

Cheshire East Council

Cabinet

Date of Meeting:	5 th December 2017
Report of:	Mark Palethorpe (Acting Executive Director of People)
Subject/Title:	Commissioning of Accommodation with Care (Residential and Nursing Care Homes)
Portfolio Holder:	Cllr Janet Clowes, Adult Social Care and Integration

1. Report Summary

- 1.1** The purpose of this report is to set out the rationale for commissioning accommodation with care provision for existing and future residents of Cheshire East.
- 1.2** Adult Social Care is proposing to undertake the recommissioning of accommodation with care for the residents of Cheshire East, to answer the following commissioning question:

“How does Cheshire East Council commission an appropriate offer of permanent accommodation with care and how do we ensure we have a consistent outcomes led offer that is affordable?”

The aim is to build a vibrant and sustainable accommodation with care market for the future which meets the needs and expectations of those individuals requiring 24 hour care.

- 1.3** The accommodation with care market in Cheshire East will offer a personalised service which is flexible, responsive and focused on helping people achieve what is important to them. There will be a choice of quality assured residential and nursing care options available to older people and working age adults with disabilities, not only to meet people’s long term needs but also to support and care for those with short term needs to enable people to recover and maintain the maximum independence, well-being and achieve the best outcomes for their personal circumstances.

2. Recommendations

- 2.1** Cabinet approve Cheshire East undertaking the commissioning of accommodation with care services in partnership with both Eastern and South Cheshire Clinical Commissioning Groups, with CEC as the lead Commissioner.

2.2 Cabinet note that independent consultants have been appointed to undertake a review of care fees to inform the new commission and that accommodation with care fees are held at the current market price until the new contracts commence.

2.3 Authority be delegated to the Acting Executive Director of People in consultation with the Portfolio Holder for Adult Social Care and Integration to;

2.3.2 to award contracts to suppliers; and

2.3.3 in consultation with the Director of Legal Services to enter into a contracts with the successful suppliers.

3. Reasons for Recommendations

3.1 Cheshire East Council has a duty under Section 5 of the Care Act to promote the efficient and effective operation and sustainability of a market in services for meeting the care and support needs of individuals. There are increasing financial pressures on the social care market, for example National Living Wage, recruitment and retention issues which is resulting in a rise in care costs.

3.2 This means transforming the care and support offer to ensure Cheshire East has a greater capacity and an improved range of services. It is intended that the Clinical Commissioning Groups together with Cheshire East Council jointly commission the new offer and include: discharge to assess beds, step up/step down beds, more specialist provision for complex needs that promote quality of care under the system beds programme and in accordance with the Clinical Commissioning Groups commissioned report into Older Person's services undertaken by Fusion 48 (Fusion 48 are a consultancy organisation who are leading on the older persons service transformation).

3.3 The joining up of commissioning and contracting with partners will provide an opportunity to promote and champion a single and shared view of high-quality care and support. With our partners, we need to ensure that health and social care services provide people with safe, effective, compassionate, high quality care and that we encourage care services to improve, this may include quality payment premiums to providers.

3.4 The key risk to Social Care is maintaining the quality, capacity and sustainability of the care market. Any market failure or disruption will have a huge impact not only on delayed transfers of care but the critical care provided in the community to vulnerable individuals.

4. Other Options Considered

4.1 The demand for care services will be significant over the next few years and we need to sustain and stabilise the accommodation with care markets alongside managing the budget, therefore doing nothing is not an option.

5. Background/Chronology

- 5.1** For the past two decades the focus of government policy has been to widen choice and increase autonomy for people who receive support services. The Care Act (2014) places responsibility on local authorities to ensure that people's wellbeing and the outcomes which matter most to them will be at the heart of every decision made about the care and support they receive. Every person using health and social care should receive quality services that promote their independence and lead to an improved quality of life.
- 5.2** The Care Act 2014 requires the Council to have regard to the actual cost of care which reflects local market conditions; this makes the future affordability of care homes a challenge for the Council as market prices increase, impacted by National Living Wage, Pension Auto Enrolment and recruitment and retentions difficulties driving up costs.

6.0 Demography and Population level data

- 6.1** The key findings from the Joint Strategic Needs Assessment are as follows:-
- 6.1.1** In Cheshire East the proportion of the population who are aged 65 years and over is around 22% (n≈82,240) in 2015.
- 6.1.2** The number of residents aged 65 years and over varies across the Borough, with over 4 times more pensioners living in some wards compared to others; 3,104 people aged 65 and over live in Poynton West and Adlington compared to 675 in Crewe South.
- 6.1.3** The trend in people living alone is likely to see the largest increase in women aged 75 and over.

