

**Report to the Cabinet Member for Adult and Community Services and Deputy  
Leader of the County Council**

**Report submitted by: Executive Director of Adult Services, Health and  
Wellbeing**

**Date: 13 and 16 January 2014**

**Part I**

Electoral Divisions affected:  
All

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

(Appendices 'A' - 'D' refer)

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## **Executive Summary**

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 £36m 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.

This is deemed to be a Key Decision and Standing Order 25 has been complied with.

### **Recommendations**

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 set out at Appendix 'C';
- (iii) Endorse 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 those set out in recommendation (i) above;
- (iv) Recommend that the Deputy Leader of the County Council approves a waiver of Procurement Rule 6.1 of the County Council's procurement rules to enable the County Council to extend the current Framework agreements for an initial 6 month period from 1 April 2014 with the option for the County Council to extend on a month by month basis for a further period of up to one year at the end of that period.

Subject to the approval of recommendations (i) and (iii) the Deputy Leader of the County Council is asked to approve the waiving of Procurement Rule 6.1 and approve the extension of the existing Framework for an initial six month period from 1 April 2014 with the option for the County Council to extend for a further period of up to one year on a month by month basis at the end of that period.

## **Background and Advice**

### **1 Introduction**

Home care, also known as Domiciliary Care, is the delivery of a range of personal care and support services to individuals in their own homes. The care delivered can range from a check to ensure that the individual has taken prescribed medication, for example, through to an extensive care package to meet their assessed needs including personal care i.e. support to get in/out of bed, bathing, toileting and meal preparation.

The majority of Home Care services are provided to older people and to people who are physically disabled. In all instances, provision is externally commissioned from the independent and voluntary sectors. Providers are registered with the Care Quality Commission, and typically arrangements are made through the County Council for many hundreds of people each year who become eligible for support following assessment and the application of FACS (Fair Access to Care Services) criteria. It is this set of services and arrangements which are in scope of this report and the recommendations for change.

The current 'Framework' for Home Care Services is due to end on 31 March 2013. This Framework is a legal agreement under which the County Council places new business with one of 129 organisations commonly described as 'Preferred Providers'. In preparation for the Framework's end a programme of work was devised which has four main phases:

- I. Baseline Review of current home care services. This was completed in April 2013, and resulted in approval to go to phase (ii). The findings from the report approved in April 2013 at the end of phase (i) are contained at <http://council.lancashire.gov.uk/ieDecisionDetails.aspx?id=3274> .
- II. Development of a Commissioning Plan. This is the main subject of this report.
- III. Procurement. If agreement is given to the recommendations in this report a competitive process will commence to choose home care providers to join a new Framework. This procurement phase will last between January 2014 and September 2014.
- IV. Business Transition. This will involve management of the change from the current arrangements to the new configuration of Home Care service and providers established via the procurement process. The major transitional tasks will begin earlier than September 2014 when the new contracts commence, and preparations must start much sooner on a number of key workstreams. This phase will also require establishment of a dedicated Project Team.

The Baseline Review (phase (i)) demonstrated there are many strengths in Lancashire's current arrangements for Home Care, however, it also showed the need for further development of services and for improvements in the consistency of quality and performance across the Home Care sector. This will be challenging in the context of the unprecedented financial pressures facing Lancashire County Council and its local partners in the NHS, and those experienced by Home Care Providers.

The key areas requiring attention can be grouped under the headings of:

- Workforce,
- Contracts
- Market structure.

and this has determined how the recommendations and the main part of the report has been structured.

Along the way to this final report there have been various consultations with providers and with service users and these have influenced the development of the final proposals in a number of important ways. The final round of these are detailed in the 'Consultations' listed and summarised below and contained in Appendices 'A' (Home Care Service Users) and 'B' (Home Care Providers). Ultimately it does not seem possible to satisfy the views of all respondents in developing a unified and coherent set of proposals, and it is important to consider the implications of this as set out in the Equality Analysis at Appendix 'C'.

Some alternative options are also considered in section 6 below which address the specific concerns of stakeholders regarding the changes that have been under consideration.

## **2 Principles for Commissioning Home Care in Lancashire**

Recommissioning Home Care provides an opportunity to restate our commitment to some key principles.

