

Report to:	Cabinet	Date of Meeting:	Thursday 6 th December 2018
Subject:	Liverpool City Region (LCR) Procurement of a Flexible Purchasing System for Complex Care		
Report of:	Head of Adult Social Care	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member - Adult Social Care		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

The purpose of this report is to seek approval to commence a procurement exercise for the provision of complex care and support services.

The report also details the proposed approach for the procurement under Liverpool City Region (LCR) joint working arrangements using the flexibilities permitted under the 'light touch regime' for social and other services as listed at Schedule 3 of the Public Contracts Regulations 2015, whereby the LCR intends to create a bespoke Flexible Purchasing System (FPS) which will operate as a common, shared 'marketplace'.

Cabinet to;

1. Approve the commencement of a procurement exercise, to be led by Liverpool City Council as part of LCR joint working arrangements, which will encompass a Flexible Purchasing System (FPS) being implemented from April 2019, for the provision of Complex Care and Support services;
2. Delegate decisions regarding the FPS procurement evaluation criteria, service specification, outcome and quality monitoring framework, and contractual terms to the Head of Adult Social Care. Such decisions will be made in advance of any procurement exercises commencing and will be collective decisions by all participating authorities;
3. Following its establishment, authorise use of the FPS for the future procurement of complex care and support services, where an options appraisal, as described in this report, has determined it to be the most appropriate approach;

Reasons for the Recommendation(s):

Following endorsement of the Liverpool City Region (LCR) Devolution Agreement in June 2015, Health and Social Care leaders across the six Local Authorities (Sefton / Halton / Knowsley / Liverpool / St Helen's / Wirral), were tasked with exploring the potential for greater collaboration.

The LCR strategic leadership board has identified an opportunity to create a single FPS for adults with complex care needs as a key development in the collaborative working programme. The FPS will create a single-entry point for the six Local Authorities and Clinical Commissioning Group (CCG) partners to commission services and a single route for providers to register to supply services. There will be a common set of contract terms and service specifications in operation across LCR which will include a shared outcome and quality monitoring framework.

Alternative Options Considered and Rejected: (including any Risk Implications)

The following options were considered and rejected;

1. **Maintaining the Status Quo** – this was not considered a viable option as the current mechanism for the procurement of Complex care and support services in Sefton does not encompass any collaborative working and as result, Sefton are unable to benefit from the collective buying power that the proposed approach encompasses in that all authorities will be able to better shape the overall market and encourage more innovation and higher quality from providers. In addition, feedback from Providers indicates that the proposed approach to jointly procure services is viewed by them as being more efficient in that it means that Providers do not have to go through numerous separate procurement exercises which are onerous and result in them having to adhere to different contractual and service delivery requirements. The proposed approach also includes the development of a shared service specification which can be adapted in order to ensure that services in Sefton can be tailored to the specific needs of the communities it serves. The FPS will result in there being additional options for the procurement of services. Sefton will still be able to procure services outside of the FPS where that is the most appropriate approach.

What will it cost and how will it be financed?

(A) Revenue Costs

Revenue costs with respect to any contracts awarded will need to be met from existing Adult Social Care budgets.

There is a one-off cost of £14,000 to Liverpool City Council for preparing the procurement exercise on behalf of LCR. The overall annual management cost associated with the FPS is £7,000 per annum.

These costs will be shared per head of population by the six Council's. The cost to Sefton will be in the region of £3,712.56 in the first year and £2,641.50 in subsequent years and will be met from within the Adult Social Care budget.

