

CABINET

Date of Meeting	Tuesday, 15 th December 2020
Report Subject	Commissioning of Learning Disability (Autism) Day Service Provision
Cabinet Member	Cabinet Member for Social Services
Report Author	Chief Officer (Social Services)
Type of Report	Operational

EXECUTIVE SUMMARY

Flintshire County Council currently purchase bespoke autism specific Learning Disability day services for thirteen individuals on a 'spot' purchase basis. Presently, there is no relevant framework agreement in place that covers the commissioning of equivalent services and no contractual agreement reflecting the services currently purchased.

The current service provider has indicated that the present 'spot' purchasing arrangement requires replacing with a more formal contractual agreement to enable future service continuity.

An Exceptions Report seeking a direct award for the services currently purchased was submitted in September 2020. The rationale was based primarily on the need to ensure continued service continuity for the individuals who currently attend the day services.

Advice received from the Procurement Team indicated that there were grounds within the Public Contract Regulations 2015 for a short-term direct award not for a long-term direct award. Due to the estimated annual cost of services, sanction of any longer-term direct award requires a Cabinet decision.

RECOMMENDATIONS

1	This report seeks approval for the direct award of a contract to the present service provider for the Community and Voluntary Services (CVS) as detailed and referred to in this report.
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REPORT DETAILS

1.00	EXPLAINING THE COMMISSIONING OF LEARNING DISABILITY (AUTISM) DAY SERVICE PROVISION
1.01	The local authority presently purchases some of its day service support within Learning Disabilities on a 'spot purchase' basis. There are regional agreements in place for the procurement of domiciliary support (North Wales Domiciliary Care (Framework) Agreement) and Supported Living provision (North Wales Supported Living Framework) within Learning Disabilities. However, no equivalent agreement exists for the purchase of Learning Disability day service provision.
1.02	Although a significant proportion of Learning Disability day service provision is accessed within the local authority area, some degree of bespoke, specialist autism day service provision is accessed via a provider based outside of the local authority catchment area.
1.03	As of March 2020, there were 14 individuals accessing an autism specific day service provider offering Community and Voluntary Services (CVS). 13 of these support packages were purchased on a 'spot' basis and one was purchased as a Direct Payment.
1.04	During the period in which the CVS services were closed due to the national lockdown, the service provider approached the local authority with a request for an uplift in fees for the provision purchased. Subsequent dialogue with the service provider has also indicated that to ensure continued service sustainability in the future, the 'spot purchasing' arrangement would need to be replaced with a formal contractual agreement.
1.05	As restrictions were subsequently eased following the initial lockdown in March 2020, some of the individuals who attended the services prior to lockdown have since started to re-attend. This is subject to continuing and fluctuating rules according to both regional and national lockdown regulations.
1.06	An Exceptions Report was submitted to the Procurement department on 22/09/2020. This sought an exception from the requirement to tender and proposed a Direct Award to the service provider for the services currently 'spot' purchased and the implementation of a formal contractual agreement to reflect the services purchased.

1.07	The criteria as relevant to the local authority Contract Procedure Rules for seeking exception from a tender process were twofold. Firstly, urgency brought about by events unforeseeable by the local authority (the Covid-19 pandemic) and in accordance with the conditions stated in the Public Contract Regulations (2015).
1.08	Secondly, that a tender process could result in detriment to the welfare and undermine the attainment of successful outcomes for the individuals that access the day services. Dialogue with involved professionals has indicated that the services accessed are successful in achieving identified outcomes for the individuals who attend and that there is a notable lack of accessible, equivalent bespoke provision.
1.09	The procurement recommendation was that Regulation 32 of the Public Contract Regulations (2015) could be utilised for a short-term direct award but would not be applicable for a longer term open ended arrangement. The response also stated that due to the potential estimated annual value (£458,120), if a longer-term direct award was to be approved, that this would require either a delegated or Cabinet decision.
1.10	The structure of the proposed contractual arrangement with the service provider will enable individuals who attend to be subject to terms and conditions of Individual Placement Agreements (IPA). This will allow for some degree of flexibility of service delivery levels purchased by the local authority and does not commit to the block purchase of a pre-set volume of service delivery for the duration of the contract.
1.11	Several of the individuals who currently access the services live with family members. Whilst the costs of the services accessed are significant, it is likely that if lack of access to the services necessitated breakdown of their living arrangements, then the costs of sourcing autism specific Supported Living or residential provision could significantly outweigh the spend on the day services currently accessed.

2.00	RESOURCE IMPLICATIONS
2.01	The funding for the services currently purchased is met via the Social Services budget with a 50% contribution from the Betsi Cadwaladr University Health Board for one of the support packages.
2.02	The weekly costs for the thirteen 'spot' purchased support packages purchased at rates paid when the day services were originally closed due to the lockdown related to the Covid-19 pandemic were £7,614.97. This equated to an approximate annual cost of £395,978.44.
2.03	The provider indicated that they required a significant inflationary uplift for the support packages currently purchased by the local authority. This equated to an uplift of 15.69% and weekly and annual costs of £8,810 and £458,120 respectively. This represents an annual increase in cost of £62,141.56.

