

Norfolk County Council

Record of Individual Cabinet Member Decision

Responsible Cabinet Member: Cllr Thomas (Cabinet Member for Adult Social Care)

Background and Purpose:

Decision: Extension of Home Care Block contracts (West Norfolk).

Is it a key decision? Yes

Is it subject to call-in? Yes

If Yes – the deadline for call-in is: 4pm, Thursday 25 January 2024

Impact of the Decision: As detailed in section 3 of the paper

Evidence and reason for the decision: Fully detailed in section 4 of the paper.

Alternative options considered and rejected: Yes, please see section 5 of the paper for further information

Financial, Resource or other implications considered: Yes, please see paper for further information

Record of any conflict of interest: None

Background documents:

- People and Communities Select Committee paper (19th May 2023) – Home Care Strategic Commissioning Approach

Date of Decision: 18 January 2024

Publication Date of Decision: 18 January 2024

Signed by Cabinet Member: Via email

I confirm that I have made the decision set out above, for the reasons also set out.

Signed: Via email

Print name: Alison Thomas

Date: 11th January 2024

Accompanying documents:

Individual Cabinet Member Decision Report - Extension of Home Care block contracts – exemption to Contract Standing Orders.

Once you have completed your internal department clearance process and obtained agreement of the Cabinet Member, send your completed decision notice together with the report and green form to committees@norfolk.gov.uk

Individual Cabinet Member Decision Report

Item No:

Report Title: Extension of Home Care block contracts – exemption to Contract Standing Orders.

Date of Meeting: N/A

Responsible Cabinet Member: Cllr Thomas (Cabinet Member for Adult Social Care)

Responsible Director: Debbie Bartlett (Director of Adult Social Care)

Is this a Key Decision? Yes

If this is a Key Decision, date added to the Forward Plan of Key Decisions: 24 October 2023

Executive Summary / Introduction from Cabinet Member

Within Adult Social Services, Commissioning have undertaken a review of the home care market, to inform the future strategic commissioning approach. In May 2023, People and Communities Select Committee supported the proposal to adopt a Principal Provider model in Norfolk. This approach will put in place a lead home care organisation within a Primary Care Network (PCN), where they will be required to deliver 70% of the care within this geographical area. An additional framework will also be developed, where a further 3-5 providers will deliver the remaining 30% of care.

The following relates to the implementation of this strategic approach which will replace all existing home care block contracts that Adult Social Services commission. As part of the implementation plan, we have identified six block contracts in West Norfolk that need to be extended via exemption for a further 12 months. These are the only home care block contracts where an exemption is required, as part of this strategic change. All other block contracts will be replaced within the existing contract terms.

Recommendations:

To approve the exemption to Contract Standing Orders to extend the six block contracts held in West Norfolk for a period of 12 months. The estimated annual value is detailed in the exempt appendix to this paper, which is subject to negotiation on any fee uplifts that would apply for the new financial year.

1. Background and Purpose

- 1.1 Norfolk has 106 home care providers registered with the CQC, delivering support out of 135 Norfolk offices. Of those, 86 are signed up to the Council's Home Support Framework, which enables Adult Social Services to directly commission block contracts and individual packages of care with them.
- 1.2 Currently, providers are supporting approx. 5,300 people in Norfolk, with approx. 44,500 hours of care being delivered each week either through a Local Authority commissioned care package or a Direct Payment. In 2022/23 this equated to a gross spend of approx. £54m for Adult Social Services.
- 1.3 Adult Social Services has a duty under section 5 of the Care Act 2014, to promote the efficient and effective operation of a market in meeting care and support needs, with a view to ensuring services are diverse, sustainable and of high quality. This has underpinned the approach to this strategic review of the home care market in Norfolk.
- 1.4 This duty is further supported by Social Care Reform and the expectation, as detailed in the guidance for the Market Sustainability and Fair Cost of Care Fund 2022 to 2023. The output of the work undertaken in Norfolk, as detailed in the Market Sustainability Plan, has been reflected in the development of the strategic commissioning approach for this care market.
- 1.5 To develop this strategic approach, extensive research and provider engagement was undertaken by Commissioners, which has been supported by the Norfolk Care Association (NorCA). This engagement has informed the development of the Principal Provider model, which was approved by Adult Social Services Director Leadership Team, as the approach to be implemented in Norfolk. As noted, this was also presented to members at People and Communities Select Committee in May 2023, to ensure that Members were aware of this approach.
- 1.6 As a reminder of the model, the Principal Provider within a Primary Care Network area would be the identified strategic partner for home care delivery. There are some clear expectations that would be placed on a Principal Provider which are detailed below (not an exhaustive list).
 - a) They would be expected to lead on collaboration with other home care providers, within their PCN. This would include working with providers to identify efficiencies in care delivery and sharing of best practice.
 - b) Support implementation of the Adult Social Services Quality Improvement Programme.
 - c) To be an active member of any placed based working arrangements, engaging and working with other agencies outside of the home care sector, for example with the Voluntary, Community and Social Enterprise sector (VCSE).

