

**CABINET MEMBER FOR ADULT SERVICES
23 MARCH 2011**

EXEMPTION REPORT – SOCIAL & COMMUNITY SERVICES

**A REQUEST FOR THE EXTENSION OF CONTRACTS FOR THE
PROVISION OF SERVICES FROM VOLUNTARY SECTOR
ORGANISATIONS FROM APRIL 2011**

- 1. DAY SERVICES FOR OLDER PEOPLE**
- 2. DAY SERVICES FOR ADULTS WITH A PHYSICAL
DISABILITY**
- 3. GENERAL COMMUNITY SUPPORT SERVICES**
- 4. INFORMATION & ADVICE SERVICES**
- 5. SERVICES FOR CARERS**

Background

1. In August 2010, a verbal report was made to the Social & Community Services Procurement Panel on the position with current contracts for day services, information & advice and carers services. Current contracts with the majority of these providers run to 31 March 2011. For most there is no further extension provision within them as these have been fully utilised.
2. The expiry of these contracts comes at a time of major changes to the way Adult Social Care services are purchased in Oxfordshire with the launch of Self Directed Support arrangements in October 2010.
3. In October 2010, a report was submitted to the Social & Community Services Procurement Panel that updated them on proposed changes to the Day Services Strategy for Older people. The aim is to deliver better outcomes tailored to individual need and in a style that is most suited to lives in the second decade of the 21st century. A new Day Opportunities Strategy was subsequently agreed by the Cabinet on 21 November 2010.

Reason for requesting exemption from Contract Procedure Rules

4. A number of radical changes have taken place in the last 9 months and these changes will continue as new emerging strategies are implemented in the coming 12 months.
5. The scope of these changes includes:
 - The operational policy for Personal Budgets (agreed in July 2010);

- The launch of Self Directed Support for all new and existing eligible service users (October 2010);
 - The restructure of Adult Social Care (operational from October 2010);
 - The Strategy for Day Opportunities (agreed November 2010);
 - The County Council's Business Strategy ;
 - The continued review of service contracts under Transforming Adult Social Care arrangements;
 - Future changes to Health structures plus the emergence of GP Consortia and local commissioning;
 - The development of Personal Health budgets.
6. At the same time it is recognised that the County Council makes a major investment in Day Services, General Support and information and Advice Services. Nearly all of these investments are made with voluntary sector organisations.
7. The majority are of a small annual value (often under £25,000 per annum) and are specific to a geographical location/village. However we do have one or two larger investments with more prominent voluntary sector organisations. These services generate added value through the use of local volunteers and provide key community services at a time when central government is promoting its Big Society agenda and its Localism Bill.
8. The configuration and need for services of this nature in the future will be influenced by the individual purchasing decisions that service users make and the locality commissioning arrangements that we propose be put in place. It is apparent that we are still in a time of major change and transition and perhaps the full impact and influence on local care markets has not yet been able to be fully identified; in this respect further developmental time is both essential and needed to help meet the demographic and financial challenges that are being faced.
9. The Day Opportunities Strategy has already considered how to deliver local commissioning from October 2011. During development of the strategy it was identified that a six months period of transition is needed running through to 30 September 2011. This will allow staff and other voluntary sector organisations to:
- carry out further developmental work with our partners;
 - discuss and develop new strategies where this is needed;
 - work together to prepare for the changes that are coming;
 - to consult commissioners, providers, users and carers on any new proposals;
 - to test out and implement our new strategies.
10. The areas of service affected by these developments include:
- (a) Day Opportunities for Older People**
11. The County Council has already agreed a new strategy that promotes a move to a concept of day 'opportunities' within the wider community (cultural, learning or leisure services) or in a traditional buildings-based day service or a mixture of both.

(b) Day Services for Adults with a Physical Disability

12. Day Services for Adults with a Physical Disability are also going through a similar review arrangement to Older People.

(c) General Community Support Services

13. These services are being reviewed as part of the general review of contracts undertaken as part of our Transforming Adult Social Care agenda. In the coming months their place will become clearer as more services become identified for inclusion in the Resource Allocation System. Further work needs to be undertaken to consider the place of some of these more specialist services and the way that they should be funded.

(d) Information and Advice Services

14. Investment in Information & Advice Services is being reviewed by Social & Community Services Directorate during 2011 to determine the strategic direction for such services in 2012. A key objective of our current contracts are to ensure that service users are in receipt of the benefits that they are due to, thereby contributing to the economic health of service users and the maximisation of client charges.

