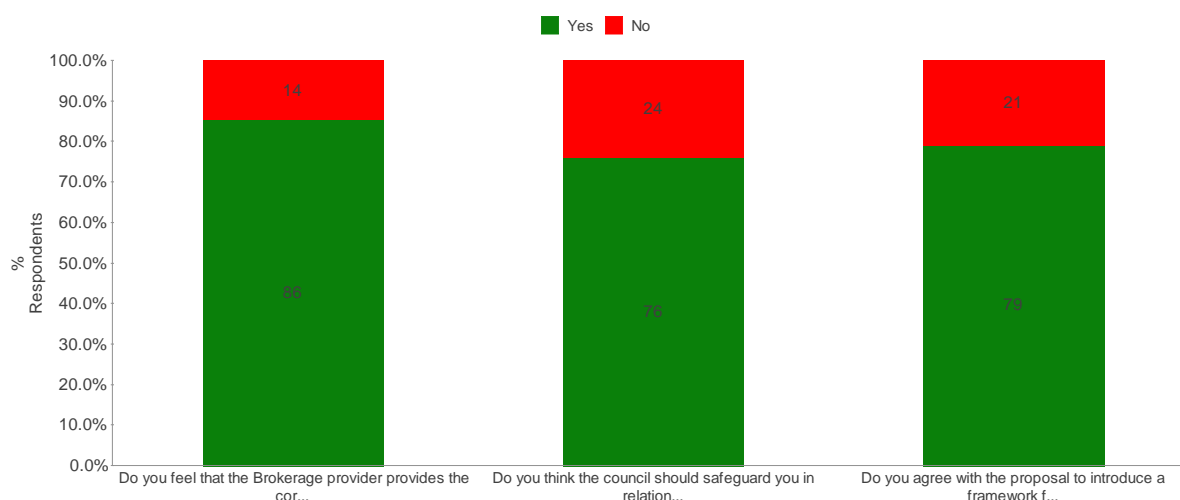
3b How did you consult? (include meeting dates, activity undertaken & groups consulted)

A survey was issued to service users, patients or their carers / representatives with various questions relating to their experience with brokers and to identify their views on the introduction of a framework. Over 1000 surveys were issued with a covering letter inviting people to a one to one focus group session to provide a Q&A session.

Members of the public attended two focus groups, which took place on 4 June 2019 and 11 June 2019. Those invited to the focus groups were people directly receiving brokerage services, carers and family. Over 1000 service users or representatives were contacted, we received 155 completed surveys. In attendance at the focus groups, three carers attended the first session on 4 June 2019 and one carer attend the second session on 11 June 2019.

The outcome from the survey questions were as follows:

Brokerage Framework



- 86% respondents felt their provider gave them the correct level of support.
- 76% respondents agreed that the council should safeguard you in relation to the services they receive.
- 79% agreed with the proposal to introduce a framework for Brokerage Providers
- Further analysis found a strong correlation between those who agreed that the Council should safeguard clients and the introduction of a framework
- An equally strong correlation was found between the age of the respondent and agreement of the introduction of a brokerage framework

The outcome from the focus groups were as follows, attendees thought:

- There was lack of communication between the broker and service user.
- Regular statements should be issued to the service user on a monthly basis to ensure that they are aware of their balance.
- A fact sheet for families regarding brokers should be implemented by the council to explain what they should expect from a broker.
- Brokers should communicate with the council when a carer requires a break.
- The fee to a broker should be based on the work they do, i.e. processing invoices / payroll.
- A fact sheet should be provided to service users re: all brokers and what they offer.

As part of the consultation process two Q&A sessions took place for the providers, on 7 June 2019 and 10 June 2019. A market engagement event also took place on 19 June 2019 and 14 February 2020, to ensure a wider audience was captured. This was advertised via the council's procurement team on The Chest. This was an opportunity to explain the proposals of introducing a framework and provide updates. It was also an opportunity to obtain brokers' feedback directly on the proposals. During this meeting, information regarding the consultation period and cabinet process was also provided to brokers.

Brokers were informed of the results from the focus groups in relation to the service users. Feedback from the providers was as follows:

- Providers were happy and open to the idea of working with a framework
- Biggest Issue – Brokers having to collect client contribution
- If Brokers are invoice only – there are no contact details
- Families being able to “add on” different care needs and hours if they have money still in the personal budget, that this is currently not possible and would need to be assessed by a social worker beforehand
- Following the last consultation – providers felt they were not treated very well
- Lack of training for PA's
- Brokers requested that within the Framework clarity was provided on the different services and what the Local Authority expects. This will support both the individual and the broker in delivery of what the individual needs. This will also support brokers with the differing terminology across different Local Authorities. This will also support the social workers.
- Another suggestion was to use quality questions as a Quality Assurance function. These could be completed every 6 or 12 months so that everybody is clear about what is or isn't happening.

3c

What do you know?

