

CABINET (SPECIAL) – 15 FEBRUARY 2011

CALL-IN: GATEWAY 2 – CONTRACT AWARD APPROVAL, HOME CARE SERVICES IN SOUTHWARK

Supplementary Information from the Strategic Director of Health and Community Services following consideration of the call-in at the Overview and Scrutiny Committee

1. The Overview and Scrutiny Committee considered this report on 7 February 2011 on the following points.
 - 1.1. “The link between strategy and implementation has not been maintained, and the outcome of this decision is disproportionate to the action taken:
 - The decision contradicts the Council's agreed policy of protecting services for vulnerable people, as stated in A Fairer Future for All in Southwark, because it did not let two of the specialist contracts and does not give a satisfactory explanation of how these needs will be alternatively and adequately met.
 - The decision advocates two compromises on quality of care that will adversely impact on vulnerable people, contrary to the Council's agreed policy in A Fairer Future For All in Southwark.
 - Letting only two out of the three main contracts leads to increased risk for the Council if one of the contractors experiences problems with quality, CQC rating or service delivery.”
2. Following consideration, the Committee referred the report back to the Cabinet with the following comments:
 - Further information is required about alternative provision identified for recipients of services of the two specialist contracts not let (OASIS and the intermediate care and neurological-rehabilitation service)
 - Clarification is needed of whether the council has the option to terminate either contract if the CQC rating of the provider falls below two stars
 - Whether the cabinet can satisfy itself that adequate contingency arrangements are in place in the event that either provider is, for whatever reason, unable to perform the service as contracted for

Alternative provision

3. The two specialist services that were not recommended to be let are both rehabilitative services that offer short term interventions of up to 12 weeks.
4. Since the tender process began a new, short term reablement service has been piloted in Southwark which is proving to be very successful in supporting people to manage independently. The council plans to re-commission a single reablement service, rather than have separate, overlapping services. Integration of these services enables the council to offer a comprehensive and joined-up service while benefiting from the cost efficiencies of a larger service.
5. As outlined in paragraph 64 of the report, alternative commissioning plans are being developed for these services and further details on this follow.

Intermediate and Neurological-rehabilitation Service

6. This service offers support to people on discharge from hospital (e.g. people who have had a stroke) and works with approximately 20 people at any one time.
 - At the time of going out to tender the reablement service had not started yet.

- This service is already being integrated into the pilot reablement service and will form part of the upcoming procurement of this service.
 - The current model leads to considerable 'downtime' thus making unit costs considerably higher.
7. These services are currently being integrated into the reablement service which will be procured.
 8. The separate services will continue to operate while integration activity is completed.
 9. Current contracts with all providers expire on 5 April 2011, with approval already given to extend these for up to a further four months (to August 2011) to manage the transition arrangements.
 10. Contracts with specialist elements will continue to August if required.
 11. Should the reconfiguration of services not be completed by this date, further arrangements will be identified as part of the Gateway report presented for the procurement of the reablement service. However, as stated earlier, these are currently being integrated so this is unlikely to be required.

Older Adult Support in Southwark (OASIS)

12. This is a support service that works with people with complex mental health needs, using a model of rehabilitation (it is not a home care service). It currently works with up to 20 people in the north of the borough and up to 20 people in the south.
13. Due to the termination of one of the council's existing contracts the north OASIS service will cease at the end of February, but the south service continues to operate as normal. In the north, alternative arrangements have been identified for everyone using this service, with three people who continue to need support transferring to the provider operating in the south, which operates at a significantly lower unit cost.
14. The south OASIS service is currently provided by Enara Community Care as part of their universal cost and volume contract.
15. Service continuation while new commissioning proposals are considered is a priority and can be achieved through:
 - Extending the OASIS element of the current contract with Enara Community Care beyond the existing finish date.
 - Calling off a contract under the Supporting People framework, which provides specialist mental health support services.
 - A mini-tender if required beyond August.
 - A combination of these options.
16. These options would continue the service until such time as decisions have been made in respect to future commissioning. This service is currently able to work with 20 people in the borough.
17. To ensure future service sustainability, a model that is appropriate *and* affordable needs to be developed. Further discussions with key stakeholders in the mental health area have been initiated to consider how best to meet the needs of these people and to consider next steps. This will include consideration of any elements of the current service model that is the responsibility of the NHS and calling off a specialist mental health support service through the supporting people framework (a set of support service contracts the Council can choose to draw from).

