

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

7 FEBRUARY 2023

REPORT OF THE CORPORATE DIRECTOR SOCIAL SERVICES AND WELLBEING

RENEWAL OF SECTION 33 AGREEMENT FOR COMMUNITY EQUIPMENT

1. Purpose of report

1.1 The purpose of this report is to:

- seek approval to renew the Section 33 Agreement for the supply of community equipment;
- seek authority to suspend the Council's Contract Procedure Rules in respect of the requirement to competitively procure the services provided by Rhondda Cynon Taff County Borough Council under the agreement; and
- seek approval for the appointment of the Integrated Community Services Manager - CRT as the Bridgend County Borough Council (BCBC) representative for the Community Equipment Partnership Board.

2. Connection to corporate well-being objectives/other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
- **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

3.1 Community equipment service currently provide a wide range of equipment e.g. aids to daily living, home, nursing equipment, static seating, children's equipment, physiotherapy equipment, sensory equipment, etc to assist adults and children: -

- To live within their own home environment;
- To prevent admission to hospital and facilitate timely discharge;

- To prevent the untimely admission to residential or nursing care accommodation services;
- To support Intermediate care and rehabilitation programmes;
- To support the management of adults and children who have a long term condition

- 3.2 Bridgend County Borough Council, and the former Bro Morgannwg NHS Trust and Bridgend Local Health Board (a predecessor to the Abertawe Bro Morgannwg University Health Board, Bridgend Locality (ABM UHB)), first developed and established a Section 33 Agreement under the National Health Service (Wales) Act 2006 to deliver integrated community equipment service in the County Borough in 2008.
- 3.3 The process was facilitated by the Welsh Government's announcement in April 2006 that it was making capital funding of £12.5 million available across Wales to support the process of integrating community equipment services. To qualify for this capital grant, Bridgend County Borough Council had to demonstrate the provision of integrated community equipment services with Health partners and other key stakeholders.
- 3.4 Approval to renew to renew the Section 33 Agreement was granted by Cabinet in 2012. Through that Section 33 Agreement Bridgend County Borough Council jointly commissioned community equipment services from Vision Products, part of Rhondda Cynon Taff County Borough Council Adult Services, for Bridgend County Borough Council and what was then, Aber Bro Morgannwg Health Trust. The renewed Section 33 Agreement was for a period of 5 years. The establishment of the pooled fund commissioning agreement also enabled the Bridgend partnership to previously draw down capital grant from the Welsh Government and develop and establish the integrated demonstration assessment and teaching facility at the Community Resource Centre at Trem y Mor.
- 3.5 Since the commencement of that agreement, the Health Board boundary change meant that Aber Bro Morgannwg Health Trust ceased to exist and Cwm Taf Morgannwg University Health Board assumed all responsibilities in relation to the health board of the Section 33 Agreement for community equipment, providing their own representative for Partnership Board. The 2012 Section 33 Agreement has since expired, however the Partnership continued to operate under the Section 33 agreement while the partners worked to revise and renew the agreement. Work to review the agreement has been prolonged due to the health board boundary change, pandemic and other operational pressures across the partnership organisations.

4. Current situation/proposal

- 4.1 The current Section 33 Agreement has been satisfactory in its operation, ensuring access to equipment throughout the pandemic.

