



## Appendix 'C'

### Equality

### Analysis Toolkit

**Re-commissioning Home Care for Older  
People and People with Physical  
Disabilities in Lancashire**

**For Decision Making Items**

December 2013

## Name/Nature of the Decision

### **Recommissioning Home Care for Older Adults and People with Physical Disabilities in Lancashire 2014/15 to 2021/22**

The Cabinet Member for Adult and Community Services is recommended to:

- (i) Approve proposals for Recommissioning and Procuring Home Care services which place an emphasis on:
- Commissioning Home Care Services which:
    - Promote Personalisation;
    - Become more outcome focussed and maximise independence;
    - Support integrated working with other Health and Social Care services and organisations;
    - Ensure the dignity of individuals and safeguards those who are vulnerable;
    - Incorporate human rights obligations into decision making and commissioning and contracting practices.
  
  - Investing in and developing Lancashire's home care workforce by:
    - Ensuring all Home Care providers are contractually obliged to follow compliance guidance from Her Majesty's Revenue and Customs (HMRC) on paying National Minimum Wage (NMW);
    - Setting prices on the Home Care Framework on the basis of
      - Minimising the use of zero hours contracts (ZHC) in the Home Care sector;
      - Hourly pay rates converging towards "Living Wage" rates for all home carers during the lifetime of the new contracts';
      - National Minimum Wage Compliance
    - Endorsing the principles contained in Unison's "Ethical Care Charter for Home Care";
    - Working with local workforce and employers' representatives to draft a 'Lancashire Charter for Home Care', detailing annually updated commitments to:
      - National Minimum Wage Compliance at all times;
      - Minimising the use of Zero Hours contracts;
      - Hourly wage rates which converge towards the 'Living Wage';
    - Inviting Home Care Providers who wish to secure places on the Framework to sign up to this 'Lancashire Charter for Home Care', and supporting its use as a vehicle for promoting their reputation, partnership working and the sustainable growth of their businesses;
    - Adopting a strategic approach to training in the sector, analysing the workforce National Minimum Data Set, working with Skills for Care, and leveraging its investment in Lancashire Workforce Development Partnership to ensure delivery of training to Home Care workers is in line with local priorities and takes account of CQC regulations, the Cavendish report, and the guidance under development by National Institute for Clinical Excellence (NICE);

- Changing the Council's approach to contracting so that:
  - Providers are clear about their responsibilities to act compatibly with the Human Rights Act 1998, and contracts would give users of contracted services a direct right of redress against the provider in the event that their human rights are breached;
  - There is a greater emphasis on quality over price in procurement of home care;
  - Providers are expected to support the principles of Self Directed Support and take greater responsibility in supporting individuals to exert choice and control over the use of their Personal Budgets;
  - There is the adoption of a clear and robust approach to quality based on service user derived standards and Key Performance Indicators, reliable monitoring and incentives to continually improve;
  - The new 'Framework' for Home Care offers a minimum guaranteed level of business to providers which is subject to periodic negotiations and reset according to predicted demand\*;
  - Our approach to Electronic Time Monitoring Systems is reviewed, with the intention of presenting a business case for investment in a centralised system to enable more effective monitoring and audit of key cost and quality indicators;
  - The length of contracts offered to providers is extended for up to 7 years on the basis of an initial 3 years with the option of yearly extensions for a maximum of a further 4 years, subject to satisfactory progress and performance, and in order to encourage investment in workforce and systems and to reduce procurement costs;
  - Flexibility is built in to design of the contracts to enable the introduction of new approaches and innovations in service delivery and payment mechanisms;
  - Internal County Council arrangements for quality and contract management are redesigned to ensure consistently high performance is rewarded, mediocre or poor performance is swiftly challenged and consistently poor performance leads to contract termination.
  
- Shaping the Market including:
  - Significant reductions in home care provider numbers operating under contracts from the County Council allowing for a more collaborative approach to working with commissioners and other providers, encouraging investment in systems and workforce development, reducing the proportion of provider sector's spend on management and overheads; and reducing transaction costs for the County Council;
  - Offering contracts for home care business in specified geographic 'Zones' to promote more efficient working across the system and closer integrated working with joint NHS and Social Care 'Neighbourhood Teams' of frontline staff;
  - Allocating of new business to providers to secure a balanced and sustainable market in each zone by the end of the transition period, and then using publishing benchmark performance data to ensure focus on maintaining standards and continual improvement for the duration of the contract term;
  - Enabling smaller Home Care providers to bid for a smaller volume contract within zones to maintain variation in the market place and reducing the business risk for successful but newer businesses growing from a smaller base;
  - Limiting market share for any one provider to ensure the sectors longer

