

## **Report to CABINET**

### **Service Level Agreement with Miocare Group CIC**

#### **Portfolio Holder(s):**

Cllr Barbara Brownridge, Lead Member for Health and Social Care

#### **Officer Contact(s):**

Jayne Ratcliffe, Director of Adult Social Care (DASS)

#### **Report Author(s):**

Helen Ramsden, Assistant Director of Commissioning and Market Management

### **Cabinet Date – 18 September 2023**

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#### **Reason for Decision**

The report seeks approval on the implementation of a refreshed Service Level Agreement with Miocare Group CIC, for a range of services provided.

The report also seeks a commitment for wider Council colleagues to work with Miocare Group CIC to develop Service Level Agreements and specifications of requirements for those corporate services that Miocare Group CIC “buys back” from the Council.

#### **Recommendations:**

Cabinet members are asked to:

- Approve a new Service Level Agreement with Miocare Group CIC. The refreshed SLA updates the provisions governing the relationship and service delivery between the Council and Miocare Group CIC. The provisions allow for variation as the future focus of the Miocare Group becomes clearer through the implementation of the Adult Social Care Target Operating Model.
- Endorse wider corporate services work with Miocare to develop Service Level Agreements and specifications of requirements for services Miocare buys back from the Council.

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## Service Level Agreement with Miocare Group CIC

### 1. Background:

- 1.1 On 1st October 2013, the Council entered into a Service Level Agreement with Oldham Care and Support Ltd, following the creation of the company as a local authority trading company, from what had previously been “in-house” adult social care services. This agreement was superseded in 2015 following a restructuring of the company, with the parent company Oldham Care Services Ltd, and two subsidiaries, Oldham Care and Support Ltd (the “teckal company) and Oldham Care and Support at Home (the trading arm). In April 2016, the company name changed to Miocare Group Community Interest Company, and services were delivered via sub-contract arrangements through Oldham Care and Support Ltd (the teckal company) and Miocare Services Ltd (the trading arm).
- 1.2 It was originally envisaged that during the initial term of the agreement, decisions about company ownership would be made, which may lead to the company ultimately operating as a completely independent organisation, no longer in council ownership. However, the past ten years have seen unprecedented levels of instability in the care sector, exacerbated in more recent times by significant workforce challenges, the covid-19 pandemic, and the national development of significant transformation plans in respect of health and social care provision, funding and charging. As a result, it has felt prudent to retain Council ownership of the company.
- 1.3 Towards the end of 2021, as part of a wider review of Council resources and taking into consideration the prevailing market conditions and future vision with a focus on prevention and strength-based approaches, initial consideration was given to the potential options with regard to the future of MioCare and the services delivered by the company. The outcome of these considerations was to retain the current position in respect of Miocare, but to refresh the Service Level Agreement and specifications, to support a clearer view of future opportunities for and development of the Miocare delivered services, aligned to the emerging Target Operating Model for Adult Social Care and the widespread national reforms.

### 2. Current Position

- 2.1 In partnership with Miocare, a new Service Level Agreement and a range of specifications have been drafted. These relate solely to the services delivered through Oldham Care and Support Ltd. The services delivered through Miocare Services Ltd are subject to separate agreements, such as for Extra Care Housing which were put in place following the tendering of services as part of the Care at Home contract in 2018.
- 2.2 The Service Level Agreement has been drafted for a period of 3 years with an option to extend for up to two further years. It includes all required provisions and the provision to add, remove or amend services during the life of the agreement.
- 2.3 The services currently covered by the agreement, and reflected in the specifications include:
- general requirements
  - bed based reablement (Medlock Court)
  - community enablement

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- complex needs services (including supported living, shared lives, and respite provision)
  - helpline and response
  - managed services (including community equipment, adaptations and assistive technology)
  - continuity of care provision (to support in relation to situations of provider failure)

2.5 Further work is required to put in place Service Level Agreements and specifications of requirements between Miocare and those council departments providing support services, to establish expected service levels.

### 3. Options Considered

3.1 **Option 1** - Do not enter into a new Service Level Agreement, and do not develop Service Level Agreements and specifications of requirements for services Miocare buys back from the Council.

This would leave both the Council and Miocare Group CIC in a position where the relationship and the services to be delivered are not covered by a compliant, up to date agreement, leading to lack of clarity for all parties.

3.2 **Option 2** – Do not enter into a new Service Level Agreement until the future focus of Miocare Group is clarified, and do not develop Service Level Agreements and specifications of requirements for services Miocare buys back from the Council until that time.

This would carry the same risks as Option 1 and as it is envisaged that the full implementation of the target operating model and adult social care reform will take a significant period of time, it would leave uncertainty and lack of clarity for both the Council and Miocare.

3.3 **Option 3** – Enter into a new Service Level Agreement for the services delivered to the Council by Miocare Group CIC, and develop Service Level Agreements and specifications of requirements for services Miocare buys back from the Council.

This is the preferred option. It updates the provisions governing the relationship and service delivery between the Council and Miocare Group CIC. The provisions allow for variation as the future focus of the Miocare Group becomes clearer through the implementation of the Adult Social Care Target Operating Model. It also requires wider corporate services to work with Miocare to develop Service Level Agreements and specifications of requirements for services Miocare buys back from the Council.