Personalisation: - we will promote meaningful 'choice and control' in the way that Home Care delivered to older people and people with physical disabilities living at home is commissioned and provided. We will aim to leave flexibility for individuals to determine how their support is adjusted day to day to reflect changing needs or priorities.

Outcomes: - we will encourage Home Care Providers to focus on the achievement of outcomes agreed with individual service users.

Maximising independence: - we will continue to develop and expand the use of Home Care services such as Reablement which focus on helping people to regain and retain their independence as far as possible. This enabling approach will increasingly need to become integral to all Home Care Services.

Integration: - we want Home Care Providers to play an active part in the integration agenda across Lancashire's Health and Social Care system. The true measure of our success is how this is experienced by the individual. We are committed towards 'National Voices' definition of integration which means ensuring that people can say: *"I can plan my care with people who work together to understand me and my carer(s), allow me control, and bring together services to achieve the outcomes important to me"*.

Dignity and Safeguarding: - we will expect Home Care to be provided in ways which promote dignity and safeguards vulnerable individuals from abuse, exploitation or wilful neglect.

In addition, we accept the recommendations of the Equality and Human Rights Commission (EHRC) in its 2013 report 'Closer to Home'.

Human Rights – we will strive to incorporate human rights obligations into decision making and commissioning and contracting practices regarding home care, including requiring Providers to act compatibly with Human Rights legislation.

### 3. Investing and Developing in the Workforce

The time when 'Home Care' was 'Home Help' and chiefly involved in domestic and household duties is long gone.

This extract from the 2013 Cavendish Review "An Independent Review into Healthcare Assistants and Support Workers in the NHS and social care settings" describes the reality of what society now expects of home care workers:

*"The phrase "basic care" dramatically understates the work of this group. Helping an elderly person to eat and swallow, bathing someone with dignity and without hurting them, communicating with someone with early onset dementia; doing these things with intelligent kindness, dignity, care and respect requires skill. Doing so alone in the home of a stranger, when the district nurse has left no notes, and you are only being paid to be there for 30 minutes, requires considerable maturity and resilience"*

Four major reports have been published in the last year and their findings widely reported:

- Equality and Human Rights Commission (October 2013), [Close to home recommendations review](#)
- Unison [Unison survey of home care workers](#)
- Leonard Cheshire Disability (October 2013), [End 15-minute care](#)
- Cavendish Review (2013) <https://www.gov.uk/government/publications/review-of-healthcare-assistants-and-support-workers-in-nhs-and-social-care>

The common issues emerging from the first three reports detailed above illustrate how much the relatively poor terms and conditions of Home Care workers are believed to impact on the quality of services they provide. The Cavendish Review emphasises the inconsistent and sometimes substandard approach to training in the health and social care sectors, particularly in relation to home care workers and health care assistants who increasingly undertake the bulk of hands on care with older people and people with physical disabilities.

What is striking is how strong the consensus is among organisations whose primary concern is the wellbeing of service users, as well as those who represent the interests of care workers – all are agreed that the pay and conditions of workers providing services are a key factor in the quality of services received.

The various reports explore a number of obvious and less obvious reasons for this. Good quality care depends on many difficult-to-capture small personal interactions between care workers and those they support, underpinned by a generally friendly, interested and open attitude, respect and recognition of the other's individuality and humanity; and an ability to empathise and see the world from their perspective. It is surely a matter of common sense, therefore, that if workers feel that their own needs and rights are respected, they will have more incentive and energy to attend to the rights and needs of others.



Conversely, if care workers feel that their own needs and the pressures they are working under are not recognised, it must be hard to provide generous and respectful care. Indeed, many of the workers who responded to the various national surveys made the point that one of the worst aspects of the financial – and therefore time – pressures on them is that they cannot give the quality of service and attention to service users that they would like to give and their own pride in their work suffers.

It is also clear that paying below or near the minimum wage as well as other conditions such as the use of zero hours contracts often forces people to seek work in a different sector and this is a serious threat to the quality and continuity of service and therefore to the experience of older and disabled service users, at a time when a stable, well-trained and experienced workforce is needed.

It would be complacent for any of us to assume the problems highlighted are absent from Lancashire. The turnover of Home Care workers in the last 12 months across the home care sector in Lancashire is estimated from Skills for Care analysis to be around 37%. In any terms this is a worryingly high figure, but even compared with turnover rates in other social care sectors and occupations it is between 10 and 20% higher than the norm.

