

To the Cabinet Member for Adult Social Care

COLLABORATIVE COMMISSIONING AGREEMENT FOR THE COMMISSIONING AND CONTRACT MANAGEMENT OF THE HEALTH AND SOCIAL CARE PROVISION IN DONCASTER'S PRISONS

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Blake	All wards	Yes

1. EXECUTIVE SUMMARY

2. The purpose of this report is to obtain approval to sign the contract with Care UK for the delivery of social care within Doncaster prisons. The contract term is 6 years main term with the option to extend for 3 x 12 month periods.
3. The contract, of which Doncaster Council is co-commissioner with NHS England as lead, has been tendered in conjunction with the prison health care provision and will guarantee a minimum delivery of 111 hours of social care per week within Doncaster prisons, at an annual cost in the region of £95,451.56, with the ability for additional spend in line with the council's statutory responsibility to deliver social care.

4. RECOMMENDATIONS

5. The recommendations of this paper are to:
 - Agree to the signing of the Collaborative Commissioning Agreement with NHS England for the Commissioning and Contract Management of the Health and Social Care provision in Doncaster's Prison establishments.
 - Approve the entering into and signing of the care contract with Care UK for the period of 6 years main term plus 3 x 12 month optional extension periods.
 - Approve the spending of £96k to deliver 111 hours of social care per week and the ability for Adults to fund additional hours for the delivery of personal care to prisons in line with the council's statutory responsibility

6. WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

7. In entering into the Collaborative Commissioning Agreement with NHS England, DMBC are agreeing to collaboratively commission and contract manage the health and social care provision delivered in Doncaster's

prisons. The collaborative agreement sets out the principles and functions of operations as well as the roles and responsibilities of each party.

8. In signing the contract for the delivery of social care in Doncaster prisons, DMBC is ensuring all individuals within the prison setting who are eligible can receive care and support. In doing this, DMBC is fulfilling its statutory obligations in relation to the Care Act 2014. Through access to appropriate care and support in the prison setting, prisoner's health needs may reduce or be prevented from worsening.
9. The procurement exercise sought to fund the provision of 111 hours of care a week within the prison setting this equates to approximately three full time social care delivery staff who would deliver personal care in the prison settings, across four sites. This figure is based on the information available around current demand though demand changes dependent on prison populations.

10. BACKGROUND

11. Following discussions at Adults, Health and Wellbeing Directorate Leadership Team (DLT), a decision was taken (in the form of an Officer Decision Record (ODR)) for the Council to be a co-commissioner to the NHS England tender for Health Care in the Doncaster prisons in the South Yorkshire cluster. The previous ODR was for DMBC to enter into a contractual arrangement for a year, but given the time required for integration and the level of involvement this is not possible. Agreement to the duration of the arrangements of 6 years for the main term and the option to extend for an additional twelve months on three occasions is sought through this Corporate Report.
12. The joint procurement process undertaken between NHS England (Lead) and DMBC was fully compliant with EU procurement regulations and Doncaster Council was a named purchaser. Through this process, DMBC adhered to all regulations and in-house contract procedure rules. In addition, DMBC had sole responsibility for setting and scoring the social care method statement question, commissioners involved key stakeholders to ensure this was reflective.
13. The tender attracted a total of 25 expressions of interest from which 4 bidders submitted a tender. Evaluation took place involving all key stakeholders and the successful bidder, Care UK submitted the most economically advantageous tender and demonstrated a wealth of expertise in the delivery of social care within prisons.
14. Given the Collaborative Commissioning Agreement (with NHS England as the Lead) and given DMBC's level of involvement within the procurement process, there is a need to agree signing of the contract with Care UK for its entire term (6 +12+12+12). It should be noted that if there are concerns/ failure in the future, DMBC have the ability to give 12 months -notice to end the arrangements. This would be sufficient time to undertake a full tender process, carry out appropriate checks, clearances and implement with a new provider.

15. OPTIONS CONSIDERED

16. **Option 1 (recommended option) - Sign both the Commissioning Agreement and the Contract for the duration (6 years main term plus 3 x 12 month optional extension periods). Funding the Three Social Care Worker post and agreeing to additional spend if demand is above block payment.** There is a preference from all stakeholders to have the same provider delivering health and social care services within the prison setting. In addition the model drawn up offers value for money and assurances have been gained of the provider's experience of delivering social care in prisons.
17. **Option 2 - Do not sign the Commissioning agreement or the Contract for Social Care Delivery and rely on the Commissioned Care and Support at Home Service to deliver social care to prisoners** – This option would be challenged by Governors who are keen to maintain a streamlined service. There may be additional issues with clearances and access to the prisons too. Appropriate skills and experience may be difficult to obtain as the prison setting is a very different environment from working in the community.
18. **Option 3 – Commission a standalone Prison Social Care Service** – this is not the preferred option as it would take a lot of time for tender process and integration into the setting, this option would be challenged by Governors in the prisons.