2.04	The potential increase in cost stated is predicated on no change to the service levels for the individuals that access the day services according to the service levels indicated as of March 2020.
2.05	Another placing local authority has undertaken an open book accounting exercise with the service provider to ascertain and agree sustainable and competitive costs for the service provision. These costs are the rates requested by the service provider and have been agreed to be adopted by Flintshire County Council.
2.06	The proposed contract structure for the day service provision moving forward will not guarantee any minimum level of service provision for the duration of the contract. It is anticipated that service delivery will be reflective of service levels according to an Individual Placement Agreement which will be subject to the terms and conditions of any overarching contract.
2.07	There are no significant staffing resources for the potential change from spot-purchasing services to the implementation of a contractual agreement. The provider possesses pre-existing resources to enable the support subject to potential contract to be delivered successfully and to continue to achieve desired outcomes for individuals attending the day services.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	There are three principal risks relating to the commissioning of the bespoke autism services. These relate to the complex support needs of the individuals who access the service and also financial and reputational factors associated with commissioning the services.
3.02	The current service provider has indicated that service continuity is at risk without the implementation of a contractual agreement. There is a lack of local equivalent bespoke provision. Potentially the cohort of individuals who currently access the service could be left without access to the specialist services that enhance their wellbeing and enable achievement of outcomes.
3.03	The lack of a contractual agreement could result in reputational damage to the local authority if this was to result in the cessation of service provision for the cohort of individuals who presently access the services.
3.04	Loss of access to the services would place significant additional pressure on the individuals' other support networks (family and Supported Living settings) compounding pre-existing Covid-19 related stressors.
3.05	There is a financial risk associated with the potential breakdown of individuals' pre-existing support networks. It is likely that prospective alternative support arrangements such as bespoke residential placements may cost considerably in excess of the pre-existing day support arrangements.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	There has been dialogue between managers within the Social Services commissioning function and the current service provider to ensure sustainability of service delivery (where feasible according to local and national Covid-19 related restrictions) since the onset of the Covid-19 pandemic.
4.02	A collaborative approach has been undertaken with the host local authority to ensure that any rates agreed subject to any future contract are fair, competitive and represent value for money.
4.03	Engagement was sought via other stakeholders (associated Social Services professionals) to ascertain the suitability of the current support arrangements.
4.04	Elements considered related to the extent to which access to the current services promoted achievement of outcomes and wellbeing, availability or lack of equivalent bespoke provision and the sustainability of individuals' other support networks.

5.00	APPENDICES
5.01	None.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None.

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: Dawn Holt, Commissioning Manager Telephone: 01352 702128 E-mail: dawn.holt@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
	<p>Autism: Autism spectrum disorder (ASD) usually referred to as autism, a lifelong developmental disability affecting how individuals communicate and interact. Autistic individuals may experience difficulties in social communication.</p> <p>Commissioning of services: The development of service provision that includes the specifying of requirements and procurement of organisations other than the Council to deliver services.</p>

Contract Procedure Rules: Rules and procedures that ensure that contracts are awarded based on open and transparent competition.

Community and Vocational Services: Day service provision that offers people with autism meaningful, realistic and achievable training, work experience and valuable life skills.

Direct Award: Occurs when a contract is awarded to a contractor without a competitive tender process.

Direct Payment: Payments made by a local authority social services department to an individual who has been assessed as having care and support needs who wish to arrange their own care and support services

Exceptions Report: Report to be completed by relevant commissioning service or department seeking an exception from the requirement to tender.

Framework Agreement: An agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Individual Placement Agreement: An agreement whereby the local authority agrees to purchase and the service provider agrees to provide specified services in the document to a named individual.

North Wales Domiciliary Care (Framework) Agreement: Denbighshire County Council has led on a procurement exercise (tender) to establish a North Wales Domiciliary Care Framework Agreement for adult services on behalf of the six local authority partners and BCUHB. The Agreement replaced the existing regional contractual agreements, which did not meet the requirements of the Social Services and Well-being (Wales) Act 2014 and the Regulation of Inspection for Social Care Act 2016. This Agreement was approved by all partners (27.02.2018) and came into effect on the 1st April 2018.

North Wales Supported Living Framework: Denbighshire County Council has led on a procurement exercise (tender) to establish a North Wales Supported Living Framework on behalf of the six local authority partners and BCUHB. The Framework builds on from the North Wales Domiciliary Care Framework Agreement. This Agreement was approved by Denbighshire County Council Cabinet on the 18.02.2020 on behalf of all partners and came into effect on the 1st April 2018.

Public Contracts Regulations 2015: Regulations relating to the procurement of supplies, services and works for the public sector.

Public Contracts Regulations 2015 - Regulation 32: Details the specific cases and circumstances contracting authorities may award public contracts by a negotiated procedure without prior publication.

Residential Care: Care and support provided to adults or children who stay in a residential setting rather than in their own home or family home.

Supported Living: Housing and support that is built around a person, allowing them to choose where they live, with whom and how they are supported.