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Report of:	Director of Adult Health & Social Care
Report to:	Adult Health and Social Care Policy Committee
Date of Decision:	15th June 2022
Subject:	Care and Wellbeing Services Transformational Contract

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	✔	No		
If YES, what EIA reference number has it been given? **1058**					
Has appropriate consultation taken place?		Yes	✔	No	
Has a Climate Impact Assessment (CIA) been undertaken?		Yes	✔	No	
Does the report contain confidential or exempt information?	Yes		No	✔	

If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-

*"The (**report/appendix**) is not for publication because it contains exempt information under Paragraph (**insert relevant paragraph number**) of Schedule 12A of the Local Government Act 1972 (as amended)."*

Purpose of Report:

The purpose of this report is to secure approval for the commissioning strategy for the delivery of Care and Wellbeing Services for adults delivered within their own homes. These services are also known as 'homecare'.

The report will highlight the risks faced by Sheffield City Council (SCC) with regards to its statutory duty under the Care Act to provide an effective, efficient, and sustainable market for the delivery of home care services under the current model. Changes are required to mitigate and eliminate these risks and the proposed commissioning strategy for the new Care and Wellbeing Services Contract is intended to deliver this.

Recommendations:

It is recommended that the Adult Health and Social Care Policy Committee approves the commissioning strategy for the delivery of Care and Wellbeing Services delivered through a 7-year contract term with options up to a further 3 years as set out in this report.

Background Papers:

No papers.

<table>
<tr><th colspan="3">Lead Officer to complete:-</th></tr>
<tr><td rowspan="3">1</td><td rowspan="3">I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.</td><td>Finance: Ann Hardy</td></tr>
<tr><td>Legal: Kevin Carter / Ella Whitehead</td></tr>
<tr><td>Equalities: Ed Sexton</td></tr>
<tr><td colspan="2">Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</td></tr>
<tr><td>2</td><td>SLB member who approved submission:</td><td>John Macilwraith</td></tr>
<tr><td>3</td><td>Committee Chair consulted:</td><td>Councillor George Lindars-Hammond and Councillor Angela Argenzio</td></tr>
<tr><td rowspan="3">4</td><td colspan="2">I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.</td></tr>
<tr><td>Lead Officer Name:
Paul Higginbottom</td><td>Job Title:
Strategic Commissioning Manager</td></tr>
<tr><td colspan="2">Date: 7th June 2022</td></tr>
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1. PROPOSAL

(Explain the proposal, current position and need for change, including any evidence considered, and indicate whether this is something the Council is legally required to do, or whether it is something it is choosing to do)

1.1 The Council must provide home care services, which provide support with 'activities of daily living' for adults living in their own homes. The existing contract is due to expire in April 2023 and the Council intends to begin re-procurement during Summer 2022.

1.2 It is proposed that in this re-procurement the opportunity is taken to re-model the provision of home care services into a new Care & Wellbeing Services model, implemented through a transformational 7-year contract (with an option to extend for 2 years, and a further 1 year).

1.3 The challenges faced in Home Care are replicated across the UK as a result of many years underfunding. In the absence of the required level of investment, the new model will seek to mitigate and remove existing issues affecting quality and efficiency, create stability of provision across Sheffield. This is aimed at creating a foundation for improved experience for people, families, carers, and our care workforce. It will also set out an approach for generating greater collaboration across health and care services in the City as well as developing career pathways for care workers in the City.

2. CURRENT POSITION & NEED FOR CHANGE

2.1 There are 35 providers on the current framework, with the city divided into 21 contract areas and multiple providers operating in each area.

2.2 The Council has a responsibility to maintain oversight of quality and value for money, as well as a secure a stable market with providers that are able to deliver the continuity of support people in Sheffield need.

Increased Demand

2.3 The size of the Council's spend on the home care market has increased significantly in recent years, with around 40,000 hours of care being delivered per week in 2022, escalating from around 32,000 per week at the start of the Covid 19 pandemic. Despite the increase in the overall amount of care commissioned, the number of people in receipt of care has remained static, at around 2,500 per week.