7.0 Current Commissioning position

- 7.1** Accommodation with Care is one of the largest contracted services that the Council commissions in the external care market with 1,228 adults and older people living in permanent care home placements within the Cheshire East footprint.
- 7.2** The Council current spends approximately £37.4 million per annum on accommodation with care services within Cheshire East and a further £13 million per annum on accommodation with care services in other local authority areas.
- 7.3** This report discusses the current position and future needs of accommodation with care provision. For the purpose of this report accommodation with care refers to CQC registered care homes. Other models of accommodation with care, such as Extra Care Housing and Supported Living are being reviewed separately at this time, however the various work streams will have cross cutting themes to ensure a joined up approached and prevent duplication.

- 7.4** The current contractual arrangements have been in place since 2013.
- 7.5** The current contractual arrangement is a joint contract with Cheshire East Council and Eastern and Southern Cheshire Clinical Commissioning Groups. There is one standard service specification covering all types of regulated activities undertaken within care homes and care homes with nursing.
- 7.6** Accommodation with Care fees were last reviewed in 2015/16 and uplifted in April 2016.
- 7.7** All current long term provision is commissioned on a 'spot purchase' basis. Providers are signed up to standard terms and conditions called a 'Pre Placement Agreement' and receive individual placement agreements for each resident placed by Cheshire East Council.
- 7.8** The accommodation with care market in Cheshire East is composed of a good mix of small and medium sized providers (SMEs) as well as a number of large, national organisations.
- 7.9** There are 96 Care Quality Commission registered care homes within Cheshire East Council. The Council has pre-placement agreements in place with 95 of these care homes. Of the 31 July 2017 Cheshire East Council only had placements in 88 of these care homes. 49 of these homes are registered to provide residential care and 47 are registered to provide nursing care.
- 7.10** There are 3,878 registered care home beds with Cheshire East Council, however Cheshire East Council only purchase approx. 30% of the available beds. The majority of remaining beds are occupied by self-funding residents.
- 7.11** On average residential care homes in Cheshire East have 10% of beds vacant and nursing homes have on average 15% of beds vacant.
- 7.12** Cheshire East Council commissioned 261 placements in 150 care homes in other local authority areas.
- 7.13** The large number of providers contracted with the Council makes it difficult to develop effective working relationships with commissioned providers.
- 7.14** The Council's approach to commissioning accommodation with care is very traditional, Cheshire East Council currently offer four levels of care and support within a care home setting, residential, residential dementia, nursing and nursing dementia. The recommissioning will explore the use of accommodation with care providers delivering a range of short term as well as long term care provision such as discharge to assess, step up, step down beds and rehabilitation services.

8.0 Commissioning Trends

8.1 The following chart shows the number and type of accommodation with care placements made by Cheshire East Council in county as of 31 July 2017.

8.1.2 Cheshire East Council continues to have a high number of residents placed in standard residential care settings.

Type of Placement	Number
Residential Standard	360
Residential Dementia	294
Nursing Standard	372
Nursing Dementia	255

8.1.3 The majority of accommodation with care placements is for those residents with a primary need for physical support or cognitive impairment.

Primary Client Type	Number of Placements
Learning Disability	51
Mental Health	196
Physical Support	649
Sensory Support	34
Social Support	13
Memory & Cognition	338

8.1.4 The following chart shows the number of accommodation with care placements made by age, under and over 65s as of 31 July 2017.

Age of Placement	Number
Over 65	1176
Under 65	105

8.1.5 The following information breaks down the current accommodation with care provision by Adult Social Care Team area as at 31 July 2017

The Crewe Adult Social Care Team have the highest number of placements in accommodation with care settings.

Team	No. of Placements
Crewe	423
Congleton	289
Wilmslow	233
Macclesfield	258
Mental Health	78

8.1.6 The following chart provides data around the number of placements over Cheshire East Council's current contract rates. It should be noted that Cheshire East Council have not been collecting third party contribution costs when commissioning accommodation with care, therefore we do not have a true picture of the cost of accommodation of care within Cheshire East Council.

Placement type	Number above Contract rate
Residential Standard	90
Residential Dementia	88
Nursing Standard	132
Nursing Dementia	103

Placements at or above contract rate	Number
At Contract Rate	868
Above Contract Rate	413

9.0 Care Quality Commission and Cheshire East Council Quality Ratings of Accommodation with Care Providers

9.1 The Council is responsible for ensuring that all commissioned services are delivering high quality care and support services which meet the needs of our residents.

9.2 Accommodation with Care Providers are subject to inspections by the Care Quality Commission as well as at least annual quality assurance visits from the Council.

9.3 The following data shows the CQC and Cheshire East Council ratings for all 96 registered and commissioned accommodation with care providers delivering services on behalf of the Council as at the 31 July 2017.