- d) To work with NCC in response to any provider failure, which may require several packages of care to transfer to another provider. We will expect that the Prime Provider is part of the response to ensure market sustainability. Our priority in this situation is to ensure that people's care and support needs continue to be met.
- 1.7 It is also important to note the drive to improving quality of care in Norfolk. Only a provider who holds a good or outstanding CQC or PAMMs rating, will be able to bid for any Principal Provider tenders.
- 1.8 In Aug 2023, the first tender exercise to implement the strategic home care approach went live in East and North Norfolk. We expect to make formal contract award decisions in November following the robust evaluation of bids received. This tender is focused on the following PCN areas.
 - 1.8.1 Great Yarmouth and Northern Villages
 - 1.8.2 Gorleston
 - 1.8.3 North Norfolk 4
- 1.9 In the Cabinet paper on the 3rd April 2023, Cabinet approved the recommendation to proceed with the procurement actions set out in Annex A. This included the strategic approach to recommission the home care market in Norfolk. This also included the approval to delegate decision making to each responsible chief officer, the Director of Procurement, following consultation, as appropriate, with the responsible Cabinet Member. This report can be found on page 347 of the Cabinet papers.

2. Proposal

- 2.1 The proposal is to seek an exemption to extend 6 block contracts in West Norfolk by 12 months, from April 24 to April 25. We intend to start the second tender exercise for West and North Norfolk in April 24 and this 12-month extension would allow sufficient time to conduct a robust and thorough Procurement process. Following any contract award decision, it would also give sufficient time for any changes in service provision and the Transfer of Undertakings Protection of Employment (TUPE) of staff, in line with best practice timelines.
- 2.2 We can confirm that these are the only home care block contracts where an exemption is required, as part of this strategic change. All other block contracts will be replaced within the existing contract term. The other areas where Adult Social Services hold block contracts include East Norfolk, North Norfolk, South Norfolk and Norwich.

3. Impact of the Proposal

- 3.1 Adult Social Services has a clear duty under section 5 of the Care Act 2014, to promote the efficient and effective operation of a market in meeting care and support needs, with a view to ensuring services are diverse, sustainable and of high quality. This fundamental requirement has underpinned the development of this implementation approach for the new home care model. The exemption requested, will ensure that we have a managed approach to the changes we wish to make in this important part of the care market, to ensure we minimise any risk of disruption to care delivery.
- 3.2 If the exemption was not approved, we could be required to undertake an urgent procurement to secure new block contracts. This would require additional resources to be made available from a number of different departments, including Commissioning, Procurement, Finance and Operations. It would require a re-prioritising of significant resources and activity in those departments, impacting on the delivery of other key areas of work.
- 3.3 In addition, conducting an urgent procurement would feel counter-intuitive to the implementation of the principal provider model and NCC would wish to provide certainty to the market, around the delivery of this programme of work.
- 3.4 It is important to note the impact on Operational resources as a separate item. Within Adult Social Services they are currently focused on reducing holding and waiting lists. Any changes in home care provision, always creates an additional requirement of operational teams, to ensure that people are supported. This would be a significant added pressure for operations to manage and would put at risk progress being made to reduce backlogs in other areas.

4. Evidence and Reasons for Decision

- 4.1 A decision was taken at the Home Support Programme Board for Adult Social Services to a staggered implementation plan, due to the risk involved of too many changes in the home care organisations, providing care to people at the same time. Due to the number of staff and people who receive home care, this risk has to be managed, through this type of implementation approach.

- 4.2 This proposal would enable Commissioners to implement the strategic home care model, in a managed way. This is needed to ensure that we support sustainability of the local care market, ensuring that any changes to how care is commissioned (as part of the approved strategic approach) are managed, to ensure that we reduce and limit the risk of any provider failure. Our priority is to ensure that there is no disruption to the care that people receive on a daily basis.
- 4.3 It is important to note that the block contracts in East Norfolk, were also due to end on the 31st March 2024, with no provision to extend within existing contract terms. As part of agreeing the procurement approach, we took the decision to prioritise East Norfolk first, as it also included the block contracts held by Home Support Matters (part of Independence Matters Group, which is a NCC owned care company). It was important that we secured the future of Home Support Matters as a strategic partner in the delivery of home care, as they also provide market resilience, as evidenced by the Allied Healthcare failure. This ensures we have a care provider in place, that can support with any situation where we would be required to respond to a market or provider failure situation.
- 4.4 A learning model will also be put in place to ensure that lessons are learnt from the implementation of this strategic approach. Limiting the exposure and the number of geographical areas that form the first tender (East and North Norfolk as described in 1.8), ensures we are able to learn any valuable lessons from the implementation of this new model, to inform the wider roll out across Norfolk.
- 4.5 This would ensure that we continue to have providers who are able to support people to be healthy, independent and able to live their lives to the fullest. It is important to note that the existing West Norfolk block contracts do provide a financial benefit to Adult Social Services, when compared to the Home Support Framework rate for spot placements. This supports the overarching approach to deliver improved outcomes for people and achieve value for money.