2.4 The increase is therefore linked to a rise from an average of 12 hours per week per support arrangement in 2020, to around 16 by 2022. It is likely that this was due to a decision during the pandemic not to use residential care and therefore reflects the increased complexity of need that care workers in homecare were responding to the pandemic.

2.5 Benchmarking also indicates Sheffield to be an outlier in comparison to the national average, commissioning on average around two hours more per person each week - a total of 5000 hours per week more.

2.6 Consideration of Sheffield demographics, referral rate, complexity of care and benchmarking would indicate that 34,000 planned hours would be required set alongside the provision of a Sheffield City Council Care and Wellbeing Service.

2.7 Care hour types and their definitions, covering Commissioned, Planned and Actual care hours are detailed in **Appendix 1**.

Recruitment & Retention Challenge

2.8 Reflecting challenges across the health and social care sector, local home care providers have been unable to recruit enough new staff, whilst also losing existing workers to other sectors, often with better pay, conditions, career pathways and/or less responsibility and day-to-day challenges - it is estimated that up to 32%[1] of the sector do not see care as long-term career.

2.9 Retention is further impacted by staff leaving the workforce due to retirement or ill health: 26% of care workers in Sheffield are aged over 55[2].

2.10 The most recently available data from Skills for Care[3] confirms annual staff turnover of 50% in the Sheffield independent sector, compared to 35% across Yorkshire & Humber and 2.7% for home care workers employed by the Council.

2.11 High staff turnover and workforce instability impacts negatively on the experiences of people receiving home care; increases changes in support provision; causes delay in support pick up; reduces the quality of care; and increases provider's costs[4].

2.12 Providers have consistently told us that the current position is unsustainable It is therefore imperative that we urgently establish the conditions needed to bring stability to our care workforce sector.

Impact on Quality

2.13 The combined demand and capacity challenges have exacerbated areas of concern predating the pandemic, as described in Healthwatch Sheffield's 2019 report[5] and 2021 report *SpeakUp: A Review of Home Care – The African Caribbean Perspective*[6]*:*

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[1] Home Care Transformation - Committee Report 0.3.pdf (sheffield.gov.uk)
[2] Sheffield_Summary 2021 (skillsforcare.org.uk)
[3] Home - Workforce intelligence (skillsforcare.org.uk)
[4] Skills for Care estimate that the cost of recruiting each care worker is over £3.5k[4]. Replacing half the frontline workforce each year, around 950 care workers, would costs commissioned providers around £3.5m per annum (https://www.skillsforcare.org.uk/Documents/Standards-legislation/CQC/Safe-staffing/Calculating-the-cost-of-recruitment.pdf)
[5] https://www.healthwatch.co.uk/sites/healthwatch.co.uk/files/reports-library/20190219_Sheffield_Home%20Care%20Report%20January%202019.pdf
[6]https://www.healthwatchsheffield.co.uk/sites/healthwatchsheffield.co.uk/files/editors/SACMHA%20report_final.pdf

- Late, missed, and inappropriate timing of care visits
- Rushed care visits
- Lack of continuity of care
- Care plans not followed or reviewed regularly
- Lack of opportunities for feedback
- A perception that there is a lack of training, supervision, and monitoring of home care workers
- A lack of culturally appropriate care

2.14 Additionally, the current Home Care payment and charging model - based around time and task and charging on minute by minute of care delivered - is not outcome or quality focused and is not as effective and efficient as it could be for our customers, providers, or the Council.

2.15 The cumulative effect of increase in demand set against significant recruitment and retention challenges has created a situation where the sector struggled to pick up new homecare support referrals. To mitigate this, the Council has had to increase usage of a 'Direct Award' process – whereby the Council secures provision of service directly with a non-contracted provider. While use of Direct Awards is a legitimate response to ensure people have the required support to meet their needs, these arrangements are typically more expensive and do not guarantee quality and continuity of care; annual spend on Home Care Direct Awards has reached £4.7m (around 11% of the overall spend on home care).