- term sustainability while ensure healthy competition and choice;
  - Encouraging and fostering continued growth in the take up of direct payments.
- (ii) Note the details of the consultations undertaken with Home Care Providers and service users and the main findings detailed in Appendices 'A' and 'B' and the Equality Analysis contained at Appendix 'C';

## **What in summary is the proposal being considered?**

The vital role of home care services in supporting older people and people with physical disabilities is increasingly acknowledged and understood across society. At a personal level many thousands of individuals, carers and families receive and benefit from home care every year and of course nationally the home care sector makes a vital strategic contribution to the Health and Social Care system.

In April 2013 the Cabinet Member for Adult and Community Services considered a report on the findings of a County Council led review of Lancashire's own Home Care sector. The review was undertaken as groundwork for developing a plan for recommissioning and procuring home care services when the current legal arrangements expire on 31 March 2014. This work showed that we have 150 or more Care Quality Commission (CQC) registered home care organisations involved in service delivery across Lancashire, with 129 of these Providers on the County Council's 'Framework' for Home Care, an arrangement which is commonly referred to locally as the 'Preferred Provider Scheme'.

In Lancashire the sector employs around 4500 staff, supporting over 5000 older people and people with physical disabilities. Current annual gross expenditure on home care for these service groups is in the region of £50m. Net expenditure is in the region of £37m which represents 14% of the Council's net adult personal social care commissioning budget in 2013/14.

Since April 2013 a Project Team has been working to develop robust recommissioning proposals for a fresh round of contracts and these are set out in the recommendations below for approval. Some of the proposals simply reinforce and confirm existing approaches and trends, whereas others mark a sharp break with the current arrangements. Careful consideration has been given to good practice from other councils, from published research and policy guidance and from what we know is good about our existing arrangements.

There have been extensive briefings and communications with current providers during this project, and their experience and expertise has offered us new ideas and a realistic

appraisal of some of the options we have considered. The Project Team has also engaged with representatives from groups of older people, people with disabilities and family carers in developing our proposals for quality and performance standards. A recent survey of existing home care service users has been undertaken, the findings from which has shown there is broad support for many of the key proposals set out in this report, but concern about what any change from the current arrangements may mean for continuity of care.

The procurement and implementation is challenging and complex and will take time to implement safely and effectively. This will require a contract extension for up to a further 18 months, and the establishment of a dedicated Project Team within the Adult Services, Health and Wellbeing (ASHW) Directorate to manage the safe and efficient transition from the existing to the new configuration of home care services.

It is also worth highlighting the financial significance of this report. Based on current levels of annual spend and the recommended 7 year duration of the Framework, these proposals will influence future County Council expenditure in the order of £350m across the contract term.

Is the decision likely to affect people across the county in a similar way or are specific areas likely to be affected – e.g. are a set number of branches/sites to be affected? If so you will need to consider whether there are equality related issues associated with the locations selected – e.g. greater percentage of BME residents in a particular area where a closure is proposed as opposed to an area where a facility is remaining open.

This review and re-commissioning process will apply to all service users in the Older People and Physical Disability groups who receive Home care funded by Lancashire County Council

Approximately 6000 people fall into this category along with approximately 4500 staff, the number of these directly affected will depend on which providers are successful in tendering for the new scheme and in which zone they are awarded a contract. The current 12 largest providers account for a high percentage of the market and should they be successful there will be fewer service users needing to move to new providers and fewer staff needing to 'follow the work' by moving to a new employer.

Different geographic zones may have a different hourly rate to allow for degrees of rurality, however all providers contracted to work within a zone will be paid the same hourly rate and be expected to meet the same quality standards in the delivery of care and support.

Self funders and those with direct payments are not directly in the scope of these changes.

However, the impact of the broader changes on Providers and their workforce may have a knock on effect on those who make arrangements directly with the organisations on the current Framework

**Could the decision have a particular impact on any group of individuals sharing protected characteristics under the Equality Act 2010, namely:**

- Age
- Disability including Deaf people
- Gender reassignment
- Pregnancy and maternity
- Race/ethnicity/nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership Status

In considering this question you should identify and record any particular impact on people in a sub-group of any of the above – e.g. people with a particular disability or from a particular religious or ethnic group.

