

Children's and Adults' Care and Education Committee

7 February 2019

Amy Woodgate House - Provision of Residential and Day Services for People with Dementia

Report by the Director of Adult Services

Call-in deadline 5pm on Thursday 21 February 2019 (ten working days after the meeting)

Purpose

To tender for a contract to manage Amy Woodgate House (residential care home for the elderly people with dementia) from October 2019 and to approve arrangements for the Council (RBK) to manage the service in the interim.

Recommendations of the Portfolio Holder for Adult Services

To **resolve** that -

1. the Council agree to tender for a provider to manage Amy Woodgate House from October 2019 for a period of up to 20 years (10 years with two possible 5 year extensions), with a potential life value of £37m; and
2. the Council manage Amy Woodgate as an interim measure from 1 March 2019 through a TUPE transfer of existing staff.

Benefits to the Community:

Business continuity of residential and day care for people with dementia and enhanced long term sustainability of services

Key Points

- A. Your Healthcare CIC (YHC) have managed Amy Woodgate since 2014. They have given notice that they no longer wished to provide services with effect from 31 March 2019. The contract formally expires anyway on 31 March 2019 and there are no options to extend. RBK could not legally extend beyond this point.
- B. RBK has produced a business case considering options going forward and recommend direct management by the Council as an interim measure and tendering to the market to identify a suitable long term provider.
- C. A soft market exercise in December identified providers who would be interested and suitable.
- D. There has been engagement with staff and relatives and this will continue. A group of 4 relatives have offered to work with RBK to help select the new provider.
- E. A plan is being progressed to ensure smooth transfer of services from 1 March 2019, including CQC registration, novation of contracts, TUPE transfer of staff, transfer of moveable assets etc.
- F. A formal business transfer agreement between RBK and YHC has been prepared to ensure clarity between parties.
- G. A tender project Board has been established to ensure the exercise is run effectively. Relatives are engaged in the selection process.

Context

1. Amy Woodgate is a 44 bed residential care home for older people with dementia. The home supports people with permanent residential and respite needs. Amy Woodgate also has a day service within the home offering support for up to 30 people per day.
2. 50% of the day service is accessed by RBK funded clients with the rest being used by self funding clients and health clients paid for by the CCG.
3. Most of the residential beds are used by RBK funded clients. RBK originally purchased all the beds at Amy Woodgate under a block contract, but agreed with YHC in 2017 to self funders being able to access services also. The soft market research suggests that a balance of 75% - 80% RBK funded and 20% - 25% is the likely model. This is consistent with the current position.
4. Amy Woodgate was built by the Council in 2009 and was directly managed by the Council until 2014 when it was transferred to Your Healthcare CIC. The Council remain owners of the property.
5. The services provided at Amy Woodgate are highly regarded by families whose relatives use them. The overall CQC rating is good (last inspection March 2018). This link shows the inspection report https://www.cqc.org.uk/sites/default/files/new_reports/INS2-2345952871.pdf

Proposal and Options

6. A business case has been drafted. This sets out options considered. The options were:
 - i. close the home and find alternative places for residents
 - ii. sale of the home (this has not been included in the options appraisal)
 - iii. Direct Award
 - iv. In house provision
 - v. Tender management of the home
7. The recommended option was to tender for the management of the home, but as there is insufficient time to run a compliant tender exercise, also recommended that RBK directly manage Amy Woodgate as an interim measure.

Consultations

8. There has been extensive engagement with YHC. This has been ongoing since notice was provided.
9. A formal consultation with staff at Amy Woodgate started in December 2018 as regards TUPE transfer from YHC to RBK.
10. Engagement of relatives started in December 2018. All were advised of the changes. 3 attended an evening meeting (further meeting on 23 January with 4 additional relatives). 4 relatives are working with RBK on the procurement exercise. These relatives will sign a Confidentiality agreement as part of this process and the RBK Procurement lead will provide support, guidance and training on how to contribute to the procurement process.
11. CQC have been consulted and have accepted initial applications required for continuity from 1 March 2019.

Timescale

12. Key dates are:
 - i. end February 2019 - Launch Tender
 - ii. March 2019 - RBK assume interim responsibility
 - iii. April 2019 - Return of Tenders
 - iv. May 2019 - Tender Evaluation
 - v. June 2019 - Contract Award
 - vi. July - September - Mobilisation of New Provider
 - vii. October 2019 - New Provider in Place

Resource Implications

13. There is an existing budget for services provided at Amy Woodgate. In addition, income is derived from self-funders and a contract with the CCG for some day services. RBK is setting a zero based budget to ensure the financial position is managed within existing resources for the interim period.
14. As part of the due diligence, colleagues from the Shared Finance service are fully involved in respect of validating the financial information of the operation being transferred, the interim arrangements and the procurement process.
15. Value for money will be a key consideration during the procurement exercise and this will be in part informed by the zero-based budget exercise as part of the due diligence and market analysis.
16. A report outlining the results of the tender exercise will need to be presented to Committee.