The explanation for this situation in Lancashire is likely to be similar to the general analysis above. We know that the impact of terms and conditions for many home carers can result in hourly take home pay which is barely above National Minimum Wage levels. According to national reports HMRC has uncovered remuneration arrangements in home care providers which are not even compliant with NMW regulations, and so it is very possible that this is the case in Lancashire too.

In Lancashire the consultations with local service users has shown they agree overwhelmingly that improvements in terms and conditions of home care workers are required. Many also recognised the need for improved induction, training and supervision of staff based on their experience of when individuals' knowledge, skills and performance fell short of their reasonable expectations. Understandably, there were also some concerns about the extra costs of these improvements and who would meet them.

Local Home Care providers in Lancashire held more mixed views in this area. Some felt it was not the role of commissioners to get involved in how Home Care providers managed and rewarded their staff. However there were many who felt a common and clear set of standards and expectations, underpinned by realistic funding and actions to ensure compliance was reasonable would ensure a level playing field and improve the expensive recruitment process for both home care workers and employers.

The proposals in this report concerning workforce are a mix of short term immediate changes and longer term aims.

Reflecting the need to set out some minimum, baseline expectations for Lancashire's Home Care sector, we propose to make explicit our requirement for Providers to comply with National Minimum Wage legislation, and to heed the specific guidance for home care businesses.

We also intend to review our approach to training. We aim to direct our own investment through Lancashire Workforce Development Partnership towards meeting the priorities identified recently by the Cavendish Report, and from forthcoming work by NICE.

There are proposals concerning the further workforce changes which will take more time to develop. The Council would like to work with Providers and Unions to begin to reposition Home Care as a career of choice for more people from all backgrounds. This means we want to indicate the County Council's support for the principles contained in Unison's 'Ethical Care Charter' which is at Appendix 'D'. However we wish to work with local workforce representatives and Home Care employers to develop our own 'Lancashire Charter for Home Care'. We will expect those Providers securing a place on the new Framework to be committed to common goals with the Council for investing in the workforce, including minimising the use of Zero Hours contracts, and incrementally moving pay rates towards 'Living Wage' levels as rapidly as can be afforded during the Framework's lifetime.

Such initiatives will also contribute to the Council's responsibilities under the Social Value Act 2012, and make a tangible difference to the lives of a currently poorly paid but critically important sector of Lancashire's health and social care workforce.

#### **4 Contracting for Quality**

Effective contracting is the key to ensuring Providers understand and respond to the County Council's commissioning intentions. This is about more than just the contract documentation itself, but also about how we structure the procurement process, how we monitor quality and performance, and manage the contract over its full duration.

Recent high profile criticism of the way local authorities commission Home Care has focused on an over emphasis on price over quality in procurement, and contracts which shift financial risk decidedly towards providers, which they in turn shift to their workforce. Clearly there is a balance to be struck. All local authorities are under tremendous and unprecedented financial pressure, and this is the case for Lancashire County Council. However, it is important that the Council contracts in a way which drives the kind of workforce and operational changes needed across the Home Care sector.

We need to be explicit about the role price will play in procurement decisions. A number of ideas have been considered and the approach now under development involves seeking financial information and analysis from providers outside of the procurement process using a standard 'Finance Workbook'. This will provide commissioners much needed intelligence about the costs and market rates involved in delivering home care in different parts of the county. Alongside consideration of overall affordability this intelligence will form the basis for determining fixed prices for each 'Zone'. These will be set out as part of the final 'Invitation to Tender' documents.

Providers will be expected to comply with a number of requirements regarding how services are delivered. This includes taking a greater lead for working with individuals to promote and facilitate Self Directed Support.

We will ensure that we are clear about the quality and performance standards required, and this will need to be matched by a more robust approach by the County Council to monitoring these regularly and reviewing contracts. The proposals we have now developed for quality standards and performance measures were built initially on research evidence, but their relevance has been validated through discussions with focus groups of service users and carers, and they have been subject to constructive criticism from Providers to evaluate their practicability.