It is particularly important to consider whether any decision is likely to impact adversely on any group of people sharing protected characteristics to a disproportionate extent. Any such disproportionate impact will need to be objectively justified.

Yes – see question 3.

If you have answered "Yes" to this question in relation to any of the above characteristics, – please go to Question 1.

See below

If you have answered "No" in relation to all the protected characteristics, please briefly document your reasons below and attach this to the decision-making papers. (It goes without saying that if the lack of impact is obvious, it need only be very briefly noted.)

### **Question 1 – Background Evidence**

What information do you have about the different groups of people who may be affected by this decision – e.g. employees or service users (you could use monitoring data, survey data, etc to compile this). As indicated above, the relevant protected characteristics are:

- Age
- Disability including Deaf people
- Gender reassignment/gender identity
- Pregnancy and maternity
- Race/Ethnicity/Nationality
- Religion or belief
- Sex/gender
- Sexual orientation
- Marriage or Civil Partnership status (in respect of which the s. 149 requires only that due regard be paid to the need to eliminate discrimination, harassment or victimisation or other conduct which is prohibited by the Act).

In considering this question you should again consider whether the decision under consideration could impact upon specific sub-groups e.g. people of a specific religion or people with a particular disability. You should also consider how the decision is likely to affect those who share two or more of the protected characteristics – for example, older women, disabled, elderly people, and so on.

#### **1. Service Users**

Data from ISSIS shows the breakdown of service users at November 2013 under some key headings.

#### **Table 1.1 – Service user need category**

	Number	%
Elderly	4822	80%
Physically Disabled	1195	20%
Grand Total	6017	100%

**Table 1.2 - Gender**

	Number	%
Female	4090	68%
Male	1927	32%
Grand Total	6017	100%

**Table 1.3 - Age**

	Number	%
A - 18 - 24	15	0%
B - 25 - 34	46	1%
C - 35 - 44	120	2%
D - 45 - 54	270	4%
E - 55 - 64	446	7%
F - 65 - 74	923	15%
G - 75 - 84	1902	32%
H - 85+	2295	38%
Grand Total	6017	100%

**Table 1.4 – Ethnicity**

	Number	%
Asian or Asian British	150	2%
Black or Black British	16	0%
Chinese or other ethnic	9	0%
Mixed	13	0%
White	5797	96%
Not stated	32	1%
Grand Total	6017	100%

**Table 1.5 District Breakdown**

	Number	%
LANCASTER DISTRICT	773	13%
FYLDE DISTRICT	404	7%
WYRE DISTRICT	709	12%
PRESTON DISTRICT	675	11%
SOUTH RIBBLE DISTRICT	509	8%
CHORLEY DISTRICT	511	8%
WEST LANCASHIRE DISTRICT	572	10%



<b>HYNDBURN DISTRICT</b>	397	7%
<b>RIBBLE VALLEY DISTRICT</b>	195	3%
<b>BURNLEY DISTRICT</b>	472	8%
<b>PENDLE DISTRICT</b>	478	8%
<b>ROSSENDALE DISTRICT</b>	322	5%
<b>Grand Total</b>	6017	100%

## **2. Home Care Staff**

Data is available from Skills for Care 'National Minimum Data Set' (NMDS) for some of the characteristics. The NMDS figures are for fewer numbers of home care workers than the number of people we estimate are actively working in that role in Lancashire.

**Table 2.1 - Gender**

	<b>Number</b>	<b>%</b>
<b>Female</b>	3,184	83.6%
<b>Male</b>	598	15.7%
<b>N/K</b>	28	0.7%

**Table 2.2 - Age**

	<b>Number</b>	<b>%</b>
<b>A- 24 and under</b>	646	16.9
<b>B - 25 - 34</b>	833	21.8
<b>C - 35 - 44</b>	697	18.2
<b>D - 45 - 54</b>	976	25.5
<b>E - 55 - 64</b>	574	15.0
<b>F – 65 and over</b>	94	2.5

**Table 2.3 - Ethnicity**

	<b>Number</b>	<b>%</b>
<b>Asian or Asian British</b>	81	2.4%
<b>Black or Black British</b>	38	1.1%
<b>Mixed</b>	223	0.7%
<b>White</b>	2751	81.4%
<b>Other ethnic</b>	8	0.2%
<b>Not stated</b>	478	14.1%

