

WEST NORTHAMPTONSHIRE COUNCIL CABINET

17TH JANUARY 2023

CABINET MEMBER WITH RESPONSIBILITY FOR ADULT SOCIAL CARE & PUBLIC HEALTH - COUNCILLOR MATT GOLBY

Report Title Care Home Services Commissioning Intentions for Adults Aged 18 and Above

Report Author Danielle Frankish Commissioning Quality and Outcomes
Manager Older Persons dfrankish@westnorthants.gov.uk

Contributors/Checkers/Approvers

Monitoring Officer	Catherine Whitehead	05/01/2023
Executive Director Finance and S151	Martin Henry	05/01/2023
Executive Director Adults, Communities and Wellbeing	Stuart Lackenby	04/01/2023
Communications	Becky Hutson	04/01/2023

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Appendix A - West Northamptonshire map of all Care Quality Commission (CQC) registered residential and nursing care home services

1. Purpose of Report

- 1.1 To outline Adult Social Care intentions to commission and procure contractual arrangements for a sustainable and affordable supply of Care Quality Commission (CQC) registered care home services for people age 18 and above and includes people with a physical disability (PD) and for individuals with a diagnosed Mental Health (MH) condition.
- 1.2 To seek Cabinet approval for the Executive Director of People Services in conjunction with the Cabinet Member for Adult Social Care and Public Health to have delegated authority to tender, procure and award a new Dynamic Purchasing System (DPS) for CQC registered care homes to commence in May 2023.

2. Executive Summary

- 2.1 West Northamptonshire Council (WNC) currently operates an interim Care Home Services DPS to purchase residential and nursing care services to meet the needs of older people age 65 and over with 17 care homes currently signed up to this DPS, which is due to expire on 30 April 2023. The current DPS does not include care homes for people under 65 with physical disability and mental health needs and these care homes do not currently sit under a framework or DPS. There are 30 care homes in our market who are registered to provide care for people aged under 65 and a total of 107 care homes within West Northamptonshire for people age 18 and over. WNC has a separate contract in place to meet demand for people with a learning disability (LD) and therefore, LD is not included within this recommissioning project.
- 2.2 During the covid pandemic, WNC, along with most other councils, supported the care home sector with covid grant funding including the Workforce Development Fund. Post pandemic, the enhanced levels of demand linked to the NHS recovery plan, and the associated high hospital discharge activity, combined with a slowdown in ability to recruit care workers, has led to an unstable care home market in many parts of the UK including West Northamptonshire.
- 2.3 The current DPS does not support the market, or the future conditions required to commission care home services in a sustainable, collaborative and people focused manner. This is due to a low number of care homes signed up to the current DPS – 17 out of a total 57 care homes for over 65s within West Northamptonshire, which has resulted in a significant number of placements having to be spot purchased – this has financial implications and the market now needs to be stabilised to manage escalating fee rates. The current DPS is only specific to over 65s and does not meet the changing needs of our population of adults aged 18 and above whose longer-term health conditions are not able to be managed within a community setting.
- 2.4 A recommissioning project is underway to plan, design and procure a new DPS for care homes which meets the needs of individuals and recognises the post covid market conditions for adults age 18 and above.
- 2.5 The recommissioning project aims to consider the requirements of social care reform including Fair Cost of Care and Market sustainability. It is our aspiration to move towards Fair Cost of Care within the new contractual arrangements; however it should be noted that clarity is still required on the requirements of this mandate and additional market engagement is required. It

is the Council's priority to deliver a sustainable fee structure for both the Local Authority and for the independent care market.

- 2.5 The project has involved undertaking substantial engagement and design work during the past several months seeking the views and input of key stakeholders. This has helped shape the model and future contract requirements within an outcome-based delivery model which is the basis for procuring new care home arrangements ready for May 2023.