- 4.2 The proposed principles within the agreement are fundamentally unchanged, although the timeframe for the new agreement being 10 years with an option to extend by a further 2 years.
- 4.3 The agreement provides that a party may terminate the agreement by giving 12 months written notice but provides that should a party do so then they will have to meet the redundancy costs incurred by any of the other parties that are a direct result of the termination.
- 4.4 Whilst this is not a new provision, it should be considered as a potentially significant liability in future decision making on any potential future termination.
- 4.5 Under the terms of the Section 33 Agreement it is necessary to appoint a BCBC partnership board representative and ensure they have the necessary delegated authority to make decisions under the agreement. Currently, the Integrated Community Services Manager for the Community Resource Team (CRT) Services within Adult Social Care undertakes this function. The governance of this function is overseen by the Joint Partnership Board, chaired by the Director of Social Services and Wellbeing and Deputy Chief Operating officer for Primary Care and Community Services.
- 4.6 Bridgend County Borough Council will continue to be required to identify an Operational Manager who will assume strategic responsibility for overseeing commissioning arrangements for the Integrated Community Equipment Service and related contract(s) including the management of the pooled fund arrangements on behalf of the Council.
- 4.7 Based on agreed operational protocols developed through workforce rotational placements between the Local Authority and the Health Board, under the Section 33 Agreement, the Council will be able to formally accept requisitions for community equipment based on an assessment of Service Users needs submitted by an appropriately qualified and authorised staff employed by Cwm Taff Morgannwg University Health Board. This will streamline requisitioning arrangements for community equipment, avoid duplication of effort and resources, and provide value for money through economies of scale.
- 4.8 Like the previous Section 33 Agreement the revised agreement entails the provision of community equipment storage and maintenance services to the partners by Rhondda Cynon Taff County Borough Council through Vision Products. Vision Products is a section of the council, just like Adult Services or Children Services. Notwithstanding, that the services are being provided by another local authority as part a public sector collaboration agreement the Council's Contract Procedure Rules and the Public Contract Regulations 2015 would require the open advertisement and competitive procurement of service provision. To continue with the existing arrangement of service provision from Vision Products it is proposed that Cabinet approve the suspension of the relevant parts of the Council's Contract Procedure Rules requiring a competitive procurement exercise in accordance with the requirements of the Public Contract Regulations 2015 in respect of the service provided by Rhondda Cynon Taff County Borough Council.
- 4.9 Cabinet needs to be aware that in agreeing to the suspension of the requirements of the Council's Contract Procedure Rules the Council will be exposed to the risk of

potential challenge from other providers of such services. The Council's Contract Procedure Rules ensure that procurement exercises are lawful and carried out in compliance with the Public Contract Regulations 2015 to satisfy principles of transparency, nondiscrimination and equal treatment. This report proposes the award of a contract without any competition. This proposal breaches the requirements of the Public Contract Regulations 2015 and requires Cabinet's approval to set aside the requirements of the Council's Contract Procedure Rules. Legislative provisions exist to allow local authorities to collaborate to provide services to one another however they do not overrule public procurement obligations. They may reduce the overall risk of potential for a challenge, as collaboration is a commonly used tool for the provision of services.

5. Effect upon policy framework and procedure rules

- 5.1 This report is requesting a suspension of the Council's CPRs, but no amendment to the CPR's is being sought.

6. Equality Act 2010 implications

- 6.1 An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh Language. It is therefore not necessary to carry out a full EIA on this policy or proposal.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The proposal to renew the Section 33 agreement for the provision of community equipment supports the five ways of working under the Well-being of Future Generations (Wales) Act 2015, as follows:

Long Term – In renewing the Section 33 agreement this ensures the Authority has robust arrangements in place for the provision of community equipment for its citizens who have been assessed and prescribed aids and equipment for the next 10 years with the option to extend for a further 2 years.

Prevention – The proposal ensures a robust arrangement to provide community equipment services that will continue to ensure individuals are supported to maintain independence and live in their own homes for as long as is possible and appropriate to do so.

Integration – the proposal facilitates achievement or progress towards achievement of the Well-being objectives.

Collaboration – the proposal is founded on close collaboration between the other Local Authority partners and the primary care, community services and secondary health services within the partnership.

Involvement – Key stakeholders have been involved to help shape the revised version of the Section 33 agreement that is proposed.

8. Financial implications

- 8.1 If Cabinet approve the renewal of the Section 33 Agreement it will cover all aspects of governance, operational management, finance, performance, monitoring and review etc. A Partnership Board will oversee the Pooled Fund which will be managed by the Pooled Fund Manager who will be an officer from Rhondda Cynon Taf County Borough Council as the Lead Organisation.
- 8.2 There is a financial protocol as part of the Section 33 Agreement which governs the relationship between partners, the services and the Pooled Fund
- 8.3 The Council's contribution will be met from within existing Social Services and Wellbeing Directorate budgets.

9. Recommendation

- 9.1 It is recommended that the Cabinet:
- considers the contents of this report and agrees to renew the Section 33 Agreement for the provision of Community Equipment;
 - approve the suspension of the Council's Contract Procedure Rules in respect of the requirement to competitively procure the services provided by Rhondda Cynon Taff County Borough Council under the agreement;
 - delegates authority to the Corporate Director – Social Services and Wellbeing, in consultation with the Chief Officer – Finance, Performance and Change and Section 151 Officer, and Chief Officer – Legal & Regulatory Services, HR & Corporate Policy, to agree the final terms of the revised Section 33 agreement and to enter into that agreement on behalf of the Council; and
 - Approves the appointment of the Integrated Community Services Manager - CRT as the BCBC representative for the Community Equipment Partnership Board.

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Background documents:

None