**Table 2.4 – Nationality**

	<b>Number</b>	<b>%</b>
<b>British</b>	2787	67.2%

<b>EEA (non British)</b>	31	0.9%
<b>Non EEA</b>	46	7.9%
<b>Unknown</b>	513	15.0.4%
<b>Non British (nationality n/k)</b>	49	1.4%

**Table 2.5 - Disability and Sickness rates**

**19 people or 0.5% of the Home Care workforce are recorded as having a disability on NMDS**

**Sick days lost per year average 6.3 days for Home Care workers employed in the private sector compared to an average of 5.3 days for other social care staff employed in the private sector. Sick days lost per year by Home Care workers in voluntary sector are slightly lower at 6.1 days**

**Table 2.6 - Length of Service**

<b>Group</b>	<b>Number</b>	<b>%</b>
<b>Before 1990</b>	1	0.0 %
<b>1990 to 1999</b>	59	1.6 %
<b>2000 to 2004</b>	255	6.8 %
<b>2005 to 2010</b>	1,510	40.0 %
<b>After 2010</b>	1,947	51.6 %

**Table 2.7 - Turnover Rates- Home Care workers**

<b>Group</b>	<b>Number of staff</b>	<b>%</b>
<b>All - Lancs</b>	4,224	36.0 %
<b>Private sector only - Lancs</b>	3,732	37.8 %
<b>Voluntary Sector - Lancs</b>	424	23.6 %
<b>Council run - NW region</b>	1,545	15.6 %

## **Question 2 – Engagement/Consultation**

How have you tried to involve people/groups that are potentially affected by your decision? Please describe what engagement has taken place, with whom and when.

(Please ensure that you retain evidence of the consultation in case of any further enquiries. This includes the results of consultation or data gathering at any stage of the process)

With the review of home care potentially affecting so many people it has been necessary to conduct extensive consultation.

As part of the consultation home care providers, service users, county councillors, social care staff, older peoples forums, carers forums, Healthwatch, Lancashire 50+ Assembly and NHS were contacted - details of these consultations are given below.

### **Providers**

Two series of events were held for Providers in July and October 2013.

During **July 2013** a series of 10 provider briefings were held across Lancashire as follows

- Chorley 3
- Preston 2
- Accrington 3
- Lancaster 2

Numbers of people:

- Individuals who applied for a place – 185
- Individuals Attended - estimated 170

Numbers of organisations:

- Providers Invited: 275 – but this will have included many who are not registered with CQC as Domiciliary Care Agencies,
- About 160 invited were home care providers including all on the current Preferred Provider Scheme
- Total organisations who applied for a place: 136
- Total organisations with a representative who attended: 104

**During late October 2013** a second round of briefings were held with providers. This time there were 9 sessions in all,

- Accrington 2
- Lancaster 2
- Preston 3
- Chorley 2

This time 120 people attended from a total of 143 who had booked places. Again the invitations had gone to all 275 organisations that do social care business with us in Lancashire, of which 160 would have been CQC registered home care providers. Altogether 84 Providers were represented.

At each event Providers were invited to ask questions both orally and in writing via post it notes against many of the various proposals. These were all collated and responded to back to all Providers.

Also have each series of events Providers were also sent questionnaires giving them time to review the information and provide a more considered and informed opinion.

### **Home Care Workers**

The County Council does not have access to personal information about all the staff employed in the sector so it was not possible to contact them directly to gauge their views about the changes.

However in response to suggestions to Providers, in November 2013 a briefing note was sent to all Providers asking them to cascade to Home Care workers about the proposed changes to existing arrangements for home care. This was also shared with regional Unison for further dissemination via local networks and membership.

### **Service Users**

In July / August 2013 about 40 representatives were invited to focus groups from Lancashire based older peoples forums, carers forums, Healthwatch, Lancashire 50+ Assembly. This concentrated chiefly on explaining the changes and seeking input into a range of quality indicators.

All 6000 older people and people with a physical disability who are current service users were informed of the decision to review our approach to commissioning home care providers during the period 12 - 28 November 2013. A letter was sent explaining the latest round of proposals, the timescales for when any changes would happen, the reasons we were making changes and what the effect might be on the care that people currently receive. Attached to the letter was a questionnaire that gave all service users an opportunity to let us know their thoughts on our proposals. 1756 completed forms were returned, a 29% return rate overall.