The stakeholders include:

- Individuals who receive care
- Healthwatch
- local (and national) providers
- Adult Social Care colleagues
- Corporate Services colleagues
- NHS colleagues and health professionals

3. Recommendations

3.1 It is recommended Cabinet approve:

- A new Dynamic Purchasing System (DPS) for the purchasing of commissioned care home services for adults aged 18 and above and includes people with Physical Disabilities and Mental Health conditions and is introduced from May 2023.
- Duration of the DPS will be indefinite; with no proposed end date.
- Applicants' admission to the DPS will be determined via expressions of interest.
- The Executive Director for People Services in conjunction with the Cabinet Member for Adult Social Care and Public Health is authorised to take all operational decisions necessary to implement the above recommendations.

3.2 The recommendations underpin strategic commissioning intentions to design and procure a new outcome-based delivery model for adult residential and nursing care for the long-term. Purchasing of effective, sustainable, and affordable provision supply will enable West Northamptonshire Council to fulfil its statutory duties to meet care needs and shape the local care market.

4. Reason for Recommendations

4.1 The recommendations seek:

- a) To enable West Northamptonshire Council to meet the latest changes to the statutory requirements originally set out in the Care Act 2014.
- b) To support the development of a sustainable care market as required by the Market Sustainability and Fair Cost of Care Fund.
- c) To have purchasing arrangements for the supply of residential and nursing care services for adults age 18 and above, not including learning disabilities.
- d) To meet the needs and demands of residents in relation to care and support including people who self-fund their care whilst meeting the Council's strategic vision and values.

5. Report Background

- 5.1 The Care Act 2014 places a statutory duty on West Northamptonshire Council to provide care and support to people that have assessed and eligible social care needs alongside responsibilities to ensure a sufficient supply of residential and nursing care services through effective market development activities. It is important to note that the Care Act also requires the Authority to offer choice so that people have reasonable options in the type and location of care they need when this is arranged and paid for by the Council.
- 5.2 The Council's strategic objective, through the existing Adult Social Care Transformation Programme, is to support people to live independently within the community for as long as possible. While there are a broad range of services to fulfil this objective, including home care and extra care housing, there are a number of people whose care and support needs are such that long-term residential and nursing care services are required.
- 5.3 Permanent residential and nursing care is only considered for those with the most complex needs that cannot be supported within alternative care settings such as home care or independent living with on-site care through extra care housing schemes.
- 5.4 Typically needs may include frailty and mobility, advanced dementia, highly complex physical care needs around PD or the requirement for on-site nursing support, and in a number of cases all of these combined. In line with national trends, there is an increasing need for more complex care within residential and nursing settings. This is partly related to national demographic changes associated with an ageing population living longer with ongoing care needs but also the positive impact of social care strategy to increase the number of people remaining independent at home for longer with more complex conditions, which can mean that when they need residential or nursing care a greater intensity of care and support is required.
- 5.5 Across WNC there is a total supply of 2787 bed places for all forms of residential and nursing care services across 107 Care Quality Commission (CQC) registered care homes.
- 5.6 WNC, along with most other local authorities, supported the care home sector with covid grant funding including the workforce development fund. Despite increased levels of demand the additional grant funding during the pandemic did support short term sustainability in the care

home sector. Post pandemic the enhanced levels of demand linked to the NHS recovery plan and the associated high Discharge to Assess (D2A) activity combined with a slowdown in ability to recruit care workers has led to a more unstable care home market in many parts of the UK including West Northamptonshire

