



CABINET – 22 OCTOBER 2019

**EXCEPTIONS TO THE CONTRACT PROCEDURE RULES FOR
SUPPORTED LIVING PROVISION**

REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

PART A

Purpose of the Report

1. The purpose of the report is to request an exception to Contract Procedure Rules in respect of three current and two future placements with supported living providers.

Recommendations

2. It is recommended that:
 - a) Approval be given to an exception to the Contract Procedure Rules to enable Creative Care, Voyage and Chartwell to provide services for the five individual placements listed in paragraph 8 of this report;
 - b) In recognition of the special circumstances relating to the delivery of services, and the need to ensure that the individuals' best interests are paramount in any care package commissioned, the Director of Adults and Communities be authorised to engage and commission support from non-framework providers;
 - c) Any exceptions agreed as part of b) above be included in the Annual Report on Exceptions made to the Corporate Governance Committee.

Reasons for Recommendation

3. The County Council's Contract Procedure Rules (Part 4G of the Constitution) require that, where the estimated value of a contract exceeds £181,302, formal tenders must be invited.
4. Where the estimated value of the proposed contract exceeds £181,302, Rule 6 (b) (ii) requires the Cabinet to approve an exception to the Rules where this is justified on its merits.
5. It is considered necessary to commission supported living from non-framework providers for the five individuals for the reasons outlined in this report to ensure the Council is fulfilling its statutory responsibility to meet their care and support needs.

Timetable for Decisions (including Scrutiny)

6. Subject to the Cabinet's approval, the Director of Adults and Communities will be able to approve contracts with the identified non-framework providers and as necessary with non-framework providers in the future. This will ensure the Authority meets its statutory responsibility to provide care and support for the individuals subject of this report and similar in the future.

Policy Framework and Previous Decisions

7. The relevant policy framework includes:
- The Care Act 2014;
 - Leicestershire County Council Medium Term Financial Strategy 2019/20-2022/23;
 - Leicestershire County Council Adult Social Care Strategy 2016-20 and Commissioning Intentions;
 - The Supported Living Framework 2017, whereby the County Council contracts and develops strategic partnerships with five key providers in geographical areas.

Resource Implications

8. The current projected costs to the County Council for the individual placements subject to this report are set out below:

Provider	Individual's placement annual contract value	Value till contract end (31 March 2021)
Creative Care #1	£316,271.80	£483,895.85
Creative Care #2	£215,921.16	£330,359.37
Creative Care #3	£265,339.68	£406,061.51
Voyage	£312,339.36	£477,971.02
Chartwell Trust Care	£279,552.00	£428,135.80
Total	£1,389,424.00	£2,126,423.55

9. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

10. None.

Officers to Contact

Jon Wilson
 Director of Adults and Communities
 Adults and Communities Department
 Tel: 0116 305 7454
 Email: jon.wilson@leics.gov.uk

Sandy McMillan
 Assistant Director (Strategic Services)
 Adults and Communities Department
 Tel 0116 305 7320
 Email sandy.mcmillan@leics.gov.uk

PART B

Background

11. Supported living provides the opportunity for people with learning disabilities, autistic spectrum disorder, mental health conditions, physical disabilities and other vulnerabilities to live independently in the community.
12. The Supported Living Framework Agreement (hereafter 'Framework') has been in place since 1 April 2017. It comprises of five providers, each responsible for services in a geographic area of the county.
13. The expectation of the Framework is that each provider will take up all the packages of care in their respective geographic areas. However, this has, and will likely continue to not always be possible. This is because of several factors, including the availability of suitable properties and staff to deliver the care and the increasing complexity of needs and outcomes that people present with.
14. If a person's support cannot be delivered through the Framework, the County Council will approach other, non-framework providers. To commission a placement with a non-framework provider, workers have to follow an exceptions process, including senior management authorisation. This is not however a formal tender.
15. As at 31 July 2019, there were 89 people with packages of care commissioned through Framework exceptions (26% of the total service user cohort). However, 75 of these are not true exceptions to the Framework, rather historic arrangements that require different approaches from the County Council to ensure continuity of care. For example, care for 41 people is currently commissioned through Leicester City Council's Framework and work is ongoing to migrate these service users across to County's Framework.
16. The remaining 14 people are 'true' exceptions to the current Framework, having care packages that have been commissioned since the Framework commenced (representing 4.1% of the total value of the Framework).
17. Despite best efforts, it is not always possible to deliver support through the Framework. Decisions are driven by the best interests of the individual, including facilitation of a timely and safe discharge from hospital. Reasons why the appropriate geographic provider may not be able to deliver support include:
 - The lack of suitable available accommodation, noting that people often require bespoke environments (for example, the need to be robust to prevent destruction to the property);
 - Difficulties in recruiting suitably skilled staff to meet the needs/outcomes of people (for example, managing behaviours that challenge);
 - The short timescales sometimes required to ensure a safe and appropriate discharge (for example, should a hospital be decommissioned by NHS England).

18. Under these circumstances it may be appropriate to place with a non-Framework provider in order to ensure the person's best interests are met.
19. These packages of care are some of the most expensive provided by the Council (via the whole Adults and Communities Department), often exceeding £5,000 per week (£260,000 per year) at the point of discharge. This means that any Framework exceptions are likely to result in a further exception to the County Council's Contract Procedure Rules.
20. The current Framework is in place until 31 March 2021. Issues relating to future Framework exceptions will be captured and addressed as much as possible as part of the Framework's recommissioning.
21. The Adults and Communities Department is in the process of implementing a dynamic purchasing system pilot for the commissioning of supported living. It is anticipated that this will support the supported living market, driving improved quality and service availability and reduce the requirement for exceptions being made.

Equality and Human Rights Implications

23. A full Equality and Human Rights Impact Assessment was completed for the Framework 2017-2021. The exceptions process ensures that individual needs are reviewed by social care assessment staff and through this, equalities issues are identified and addressed.
24. The proposed contracts for supported living services include provisions that require providers to comply with equal opportunities legislation such as the Equalities Act 2010 and the Human Rights Act 1998.

Background Papers

22. None.