3 PROPOSED NEW MODEL

3.1 A sustainable market is one which has a sufficient supply of services (with provider entry and exit), investment, innovation, choice for people who draw on care, and sufficient workforce supply. It also refers to a market which operates in an efficient and effective way, linked to the market shaping duty placed on local authorities under section 5 of the Care Act 2014. Further detail on this can be found in the market sustainability plans section of Department of Health and Social Care Market sustainability and fair cost of care fund 2022 to 2023[7].

3.2 It is proposed to introduce a new approach to homecare in the City by moving towards a community integrated care and wellbeing model. Collective Practice Standards across Adult Social Care and Commissioned services will seek to drive practice that is outcome focused, strength-based, community connected, and person led so that *all* social care support is focused on enabling people to live independently, live the life they want to live and have positive experiences of care.

3.3 It is anticipated that the proposed commissioning strategy for homecare will generate long term transformation and sustainability, and improve the quality and experiences of people who use care by:

- Contracting with a fee rate that is sufficient to sustain a stable market and better workforce retention and recruitment, in turn supporting timelier

[7] Market sustainability and fair cost of care fund 2022 to 2023: guidance - GOV.UK (www.gov.uk)

support pick up, improved continuity of care, and better outcomes for Sheffield people. Section 4 provides further information.

- Improved accessibility, stability, and continuity of care provision by moving to an increased contract duration and guaranteed payment to providers for a proportion of the anticipated volume, supporting business continuity, forecasting, and planning.

- Geographical alignment of support with 2-3 providers in each geographical area, operating as equal partners within multi-disciplinary and collaborative working arrangements across health and social care. It is anticipated that this will strengthen partnership working, improving monitoring arrangements, supporting provider efficiencies and sustainability, and reduce travel for care staff - and in doing so reduce our carbon footprint. To support this approach, the tender process will allow providers to collectively bid via alliances and other consortia arrangements.

- Improving quality, being responsive to individuals changing needs and preferences, and fostering independence by moving away from a time and task model (where the focus is delivery on requested hours) to an outcome-based model aligned to our Care Act duties. An outcome-based model is a model where care is focussed upon the priorities and goals a person wants to achieve to improve their wellbeing and independence through the support they receive from the provider. Providers will be asked to demonstrate – including through Trusted Reviews - how they have enabled an individual to improve their wellbeing and live more independently and in doing so reduce the need for care and support, enable more positive experiences of care and managed new referrals in a timely and safe way. (The Trusted Reviewer model is described in **Appendix 3**.)

- Changes to the payment and charging model. Switching from payment based on minutes of care delivered to payment based on planned care will shift the emphasis away from time and task; it will give providers more certainty and people more timely and more reliable invoices; and it will reduce complexity and improve efficiency.

- Asking providers to ensure a robust workforce development plan which ensures the recruitment and retention of a diverse care workforce so that individuals are supported by a workforce that reflects the population of Sheffield, reflects their cultural preferences, and delivers culturally appropriate care. This will also be managed through our contract oversight.

- Valuing and developing our care workers by supporting successful providers to promote learning and skills and develop care apprenticeships and career pathways for care staff in the City in partnership with the Council. Qualification, practice and quality standards for managers and care workforce will be specified, and ongoing development opportunities will be provided to strengthen leadership and key skills in the sector - such as dementia, falls prevention, manual handling passports, enablement and mental health and wellbeing. A valued workforce will also likely improve staff

retention and reducing turnover to 15% would save providers over £2.7 million in recruitment costs over the course of the contract.

- Promoting, innovation and independence through enablement, and greater use of technology, equipment, and adaptations and empowering providers to work in partnership with individuals, their families, and carers to promote and develop innovative new ways of enabling individuals to live as independently as possible.

- Identifying unpaid Carers through empowering providers to be able to refer to, and work in partnership with Carers support services so that we build innovation and greater awareness of support to unpaid carers.

- Focus our care and wellbeing provision on enabling individuals to be as independent through developing new approaches and contractual arrangements for cleaning and shopping to afford individuals further choices in relation to these types of care arrangements.

- A 'test of change' project is being delivered to develop and improve implementation of this transformational contract. Further information on the test of change is provided in Appendix 2. This will include the potential future introduction of payment by shift for care workers if the cost benefits can be evidenced.