Changing performance management requirements for providers will also mean some internal County Council Procurement workforce and system changes to improve our own performance in managing contracts. Consideration of our approach to the use of Electronic Time Monitoring Systems across the Home Care providers on the Framework is also a priority.

Many providers have agreed with the purpose and principles behind the workforce proposals but have said that in their present form this would shift financial risks unfairly and unsustainably onto them. This risk can be reduced and shared with the County Council by offering a guaranteed minimum volume of business and longer term contracts, and this is what is proposed.

There are also further benefits from longer contract terms as they will also reduce the whole life procurement costs and the frequency and impact of large scale Provider changes. However, this could risk the County Council being locked into contracts for a model of service that is seen as outmoded or with poorly performing providers. It is therefore important that the contract is structured to allow termination of contracts beyond the initial 3 years duration.

It would be beneficial for the contracts to be 'future proofed' so that any significant variations to the model of Home Care service can be negotiated and agreed with Providers on the Framework without the need to retender. NICE is due to produce best practice guidance on models of Home Care in mid 2015. There is likely to be further guidance on the strategic commissioning of Home Care emerging from the Department of Health over the next year in response to the significant research and media reports and public interest over the last year.

This could contain clearer instruction to local authorities to develop outcome based commissioning along the lines adopted by Wiltshire County Council. The Wiltshire approach, where payment is based on achievement of outcomes agreed with the service user, is consistent with similar approaches in the NHS. It is considered too difficult to decide to go directly and immediately towards outcome based commissioning here in Lancashire given the other large scale changes this recommissioning exercise will already set in motion. It is inevitable that revisiting this and other innovations will be needed during the first period of the new Framework and the proposals for contracting are designed to allow flexibility for the County Council to respond.

## **5 Shaping the Market**

By shaping the structure of the home care market, the County Council can improve its efficiency. This can result in significant improvements in the operational and

financial performance of home care, benefitting providers, their staff, the council and service users. This section makes a number of recommendations.

Firstly, it is proposed to reduce the number of Providers operating under Framework from the County Council and this has several benefits. The local provider group Lancashire's Domiciliary Care Providers Forum has already drawn its members' attention to a set of reports which echo earlier themes, especially the poor outcomes that typically arise from commissioning home care from too many providers. (See <http://www.ldcpf.co.uk/index.php?page=news&newsid=492> ). These reports are from both the employers' side (UKHCA – United Kingdom Home Care Association) and from Unison. In these reports Lancashire is one of nine Councils specifically criticized for commissioning from over 100 Home Care providers. It is worth quoting from these bodies since their arguments share a common analysis of the causes of the current problems.

*Unison says "The crisis in home care is being made worse by councils commissioning homecare from a huge number of private and voluntary sector providers on contracts that don't guarantee them any work. The way councils' commission care means that they have a large numbers of contractors on their books but do not guarantee them specific hours from one week to the next. This in turn fuels the use of zero hours contracts for homecare workers, fuelling insecurity and low pay and causing high staff turnover in the sector. This has a detrimental impact on services and in turn on the elderly and vulnerable people who rely on them.*

*This model of commissioning homecare leads to a decline in standards, which the union says is putting the elderly and vulnerable at risk on a daily basis. As more and more private companies cut corners on care to protect profits, the union is putting pressure on councils to commission services in a way that safeguards basic standards. Commissioning care from so many providers prevents councils having proper oversight of how contracts are run, how staff are treated, and most importantly the quality of services that are provided"*

In support of this position UKHCA said:

*"Unison is correct to point-out that the commissioning practices of the majority of local authorities exacerbate the use of zero hours contracts in the homecare sector. Severely constrained public spending would make an argument for a return to block contracts, however this is out-of-step with central and local governments' commitment to choice, including choice of provider. In the absence of additional spending, the key to making better use of public money on homecare is to commission services which promote the optimum economic 'efficiency' of the workforce, maintaining choice of providers within sensible geographic areas, reducing unnecessary travel time for careworkers created by placing packages of care out to the lowest bidder."*

This analysis, the findings from the April 2013 Home Care Review and the approaches recently taken by other Councils in recommissioning their Home Care Services suggests a very significant reduction in the number of providers on the Framework is necessary if the recommendations contained under 'Contracting for

Quality' and 'Investing and Developing the Workforce' within this report are to be affordable and practically achievable.