Information has been sent to all Personal Social Care staff about the changes to current arrangements through a staff briefing and a meeting was held in November 2013 with Advanced Practitioners and questions asked on behalf of service users have been asked of the Project Team

County Councillors have been kept informed of the review and the changes made to the approach through a cabinet item on April 2013. They have also been informed of the consultation work done through briefing letters. Some Councillors have passed on letters or made representations on behalf of service users or Providers.

Clinical Commissioning Groups were briefed about the proposals in July 2013.

## **Question 3 – Analysing Impact**

Could your proposal potentially disadvantage particular groups sharing any of the protected characteristics and if so which groups and in what way?

It is particularly important in considering this question to get to grips with the actual practical impact on those affected. The decision-makers need to know in clear and specific terms what the impact may be and how

serious, or perhaps minor, it may be – will people need to walk a few metres further to catch a bus, or to attend school? Will they be cut off altogether from vital services? The answers to such questions must be fully and frankly documented, for better or for worse, so that they can be properly evaluated when the decision is made.

Could your proposal potentially impact on individuals sharing the protected characteristics in any of the following ways:

- Could it discriminate unlawfully against individuals sharing any of the protected characteristics, whether directly or indirectly; if so, it must be amended. Bear in mind that this may involve taking steps to meet the specific needs of disabled people arising from their disabilities
- Could it advance equality of opportunity for those who share a particular protected characteristic? If not could it be developed or modified in order to do so?
- Does it encourage persons who share a relevant protected characteristic to participate in public life or in any activity in which participation by such persons is disproportionately low? If not could it be developed or modified in order to do so?
- Will the proposal contribute to fostering good relations between those who share a relevant protected characteristic and those who do not, for example by tackling prejudice and promoting understanding? If not could it be developed or modified in order to do so? Please identify any findings and how they might be addressed.

Through the consultation with home care service providers and service users anxieties have been expressed about a number of key issues and their impact on two main groups, service users and staff

Service Users – Older People and People with a Physical Disability

Continuity of care is very important to people in people using home care and any changes to existing arrangements may disrupt that. Some service users have complex and/or multiple needs making the continuity and standard of care even more important. For example people living with Dementia could be very adversely affected by changes to regular care. However the current reality is that Home Care workers turnover rates In Lancashire of 37% in the last year and this clearly suggests that many people's experiences fall far short of their needs

and expectations for continuity.

For some service users this is a real concern that the set of proposals in the Cabinet report will upset existing arrangements with home care workers. However intervening in the market place and addressing the underlying reasons for the extremely high turnover rate in the longer term is probably the better option, not just for the existing service users but also for the 15,000+ new service users who will likely use home care services during the lifetime of the new contracts. We are hoping to address and improve staff retention and training by a variety of means and this in itself will represent an improvement in an important quality measure.

In the short term however there may be instances where peoples' lives are affected adversely by the changes we are making and do not trace any disruption to the routinely very high staff turnover in the home care sector, but to the immediate changes involved in this project. For some people, and to some degree, that is likely to be the case.

Whatever the causes, there have been situations that have been documented in the media where home care providers have closed in an unplanned way. In Surrey, following a raid by Borders and Immigration Agency on illegally employed staff, an unplanned closure meant some self funding service users had not been identified and so were not offered alternative support by another provider. Every effort will of course be made to ensure a seamless transition for all service users that change home care provider, not just for LCC funded but for others who self fund or use their option for direct payment. However, it has to be acknowledged the the potential consequences if mistakes are made during the transition between care providers could be adverse for some individuals, so excellent planning and reasonable timescales are vital for all involved, including incoming / outgoing providers and the County Council. This of course should be balanced in any consideration with those who may experience much improved and safer support from home carers after the transition to a new provider.

This could leave service users without enough care staff if the situation is not properly monitored and managed. The reduction in providers has also been raised as an issue having the potential to remove the personal touch offered by some of the smaller providers. Service users felt that workers need to be better trained in certain areas to meet their needs. This should be resolved by having better quality controls with all providers needing to have robust training plans.

If service users are currently with a provider that is not successful in securing a new contract they will be given the choice of moving onto a direct payment and staying with their current provider. Through consultation with current providers, service users and other councils who have undergone similar changes we are expecting a significant number of citizens to opt into the direct payment scheme in order to stay with their current provider. However there are currently no plans in place to monitor the quality of providers who are **not** on the Framework. The new proposals allow us to monitor quality more closely by dealing with a smaller number of providers. This could potentially leave service users who opt for a direct payment vulnerable to standards of home care below the benchmark that we have set, but this has long been the case with the Direct Payments scheme. This is of course individual choice and people are free to change their home care provider whenever they choose, including moving back to one of the providers on the new Framework.