4 SUSTAINABLE FEE RATE

4.1 The Care Act 2014 places a duty on local authorities to assure themselves and have evidence that fee levels are appropriate to provide the agreed quality of care and enable providers to effectively support people who draw on care and invest in staff development, innovation, and improvement.

4.2 As part of the service remodelling and procurement strategy development for homecare, we have engaged with providers to better understand this. 17 providers responded to support our analysis. This work has indicated that the current rate of approximately £19.05 per hour is not sufficient to sustain a stable and quality homecare market.

4.3 The available budget for 23/24 is circa **£36m.** As we navigate person centred care, we would hope to make efficiencies elsewhere in the system to be able to maintain this level of budget, unless there is significant investment into social care from Central Government, through the fair cost of care exercise or social care levy. We also have the option of redirecting resource from another part of the budget that we purchase care from. The table below demonstrates the cost of the service based on three different hourly rates, and four potential scenarios for demand based on delivery hours:

Total Contract Hours per week	Fee Rate £19p/hr	Fee Rate £20p/hr	Fee Rate £21p/hr	Fee Rate £22p/hr
	£'000s			
32,000	£31,616	£33,280]	£34,944	£36,608
34,000	£33,592	£35,360	£37,128	£38,896
36,000	£35,568	£37,440	£39,312	£41,184
38,000	£37,544	£39,520	£41,496	£43,472

4.4 A rate of £21 per hour for a total 34,000 contracted hours per week would be a significant step for Sheffield and our ambition towards implementing foundation living wage. We anticipate that this rate – together with the move to planned care over a 7 years + 2 +1 contract and consolidation of the market will support our commissioning objectives and better outcomes for Sheffield people. We also anticipate that staff will see the benefit of an increased fee rate in their terms and conditions.

4.5 A number of actions are in train, with the aim of reducing our current delivery of care hours down to 34,000 hours per week. These are set out further in **Appendix 3.**

4.6 To afford the remaining £1.1m pressure on the budget from this proposed increased rate, it is anticipated that the £200,000 will be offset by financial contributions and efficiency gained through the introduction of planned care, which leaves a pressure of £0.9m from 2023/2024. This £0.9m is planned to be offset by joint work with NHS Sheffield Clinical Commissioning Group to review and redesign care provision in the City as part of our strategic move towards more independent living and preventative approaches in the City.

5. HOW DOES THIS DECISION CONTRIBUTE?

(Explain how this proposal will contribute to the ambitions within the Corporate Plan and what it will mean for people who live, work, learn in or visit the City. For example, does it increase or reduce inequalities and is the decision inclusive?; does it have an impact on climate change?; does it improve the customer experience?; is there an economic impact?)

5.1 As stated in the One Year Plan for 2021/22, the Council committed to '*review our homecare services* (to ensure) *that we are delivering support that enables people to live independently at home in Sheffield*'. The changes described through the implementation of the Care & Wellbeing Service seeks to delivers that commitment.

5.2 As set out earlier in this report, the current position is unsustainable, both financially, and qualitatively. Many issues have the potential to impact more greatly on some communities, reinforcing existing inequalities.

5.3 The contract will contribute to the Adult Social Care Strategy, 'Living the Life You Want to Live'[8], and is a key component of the Adult Health and Social Care Transformational Programme.

The contract also supports a broad range of strategic objectives for the Council and city, and is aligned with existing policies and commitments, including:

- *Our Sheffield: One Year Plan*[9]
- *Conversations Count*[10]: our approach to adult social care, which focuses on listening to people, their strengths, and independence.
- *Team around the Person*[11]: where professionals work together to find the best solutions when someone's needs have changed, or a situation escalated.
- *ACP Workforce Development Strategy*[12]: a vision of 'developing our people in a joined-up way to deliver holistic, person-centred and integrated care'.
- *Unison Ethical Care Charter*[13]*:* signed up to by the Council in 2017[14], the Charter 'establishes a minimum baseline for the safety, quality and dignity of care' & *GMB Ethical Home Care Commissioning Charter 2022*[15]
- *Ethical Procurement Policy*[16]*:* driving ethical standards and increasing social value for the city through procurement.
- The contribution made to Sheffield's Climate Emergency can be found in the Climate Impact Assessment, **Appendix 4**

5.4 The aim of the changes is that all people in receipt of care, and their carers and families, will see a benefit from improvements in quality and a stable home care market. We will also expect providers to demonstrate, in the tender and subsequent service delivery, a values-based approach to recruitment and have an excellent understanding of the demographics and cultural diversity of their locality.