A reduction to a far fewer providers, with perhaps a handful of Providers operating in each zone, will enable a more collaborative approach between the County Council and providers. Benefitting from greater economies of scale the Council can expect to see a reduction in its overall share of spend on the home care sector's management and overhead costs. There will also be a reduction to transaction costs for providers and the Council.

Current organisational arrangements for allocating new home care business to Providers via the Council's own Care Navigation Service will remain. However it is proposed to change the operating protocols in a number of ways, in support of our commissioning intentions and procurement plan.

The new Framework will involve allocating contracts to Providers for clearly defined 'Zones' in Lancashire. These zones will broadly match the footprints of District Councils and/or Clinical Commissioning Groups. This should facilitate strategic cooperation with local statutory agencies, but more importantly it opens up the prospect of integrated working with 'Neighbourhood Teams'. These Teams are extended community teams typically comprising social care staff, occupational therapists, district nurses, and physiotherapists. They aim to provide multi-disciplinary, integrated and streamlined care closer to a patient's home so as to reduce emergency hospital admissions, support earlier discharge, increase rehabilitation provision and enable patients to manage their conditions in their own homes. The potential for Home Care workers' performance to benefit from closer working and supervision from the members of such Neighbourhood Teams is clear.

Opting for relatively small zones together with fewer Providers also allows for better deployment of Home Care workers, reducing travel time, costs, and downtime.

Decisions about which Providers secure places on the Framework will depend on the quality of their submissions. Whether a Provider is large or small, local, regional or national, private or voluntary, it is those providers that score highest against our criteria that will be awarded contracts.

There have been concerns that earlier suggestions for zoning and target market shares could shut out even the very best local, smaller Providers. For that reason we propose to allow Providers to indicate the level of business they think they can reasonably take on by the end of the business transition period, (i.e. the time from the current arrangements to the full transfer of business and staff to the Providers on the new Framework). For the smaller provider this will reduce the business risks of expanding too rapidly. However, we will have to balance this proposal against the need to reduce overall Provider numbers operating in each zone in reaching final decisions about the award of contracts for each zone.

Throughout the lifetime of the contract, we will develop and work within protocols to manage the share of new business allocated to Providers to ensure a healthy and competitive market place, characterised by sufficient choice of providers, and the ability of service users to select who will support them on the basis of their demonstrable quality and performance.

We also wish to continue to see the growth in take up of Direct Payments. It continues to be national and local policy to promote the take up of direct payments among all user groups, and we believe there is considerable potential for further growth here in Lancashire particularly among older people. Providers keen on expanding their business into this area will need to consider how they differentiate themselves from competitors, both in how they market their services and in terms of the service they actually offer.

## **6 Alternative Proposals**

The recommendations set out in the Executive Summary form a coherent and interdependent set of proposals. Adopting a 'pick and choose' approach to the recommendations risks a severe loss of coherence and cumulative impact and benefits.

There are some discrete proposals which have been subject to greater levels of concern and consideration. It is worth noting:

### Improving Terms and Conditions

Terms and conditions for Home Care workers could be left entirely as a matter for Providers to determine themselves. Arguably if hourly rates for home care are set reasonably by the Council then Providers should be able to set wage rates based on their knowledge and experience of the local labour market.

Such an approach would be a major risk. Few disagree with the analysis that Home Care workers should be better rewarded. However, some Providers may be reluctant to pay higher wages and instead choose to shore up operating margins in ways which lead to little change on key indicators such as turnover rates and performance. This would not be conducive to fostering the type of collaborative provider relationships that the Council could benefit from.

### Zero Hours Contracts

Some argue that they are popular and preferred by home care workers and there is clearly a role for zero hours contracts at the margins of many businesses, and this includes Home Care.

However zero hours contracts should not be the default approach across the sector; it reduces commitment to the work and leads to higher staff turnover as people search for permanent posts and a reliable income in other sectors. The Council will lessen the risk to providers of reducing the use of ZHC by guaranteeing hours over a given period, and in return the Council should be able to expect providers to sign up to and abide with a 'Lancashire Charter for Home Care'.

### Provider Numbers and Market Share

Few question the overall case for reducing provider numbers on the new Framework. However, if the risks and consequences of making these reductions are judged unacceptable, it would mean a number of the other key recommendations would almost certainly be unaffordable or unachievable.