- 5.7 Our Care home market is currently commissioned through a DPS arrangement made up of 17 providers expected to meet 100% of the demand for people aged 65 years and over. There is no framework in place to meet the demand for adults aged under 65 (this does not include LD). Therefore, spot providers are being used to meet the demand and fill the gaps on the market.
- 5.8 WNC has 17 providers on its current interim over 65 care homes DPS but also has packages of care provided by a varying number of, spot providers. Commissioning from such a large and fragmented volume of providers is undesirable and leads to inefficiency, additional quality risks and costs. The volume of providers from which WNC commission also leads to a loss of the opportunity from economies of scale.
- 5.9 On 10 November 2020 Northamptonshire County Council (NCC) Cabinet approved a proposal to extend the Care Home Services Framework until 31 August 2021 to ensure alignment with the DPS and enable a commissioning and procurement exercise that had been originally delayed during 2020 due to the impact of the COVID-19 pandemic. This sought to ensure that contractual arrangements would be ready for by 1 September 2021 by when all the existing contract arrangements would end.
- 5.10 During June 2021 WNC Cabinet approved a proposal to implement an interim DPS to commence the 1 September 2021 for a period of 12-months. To enable further work and engagement to be completed for residential and nursing care services for the future.
- 5.11 On 14 June 2022 WNC Cabinet approved a proposal to extend the current interim Care Home Service DPS for a period of 8-months until 30 April 2023 and to implement legislative and policy requirements introduced by Government in relation to the Social Care Charging Reforms and Market Sustainability and Fair Cost of Care Fund.
- 5.12 It should be noted that most changes relating to social care reform have been suspended until 2025, however, there is still a requirement to move towards Fair Cost of Care and market sustainability. The expectation is that new contractual arrangements will be reflected of the governments requirements.

6. Issues and Choices

Commissioning intentions and activity

- 6.1 The strategic commissioning intentions are to:

- Secure a diverse and sustainable supply of care home services through a single contractual arrangement that meets ongoing and changing needs including the growing complexity of care for all adults.
- Develop a standardised fee rate structure in collaboration/consultation with the market that enables both stability of delivery for providers along with an affordable cost budget.
- Develop improved service description and delivery requirements within an outcomes specification through stakeholder/market engagement that enables a good quality of life for adults living in care home services by remaining safe, healthy, and active.
- Stimulate innovation and improvement within care home services through greater focus on technology enabled care, hospital admission prevention and infection prevention control.

- 6.2 During 2022 substantial progress has been made to design a progressive care delivery model ready to procure services. This is principally focused on the enabling adults to live well for longer in a care home setting with good health and wellbeing. It is also realised through an equal focus on stimulating investment in care practice improvement and workforce development initiatives so that care home services can deliver the aspirations of the new model. A central aim is to ensure services have access to effective primary and enhanced healthcare support within the community to better manage frailty and long-term complex needs such as but not limited to dementia and PD within an overall stimulating care environment.
- 6.3 Work to date has resulted in completion of a new draft strengths and outcome-based specification, which is aimed at supporting improved quality of care across West Northamptonshire and the ability of health and social care to better manage demand including avoidable acute hospital admission and treatment. The proposed delivery model has been informed by research into good care practice, standards, and outcomes for people, which has formed the basis for regular market engagement and provider dialogue to enabled consideration and input to future delivery requirements.
- 6.4 The development of a standardised fee rate structure needed to procure affordable and sustainable services has been significantly impacted by the COVID-19 pandemic. A rapidly changing financial environment for care homes during the pandemic has altered provider delivery costs and therefore prevented an accurate understanding to set fee rates for the long-term. This has been affected by a combination of multiple rounds of 'one off' Government funding through the Infection Control Fund (ICF) along with increased operating costs associated with additional staffing, equipment, and insurance/operating requirements. In addition, it is currently unknown whether reduced occupancy levels within care home services has the potential to further affect an increase in fixed operating costs that could further change the cost of care locally.
- 6.5 Barriers to understanding the local cost of care therefore prevented the original intention to procure contractual arrangements ready for 1 September 2022 based on a new model of care and a sustainable fee rate structure. This is vital to the commissioning and procurement exercise and will require time to develop and present to the provider market through consultation.

6.6 Fair Cost of Care (FCoC)

- 6.7 In recognition of the imminent Adult Social Care Reforms ([Proposed reforms to adult social care \(including cap on care costs\) - House of Commons Library \(parliament.uk\)](#)) WNC, alongside several other East Midlands local authorities, commissioned the services of Care Analytics, a specialist in the financial analysis of care markets and the cost of care, to undertake a 'Fair Cost of Care' (FCoC) detailed cost analysis exercise.
- 6.8 All providers operating in the care home market within the area of the local authority were sent a detailed survey designed to capture the necessary operational and contextual detail to draw out the inherent costs of delivering care in the local market.
- 6.9 In compliance with the latest language contained within the guidance and resulting grant conditions for additional funding, WNC is committed only to "moving towards" the calculated FCoC rates (including any future inflationary uplift as negotiated). Guidance is published on the Government website: <https://www.gov.uk/government/publications/market-sustainability-and-fair-cost-of-care-fund-2022-to-2023-guidance/market-sustainability-and-fair-cost-of-care-fund-2022-to-2023-guidance>