19. REASONS FOR RECOMMENDED OPTION

20. The recommended option of entering into a 6 year main term contract would secure one provider of social care and health services in Doncaster prisons. All stakeholders identified significant benefits in having one provider including; consistency in support delivered, continuity of care (from social care to health), reduced numbers of people/ organisations seeking access to prisons and improved conditions for staff operating in social care (through being part of the larger offer).
21. As part of the development of the Collaborative Commissioning Agreement, DMBC have worked with NHS England to develop robust contract monitoring arrangements which enable the close monitoring of demand, activity and therefore spend of the contract. DMBC has already started to broker a positive working relationship with the provider and will continue to build on this throughout the duration of the contract.
22. Whilst there is the Commissioned Care and Support at Home contract operating in the areas of the prisons, there are a number of difficulties associated with the delivery of care in prison for home support agencies. This includes entry to the prison, sufficient clearances, the unique nature of the setting, the prison regime and the restrictions in technology all of which impact on the time and way in which care is delivered; Governors have previously expressed a desire for one approved provider across health and

social care. If this were to be considered a viable option, there are currently capacity issues within the Commissioned Care and Support at Home arrangements which could lead to difficulties in the delivery of care to all of the prison population requiring a service.

23. The development of three social care worker posts within the new model for prisoners social care delivery will ensure there is sufficient provision for the delivery of care across all five prison sites. The model also ensures that if there is an increase with demand (which can happen given prison population changes etc.) the model enables the ability for the provider to deliver additional hours to fulfil need.

24. IMPACT ON THE COUNCIL’S KEY OUTCOMES

25.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster’s vital services</i> 	<p>The progression of the commissioning will support in protecting Doncaster’s vital services.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Individuals in a prison setting will have their social care needs met.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>None</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster’s vital services</i> 	

	Council services are modern and value for money.	The co-commissioning of services will ensure value for money and modern services for those in prison.
	Working with our partners we will provide strong leadership and governance.	DMBC feeds into NHS England Leadership Structures and have co-established a social care group which meets to drive forward the agenda.

26. RISKS AND ASSUMPTIONS

27. The following risks are identified:

- There will be a lack of compliance with Care Act requirements if DMBC do not sign the contract as without it there will be no contracted provider to deliver social care provision within the prison setting.
- There is a risk that the requirements of the social work side of the specification will be diluted through the larger and higher value health care requirements – this has been mitigated through re-working of the social work specification, engagement with the market and active involvement in the tender process from a number of DMBC representatives. In addition, work is ongoing in terms of building a positive relationship with the provider, which is already proving to have a good impact.
- There is a risk that recruitment of social care staff will still prove difficult – assurances were gained through the tender process to identify a provider with experience of social work and therefore have greater ability to recruit and retain social care staff.

28. LEGAL IMPLICATIONS

29. The Care Act 2014 places obligations on the Council to provide or arrange the provision of services, facilities or resources, or take other steps which it considers will contribute towards preventing or delaying the development of adults in its area of needs for care and support or reducing the need for care and support of adults in its area which includes prison's within the borough.

The report author has advised that the procurement has been conducted in compliance with EU Procurement Regulations.

NHS England have produced a collaboration agreement on the NHS standard template. The collaboration agreement governs the relationship between the commissioners.

The Service contract is the agreement between the commissioners and the service provider and is in the form of the NHS standard template.

The decision maker must be aware of their obligations under the public sector equality duty (PSED) in s149 of the Equality Act 2010. It requires public authorities when exercising their functions to have due regard to the need to eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not.

30. The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.
31. The decision maker must ensure that they have seen the equality impact assessment. The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself. The duty is a continuing one and there should be a record/audit trail of how due regard has been shown. It is not sufficient for due regard to be a “rear-guard action” following a concluded decision. The decision maker must also pay regard to any countervailing factors and decide the weight to be given to these, which it is proper and reasonable to consider; budgetary pressures, economics and practical factors will often be important. The Equality Impact Assessment particularly identifies that ongoing monitoring is required.

30. FINANCIAL IMPLICATIONS

31. The 2017/18 budget for Social Care in Prisons is £142,640. This is funded from the Social Care for Prisons grant (part of the additional funding received to meet new burdens arising from the Care Act). This grant is £343,060 for Doncaster for 2017/18 and is not ring fenced to delivering social care in prisons.
32. Although the initial cost of the contract is £95,451.56 the provision of social care in prisons is relatively new and it is expected that care levels may rise as the service becomes embedded. Therefore it is proposed to maintain the current budget until it is clear what the future levels of demand are likely to be.
33. The contract is for a minimum of 6 years plus a potential further 3. It is not known how long the Social Care in Prisons grant will continue, should it cease then the cost of this service will need to be met from alternative funding.

34. HUMAN RESOURCES IMPLICATIONS

35. The Social Care Workers mentioned will be employed by Care UK, therefore there are no apparent Human Resources implications contained within this report.

36. TECHNOLOGY IMPLICATIONS

37. The change in provider will need to be updated in the CareFirst system.

38. EQUALITY IMPLICATIONS

39. In considering the equality implications there is no negative impact on any of the protected characteristics. An Equality Impact Assessment has been completed and identified the need to monitor activity around race, age,

religion and belief and sexual orientation to ensure particular needs are being met.

40. CONSULTATION

41. Engagement with the market took place in the run up to the tender process. This engagement influenced the decision to progress in a co-tendering exercise; providers identified it was a preferred way of delivering health and social care within the prison setting.

42. In addition consultation with governors identified the preferred approach as being a co-commissioned arrangement in partnership with NHS England.

43. BACKGROUND PAPERS

44. DLT Report 9th November 2016
NHS England Approval Paper

45. REPORT AUTHOR & CONTRIBUTORS

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