(e) Respite Services for Carers

15. The element of carers' services that this area relates to reflects other smaller schemes that support carers through the delivery of respite services. Again further work is needed to determine the strategic direction for such services in 2012.
16. As stated earlier the timing of the end of each of these contracts takes place when there are major changes occurring to the way adult social care services are arranged and purchased.
17. The Director for Social & Community Services is thus seeking an Exemption from Tendering to allow arrangements to be put in place for either six months or 12 months for the contracts listed in the Annexes to ensure the continued delivery of services.
18. The majority of these contracts are of a relatively low annual value. The five annexes attached detail the contractual values for:
- Day Centers for Older People
 - Day Services for Adults with a Physical Disability
 - General Community Support Services
 - Information and Advice services and
 - Carers' Services.

Probity and Value for Money

<ul style="list-style-type: none"> • Day Centers for Older People • Day Services for Adults with a Physical Disability 	<p>The award of a six months agreement from 1 April 2011 to existing providers to enable them to continue to provide service through a period of transition to 30 September 2011.</p>
<ul style="list-style-type: none"> • General Community Support Services • Information & Advice Services 	<p>The award of a twelve months agreement from 1 April 2011 to existing providers to enable them to continue to provide service during a time of further strategic review and reconfiguration by the County Council.</p>
<ul style="list-style-type: none"> • Carers' Respite Services 	<p>The award of a six months agreement from 1 April 2011 to existing providers to enable them to continue to provide service to 30 September 2011.</p>

.Consequences if the proposed action is not approved

19. It is already clear that some providers are grasping the affect of our proposed funding change whilst others are struggling with the concept.
20. Some providers are anxious that the change in funding arrangements may mean their service will close as they may be unable to continue under such changes.
21. Without the further guarantee of support that these extensions will deliver some of our contracted services may have to close as they may not have other sources of funding to enable them to continue.
22. The transition period will allow further work to continue with existing service providers. Other key organisations from the voluntary sector will be able to support some of the smaller service providers through the transition and prepare them for the future.
23. If not agreed the likelihood is that there will be service users without support, adverse media attention affecting the reputation of the County Council with an associated failure by the Council to meet its statutory duty.

Future Procurement Strategy

24. Our future procurement strategy is taking account of the different strategies that were listed earlier in 2 above.

(a) Self Directed Support

25. Firstly, those service users who following assessment are eligible for support from the County Council will have a Personal Budget identified for them. They will have their assessed needs translated into a monetary sum using an agreed formula. They will then have a choice about how they use this money to arrange their own support.

It is estimated that approximately 30% of existing committed funding could be spent in this way.

(b) Implementation of Local Decision Making from 1 October 2011

26. Of the remaining funding available, a sum has been identified to support small investments in local community groups through the Big Society Fund.
27. However the majority of funding will be available for local determination during 2011-12. To ensure that appropriate systems are in place to administer these arrangements Social & Community Services is organising its commissioning activities around the County Council's 14 'Closer to Community' areas. Each of the areas will have a budget apportioned on the numbers of people over the age of 75 in its area adjusted by applying various weightings to reflect dependency levels, deprivation and the rural nature of the area.
28. Local Boards will be established to manage the funding for Community & Low level Support Initiatives. The Local Board will bring together, local County and District elected members, relevant District Council Officers, LINKS/ Health Watch members, the Locality Manager or their representative, representatives of GPs, Public Health Leads and representatives of older people in the area. The 5 Locality Managers within Adult Social Care will lead the Boards in their areas of responsibility.
29. The primary aim of the local board will be to ensure that the needs of the local population are met in fair and transparent manner. The Board will have a lead role in determining the local strategy and allocation of available funding as well as any other funding streams that are identified.

(c) The development of an Approved Supplier List by 30 June 2011

30. We intend to establish an Approved Provider List to provide the governance structures that the Local Boards will need to make their decisions. The List will identify those organisations that are wishing to deliver Community and/or Low Level Support in each of the areas.
31. Discussions have already been held with the Procurement Team about how to develop this in order to support our strategic objectives. We are looking to build on the back of systems, processes and documentation that we are currently developing for other services such as Home Support and wherever possible the evaluation work that has already been carried out with providers.
32. The key milestones we are looking to achieve are
 - Advert Placed w/c 28 February 2011
 - Applications sent out w/c 7 March 2011
 - Deadline for initial applications 4 May 2011
 - Evaluation of Applications w/c 9 May 2011
 - Communicate Decisions w/c 16 May 2011

- Approved List in place and read w/c 30 May 2011
use

(d) Further development work to determine strategy and implement proposals

33. This work will take place during the 2011-12 financial year and will cover the areas of General Support and Advice & Information. Consideration will include the development of future procurement proposals with the option of using existing arrangements such as the above Approved Provider List and competitive selection.

(e) Conclusion

34. An exemption from tendering and agreement to extend existing contracts to 30 September 2011 will provide a period of transition in order to help put the above arrangements in place and secure future service provision for vulnerable adults in the community.