## 7. Managing the Business Transitions

Providers and the County Council recognised that going from the current number and configuration of home care services to the far fewer number in each zone suggested in this report will be challenging in a number of respects including changes to finance and technology arrangements, workforce, communications and operations.

A Home Care Business Transitions Project Team be established to ensure that the changes are managed effectively, over a reasonable timescale and with due regard for the safeguarding needs of everyone who relies on Home Care services whether they are known to us or are 'Self Funders'.

To illustrate the complexity, the award of contract to 3 to 5 providers in each of 7 zones could mean:

- Reduction from over 129 current Preferred providers to a much smaller number of providers who will be on the new Framework, perhaps 20 to 30;
- All providers will be able to seek business and work with Direct Payment recipients and this may lead to some changes of approach and focus for many of them;
- Some providers will see rise in business turnover and some will see decline. These may be steady or sharp changes.

Home care staff may experience some combination of:

- TUPE transfer from an existing provider to a new home care employer;
- Changes to terms and conditions which should be improvements if other recommendations in this report are approved;
- Different expectations and monitoring arrangements for how Home Care workers work and are managed;
- Some changes to the service users who they work with.

For Service users/Carers:

- Significant numbers of existing Home Care users may shift to Direct Payments – in Wiltshire this was as high as 30%. To grow direct payment numbers is an explicit aim
- Some may experience a change of provider and;
- This may mean some changes to the staff from whom they receive their support;
- Some will be anxious about the prospect of changes and the concerned about timescales.

For the County Council there may be:

- Unusual flows, peaks and troughs of work during the transition period;
- Larger volume of queries;
- Rise in unscheduled review work;
- System management changes to plan and implement.

This will all be taking place during a period when the County Council's major ICT systems are changing and the organisation is downsizing and restructuring.

Our initial proposals to manage this as effectively as possible include the following:

- Actively shaping the process of TUPE transfer of staff between providers: We have explained to Providers that we think that TUPE will apply and that we may facilitate this by linking a successful bidder for a zone with a defined group of outgoing providers in that zone for transfer of business and staff. Our offer could be to utilise the skills and experience of our own Council HR staff to oversee/ manage/coordinate some of this TUPE transfer work.
- Supporting recruitment into the Home Care sector. During this period of transition, the County Council could coordinate some zone-based recruitment events for all successful providers, particularly those who sign up to the Lancashire Charter for Home Care. This could also support recruitment of Home Care staff during the lead up to the contract start date.
- Liaising with other Councils for lessons learned from similar change processes. Providers who have particular experiences from elsewhere regarding these changes have been particularly helpful in saying what worked better/poorer from their perspectives during these types of transition.
- Planning and execution of an effective communication strategy for the transition period, providing reassurance for staff and service users.
- Determining our preferred approach to Electronic Time Monitoring Systems with the successful providers in late 2014/early 2015 and presenting a Business Case for any necessary upfront investment.
- Managing arrangements to signpost people who wish to take on Direct Payments.
- Ensure all the system changes needed to support the new approach are documented, staff are trained, and providers are ready for the contract commencement date.

Experience from another County Council managing a similar scale of change suggests 6 - 9 months Transition Period was needed, but Lancashire is larger still so it may be more realistic to anticipate it could take a full 12 months from commencement date for the transfer of existing business to the new providers on the Framework.

This analysis of the scope and complexity of the transition provides the basis for the recommendation to extend the current Framework which is currently due to end on 31 March 2014. The procurement will be underway but not completed by then, and so the projected contract commencement date is now early September 2014. A maximum of a further one (1) year extension of the current Framework on a month by month basis should enable all business and TUPE based staff transfers to be completed successfully by the proposed Project Team.

## **Consultations**

There are two major groups of stakeholders who have been involved in consultations regarding the recommissioning of home care services for older people and people with physical disabilities. The details of these consultations are contained in Appendices 'A' and 'B'.

In regard to the specific proposal to endorse Unison's Ethical Care Charter (Appendix 'D' refers), it should be noted that Pendle Borough Council's Chief



Executive wrote to the County Council in April 2013 following a Full Council motion to recommend that the County Council should commit to becoming an Ethical Care Council.