The Council's 96 CQC registered, accommodation with care providers are broadly comparable to that of the neighbouring authority (Cheshire West and Chester), the regional and national picture.

CQC ratings	Number of homes	%
Outstanding	1	1
Good	67	70
Requires improvement	27	28
Inadequate	0	0
Not yet rated under new system	1	1
Totals	96	100%

10.0 Care Fees

10.1 The Council last reviewed the care fees paid to accommodation with care Providers during 2015/16. The fee review was undertaken by independent consultants and recommendations were presented to Cabinet in February 2016. Cabinet agreed the recommendations and fees were uplifted to their current levels in April 2016. The percentage increase is as follows:

- Residential Care – 15.6%
- Residential Care (Dementia) – 10.3%
- Nursing – 9.5%
- Nursing (Dementia) – 4.8%

10.2 There is an urgent need to undertake a review of care fees to ensure that the Council is meeting its responsibilities under the Care Act to provide an affordable, viable and sustainable care market. An independent organisation which is a subsidiary to CIPFA has been appointed to undertake the review. They will work with providers to develop the approach to ensure maximum engagement in the process.

10.3 The fees currently paid by the Council to Accommodation with care providers are:

- Residential Care £435.68
- Residential Care (EMI) £515.34
- Nursing Care £474.53
- Nursing Care (EMI) £489.86

NHS funded nursing care is care provided by a registered nurse for people who live in a care home the NHS will pay a flat rate contribution directly to the care towards the cost of this registered nursing care.

11.0 Provider Relationships

11.1 The Council's relationships with its accommodation with care providers in

the past has been limited. Despite this there is a willingness from the key providers in the market to engage with and work with the Council to re-design services.

11.2 Accommodation with Care providers are not completely reliant on Cheshire East Council funding and a number of providers are not prepared to accept Cheshire East Council fee levels. It is therefore essential that commissioners build effective relationships with those providers who do wish to engage and who support the majority of Cheshire East Council residents.

11.3 A series of meetings have been held with accommodation with care providers and senior Council Officers since April 2017 to start building relationships and exploring how both parties can work together to co-produce the new model of accommodation with care provision.

11.4 A provider steering group is now in place and meeting on a monthly basis, the meeting is chaired by the Director of Commissioning to offer assurances to Providers of the Council's commitment to working in partnership.

11.5 One of the key messages to have come out of these meetings, is an urgent need to review the Councils internal processes to ensure that accommodation with care providers receive appropriate information about customers as part of the referral process, that correct contractual agreements are issued in a timely manner, that systems are updated immediately when placements are commissioned or amended to ensure correct payment is made and that reviews take place when requested.

11.6 In addition a series of tasks and finish groups have been set up to work with providers to explore the following areas as part of the recommissioning work:

- Care Fees
- Internal processes
- Recruitment and Retention
- New service model / specialisms
- Contract Monitoring / Quality Assurance

As a result of the above, there is already an improvement in communication and relationships between commissioners and providers, which needs to be built on and maintained moving forwards.

12.0 Timeline

The proposed timeline is as follows

Action	Milestone
Cabinet Decision	5 th December 2017
Tender published	January 2018
Tender awarded	April 2018
New services begin	April 2018

13. Wards Affected and Local Ward Members

13.1 All Ward members

14. Implications of Recommendation

14.1 Policy Implications

14.1.1 The proposal links with the Council's commitment to providing customer choice in social care provision and ensuring best value for service delivery

14.2 Legal Implications

14.2.1 It is proposed that the Council will provide Accommodation with care services in conjunction with Eastern and South Cheshire CCGs, that the Council leads on the commission but the CCGs remain in control of their own budgets and call off their own provision.

14.2.1 If during the course of the procurement process it is decided that there will be a closer collaboration (whereby the Council controls the collective budget and commissions services on behalf of the CCGs) then this a more formal partnership arrangement. The parties would need to enter into a Memorandum of Understanding to set out the obligations of the parties in relation to the provision of services and confirm the funding contributions and the responsibilities of each party in delivery of such a service. Appropriate authority to enter into such a partnership would need to be sought in accordance with the Council's Finance Procedure Rules.

14.2.2 The aggregate value of the accommodation with care provision is such that these services must be procured in accordance with the Public Contracts Regulations 2015 and in compliance with the Council's Finance and Contract Procedure Rules. This will require a fully OJEU compliant procurement exercise. The Service is engaging with Legal Services and the Council's Corporate Procurement Team in this process.