Recommendation

35. **The Cabinet Member for Adult Services is RECOMMENDED to approve this exemption from the Council's Contract Procedure Rules.**

JOHN JACKSON
Director for Social & Community Services

Background Papers: Nil

Contact Officers: Andrew Colling (Service Manager-Contracts)
Mark Jermy (Strategic Procurement Manager)

February 2011

FINANCIAL APPRAISAL CONTRACT PROCEDURE RULES - EXEMPTION REPORT

CONTRACTS FOR THE PROVISION OF SERVICES BY VOLUNTARY SECTOR ORGANISATIONS

- 1. DAY SERVICES FOR OLDER PEOPLE**
- 2. DAY SERVICES FOR ADULTS WITH A PHYSICAL DISABILITY**
- 3. GENERAL COMMUNITY SUPPORT SERVICES**
- 4. INFORMATION & ADVICE SERVICES**
- 5. SERVICES FOR CARERS**

Background

1. In August 2010 a verbal report was made to the Social & Community Services Procurement Panel on the position with current contracts for day services, information & advice and carers services. Current contracts with the majority of these providers run to 31 March 2011. For most there is no further extension provision within them as these have been fully utilised.
2. The expiry of these contracts comes at a time of major changes to the way adult social care services are purchased in Oxfordshire with the launch of Self Directed Support arrangements in October 2010.
3. In October 2010 a report was submitted to the Social & Community Services Procurement Panel that updated them on proposed changes to the Day Services Strategy for Older People. The aim is to deliver better outcomes tailored to individual need and in a style that is most suited to lives in the second decade of the 21st century. A new Day Opportunities Strategy was subsequently agreed by the Cabinet on 21 November 2010

Assessment of Business Case

4. This report requests exemption from the tendering requirements of the Contract Procedure Rules to allow the current contracts to be extended as follows:
 - Day Services for Older People – 25 contracts to be extended for 6 months from 1 April 2011 at a total cost of £745,529.
 - Day Services for Adults with a Physical Disability – 3 contracts to be extended for 6 months from 1 April 2011 at a total cost of £43,615.
 - General Community Support Services – 7 contracts to be extended for 12 months from 1 April 2011 at a total cost of £225,283.

- Information & Advice Services – 8 contracts to be extended for 12 months from 1 April 2011 at a total cost of £196,927.
 - Services for Carers – 7 contracts to be extended for a period of 6 months from 1 April 2011 at a total cost of £222,431.
5. Most of these contracts are with voluntary sector organisations. The majority are of a relatively low annual value (often under £25,000 per annum) and are specific to a geographical location/village. However one contract in the Day Services for Older People section will cost £518,943 for the requested 6 month extension and one in the Information & Advice section will cost £99,566 for a 12 months extension.
 6. The configuration and need for services of this nature in the future will be influenced by the individual purchasing decisions that service users make and the locality commissioning arrangements that will be put in place. It is apparent that we are still in a time of major change and transition and perhaps the full impact and influence on local care markets has not yet been able to be fully identified; in this respect further developmental time is both essential and needed to help meet the demographic and financial challenges that are being faced.
 7. The Day Opportunities Strategy agreed by the Cabinet in November 2010 has already considered how to deliver local commissioning from October 2011. During development of the strategy it was identified that a six months period of transition is needed running through to 30 September 2011 for Day Services for Older People and Adults with a Physical Disability.
 8. The 12 months requested extension for General Community Support Services and Information & Advice Services will enable existing providers to continue to provide the services during a time of further strategic review and reconfiguration by the County Council.
 9. The 6 months requested extension for Respite Services for Carers will enable existing providers to continue to provide the services while further work is done to determine the strategic direction of these services.
 10. If an exemption is not approved there are likely to be service users without support which could lead to failure by the Council to meet its statutory duty and adverse media attention affecting the reputation of the County Council.
 11. Some providers are anxious that the change in funding arrangements through Self Directed Support may mean their service will close as they may be unable to continue under such changes. Without the further guarantee of support that these extensions will deliver some contracted services may have to close as they may not have other sources of funding to enable them to continue.

Assessment of Financial Risk to the Authority

12. The total cost of the requested contract extensions is £1,433.785. This will be met from the existing budget provision.

Conclusions

13. In view of the information contained in the report the Assistant Chief Executive and Chief Finance Officer recommends an exemption from the tendering requirements of the Council's Contract Procedure Rules and an extension of the current contracts in respect of:
- 25 contracts for Day Services for Older People
 - 3 contracts for Day Services for People with a Physical Disability
 - 7 contracts for General Community Support Services
 - 8 contracts for Information and Advice Services
 - 7 contracts for Services for Carers.