## **Implications**

This item has the following implications, as indicated.

### Legal

#### Service proposals

The authority is entitled to include reasonable terms and conditions in contracts with providers where the terms relate to the service delivered. The proposals set out in this report must be viewed in this context. Furthermore, the recommendations relating to remuneration of provider staff must be kept under review as the Authority gathers information with a view to fixing the hourly rate.

#### Procurement

The level of spend between now and the date when all contracts under the framework have been let is likely to be substantial and should therefore in principle be procured openly through a form of competition. However, given the extent of the proposed changes there is little to be gained by undertaking an extensive procurement exercise to appoint to what would be an interim framework for a period of six months to a year. As the services in question fall under "Part B" (and not therefore subject to the full procurement regulations) and were originally let following an open procurement exercise, the risk of extending existing contracts as proposed are limited.

### Financial/Procurement

Current annual gross expenditure on Home Care for Older People and People with a Physical Disability in Lancashire is in the region of £50m. Net expenditure is in the region of £36m which represents 14% of the Council's net adult personal social care commissioning budget in 2013/14. Increases in demand for Home Care services are expected over the lifetime of the proposed framework agreement in response to the strategy of delivering a greater proportion of support at home rather than hospitals or care homes, in addition to the on-going demographic pressures of an increasing older person population.

Proposals contained in this report present a consolidation in the number of providers from which services are commissioned allowing an opportunity for some efficiencies through reductions in the amount spent on Home Care sector overheads e.g. premises, management, travel and recruitment costs. Closer control over costs may also be possible through the use of an Electronic Time Monitoring System. However, there exist financial pressures in the sector and these cannot be underestimated.

A fixed price per Zone will be set out as part of the final 'Invitation to Tender' documents. The approach now under development involves seeking financial information and analysis from providers outside of the procurement process using a

standard 'Finance Workbook'. This will provide commissioners much needed intelligence about the costs and market rates involved in delivering home care in different parts of the county. Alongside consideration of overall affordability this intelligence will form the basis for determining the fixed price for each Zone. Clearly the success of such a process will depend on the willingness of providers to participate, and provide, in confidence, accurate and robust financial information.

The intention is to analyse the aggregate data and the Home Care Project Team will make recommendations as to the 'Fixed Price' for each Zone to a Panel comprising the Executive Director and Interim Director of Commissioning, Adult Services, Health & Wellbeing Directorate, and the Deputy County Treasurer.

### Procurement

One Connect Limited accords with the advice set out above by officers within the Council under the headings 'Legal' and 'Finance/Procurement'.

If the item is approved, One Connect Limited will work either alongside or within the transition project team to provide professional procurement and contract management resources to manage negotiations and relationships with outgoing and incoming suppliers.

As the proposals involve the County Council setting a fixed price for each zone in advance of the tender process, in order for One Connect Limited to influence the commercial strategy and support the Council to obtain the best value for money, it will be necessary for a senior officer from One Connect Limited to be included in the 'price setting' panel referred to within the item.

### Equality and Diversity

An Equality Analysis has been undertaken to consider the implications of the recommendations for commissioning and procuring home care services for older people and people with a physical disability. This therefore takes fully into account the duties imposed by s.149 of the Equality Act 2010 and is set out at Appendix 'C'.

### Risk management

The major risks are in managing the changes from the current arrangements to the new configuration of home care services. This is the basis for recommending both the establishment of the Home Care Business Transitions Project Team and the extension of the current Framework on the terms outlined in the recommendation. Agreement to these specific proposals is essential for the success of the project including maximising continuity of care for individuals using these services and ensuring continuity of employment for home care workers.

## List of Background Papers

<b>Paper</b>	<b>Date</b>	<b>Contact/Directorate/Tel</b>
Commissioning and procurement arrangements for the Domiciliary Care Market for Older Adults in Lancashire	25 April 2013	<a href="http://council.lancashire.gov.uk/ieDecisionDetails.aspx?Id=3274">http://council.lancashire.gov.uk/ieDecisionDetails.aspx?Id=3274</a>
Records of consultations with providers and service users	December 2013	Tony Pounder, Adult Social Care, Health and Wellbeing Directorate, (01772) 536287

Reason for inclusion in Part II, if appropriate

N/A