5. Alternative Options

- 5.1 As noted in 3.2 one of the alternative options would be to undertake an urgent procurement to secure new block contracts. This has not been considered as a viable option due to the time required to undertake any transition in services from an incumbent provider to any new provider. There are TUPE considerations and best practice would require a provider to consider a least a 3 month lead time, to complete this properly. The current time available would put at risk this lead time and could negatively impact on this process, which could result in care workers seeking alternative employment or leaving the industry.

- 5.2 A second option is to move all the individual people being supported through the block contracts onto spot placements via the existing Home Support Framework. This would create an additional cost pressure in 2024/25 for Adult Social Services when you compare the difference between the block contract rates (various) and the current Home Support framework rate of £24.12. This would also require additional resources to be reprioritised by Brokerage and Procurement, to transfer all the individuals supported via the blocks, onto a spot contract.

6. Financial Implications

- 6.1 Any exemption would require Commissioners to negotiate with the existing block providers, the rates for 2024/25. Any fee increase would not exceed the percentage increase that is agreed for the wider care market, via the Home Support framework. Commissioners would continue to ensure that the block contract represent value for money for Adult Social Services. Commissioners are confident that this can be achieved, based on previous negotiations and the provider relationships in place.

7. Resource Implications

- 7.1 **Staff:** Within Norfolk County Council, this approach can be supported by the resources allocated by Adult Social Services Commissioning and Procurement.
- 7.2 **Property:** There are no significant implications. All home care providers are expected to be able to demonstrate they have sufficient control and oversight of care delivery, through their registered office.
- 7.3 **IT:** There are no specific considerations relating to specialist IT matters. Any IT considerations are included in the new home care specification which does specify that providers have appropriate IT systems, for example the use of Electronic Call Monitoring.

8. Other Implications

- 8.1 **Legal Implications:** There are two key legal implications associated with this decision that are outlined below.
- The Care Act places duties on Local Authorities to facilitate and shape their market for adult care, and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual or in other ways. The statutory guidance to the Care Act requires Local Authorities to commission services having regard to cost effectiveness and value for

money. The guidance also states that local authorities must not undertake any actions that might threaten the sustainability of the market as a whole.

- As noted this decision does require an exemption to Contract Standing Orders. As per the Norfolk County Council constitution this is subject to consultation with the Leader of the Council and authorisation by the Director of Procurement and Monitoring Officer. This is being processed in accordance with Regulation 72 of the Public Procurement Regulations.

8.2 Human Rights Implications: None identified

8.3 Equality Impact Assessment (EqIA) (this must be included): The service currently supports people with protected characteristics. There is no change to the service model as a result of this proposal.

8.4 Data Protection Impact Assessments (DPIA): All providers will be required to adhere to General Data Protection Regulations (GDPR) when dealing with personal data. Any sharing of data that contains personal data will be processed in line with the data protection principles. Advice and guidance will be sought via information.management@norfolk.gov.uk, as required.

8.5 Health and Safety implications (where appropriate): Health and Safety criteria are standard considerations when we contract with the external care market.

8.6 Sustainability implications (where appropriate): Carbon zero considerations have informed the development of the specification and tender documents for the new home care model.

8.7 Any Other Implications: None identified.

9. Risk Implications / Assessment

9.2 There is some risk that other home care providers within the wider care market view this decision unfavourably. This will be addressed sensitively and we will work with the Norfolk Care Association (NorCA) to manage the communication concerning this decision. We expect that other home care providers will appreciate the longer time scales available, to transition any services and staff, if they were successful in the future tender process.

10. Select Committee Comments

10.1 Not applicable

11. Recommendations

To approve the exemption to Contract Standing Orders to extend the six block contracts held in West Norfolk for a period of 12 months. The estimated annual value is detailed in the exempt appendix to this paper, which is subject to negotiation on any fee uplifts that would apply for the new financial year.

12. Background Papers

12.1 Authority to enact revenue pipeline Cabinet Paper (3rd April 2023)

12.2 People and Communities Select Committee paper (19th May 2023) – Home Care Strategic Commissioning Approach

Officer Contact

If you have any questions about matters contained within this paper, please get in touch with:

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