### 4 Financial implications

4.1 The report is seeking to approve a new Service Level Agreement with the Miocare Group CIC. The redrafted agreement is effective from 1 April 2023 and is for the three financial years 2023/24, 2024/25 and 2025/26 and in this respect, the approval is in part retrospective.

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- 4.2 Schedule 2 of the Service Level Agreement 'The Charges' outlines the basis of the charge and the mechanism for periodically reviewing the charge. (Andy Cooper – Senior Finance Manager)

## **5 Legal implications**

- 5.1 By virtue of Regulation 12(1) of the Public Contract Regulations 2015, the proposed SLA would be a public contract that falls outside the scope of Part 2 of the Public Contract Regulations 2015 because all of the following conditions are fulfilled:
- (a) the Council exercises over Miocare a control which is similar to that which it exercises over its own departments;
  - (b) more than 80% of the activities of Miocare are carried out in the performance of tasks entrusted to it by the Council or by other legal persons controlled by the Council; and
  - (c) there is no direct private capital participation in Miocare with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with anything which is retained in EU law by virtue of section 4 of the European Union (Withdrawal) Act 2018, which do not exert a decisive influence on Miocare.
- 5.2 As a result, a procurement compliant direct contract award can be made by the Council to Miocare in the form of the proposed SLA.
- 5.3 The proposed SLA has been drafted in consultation with Legal Services and is intended to be comprehensive yet balanced agreement which protects each party.
- 5.4 Any provision of services by the Council to Miocare would be outside the scope of Part 2 of PCR 2015 by virtue of Regulation 12(2).

Sarah Orrell – Commercial & Procurement Solicitor

## **6. HR / People implications**

- 6.1 Option 3 would provide clarity for MioCare management and their workforce, no other specific workforce issues identified.

The HR SLA has been drafted and is currently under discussion with MioCare's Managing Director. Further discussion is needed to establish clarity around charges.

Kate Jolley  
HR Strategic Lead

## **7. Links to Co-operative Values**

- 7.1 Entering into a new Service Level Agreement with MioCare aligns to the Council's Co-operative agenda as MioCare is an organisation based in Oldham delivering health and social care support to adults in Oldham. Keeping adults healthy and safe and meeting statutory commitments is a key priority for the Council. The new agreement also represents partnership with an organisation that priorities outcomes for residents. (Mahmuda Khanom)

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## **8. Strategic Links**

### **8.1 Alignment to Corporate Plan**

In 2022 the council published a new Corporate Plan, one of the priorities under this is - 'Health, Safe and Well Supported Residents'. There are two intentions for 2022-2025 to which this report will directly related to the delivery of:

- Deliver health and social care services that are more joined-up through the delivery of the new integrated care model
- Deliver significant changes to Adult Social Care services to ensure the support we provide to local people is good quality and meets national guidelines

8.2 The redrafting of the SLA and specifications enables us to reset the base from which future service development will take place, to align to the target operating model for adult social care and to respond to national reform.

## **9. Communications – comments/implications**

9.1 Partnership working, ongoing communication and engagement between the Council and Miocare is ongoing and Miocare have been involved in the development of the refreshed SLA and specifications, through the 6 weekly partnership meetings and through the Miocare Board. Elected members who are also Miocare Board members will have declared their conflict of interest through the Board.

## **10. Procurement Implications:**

10.1 In-house procurement is a way of using public sector resources, and the contracting authority is exempted from application of the procurement rules when it resorts to this solution. The application of public procurement rules does not affect the freedom of contracting authorities to perform the public service tasks conferred on them by using their own resources. In this case, the contracting authority is not required to organise a competition under the public procurement rules to award a contract provided In-house conditions or "Tackal conditions" are fulfilled.

Raj Ahuja, Lead Procurement Consultant, 13.07.23

## **11. Property Implications**

11.1 Miocare are tenants of several council owned assets and services are provided by the Technical Delivery and Facilities Management teams within Property Services to ensure servicing and repairs are managed. These services are not on an SLA basis, but any costs are captured as part of the Corporate Landlord model and recharged back to Miocare each year. FM and Property services will continue to work with Miocare under these arrangements and therefore there are no specific implications at present. However, if there are opportunities to consider how roles and responsibilities are managed through the use of SLAs, these should be considered. (Katy Webster - AD Property & Projects)

## **12. Risk Implications**

12.1 The preferred option poses the least risk to the council as providing by providing a clear agreement to govern the services delivered by Miocare. The option provides consistency and continuity whilst also retaining a level of flexibility to develop in line with the Adult Social Care Target Operating Model.

Vicki Gallacher (Head of Insurance and Information Management)

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**13 Key Decision Reference:** HSC-13-23

**14 Environmental Health and Safety Implications**

14.1 None

**15 Community cohesion and crime and disorder implications**

15.1 None

**16 Equality Impact Assessment**

16.1 This is considered as part of the Impact Assessment under item 17.


**17 Oldham Impact Assessment Completed?**

17.1 Yes – see appendix 1.

**18 Background Papers**

18.1 There are no background papers to the report.

**19 Appendices**

Appendix one	Impact Assessment	 Impact Assessment 050523.pdf
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