(B) Capital Costs

None arising directly from the report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):
Legal Implications: Care Act 2014 Care and Support Statutory Guidance The Public Contracts Regulations 2015
Equality Implications: The equality Implications have been identified and mitigated.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Complex Care and Support services provide care and support to vulnerable people assessed as required such services, thus ensuring that the Authority meets their assessed needs.
Facilitate confident and resilient communities: Models supported within services for Complex Care and Support provide models of service which supports the maintenance of independence, including ensuring that Service User remain as part of, and can continue to access their local community.
Commission, broker and provide core services: The adoption of the proposals will ensure that statutory services will be delivered to vulnerable Service Users.
Place – leadership and influencer: Good quality services can contribute positively to a local area, enabling a range of accommodation options and support that enables people to remain as part of a community for longer. The development of a strategic approach to complex care needs, referred to in this report, will enable the Council to more effectively direct support and develop options to meet care needs where these are needed in Sefton.
Drivers of change and reform:

The proposals encompass the development of a revised service delivery and contractual arrangements which better meet strategic aims and priorities.
Facilitate sustainable economic prosperity:
Greater income for social investment:
Cleaner Greener

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD.5454/18) and the Chief Legal and Democratic Officer (LD.4579/18) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Consultation has taken place with LCR colleagues regarding the implementation of such a system as part of wider discussions regarding the provision of Complex Care options.

In August 2018, a soft market testing exercise was launched via The CHEST procurement portal which encompasses the issuing of a questionnaire to care and support Providers. A Provider engagement event was also held. Engagement with Providers will continue to ensure that the approach to the FPS works for the care market.

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 Following endorsement of the LCR devolution agreement in June 2015, health and social care leaders across the region were tasked with exploring the potential for greater collaboration and/or potential devolution of health and social care
- 1.2 The LCR strategic leadership board was subsequently established and identified significant potential for LCR councils to commission services for adults with complex care needs in a more collaborative manner.
- 1.3 The LCR strategic leadership board has identified an opportunity to create a single Flexible Purchasing System (FPS) for adults with complex care needs as a key development in the collaborative working programme. Initial engagement with the provider market has taken place and LCR councils are continuing to work closely with providers to ensure that the FPS is designed in a way which maximises the potential benefits for all stakeholders; the councils and CCG's, providers and, most importantly, the people who are supported by the services commissioned. The commissioning intentions in relation to the LCR Complex Care FPS are underpinned by national policy initiatives including The Transforming Care Programme and the Care Act 2014
- 1.4 Whilst there are robust and effective commissioning practices in place across LCR at a local level, the lack of regional collaboration has led to a marketplace where each Council and CCG has different contract terms and specifications and there are, as a result, different monitoring and performance management arrangements in each local authority area. In addition, there are a range of different rates being paid for similar services and a fragmented approach to market engagement and facilitation.
- 1.5 There are approximately 500 providers providing residential and community care across the LCR with an average weekly spend of over £7m across the region. Many providers are commissioned across multiple LCR councils; for example, the four largest supported living providers in the LCR (in terms of spend) have a presence in each of the six Councils' areas.

2. The Scope and Benefits of the FPS

- 2.1 Using the flexibilities permitted under the 'light touch regime' for social and other services as listed at Schedule 3 of the Public Contracts Regulations 2015, LCR intends to create a bespoke FPS which will operate as a common, shared 'marketplace'.
- 2.2 Complex Care will encompass specialist services for adult aged 18 (or 16 as part of a transition from children's services) to 65. The proposed service user groups and services which will be included in the scope are as follows:

People with:

- Learning Disabilities

- Autism
- Mental Health Conditions (including Forensic Needs)
- Acquired Brain Injury
- Physical Disabilities
- Dual Diagnosis (including secondary substance misuse issues)

It is intended that the following services will be included:

- Supported Living
- Residential and Nursing Care
- Shared Lives
- Day Opportunities
- Respite Services (including Emergency Accommodation)
- Rehabilitation Services
- Positive Behaviour Support Services
- Independent Support Planning/ Brokerage Services
- Employment Support Services
- Transitions

2.3 The FPS will create a single-entry point for the six councils and CCG partners to commission services and a single route for providers to register to supply services. There will be a common set of contract terms and service specifications in operation across LCR which will include a shared outcome and quality monitoring framework.