	<ul style="list-style-type: none"> The following stakeholders have been identified as being potentially affected by the implementation of the framework from a positive and negative point of view. <p>Service users</p> <ul style="list-style-type: none"> Those who want to remain with their current provider, will incur additional costs if the provider is not successful during the framework tendering process. Concern to the service users may be caused due to change. Implementation of the new model would ensure that service users are receiving consistent support in accordance with legislation and in line with charging policies, it would also ensure that the service they receive is vetted and 'fit for purpose'. <p>Service Providers</p> <ul style="list-style-type: none"> Due to the change in criteria, providers will be expected to meet a certain criteria to be awarded a contract and added to the approved provider list. This could impact business in relation to finances as, where some may not be successful, the loss of business may mean the closure of their company. Providers will be expected to enter into a contract with the council and adhere to the terms and conditions of that contract Providers will also be expected to comply with the cost of brokerage services as implemented by the council, therefore could result in a loss of income. Following implementation of the framework, the council will be able to obtain oversight of the market; this would lead to stability within the brokerage economy <p>General Public</p> <ul style="list-style-type: none"> The framework would ensure that public funds are safeguarded and that the council can be accountable for public funds. The result of the implementation would also protect the council from litigation, ensuring compliance with legislation, ensuring service users are in receipt of their eligible needs. 		
3d	<p>What don't you know?</p> <p>Although a consultation process has been completed, there was a low response rate of 15% in regard to the survey's sent to those in receipt of services. Therefore, the impact on service users can only be determined from the limited responses received</p> <p>There were also 2 focus groups that took places for those in receipt of services, however only a handful of people attended. Although there was limited attendance, the information provided by those that attended, was invaluable to the requirements of the proposed framework</p>		
3e	<p>What might the potential impact on individuals or groups be?</p> <table border="1"> <tr> <td data-bbox="193 1630 743 1682">Generic (impact across all groups)</td><td data-bbox="743 1630 1497 1682">None</td></tr> </table>	Generic (impact across all groups)	None
Generic (impact across all groups)	None		
	<table border="1"> <tr> <td data-bbox="193 1682 743 1917">Disabled people</td><td data-bbox="743 1682 1497 1917">Individuals with a disability will be primarily affected by the proposed change as they may have to be transferred to another provider. However, a positive impact would be that the council could ensure that the service user receives a quality service as this could be monitored and assessed as 'fit for purpose' and meet the assessed needs of the individual.</td></tr> </table>	Disabled people	Individuals with a disability will be primarily affected by the proposed change as they may have to be transferred to another provider. However, a positive impact would be that the council could ensure that the service user receives a quality service as this could be monitored and assessed as 'fit for purpose' and meet the assessed needs of the individual.
Disabled people	Individuals with a disability will be primarily affected by the proposed change as they may have to be transferred to another provider. However, a positive impact would be that the council could ensure that the service user receives a quality service as this could be monitored and assessed as 'fit for purpose' and meet the assessed needs of the individual.		
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Men or women (<i>include impacts due to pregnancy / maternity</i>)	Men will be disproportionately affected, demographics show 53% of respondents are male and 47% are female		

	People of particular sexual orientation/s	None
	People in a Marriage or Civic Partnership	None
	People who are proposing to undergo, are undergoing, or have undergone a process or part of a process of gender reassignment	None
	People on low incomes	The impact on people where they fall into this category would be additional costs payable by them, if their preferred provider is not part of the framework, they would be expected to fund the additional amount, and this would not be taken into account as expenditure of their assessed contribution under The Care Act 2014. This would not be allowed as a disregard under the financial assessment. Therefore, would have to pay their contribution towards their services plus a brokerage fee, if the broker was not one of the preferred providers following the tender process.
	People in particular age groups	The implementation of the new framework would have an effect on all age groups.
	Groups with particular faiths and beliefs	None
	Other excluded individuals (e.g. <i>vulnerable residents, individuals at risk of loneliness, carers or service and ex-serving members of the armed forces</i>)	Other groups such as vulnerable residents where maybe they have dementia or carers will also be impacted. However, a positive impact would be that the council could ensure that the service user receives a quality service as this could be monitored and assessed as 'fit for purpose'.

Stage 4: Reducing / Mitigating the Impact

4a	What can be done to reduce or mitigate the impact of the areas you have identified?	
	Additional Cost to service user	Full consultation with service users, family and advocates took place in June 2019 to fully explain why additional costs would incur if they wish to remain with providers where they do not meet the framework requirements.
	Change for a service user	Robust transition plan to a new broker for service user to be put in place to ensure that the impact on them is low.
	Loss of business to service provider	Full robust tender process to be completed, with clear expectations of requirements, to include a mixed panel that will include service users, who are in receipt of a broker service. Full consultation has taken place with providers in June and July 2019 and February 2020.
	Potential challenge from provider	Full consultation took place with all providers in June and July 2019 and February 2020.

4b	Have you done, or will you do anything differently, as a result of the EIA?
	Yes, we will ensure we have a plan to mitigate any of the impacts identified to service users.
4c	How will the impact of the project, policy or proposal and any changes made to reduce the impact be monitored?
	The outcomes of the tender process and transfer of providers will be recorded, including the previous provider and the new provider. This will then be monitored and reviewed, including the mitigating actions taken, to ensure that the measures taken are effective.

Conclusion

This section should record the overall impact, who will be impacted upon, and the steps being taken to reduce / mitigate the impact

Whilst there could potentially be both positive and negative impacts on a range of protected characteristic groups – disabled people and people on a low income, appropriate mitigating actions have been identified to reduce the potential impact, this will include options given to those affected people to appoint an approved broker, by giving them choice of the preferred broker list, therefore resulting in the council covering brokerage fees and not the person themselves. Where it has been assessed that there may be a negative impact on disabled people, this relates to a change in provider. Some people will have been with their broker for many years, if their broker is not successful in the tender process, the person will be expected to change to an approved broker, which may cause uncertainty and stress for the person. This will be managed in an effective way, to support transition by a social worker and also on a case by case basis, it will be assessed if it's in the person's best interest to remain with their broker, if the outcome impacts significantly on their health and wellbeing. Overall the impacts on those in protected characteristic groups are positive and will support the delivery of their allocated care and support plan.

Stage 5: Signature

Role	Name	Date
Lead Officer	Lisa Entwistle	12 March 2020
Approver Signatures		

EIA Review Date:	
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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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