6. HAS THERE BEEN ANY CONSULTATION?

6.1 **Market & Citizen Engagement**
Extensive market and citizen engagement has been conducted and is detailed in **Appendix 5.** Dedicated sessions are ongoing to ensure care workers understand and have contributed to our vision for the future.

6.2 **Postal & Online Engagement**

[8] https://www.sheffield.gov.uk/home/social-care/our-vision
[9] https://democracy.sheffield.gov.uk/mgConvert2PDF.aspx?ID=45712
[10] https://www.sheffield.gov.uk/home/social-care/adult-social-care-local-account
[11] https://www.sheffield.gov.uk/home/social-care/tap
[12] Paper Cii Workforce Strategy v3.2 - October 2019 - FINAL.pdf (sheffieldccg.nhs.uk)
[13] On-line-Catalogue220142.pdf (unison.org.uk)
[14] https://www.unison.org.uk/news/article/2017/10/scheffield-charter/
[15] https://www.gmb.org.uk/sites/default/files/2022%20Care%20Commissioning%20Charter.pdf
[16] Ethical Procurement Policy.pdf (sheffield.gov.uk)

In addition, a targeted consultation was held between 7 March and 17 April 2022 to seek the views of people receiving home care, unpaid carers, and others with an interest.

The consultation focused on current recipients of home care and whether there should be a change to paying and charging for home care based on *planned* care from *actual* care.

559 responses were received. 46% of all respondents agreed, and 16% disagreed with the proposed change. 16% did not mind either way, 22% were unsure. The full results of the survey can be found in **Appendix 6**.

7. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

7.1 Equality of Opportunity Implications

7.1.1 Decisions need to take into account the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This is the duty to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

7.1.2 The Equality Act 2010 identifies the following groups as a protected characteristic: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

7.1.3 An Equality Impact Assessment has been completed and is summarised below. There is expected to be an overall positive impact through new model of care:

- The service specification (and model of care) will support a strength-based approach, supporting people with independence and wellbeing, and locality-based collaborations with primary care networks. There is a risk that this approach will broaden the care offer and increased costs.
- The changes proposed have been collaboratively developed with a range of stakeholders, in response to information gathered from extensive engagement and consultation with people from a variety of backgrounds.

7.1.4 However, there are potential impacts in terms of changes in provider:

- Some in receipt of home care will need to change providers. To mitigate, the option and support to move to a Direct Payment if people wish to remain with their current provider will be available.

7.1.5 Impacts on people who share different protected characteristics:

- Primary impacts are in relation to protected characteristics of Age and Disability.
- Disproportionate impact on women (because of the demographic profile of home care customers).
- Opportunities to address low usage and confidence in home care by some BAME communities through utilising the locality-based model to enhance recruitment, cultural understanding, and expertise/knowledge.
- No anticipated direct impacts in relation to other protected characteristics.
- Providers would be expected to be able demonstrate diversity awareness and responsiveness to the needs, identity, and choices of everyone within the support provided.

7.1.6 Other impacts:

- Indirect financial implications for people receiving home care through proposed change to payments/charging (but would not automatically lead to any increase in individuals charged-for contributions).
- Impacts on informal carers in terms of expected reductions in waiting time for home care but also potential need to support with any need to change provider or change to a Direct Payment.
- Better integration and closer ties with the Voluntary, Charity, & Faith (VCF) sectors, helping with non-regulated support needs and addressing loneliness and isolation.
- Implications for unsuccessful provider organisations, who will need to adhere to their HR/legal processes and responsibilities.