2.4 The FPS will remain open so that new providers can join as the market evolves. This will maximise the level of choice people have when choosing services in line with the Care Act, which is particularly important where accommodation is provided alongside care and support.

2.5 It is anticipated that the FPS will deliver a number of benefits for councils, CCGs, Providers and people who receive services. These include;

- Efficiency gains by reducing duplication and fragmentation of commissioning and procurement arrangements for complex care;
- Combining knowledge, expertise and data to target resources, tailor services and improve overall quality, capacity and performance;
- More strategic market facilitation and engagement to improve quality and create more sustainability and diversity in the market;
- Promotion of personalisation and implementation of personal budgets and self-directed support;
- Engendering of a culture of co-production and partnership working across the region;
- More efficient micro-commissioning and capacity management;
- Maximisation of choice and control for people with complex needs; and
- Streamlining contract and supplier management and outcome and performance monitoring.

3. The Establishment of the FPS and its Future Use

3.1 It is anticipated that the FPS will be operational from April 2019. The following high-level timeline details the timeframes for the establishment of the system;

Key Procurement Activity	Timeline
Soft Market Testing / Provider Engagement	August / September 2018
Procurement Launched	Late December 2018
Evaluations Completed	Late February 2019
Report and Delegated Approval to Award	March 2019
New LCR FPS Implemented	April 2019

3.2 Liverpool City Council will lead on the procurement of the FPS, and each participating Council and CCG will contract services within it directly from providers so will be fully responsible for all aspects of their own procurement activity.

3.3 There is a one-off cost of £14,000 to Liverpool City Council for preparing the procurement exercise on behalf of LCR. The overall annual management cost associated with the FPS is £7,000 per annum, however, it is recognised that this will be subject to review following year one when there will be more clarity on the resource implications for Liverpool City Council. Any suggested changes in cost following than year one review will go through the usual governance processes.

3.4 These costs will be shared per head of population by the six Council's. The cost to Sefton will be in the region of £3712.56 in the first year and £2641.50 in subsequent years.

3.5 As a condition of being offered a place on the FPS, providers will be required to accept the terms and conditions applying to each individual contract entered under the FPS over time. These terms and conditions will be produced jointly by Legal Services teams across LCR which will protect each organisation on a wide range of issues, including:

- Risk/liabilities/insurance
- Appropriate warranties and indemnities
- Control, monitoring, project management and reporting provisions
- Data protection and confidentiality
- Safeguarding
- Quality and performance
- Best value and continuous improvement
- Dispute resolution

3.6 Work is currently taking place with the other LCR Authorities to develop additional legal documentation for the FPS, such as the rules for it and the application form for Providers to submit. In addition, the service specification is also being amended in order to reflect feedback

- 3.7 Should the FPS be utilised, Sefton would contract services within it directly from providers so will be fully responsible for all aspects of the procurement activity.
- 3.8 Fee rates for services procured via the FPS will be paid based on Sefton agreed rates and cost models however, there is a separate LCR strategic work stream in place which is analysing the differentials in levels of need and rates. This work stream will continue alongside the development of the new LCR Complex Care FPS.
- 3.9 There will be no legal requirement to exclusively use the FPS for procurement exercises. Sefton will therefore still be able to conduct separate procurement exercises for the commissioning of services.
- 3.10 When decisions are required regarding the future procurement of Complex Care and Support Services, an options appraisal will be undertaken to identify the most appropriate procurement option (e.g. use of the FPS or an alternative approach) within the context of public procurement legislation and the Council's Contract Procedure Rules. This will include consideration of the following factors:
- An identified need to re-procure services,
 - The estimated value of the future contract
 - Existing contractual arrangements in place
 - The specific procurement activity required
 - The timeframes for the procurement – including any urgency for the new service to meet Service User(s) needs and the ability of the FPS to meet these timeframes
 - Current local care and support market conditions
 - Value for Money