If there are any increases in the hourly rates of Home Care due to the procurement this will impact as increases on the costs incurred paid by the 600 - 800 people who are maximum charge payers.

It is important to note that the majority of service users agreed with the proposals put

forward. In the survey there were many accounts from individuals ranging from occasional episodes or occurrences, to more or less routine and regular patterns of home care which they considered substandard. There was considerable agreement with the analysis of what the Council should do about reducing provider numbers, about improving pay and conditions of staff, and improving training and monitoring standards. This shows that many people recognise that the problems they sometimes or regularly encounter in their home care needs to be addressed by some fundamental changes.

For many individuals, if what they are experiencing right now is working well enough, it is not surprising that uncertainty about how changes may affect them in a year or so means they often lean strongly towards preferring the status quo.

#### Home Care Workers

The labour market for home care is currently turbulent and staff move between employers quite frequently.

We would expect significant staff transfers once the new contracts are awarded. Tupe legislation will guide many but not all of these staff transfers.

Overall, the package of proposals for improving staff terms and conditions and investing in training should improve the status and reliability of take home pay for many thousands of low paid, part time and predominantly female workers.

We do not foresee any large scale loss of jobs in the Home Care sector in Lancashire as the amount of work will remain at similar levels but will potentially be delivered by fewer and possibly a different set of organisations. Employees may of course choose to leave the sector of their own free will if they are not happy with the changes being made, but longer term we are confident that the package of changes we propose will reduce turnover rates.

### **Question 4 –Combined/Cumulative Effect**

Could the effects of your decision combine with other factors or decisions taken at local or national level to exacerbate the impact on any groups?

For example - if the proposal is to impose charges for adult social care, its impact on disabled people might be increased by other decisions within the County Council (e.g. increases in the fares charged for Community Transport and reductions in respite care) and national proposals (e.g. the availability of some benefits) . Whilst LCC cannot control some of these decisions, they could increase the adverse effect of the proposal. The LCC has a legal duty to consider this aspect, and to evaluate the decision, including mitigation, accordingly.

If Yes – please identify these.

There are major proposals for changes across the county council driven by reductions in finance over the next year and it is difficult to foresee all the potential implications.

However within the terms of this project and the specific proposals in the report, there is of the prospect of improved job security for staff, and improved pay and conditions. It has been countered that for some there are welfare benefit thresholds which could act as disincentives for individuals to take on more hours or go from Zero Hours contracts to contracts with specified hours, but this is a trend which is likely to be outside of the control of LCC, driven as it is by Government policies to get more people working and reduce welfare expenditure.

For service users, there is a great deal of concern about changes across the welfare, housing, NHS and social care systems. For some this additional strategically driven change to home care will add to cumulative stress. However this needs again to be compared to the current experience of unplanned changes as a result of high staff turnover.

If there are any increases in the hourly rates of Home Care due to the procurement this will impact as increases on the charges paid by the 600 - 800 people who are maximum charge payers.

Overall, the mitigation for both staff and service users will involve ensuring clear and timely communications to people over the next 2 years. Reaching staff may be particularly difficult and will require cooperation from current employers, and this may not always be forthcoming.

## **Question 5 – Identifying Initial Results of Your Analysis**

As a result of your analysis have you changed/amended your original proposal?

Please identify how –

For example:

Adjusted the original proposal – briefly outline the adjustments

Continuing with the Original Proposal – briefly explain why

Stopped the Proposal and Revised it - briefly explain

The impact of the changes has been considered at every stage of the review.

Extensive consultation has taken place in order to listen to everyone involved and responses have been used to shape and adjust the proposals being put forward, for example by the length of time now recommended for the contract extension to allow time for effective transition, and by the establishment of a Business Transitions Project Team, and specific actions such as the letter drafted for sending to Home Carers. Neither of these were in the initial thinking of the Project Team in April 2013.

We therefore believe we are in a position to continue with our plans for tendering and implementation with due regard given to all the feedback collected and consultation undertaken.



## Question 6 - Mitigation

Please set out any steps you will take to mitigate/reduce any potential adverse effects of your decision on those sharing any particular protected characteristic. It is important here to do a genuine and realistic evaluation of the effectiveness of the mitigation contemplated. Over-optimistic and over-generalised assessments are likely to fall short of the “due regard” requirement.

Also consider if any mitigation might adversely affect any other groups and how this might be managed.