6.10 Anti-Poverty Strategy

- 6.11 The project will also link to the objectives and outcomes of the Council's Anti-Poverty Strategy; good, high-quality, sustainable care can be an enabler to help support people out of poverty, for example:-
- 6.12 The Anti-Poverty Strategy states: *"There is still a strong association between unemployment and poverty, along with a significant rise of in-work poverty.*

Some people living in higher working households comprised 17% of people living in poverty in 2018/19, compared to 14% 10 years earlier and 9% in 1996/97.

People living in lower work intensity households comprised 47% of people living in poverty in 2018/19, compared to 42% 10 years earlier and 35% in 1996/97."

- 6.13 Better employment conditions and an increase in employment opportunities for care workers can support people to move out of the position of living in poverty whilst in work.

- 6.14 The Anti-Poverty Strategy also states:

"Lone parents, large families, carers and care leavers are more likely to experience poverty than people without children or caring responsibilities."

- 6.15.1 A deliverable of the project is that good, high-quality, sustainable care will support family carers to enjoy more fulfilled and active lives in the knowledge that their relative is safely supported at home.

7 Proposed approach

7.15 The current Care Home Services DPS contract ends on the 30 April 2023 and there are no options to extend arrangements. Therefore, the Council must seek to implement a contractual/purchasing mechanism ready for the 1 May 2023.

Option one (recommended) – Engage in a procurement exercise to secure a new DPS for care homes

The new DPS will be for all care homes within West Northamptonshire for adults age over 18 (not including LD).

All care homes within West Northamptonshire, will have the opportunity to apply and join the new contractual arrangement. This proposal seeks to:

- Implement and agree a funding structure;
- Ensure compliance with the Public Contract Regulations (2015);
- Enable the Council to fulfil its statutory duties thus preventing service disruption;
- Support supplier engagement and consultation to inform a sustainable solution; and
- Secure future application of outcome and strength-based care model

7.15.1 Option two (Not recommended) – Spot Purchase

The current Care Home DPS contract would expire from 1 May 2023 the Council would seek to secure supply of residential and nursing care services on a spot-purchased arrangements. While spot purchasing can be used to secure services, this approach can increase susceptibility to variable pricing and is not the most effective way of managing cost and supply.

8 Implications (including financial implications)

8.1 Resources and Financial

8.1.1 It is not anticipated that the proposed will have any impact on the current resources available.

8.1.2 The Council's annual gross forecast expenditure on commissioned care homes during the 2022/23 financial year for over 65s is 2.3 million and for spot provision is 26.8 million and for under 65s is 3.5m (this figure does not include LD).

8.2 Legal

8.2.1 The Council has a statutory duty to provide care and support for people who meet the eligibility criteria as set out in the Care Act 2014 and supporting legislative framework. This duty sits alongside both Council and NHS strategies and plans. The Council's statutory duty extends to the provision or arrangement of services that could help prevent people developing needs for care and support or delay people deteriorating such that they would need ongoing care and support. The Council may meet that

duty by providing the care and support itself or by arranging for a person other than it to provide a service. The legislation anticipates that needs for care and support can be met in a variety of ways, including Council- funded long-term care and support packages, i.e. community care, residential and nursing care and the provision of homecare.

8.3 The award of the new DPS is subject to the Council’s Contract Procedure Rules in that Cabinet approval to award the DPS would be required. This report is requesting that Cabinet delegate authority to award the DPS to the Executive Director of Adults, Communities and Wellbeing.

8.4 The procurement and contractual provisions for the implementation of the recommended option will be undertaken with the advice and support provided by the Council’s Legal and Procurement services. It is anticipated that the proposed procurement exercise will enable the Council to continue to provide a diversity of service in satisfaction of its statutory duties.