18. In the meantime the council will work with NHS colleagues to ensure that any individual social care needs are adequately met in a personalised way, including support needs being met through Supporting People contracts and through personal budgets.

Quality

Quality assessment

19. The Council does not accept that the recommendations in any way compromise the quality of care that will be provided in people's homes.
20. All bidders were required to meet a minimum quality rating of 2 stars as assessed by the Quality Care Commission. This was not altered.
21. The quality element of the tender process is designed to satisfy the Council that the level of quality assessed by CQC can be delivered locally e.g. by understanding how a provider would scale up their business in Southwark. Providers were required to demonstrate their quality in, and were assessed against, the following areas:
 - Resources, ability to deliver contract specifications:
 - Transition plan.
 - Mobilisation plan.
 - Proposed management structure.
 - Continuity of staff.
 - Contingency planning / back up arrangements.
 - Quality control, ability to provide consistent high standard of service delivery:
 - Key policies (including care worker hand book).
 - Quality management systems / Quality assurance procedures and process.
 - Selection / recruitment processes, staff training and development plans.
 - Quality control arrangements.
 - Performance monitoring arrangements.
 - Partnering and collaborative working, ability to deliver Council objectives:
 - Joint working with other agencies (PCT, GPs, community groups, district nurses).
 - Customer Satisfaction, ability to achieve and maintain customer satisfaction:
 - Personalisation programme (tailoring of services).
 - Service user guide.
 - Ability to monitor and measure customer satisfaction and using information.
 - Approach to complaints.
22. Only those bidders who met the quality threshold had their bid considered meaning the council had to be satisfied they could deliver a quality service before considering the pricing evaluation.
23. The quality threshold was set very high and the council does not believe slight adjustment made to this will have an effect on the quality of services delivered. The adjustment made was very small (equating to 3 points out of a possible 50) and this enabled local providers who are considered to provide good services to review their pricing.
24. It is through obtaining the best possible price for services that satisfy our quality requirements that we are ultimately able to offer services to more people. The unit cost of current services is not sustainable and would lead to waiting lists or reconsideration of the eligibility criteria.
25. The council also recognises that meeting the quality criteria on paper through the tender process is not enough. The council needs to be reassured that this is translated into quality services in people's homes. Thus, thorough and robust assessment of quality will be followed up by working closely with the providers throughout the transition period and through the full life of the contract to ensure the contract specifications are met to a high standard.

26. By working proactively with providers, the council can also ensure that they can quickly identify any emerging issues and ensure these are managed appropriately.

Monitoring quality

27. Care quality will be monitored through a system that is being tailored specifically for these contracts. This monitoring system will examine both standard requirements, such as staff training, record keeping etc, and will check the service is helping service users achieve their outcomes.
28. Quality will be monitored both from an organisational perspective (does the organisation have the right processes and infrastructure in place to be able to deliver a quality service?) and from the perspective of people who use the service.
29. Operational checks include checking employee training and qualifications, key policies, quality assurance systems, etc.
30. Quality from the perspective of those using it will be monitored through multiple channels, including service user feedback / surveys, provider measurement of customer satisfaction, feedback from service user care reviews, etc
31. The contract covers monitoring in some detail, including provision for a senior level Contracts Board that will meet bi-annually. The Contract Board provides strategic oversight and undertakes the following key tasks:
- Receive the Annual Quality Assurance Report.
 - Consider and, if possible, resolve disputes between the Provider and the Council.
 - Review usage and receive recommendations from the Authorised Officer and the Contracts Manager regarding performance.
 - Review inspection reports.
 - Review contract performance in the light of the Specification and the Contract.
 - Reconvene should there be an urgent issue, which cannot be resolved through ongoing contract monitoring arrangements.
 - Maintain an overview of legal status of the Contact and communication concerning re-tendering processes.
 - Review and agreeing all performance targets and KPIs for the following year.
 - Review the future delivery plan for the Services.
 - Review the Service Users' perception of the Service.
 - Review the Provider's Exit Management Plan, Disaster Recovery Plan and Business Continuity Plan.
 - Consider the Provider's suggested of measures which might to appropriately taken by the Provider to secure continuous improvement of the Service and to provide Best Value to the Council. This may be by way of proposals for savings and/or added value proposals.
 - Ensure the Code has been adhered to by the Provider in the past year up to the annual review date.
 - Carry out a strategic review of ICT solutions and service innovations.
 - Make strategic decisions.
32. Review meetings will be held to examine the contract management at an operational level.
33. Both of these meetings are in addition to the regular performance monitoring that is undertaken and compliments the activity of the Care Quality Commission.
34. The council will take a proactive approach to contract management and the contract confirms the importance of working in partnership.

