

## **Divisions Affected -**

# **DELEGATED DECISIONS BY CABINET MEMBER FOR ADULT SOCIAL CARE**

**27 February 2024**

## **Recommissioning Oxfordshire Social Care Partnership**

**Report by Karen Fuller – Corporate Director of Adult Social Care**

### **RECOMMENDATION**

1. The Cabinet Member is **RECOMMENDED** to
  - a) **Approve the request for an exemption pursuant to Contract Procedure Rule 19.8 to waive the requirement to tender for the provision of services in relation to the development and support of adult social care services in Oxfordshire.**

### **Executive Summary**

2. A strong, diverse and vibrant independent care sector in Oxfordshire is key to enabling the delivery of high-quality services which lead to excellent outcomes for the people who access them.
3. The [Care Act 2014](#) clarified duties and statutory responsibilities around market development and management across the DHSC, CQC and for local authorities. To meet its duties, the Council worked with the adult social care provider market to establish a Care Provider Association to support building and maintaining capacity and capability within the market.
4. Oxfordshire Association of Care Providers (OACP) was established in 2014 and was first funded by the Council via grant agreement. Subsequently the funding was provided via a service contract reflecting the development of our partnership.
5. A new three-year service contract is proposed for the continuation of our strategic partnership to enable further development of shared strategic priorities that will support our care market to deliver excellent services. The value of the contract falls under the 'light touch' regime of Schedule 3 of the Public Contract Regulations 2015, and as such there is no requirement to follow a particular procurement procedure.

## Background

6. A strong, diverse and vibrant independent care sector in Oxfordshire is key to enabling the delivery of high-quality services which lead to excellent outcomes for the people who access them.
7. The Care Act 2014 clarified duties and statutory responsibilities around market development and management across the DHSC, CQC and for local authorities. In particular, the Care Act's
  - Section 5 sets out duties on local authorities to facilitate a diverse, sustainable high-quality market for their whole local population, including those who pay for their own care and to promote efficient and effective operation of the adult care and support market as a whole,
  - Sections 48 to 56 cover local authorities' duties for ensuring continuity of care in the event of provider failure and service cessation.
8. To meet its duties, the Council worked with the adult social care provider market to establish a Care Provider Association to support building and maintaining capacity and capability within the market. Oxfordshire Association of Care Providers (OACP) was established in 2014 and was first funded by the Council via grant agreement. Subsequently the funding was provided via a service contract reflecting the development of our partnership.
9. In 2019, Oxfordshire Social Care Partnership (OSCP) was formed as a separate entity to enable impartial representation of all Oxfordshire providers of adult social care services by OACP within the responsibilities laid out in the contract whilst being majority funded by the local authority. OACP remains the commercial arm, generating income for OSCP for example via delivery of training as well as via membership fees.
10. This report sets out the case for recommending that a further three-year service contract is offered to OSCP to deliver continuity of service that will strengthen our partnership and enable further development of shared strategic priorities that will support our care market to deliver excellent services.
11. To deliver strong partnerships with the adult social care sector, it is proposed that OSCP will continue to work with the Council on the following core areas:
  - Communication and engagement with adult social care sector
  - Innovation
  - Workforce
  - Business continuity
12. These areas are key to supporting the adult social care sector in delivering a thriving and sustainable adult social care market, and to fulfil our statutory responsibilities whilst driving efficiencies. More detail on each of these areas will be included in the contract schedules.

## **OACP As Commercial Arm**

13. Oxfordshire Association of Care Providers (OACP) is a membership organisation for all providers of adult social care in Oxfordshire. Current members are from care homes, home care providers, community support service providers and voluntary sector providers.
14. OACP's principal aim is to help develop the adult social care market in Oxfordshire by working with the Council and the sector to contribute to commissioning strategy and practice to support the delivery of good quality services.
  - Acting as a representative body for adult social care providers in Oxfordshire, working closely with commissioners and being the voice of the providers,
  - Being a conduit to assist the County Council in building provider insights and intelligence to support adult social care workforce strategies and commissioning intentions,
  - Being a contact point for all adult social care providers,
  - Sharing and promoting good practice among providers,
  - Providing information and advice on funding and business opportunities,
  - Providing training and development opportunities for providers and their staff,
  - Activities to support building providers' capacity and capability to deliver adult social care services.
15. The Council has been providing financial support to OACP since its establishment in 2014. During this time, OACP has evolved to become an important strategic partner and a key part of the local infrastructure supporting our care market.
16. In 2020/21 significant resources were invested in developing the current and future working relationship between the Council and OACP, including senior officer time and financial investment. This approach resulted in the recognition and agreement that developing our partnership approach with the care provider organisation is fundamental to supporting a thriving adult social care sector in Oxfordshire.
17. It remains essential that the Council has in place, and maintains, strong means of communication with provider partners, has a framework for engagement, and shares the responsibility for sustainability and transformation with the sector. This will be enabled by our commitment to the partnership with Oxfordshire Strategic Care Partnership with Oxfordshire Association of Care Providers remaining as clearly separated and recognised as the operational delivery body.
18. Continuing the current three-year service agreement
  - Reflects the Council's commitment to this area,
  - Enables developing the good reputation and local standing that has developed over recent years further,
  - Allows OSCP/OACP certainty of funding to support their own organisational strategic development and investment.