The cabinet member for Adult and Community Services has been recommended to endorse the establishment of a Home Care Business Transitions Project Team to ensure the efficient, safe and timely management of changing from the current configuration of services to the new arrangements.

This team will ensure that a robust plan is in place to ensure that any changes to care and support currently received by those sharing any relevant protected characteristic is well managed and that as a result of the proposed changes no individual receives less support than previously.

Plans will reflect the need to work closely with both incoming and outgoing providers to manage changes in workforce to ensure that Home care workers are informed about any changes affecting them and changes in the people supported by the provider organisations to ensure that each individual whose provider organisation and/or care workers are going to change is informed, aware and supported through every part of the transition.

The project team will work closely with the direct payments team to carefully manage any increase in requests to support people that would either prefer to manage their own support with a direct payment or would like to keep their existing provider where this is not possible through new contracting arrangements.

The new contract will require all providers to comply with all legislation covering those with protected characteristics in the delivery of home care services.

Lancashire County Council will continue to communicate with people affected by this project to ensure that they are kept up to date with information about how the changes may or may not affect them in the future and how they will be supported through any transition period.

We are very aware that changing the home care provider market will bring about some negative effects including increased anxiety and loss of continuity for some people, and these could be serious if not managed carefully and individuals supported sensitively. These effects have not been taken lightly and every effort is being made to minimise risks at every step. It is important to note that these changes are seen as entirely necessary to improve the services offered.

We are legally required to change our current contracting arrangements and we would be remiss not to take the opportunity to improve. Service users have told us that whilst many of

them are very happy with their current situation, on the whole they agree with the proposals being put forward. There are concerns that they have made us aware of and we are factoring these into our detailed proposals before the tendering exercise takes place in early 2014.

## **Question 7 – Balancing the Proposal/Countervailing Factors**

At this point you need to weigh up the reasons for the proposal – e.g. need for budget savings; damaging effects of not taking forward the proposal at this time – against the findings of your analysis. Please describe this assessment. It is important here to ensure that the assessment of any negative effects upon those sharing protected characteristics is full and frank. The full extent of actual adverse impacts must be acknowledged and taken into account, or the assessment will be inadequate. What is required is an honest evaluation, and not a marketing exercise. Conversely, while adverse effects should be frankly acknowledged, they need not be overstated or exaggerated. Where effects are not serious, this too should be made clear.

There are many potential barriers and risks associated with the review and re-commissioning of home care. Some of which can be mitigated to a degree with careful planning. For others we simply have to be aware of them and try to manage communication and resources as effectively as possible to minimise potential problems.

If the proposed changes bring about the desired outcomes then all service users should benefit from an improved quality of service in the long term. However, there will obviously be some worry and disruption to some service users in the transition process and a proportion may experience these at particularly critical or sensitive points in their lives. There are many service users that are very happy with the current arrangement with their home care provider and the care workers they see on a day to day basis that will not be happy about changes that will inevitably happen. There are service users with some complex needs who value the familiarity and reassurance they currently have with a settled arrangement. The transition will be closely managed to mitigate the effects as far as possible but for some service users things may well get worse before they get better.

Care workers should benefit from the quality measures put in place through improved training and conditions in the long term. Again, there will be a number of care workers that are happy with arrangements as they are and do not wish things to change. We have been told through the home care provider feedback that some staff would rather leave the industry than be made to work for another provider through TUPE arrangements. Some workers have apparently expressed concerns about the removal of zero hours contracts which they actually find favourable as they suit their current needs.

Home care providers that are awarded contracts on the new scheme would benefit from increased economies of scale and more collaborative working with Lancashire County Council. On the other hand there will be a large number of providers that are not successful

and this will lead to large scale disruption in these organisations and some may not be viable businesses without receiving work from Lancashire County Council. We expect that service users will be advised to stay with their current provider by their current providers through the take up of a direct payment which may put pressure on service users. Through our letter to service users explaining the situation we have aimed to make all of their options as clear to them as possible and hope to continue open lines of communication to ease any concerns they have.

Service Users opting for direct payments and choosing to stay with or join a home care provider that is not on the scheme will not be covered by the improved quality monitoring. If a large number of service users adopt this approach then it could also slightly affect the economies of scale that can be achieved by the successful providers.