7.2 Financial and Commercial Implications

7.2.1 The detailed impacts of the proposed plans are outlined in the body of the report. The current delivery would cost £43.7m should care hours remain at 40,000 hours each week, against a budget provision of £36m, 2023/24 budget. The net position would be £7.7m over the 2023/24 budget provision. In order to bring the contract in on budget the number of care hours would need to be reduced to 33,000 hours.

7.2.2 The proposal is to reduce the hours of care delivered to 34,000 hours, which would cost £37.1m, as set out in section 2.4. There will be a small increase in client contributions and improved collection rates, approx. £200k, with the aim of offsetting some of these costs reducing the budget gap to £1m.

7.2.3 Section 4.6 of the report identifies the proposal to address the £1m gap by joint work with NHS Sheffield Clinical Commissioning Group to review residential care provision in the City as part of the strategic move towards more independent living and preventative approaches in the City.

7.2.4 There is a risk to this recommendation in that it requires a minimum reduction of 4,000 hours from the current delivered hours, and this may not be achieved.

7.2.5 Separate contracts shall be let with selected providers on a 7-year initial term contract with two options to extend: the first for 2 years and the second for 1 year. The procurement will be conducted via the light touch regime under

regulation 76 of the Public Contract Regulations 2015. The contract will contain break clauses to help mitigate the risk should the costs become unaffordable.

7.2.6 The contract price shall reflect the principles established from the Cost of Care Exercise and be inclusive of a predefined annual uplift formula. The procurement timescales to establish agreed contracts by May 2023 are challenging but achievable, considerable expert resource may be required to adequately complete the procurement evaluation and service implementation stages. It is expected that TUPE considerations will be considerable and potentially complex factors during the implementation stage.

7.3 Legal Implications

7.3.1 Under the Care Act 2014, the Council has a duty to meet the eligible needs of those in its area and it may do this through Council- arranged services. The nature of this duty means that the service is essentially demand-led. However, the Council has mechanisms to help manage the resulting cost pressures, including through the assessment/review, procurement and contracting processes, and through the management of the resulting contracts.

7.3.2 The various changes proposed in the new commissioning strategy will require significant development work during the preparation of the contract documents to support the realisation of the benefits outlined in this report.

7.3.3 (1) There is a tension between the desire to stabilise the market by giving price certainty, and the Council's desire to retain flexibility so that it can manage volatile demand and budget pressures. For example, current inflation pressure on providers is noted, but it is not proposed to give certainty when it comes to compensating for inflation during the long term of the contract – it is not proposed to hardwire a guaranteed uplift. Similarly, a long contract term is proposed, so that providers have a certain return on investment, but appropriate break/review clauses, for the benefit of the Council, are also proposed.

7.3.4 (2) Changes such as the move to provider payment of the basis of planned hours and the move to outcome-focused care increase provider influence over the actual care delivered. Given the acknowledged financial position of providers, there may be pressure on the specification of the services and the management of the contracts, if any negative impact on the services is to be avoided. The scope of the discretions – and of any statutory delegation of functions to the providers – will need to be clear, and the mechanisms for monitoring these aspects of provider performance effective. Otherwise, there may be reductions in care and/or increase in costs.

7.3.5 (3) The charging arrangements discussed above will need to ensure that the charges to clients because of the move to payment on the basis of planned hours do not, in individual cases, lead to charges which are greater than the costs of provision, in line with the Care Act 2014.

7.3.6 (4) The move to outcome-focused care may take account of the desires of the individual, but it must always be clearly set within the context of the complex

statutory regime relating to needs assessment, eligibility criteria and care and support plans.

7.3.7 (5) The potential future introduction of payment by shift for care workers, may need to be specifically considered – and decided on – in the context of social value, under the Public Services (Social Value) Act 2012. This is because the Council may otherwise be constrained by Part III Local Government Act 1988 restrictions on the Council having regard to (what might otherwise be regarded as) 'non-commercial matters' under the legislation.

7.3.8 The key contract and procurement issue with the proposed transformational contract is that the law requires there to be clarity and transparency when it comes to the impact of change on the contracted providers.