35. The detail of the system has been worked up so it can be consulted with the providers and finalised.

Risk management and contingency planning

Risk management

36. The landscape of care delivery is changing significantly, removing the focus from block contracts. There is a clear agenda from central government for the delivery of social services and the cornerstone of this is providing service users with choice and control of their care. The Government's preferred option is for people to take up a personal budget which they directly control, thus reducing reliance on block contracts. The council has committed to this vision.
37. Under this care delivery model council-managed, block contracts should not dominate the care market and providers who work directly with individuals form a key part of the market. All providers were written to on 14 January 2011 inviting them to enter into a dialogue with the Council as to how they can support taking this forward, including offering a continued service to their existing users through personal budgets. Over half the existing providers have responded positively to this invitation.
38. Awarding three universal contracts would have led to contractual volume guarantees which council is very unlikely to be able to meet in the context where people who use services choose to keep their existing provider. This presented significant risk to the Council where it would have to honour contractual and financial commitments even if the volume of service was not being used or commissioned.
39. This is a risk the council cannot afford, particularly given the huge reduction in grant from central government.

Termination

40. In order to ensure the quality of services, a bespoke monitoring system is being developed, and as stated earlier, this includes strategic and operational oversight, and detailed monitoring. Key features include:
- Proactive partnership working between the council and providers to identify and manage issues early .
 - Prevent escalation of issues through early management (and prevent poor work practices becoming embedded in the culture of the organisation).
 - Regular monitoring on key aspects of the contract.
 - Working with brokerage and commissioning staff to monitor and manage any issues with capacity (as part of the ordering system).
 - Working closely together during the transition period and staggering transfers to enable providers to manage and develop their capacity.
 - Regular overview meetings.
41. Active management in this way will help to avoid issues, but in the event that there are issues that cannot be resolved, and the quality of care provided is not sufficient, the council can take action.
42. The contract does not contain provision to terminate the contract specifically based on star ratings and Cabinet is advised that this system of assessment is no longer used by the Care Quality Commission. However, the contract provides for rectification and default notices to be issued in the event the provider fails to meet contract standards or achieve performance indicators and this can lead to termination of the contract.

43. Termination of the contract can happen for a variety of reasons, including:
- Failure to comply with the requirements of a default notice (rectification and default notices are issued if a provider does not perform all or any part of the Service or fails to achieve the Contract Standard, or the Key Performance Indicators, so essentially for not providing services to the quality/standard required).
 - Multiple default notices being issued within a period.
 - A material breach of the Contract by the provider.

Contingency planning

44. In addition to active management of the contract, contingency planning for a provider failure has been undertaken.
45. If contract termination is required the council has a number of options available. This includes going to the existing market to look for alternative solutions for people.
46. A local market is needed, both to ensure choice for service users and also to meet need in the event of a service failure. Work has been undertaken to maintain variety and availability in the home care market within Southwark. The council are pursuing two approaches to ensure market stability:
- The market forum which works with interested providers (both current and prospective) to help prepare for personalisation.
 - Through one-to-one dialogue with existing providers. This is focused on how to support service users to remain with their organisation if this is their choice.
47. If a provider is unable to meet their obligations, and the contract needs to be terminated, the council will consider the following options in consultation with service users:
- Transfer of care packages to the other contracted provider (short-term solution).
 - Enter into a short-term contract with another provider or providers.
 - Commence activity to procure a new provider whilst closely managing the current provider.
 - Work with the market to place packages on a spot purchased basis.
 - Work with service users who may wish to take up a self managed personal budget.
48. Contract Standing Orders (CSO) paragraph 4.9 provides that in the case of an emergency (where action is needed to prevent a risk of injury or loss of life, or to the security or structural/operating viability of a property or other tangible or intangible asset), action necessary can be approved by a chief officer without a prior written Gateway report. Such action shall be limited to dealing with the emergency and it shall be subsequently recorded in a written report to the Corporate Contracts Review Board.
49. This CSO would allow the council to seek agreement to an emergency transfer of business while a procurement exercise was carried out.