Service users may be unhappy with having to change provider should theirs not be successful. This could happen even if their provider is successful if they are awarded a contract outside of the zone that the service user is based. The transition process may be stressful for some, especially those who are particularly frail or vulnerable and for whom stress may be highly detrimental to health. Service users cite continuity of service as something that's very important to them and making changes will undoubtedly cause problems. We will need to communicate our intentions on the process of transfer between providers as clearly as possible to service users to provide the necessary reassurance.

Service users may be at some risk if unsuccessful providers do not constructively engage with TUPE arrangements in the transition period.

With the proposed changes happening, it has been suggested that some home care workers may choose to leave the industry, leaving a worker shortage. The current proposals include improving conditions for staff in home care sector so hopefully this won't be the case. Plans have been discussed to facilitate recruitment drives in affected areas should TUPE arrangements not be sufficient to meet the staffing needs of the successful providers.

There is a risk of a negative impact on service users in rural areas if the zoning process is not completed accurately and the allocated zones are not commercially appealing or viable, this could potentially lead to less choice for service users in isolated areas. By combining rural areas with high density urban areas within zones this risk should be mitigated.

The changes to the use of Zero Hour Contracts and the movement towards living wage are designed to improve the quality and minimise staff turnover of care workers. These changes may come at a cost to Lancashire County Council. More information will be known about this after when the hourly rates have been determined. Establishing an unsustainable price from either Lancashire County Council or home care provider perspectives would lead to an unstable market. If the price is set too low providers will not be able to sustain business, levels of service could drop and ultimately service users could suffer.

Legally, the Council has to complete a re-tender of existing arrangements and with consideration given to the shorter term issues and potential disruption identified in this document together with robust mitigation of the risks, existing proposals will be implemented to realise the longer term benefits of new arrangements.

## **Question 8 – Final Proposal**

In summary, what is your final proposal and which groups may be affected and how?

The final proposal has evolved considerably over the last 6 months and risks to affected groups have been mitigated as far as possible.

## **Question 9 – Review and Monitoring Arrangements**

Describe what arrangements you will put in place to review and monitor the effects of your proposal.

During the transition phase (until all arrangements with incoming and outgoing providers are completed) the Home Care Business Transitions Project Team will closely review implementation of the new arrangements on an ongoing basis. They will provide regular reports to senior management on progress

The contractual framework allows for work to be undertaken that will improve arrangements over the lifetime of the contracts, with provision for formal review processes after three years if required. The initial requirement for successful providers will be the submission of performance information on a monthly basis. This will inform the work of the Home Care Business Transitions Project Team and enable them to ensure that any issues or concerns are identified and remedied quickly. Following the successful transition from outgoing to incoming providers the submission of routine performance management information will occur quarterly.

An extensive quality framework is being established with Key performance Indicators (KPIs) in order to monitor the effectiveness of the home care services in Lancashire.

Having a reduced number of home care providers means the contracts monitoring team will be able to work closely with them. This will allow problems to be identified and remedied quickly. Electronic systems are also in place to remotely monitor some aspects of home care delivery, but these will also be reviewed to see if better arrangements can be managed.

The project will aim for the submission of data to be undertaken remotely by providers directly into Lancashire County Council's system for collation, reducing the need for a resource to input and analyse submissions

Providers are required to self-assess against a range of requirements with a clear expectation of auditable evidence that may be required for scrutiny at any stage by officers working for or on behalf of Lancashire County Council.

Home care service providers will be required to work with the people that they support to identify and achieve individual outcomes for each person and use feedback about their experience to inform continuous improvement. Service users are also able to contact the Council through the normal complaints procedure.

Equality Analysis Prepared By **Emma Ince / Nick Metcalfe**

Position/Roles - **Area Commissioning Manager /Project Support**

Equality Analysis Endorsed by Line Manager and/or Chief Officer **Tony Pounder, Head of Commissioning**

Decision Signed Off By

Cabinet Member/Chief Officer or SMT Member

**Please remember to ensure the Equality Decision Making Analysis is submitted with the decision-making report and a copy is retained with other papers relating to the decision.**

Where specific actions are identified as part of the Analysis please ensure that an EAP001 form is completed and forwarded to your Directorate's contact in the Equality and Cohesion Team.

Directorate contacts in the Equality & Cohesion Team are:

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Contact for Adult & Community Services Directorate

Jeanette Binns – Equality & Cohesion Manager

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Contact for Environment Directorate, Lancashire County Commercial Group and One Connect Limited

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Contact for Children & Young Peoples Directorate

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Contact for Office of the Chief Executive and the County Treasurer's Directorate

Thank you