7.3.9 The reasons for this are both commercial and regulatory. The commercial side is that providers may either be deterred from the competition or not implement (and not be bound, contractually to implement) change during the contract if the commercial impact on them is not clear or cannot be ascertained from the terms of the contract itself.

7.3.10 On the regulatory side, the Public Contracts Regulations 2015 ('the Regulations') set out limits to the changes which can be made during the term of a contract, and provide that change outside those limits amounts to the award of a new contract, and cannot lawfully be implemented during the contract. Detailed advice on this will inform the procurement strategy, but the main relevant route to lawful change would be for the contract to include clear descriptions of each change and of the impact of it on the provider – in the words of the Regulations, for the contract to include 'precise and unequivocal review clauses'.

7.3.11 The Regulations specifically permit the award of contracts on a fixed price basis, where the providers compete on quality only.

7.4 Climate Implications

7.4.1 The contribution made to Sheffield's Climate Emergency can be found in the Climate Impact Assessment, **Appendix 4**

7.5 Other Implications

7.5.1 The proposed changes will result in a reduced number of providers from 35 to 15. Mobilisation to the new contract will therefore mean that some people will see their provider change.

This has implications for people receiving care, as well as implications for Adult Social Care capacity to manage this transfer of care, and for providers and the home care workforce.

A worst case scenario would see 2,400 care packages to be transferred between providers along with the TUPE of the workforces.

Mobilisation planning is underway to mitigate the impacts of this and will be informed by our Test of Change (**Appendix 2**). This will help us to ensure that this transfer is managed as positively as possible.

7.6 ALTERNATIVE OPTIONS CONSIDERED

7.6.1 The provision of Home Care services is a statutory obligation under the Care Act 2014, and discontinuing services is not an option.

7.6.2 *Do not go out to procurement / Tender under similar model*

It is not possible to extend the contract further and being out of contract opens the Council to unacceptable financial, legal and reputational risk.

The existing contract arrangements are not providing value for money. The market is fragile and current framework provision is not sufficient to deliver the levels of care needed. As a result, many support packages being procured via Direct Awards. Direct Award provision is a more expensive and higher risk form of care, and a higher risk to administer and charge for. The procurement strategy set out in this report specifically seeks to mitigate this.

Doing nothing is also likely to exacerbate issues with retention and recruitment in the sector, further reducing the Council's control of the market and ability to set its own rates of care. There is also a risk that delays supporting pick up will worsen, with risks of harm to people

7.6.3 *Agree to procurement strategy at lower rate.*

Agreement to award contracts at a rate of £19ph would be within budget at the point where delivery hours reduce to 36,500pw or fewer. However, this is not recommended for the following reasons:

- We anticipate that the Fair Cost of Care Exercise will increase the rate of care substantially, and agreeing the contract at this rate will require the Council to make sizable increases later.

- This current rate is contributing to the instability and insufficiency in the market. It is also likely that providers will not want to enter contracts with the Council at this rate. This means that continuing to contract at this rate will not make the shift required in market sustainability and leaves us vulnerable to the same risk around delays and package failure and the need to procure via Direct Awards – leading to further pressures to the ASC budget.

8. REASONS FOR RECOMMENDATIONS

8.1 The current contract for Home Care services will expire in April 2023 and further arrangements must be put in place to ensure that the service continues after that date to fulfil our statutory duties.

8.2 Like many other Local Authorities our Home Care market is in a fragile and fragmented state. This requires transformational change to deliver a sustainable and affordable market which operates effectively, improving the service experience and delivering the best possible outcomes for people in receipt of care.

8.3 The proposed 7 (+2 +1) year transformational contract will enable us to:

- introduce early changes that aim to have the maximum impact in underpinning the market - providing resilience, sustainability, and affordability.
- design, develop, and test change initiatives such as the strategic shift from 'time and task' to outcome-based service delivery

9. APPENDICIES

Number	Description
1	Care Hour Types and their Definitions
2	The Care and Wellbeing Model -Test of Change
3	Approach to managing and stabilising planned care hours at 34,000 per week
4	Climate Impact Assessment
5	Care and Wellbeing Services Consultation and Engagement
6	Home Care Payments and Charging Consultation Report

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