8.15 Risk

8.16 If the recommendations described in the report are not approved, it will result in the Council not having appropriate arrangements in place to purchase care home services. This means the council could fail to meet its statutory duties under the Care Act 2014 when the current DPS expires in April 2023. On all the evidence available and subsequent analysis, it is the professional opinion of all Contributors/Checkers/Approvers that Cabinet should endorse the recommendations.

8.16.1 Should approval of the recommendations not be given the risk to the Council would potentially be a combination of reduced supply for residential and nursing care services through contractual routes and increased costs associated with securing a larger proportion of placements through spot purchasing arrangements.

8.16.2 Risk(s) associated with the proposal:

Risk	Mitigation	Residual Risk
Non-contracted providers within the market raise concern/challenge about the decision to proceed with a new interim DPS under existing delivery requirements.	New providers currently not contracted to the Council will have the opportunity to apply and join the new contractual arrangement through a straightforward process based on mandatory criteria to evidence ability to provide effective care services. The interim DPS will remain open to applications and managed effectively.	Green

8.16.3 Risk(s) associated with not undertaking the proposal

Risk	Mitigation	Residual Risk
Expiry of the DPS on 30 April 2023 results in no access to contracted service supply and therefore solely spot purchasing services at higher fee rates because of market price demands.	Plan for spot-purchasing arrangements using preferred provider agreements on an individual basis to secure supply under an assumption that vacancies across the market, driven by the impact of COVID-19 and reduced demand, create price stability.	Red

8.17 The introduction of a new DPS fill enhance the customers experience by improving providers’ operational and financial viability linked to an improved service specification and suitable contract.

8.18 Providers may choose not to apply, or their application may be unsuccessful. However, extensive, and ongoing engagement has indicated that the majority will wish to continue to deliver to current commissioned customers if successful and until review if they are unsuccessful. Many providers, if unsuccessful, have indicated that they will realign their businesses to focus on providing care home services to people that fund their own care. Therefore, it is doubtful that any significant discontinuity of service provision will occur directly because of the introduction of the framework.

8.19 It should be acknowledged that all recommissioning of care home exercises come with the risk of some potential disruption to individuals and the Council. The risks associated with this project are acknowledged and detailed within an ongoing Risk Register which has been/will be reviewed regularly throughout the project.

8.20 It should be noted that there is a requirement to move towards fair cost of care and the Council aims to reflect this in new contractual arrangements. However, this project does not seek to adjust existing contracts or fee rates and therefore, there is a risk of legal challenge against our fee rates if they do not match the outcome of the Fair Cost of Care Exercise.

8.21 Consultation

8.22 Healthwatch are to be requested to seek the views of people who receive care and families

8.23 Care Home Providers – A Provider Reference Group was established in December 2022 for providers to inform the design of the approach and model.

8.24 All Member Briefing Sessions will be arranged early in 2023 to ensure councillors are kept informed and engaged on the process

8.25 Internal Adult Social Care Operations have been actively involved in all project workstreams along with practitioners and local health partners

8.26 Consideration by Overview and Scrutiny

8.27 There are no comments made by the Overview and Scrutiny Committee in relation to this report and its recommendations.

8.28 It is proposed that commissioning and market shaping work to develop new outcome-based delivery models and approaches to residential and nursing care along with responses to support market sustainability for a diverse and sufficient supply of services are future topics for Overview and Scrutiny Committee to consider.

8.29 Climate Impact

8.30 There are no climate/environmental implications.

8.31 Community Impact

8.32 There are no community or community safety implications.

8.33 Communications

8.34 Communications activities must effectively inform all those affected by the recommissioning and support and serve to increase further engagement with providers. To achieve this a robust communications and engagement plan is being developed.

8.35 The communications and engagement plan aligns with key project milestones with a focus on targeted messaging and activities to identified audiences, including current and prospective providers, stakeholders, members of the public, service users and stakeholders.

9 Background Papers

9.15 There are no background papers to be included.