Lorna Baxter
Acting Head of Corporate Finance
On behalf of:

Sue Scane – S151 Officer
Assistant Chief Executive and Chief Finance Officer

March 2011

**LEGAL APPRAISAL
CONTRACT PROCEDURE RULES - EXEMPTION REPORT**

SOCIAL AND COMMUNITY SERVICES DIRECTORATE

**REQUEST FOR EXEMPTION FROM TENDERING UNDER CONTRACT
PROCEDURE RULE (“CPR”) 4 IN RESPECT OF:**

- 1. Day services for older people;**
- 2. Day services for adults with a physical disability**
- 3. General community support services;**
- 4. Information and advice services; and**
- 5. Services for carers.**

Background

1. The Social and Community Services Directorate (“S&CS”) is seeking exemption under CPR 4 from the tendering requirements under CPRs 12-18 in relation to the letting of fifty S&CS contracts (“the Contracts”) as follows:
 - Day Services for Older People – 25 contracts to be extended for 6 months from 1 April 2011 at a total cost of £745,529.
 - Day Services for Adults with a Physical Disability – 3 contracts to be extended for 6 months from 1 April 2011 at a total cost of £43,615.
 - General Community Support Services – 7 contracts to be extended for 12 months from 1 April 2011 at a total cost of £225,283.
 - Information & Advice Services – 8 contracts to be extended for 12 months from 1 April 2011 at a total cost of £196,927.
 - Services for Carers – 7 contracts to be extended for a period of 6 months from 1 April 2011 at a total cost of £222,431.
2. Most of these contracts are with voluntary sector organisations. The majority are of a relatively low annual value (often under £25,000 per annum) and are specific to a geographical location/village. However one contract in the Day Services for Older People section will cost £518,943 for the requested 6 month extension and one in the Information & Advice section will cost £99,566 for a 12 months extension.
3. All existing contractual options to extend have been exhausted.

Grounds for Exemption

4. Special factors relevant to the Contracts are cited by S&CS as follows:
 - The operational policy for Personal Budgets (agreed in July 2010)
 - The launch of Self Directed Support for all new and existing eligible service users (October 2010)
 - The restructure of Adult Social Care (operational from October 2010)
 - The Strategy for Day Opportunities (agreed November 2010)
 - The County Council's Business Strategy
 - The continued review of service contracts under Transforming Adult Social Care arrangements.
 - Future changes to Health structures plus the emergence of GP Consortia and local commissioning.
 - The development of Personal Health budgets
5. The expiry of these contracts comes at a time of major changes to the way adult social care services are purchased in Oxfordshire particularly as a result of the launch of Self Directed Support arrangements in October 2010.
6. Because of the uncertainty as to future requirements caused by these changes in the way that services are provided by S&CS and are accessed by clients additional time is required to develop, define and commission the required services in these areas.
7. A high proportion of the services are provided by voluntary organisations and a failure to extend the contracts could have an adverse effect on their ability to continue providing these services and a consequential loss of capacity and expertise for delivery of these services.
8. In addition, commissioning of these services within S&CS is being reorganised. The majority of funding will be allocated for local determination during 2011-2012. S&CS is in the process of organising the 14 local boards which will be responsible for commissioning services in their area and are working with Procurement to establish approved supplier framework arrangements for use by the local boards. They expect these to be in place by June 2011.

Appraisal

9. In making its contract arrangements, the Council is required to demonstrate that it has acted in accordance with the EU Treaty-based principles of fairness, transparency, non-discrimination and proportionality ("the EU Principles"). Aside from the application of the Council's own Contract Procedure Rules, public bodies are also required to comply with the Public Contracts Regulations 2006 ("the Regulations"), which impose further procedural requirements in relation to contracts for services over a prescribed pecuniary threshold.
10. Both the Contract Procedure Rules and the Regulations are drafted with the EU Principles in mind. The Regulations impose two levels of procedural requirement,

depending on the nature of services being procured. The Contracts fall under the Part B regime imposed by the Regulations and are therefore subject to more limited procedural requirements.

11. Notwithstanding the limited procedural requirements, the County Solicitor is concerned to ensure that the contractual arrangements proposed by S&CS demonstrate compliance with the EU principles.
12. The County Solicitor accepts that this is an interim arrangement to allow sufficient time to assess the impact of recent developments in social care services and to put in place the S&CS sponsored local boards which will be responsible for commissioning these services in their area and that a withdrawal of the Services during this period would have a detrimental impact on service users and the long term capacity of providers to deliver the Services.

RECOMMENDATION

13. **Subject to the conditions that no further exemption in respect of the Services will be issued and that any extension is made subject to a right of the Council to terminate the contract at will in circumstances where the decision to extend is revoked by the Cabinet pursuant to a referral from the relevant Scrutiny Committee of the Council, the County Solicitor considers that the requested exemption is justified in these special circumstances and recommends that the request for exemption is approved.**

Peter Clark
County Solicitor