- Strengthens our ongoing partnership established since 2014, our combined knowledge built over that time, stability of networks established, and specialist skills in engaging and consulting with providers.
- Enables improving the service specification and key performance indicators further to reflect the maturity of our partnership.
- Supports the long-term workforce development and strategy.

19. It is recommended that this is delivered by exemption because:

- The research and benchmarking exercise we took showed that most local authorities have a similar working relationship with a care provider association in their area. The similarity in the functions of these associations and information shared with us showed that a specialised and localised function is needed in adult social care in addition to organisations supporting providers at the national level.
- Our research also showed that no other organization is in a position to deliver all of the functions of a care provider association.
- Given the limited market for this and the value of the contract being below the required threshold for a competitive process, completing a full tendering process would require a disproportionate officer resource with no guarantee of alternative bidders outside of the current partner, which is likely to leave OCC in the same position with the same outcome but with additional resource commitments.

## **Corporate Policies and Priorities**

20. This proposal supports our strategic vision for adult social care in Oxfordshire and strategic priorities laid out in the Adult Social Care Workforce Strategy.

21. This proposal supports the County Council's Corporate strategic plan 2023-2025, specifically 'working in partnership to make Oxfordshire a healthier county, aligned to the following priorities

- Tackle inequalities in Oxfordshire
- Prioritise the health & wellbeing of residents
- Support carers and the social system
- Work with local businesses and partners for environmental, economic and social benefit

22. Through partnership working with OSCP, a more joined-up approach to delivering services is enabled; ensuring impartial representation of the whole adult social care provider market for the benefit of service users and the wider community.

## **Financial Implications**

23. Budget is available to support the ongoing contract, and the 10% saving proposed against the current budget reflects work with the provider to

understand where the greatest added value is and to ensure that this is the prioritised going forward.

Comments checked by:

Stephen Rowles  
Strategic Finance Business Partner  
[Stephen.rowles@oxfordshire.gov.uk](mailto:Stephen.rowles@oxfordshire.gov.uk)

## **Legal Implications**

24. Aside from the application of the Council's own Contract Procedure Rules, public bodies are also required to comply with the Public Contracts Regulations 2015 ("the Regulations"), which impose further procedural requirements in relation to contracts over a prescribed pecuniary threshold. The Procurement Team have classified the services as light touch since they fall under Schedule 3 of the Regulations (CPV 98130000-3 Miscellaneous membership organisations services).
25. The award of the Contract in relation to services will have a whole life contract costs of £477,000 (VAT exempt) and falls under the less rigorous "light touch" regime of Schedule 3 of the Regulations (CPV 98130000-3 Miscellaneous membership organisations services) as the prescribed pecuniary threshold of £663,540 (incl VAT) is not exceeded. As a below threshold, light touch procurement there is no requirement under the Regulations to advertise or follow any particular procedure. Additionally, the EU Treaty Principles do not apply to the conduct of below threshold procurements in the UK. Therefore, it is considered to be low risk

Comments checked by:

Jayne Pringle  
Head of Law and Legal Business Partner (Contracts & Conveyancing)  
[Jayne.Pringle@oxfordshire.gov.uk](mailto:Jayne.Pringle@oxfordshire.gov.uk)

## **Staff Implications**

26. There are no direct staffing implications for the Council.

## **Equality & Inclusion Implications**

27. There are no direct equality and inclusion implications.

## **Sustainability Implications**

28. There are no direct sustainability implications for the Council.

## Risk Management

29. As stated above, our research and benchmarking exercise showed a lack of local or national market to deliver all of the functions.
30. Approaching this limited market would require OCC officer time in preparing and running the tendering process, with a possibility of awarding the contract to the current provider due to the expected limited interest mainly caused by the way the care association network is set up.
31. This process would also require time (on average 6 months), and it would likely to leave a gap in provision of support for the provider market from 1<sup>st</sup> April 2024, until the new contract was awarded.
32. An important consideration is the negative impact this would have on the relationship with OACP and the social care providers that the organisation represents. There would also be a reputational risk to the Council.
33. It would also place additional pressures on partners in the adult social care sector to form an alternative provider association, prepare bids and be subject to a full tendering process. The pressure on the sector at present is intense, and it is unlikely that our provider partners would have capacity or willingness to respond to such a demand.

## Consultations

34. Not Applicable.

Report by: Karen Fuller  
Corporate Director, Adult Social Care

Annex: Nil

Contact Officer: Fulya Markham  
Strategy Lead – Live Well & Age Well  
[fulya.markham@oxfordshire.gov.uk](mailto:fulya.markham@oxfordshire.gov.uk)  
Mobile: 07776 997956

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