Legal Implications

17. South London Legal Partnership (SLLP) are involved in the process for the interim period and the procurement exercise.
18. A Transfer Agreement has been drafted which includes provisions in respect of:
 - i. Transfer of staff;
 - ii. Transfer of moveable assets eg beds and operational supplies;
 - iii. Novation of contracts e.g. utilities, equipment inter alia;
 - iv. Indemnities to protect both parties;
 - v. Cessation of Lease for the premises and any claim on the premises by the outgoing provider as well as warranties in relation to condition of property and
 - vi. CQC requirements
19. SLLP have also prepared a new draft lease to be used with a new provider and will be supporting the preparation of bespoke contract terms and conditions also.
20. Appropriate advertising of the new contract opportunity will need to be made in the Official Journal of the European Union where the contract value is above the relevant threshold. A long term contract will require clear price adjustment processes and in the event of a long term contract, best value duties need to be considered.

21. Where TUPE applies to the Council following the transfer from YHC, it is also likely to apply to the incoming contractor. The Council is advised to seek advice at an early stage as to whether TUPE would apply subsequently as this may impact on the new contract in terms of timings and other factors such as pricing. In addition, the Council and new service provider may be under a duty to inform and consult employees or their representatives about certain matters long enough before the relevant transfer to allow for genuine consultation. This is particularly in circumstances where, as a result of the transfer there is a definite plan (known as measures) to implement changes to the workforce.

Risk Assessment

22. A risk assessment has been undertaken as part of the business case. This is supported by a risk register. The risks should be addressed prior to going to tender
23. Key risks identified were:

Risk	Description	Mitigation
Service Disruption	Time does not allow a full procurement to be undertaken	RBK take service back in house to ensure continuity while a new provider is identified
Service Disruption	In the interim period, costs exceed budget	A zero based budget is being prepared which reduces cost and increases income to ensure balance
Financial	Supplier proposals exceed budget	The current budget is based on a bed cost 20% above market rates. Feedback from suppliers is positive
Service Disruption	Staff do not stay following transfer	Clear communication and jointly managed process between RBK and YHC
Reputational	RBK skills to run the service	The change is of lead organisation not registered manager or staff. RBK lead (AD Operations) has experience of managing care homes.
Concerns from families	worry that change will impact negatively on their loved one	Clear communication plan with engagement at 121 level. 2 meetings already held and scheduled monthly going forward.
Commissioning & Procurement process	A suitable procurement process is not identified; challenge to contract award; reputational damage for the council	A thorough and transparent process should be undertaken, taking into consideration governance and legislative requirements
Proposed contract term	The business could fail within the contract period and the Council could have limited influence over steps taken by the organisation to address any financial difficulties. The demand for services and shape of the market could also change over the years and the current balance of residential and non-residential may have to be reviewed.	Due diligence on the proposed new provider. Create a flexible contract which is able to adapt to future changes; We have also assessed the building to ensure it remains suitable as a care environment.

Equalities Impact Assessment

24. An EQIA was undertaken
https://docs.google.com/document/d/1PxXUIEEdf1R_QtNQnyu3Ub-92x2NyEl_pSs4oi74WME/edit
25. The EQIA identified the following actions:
 - To undertake effective communication and engagement with relatives and staff
 - TUPE transfer of existing staff will ensure no discontinuity of care provided the majority of staff do not object to their employment being transferred to the Council in the first instance and subsequently to new contract provider
 - RBK to operate the care home from 1 March 2019 until a new provider is identified that can assure continuity of high quality services.

Health Implications

26. The aim is to ensure the long term sustainability of Amy Woodgate as a high quality service for people with dementia. The population aged 65+ is expected to grow by 24% over the next 10 years and we already know that 1 in 3 people aged over 65 have a dementia related illness. Maintaining good quality services is key to managing demand in the future.

Road Network, Environmental & Air Quality Implications

27. None arising from the specific recommendations of the report.

Background papers held by the author of the report, Stephen Taylor Director of Adult Services tel 020 8547 6052 email:stephen.taylor@kingston.gov.uk.

- None other than those referred to in this report