- 14.2.3** Commissioning accommodation with care in collaboration with partners and following a period of review and engagement with service users and stakeholders will assist the Council in meeting its duties under Section 5 of the Care Act to ensure an efficient and effective local market with a view to ensuring that there is a variety of providers and high quality services to choose from. A key tension alongside this duty has been pressure on the sustainability of the current market due to budget pressures for services meeting the care and support needs of individuals. However, statutory guidance accompanying the Care Act 2014 is clear that the way services are commissioned has a direct impact upon 'shaping the market' (Paragraph 4.4) and requires that Local Authorities must 'consider how to ensure that there is still a reasonable choice for people who need care and support' (Paragraph 4.39) and to ensure that their fee levels do not compromise the service providers' ability to employ people on at least minimum wage with sufficient training (Paragraph 4.31).
- 14.2.4** It is also entirely in line with the accompanying Statutory Guidance to the Care Act 2014, to consider outcome based commissioning where we seek to promote wellbeing, enablement, reduce loneliness and social isolation, and promote independence (paragraph 4.16) However, the commissioning should not operate to exclude smaller and community/ voluntary organisations (paragraph 4.18). It is open to the Local Authority to publish market position statements; this would underpin our duty in statutory guidance accompanying the Care Act 2014 to engage with our stakeholders to develop an understanding of supply and to signal to the market the types of services needed now and in the future (Paragraph 4.7).
- 14.2.5** The commissioning approach is a change to the way services are currently provided but reflects the flexibility of procurement practices to support effective engagement with stakeholders (paragraph 4.99 Statutory Guidance to Care Act 2014); the Service have engaged with stakeholders including service users to co-produce the service specification.
- 14.2.6** Under the Equality Act 2010, the Council is required to identify the impacts of any decisions, policies etc. on certain protected groups to ensure equality is promoted, and inequality minimised. For example, there must be an assessment made of the impacts on groups or individuals who are disabled, who belong to ethnic or racial groups, on the grounds of age or sex discrimination etc. An Equality Impact Assessment has been completed and can both assist in evidencing that these equality duties are being met and can inform decision taking. However, following engagement with stakeholders, it will be necessary to consider any further potential impact to protected groups to evidence that our decision making is rational and responsive. This reduces the risk of subsequent successful challenge to our decision making processes.

14.2.7 Undertaking an open and transparent review of fees paid to accommodation with care providers is a means to ensure that the Council meets its duties under the Care Act 2014 to formally consider the cost of care locally when setting care fees.

14.3 Financial Implications

1.4.3.1 The proposal will support the Council ensuring that individual Accommodation with care placements are commissioned via a competitive exercise from approved providers therefore ensuring best value for money.

1.4.3.2 There are 88 Care Homes in Cheshire East Borough that have placements. Total annual spend is £37,777,284.

1.4.3.3 There are 150 Care Homes out of Borough that have placements. The current total annual spend is £13,334,157.

1.4.3.4 As at June 2017 there were 1546 placements in Care Homes both within CEC and out of area with a total spend of approximately £50.4m per annum. Below is a breakdown of the placements based on the recorded categories for Long Term Primary Support Reason, these are:

- Learning Disability Support
- Mental Health Support
- Physical Support (Personal care/Access & mobility)
- Sensory Support (Hearing/Visual/Dual)
- Social Support (Substance Misuse)
- Social Support (Social Isolation/other)
- Memory & Cognition Support

14.4 Equality Implications

14.4.1 In making the decision to re-commission accommodation with care the Council has had due regard to the Public Sector Equality Duty as set out at S149 of the Equality Act 2010. An Equality Impact Assessment has been carried out as part of the re-commissioning

14.5 Rural Community Implications

14.5.1 The proposal will support those in rural communities to continue to access care services in a range of locations across Cheshire East.

14.6 Human Resources Implications

14.6.1 None for employees of Cheshire East Council. See legal implications above about Statutory Guidance for employees of care provision.

14.7 Health and Wellbeing Implications

14.7.1 The One You Cheshire East campaign encourages people to look after their health. The availability of local and personalised accommodation with care services for people in Cheshire East will support this work by encouraging people to look after their health and referring people into the One You Cheshire East services.

14.8 Implications for Children and Young People

14.3.1 The proposal will offer an improved pathway for young people transitioning from Children's Services to Adults Social Care.

14.9 Overview and Scrutiny Committee Implications

14.9.1 The paper has been to Overview and Scrutiny and any notes actioned.

14.10 Other Implications (Please Specify)

None.

15.0 Risk Management

15.1. Ensuring there are adequate services in the independent sector market to meet current and future needs of local residents is critical.

15.2 By taking account of the local fee structure when making its own recommendations the Council is mitigating this risk, both for the Council and residents.

16.0 Access to Information

16.1 The background papers relating to this report include the Live Well Cheshire East Commissioning Plan 2017, Joint Strategic Needs Assessment and Care Act 2014.

17.0 Contact Information

Contact details for this report are as follows:

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