

DUNDEE CITY COUNCIL

REPORT TO: SOCIAL WORK AND HEALTH COMMITTEE – 27th APRIL 2009

REPORT ON: PROCUREMENT POLICY FOR SOCIAL CARE SERVICES

REPORT BY: DIRECTOR OF SOCIAL WORK

REPORT NO: 228 - 2009

1.0 PURPOSE OF THE REPORT

- 1.1 This report seeks approval from members to formally adopt the framework within which the Social Work Department purchases care services from the private and voluntary sector and requests that the Director of Social Work be remitted to procure care services required through applying this framework.
- 1.2 The policy document is attached. The policy document also refers to separate appendices relating to operational matters and these have been issued in full to each of the Group Leaders, the Lord Provost and the Depute Lord Provost.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Social Work and Health Committee:
- 2.2 Formally adopts the Procurement Policy for Social Care Services as appended to this report;
- 2.3 Instructs the Director of Social Work to procure services on behalf of service users in line with Dundee City Council's commissioning intentions through applying the procurement policy for social care services and the principles of best value, within existing resources;
- 2.4 Instructs Director of Social Work to follow national direction on procurement of social care services through Scotland Excel, ADSW and COSLA while continuing to develop the high standard of social care procurement embedded locally;
- 2.5 Continues to consider significant new service developments or changes to existing service delivery as previously through the various strategic policy papers presented to them.

3.0 FINANCIAL IMPLICATIONS

- 3.1 The Social Work Department and Supporting People Revenue Budgets 2009/10 contain financial provision to purchase care services across all client groups from the private and voluntary sector.
- 3.2 The funding for these services now included within the Social Work Revenue Budget has come from a number of sources over the years, through direct Scottish Government funding streams such as Mental Health Specific Grant, Changing Children's Services Fund and Youth Justice Funding (now all mainstreamed under the concordat) as well as mainstream Social Work funding and Resource Transfer from NHS Tayside.
- 3.3 The annual cost of these services are monitored as part of the Social Work Department's ongoing revenue monitoring process and contract monitoring

process as outlined in the attached procurement policy and operational procedure.

- 3.4 Members will be fully aware of the tight financial resources available and the significant financial pressures the Social Work Department continues to face. Officers from the Social Work Department are currently reviewing each contract to determine an appropriate level of funding for 2009/10 based on historical actual expenditure information, assessment of level of service required for service users, incorporating any changes to service provision and anticipated costs by the provider. This process will involve ensuring that the cost of services in total will be met from within existing Social Work resources.

4.0 MAIN TEXT

- 4.1 The Social Work Department purchases care services from a number of agencies for a large number of service users with various care needs across Children's Services, Adults and Older People Services and Criminal Justice Services. These services can take many forms, e.g. provision of statutory services on behalf of the council (Dundee Society for Blind and Partially Sighted People, Tayside Association for the Deaf), provision of day care services, advocacy, enabling services, accommodation with support as well as individual care packages which may encompass all of the above. A large number of these services have been commissioned and procured on a multi-agency basis.

- 4.2 Over the past few years, the demand and complexity of these services has increased significantly and the Social Work Department in conjunction with its partner agencies (e.g. Health) has had to develop its commissioning, procurement and contract management functions accordingly. The Social Work Department has moved away from the traditional "service level agreements" with care providers to "contractual arrangements" which are legally binding and clearly set out the expectations of the arrangement and the outcomes expected by the Council from the provider. There are currently over 160 such contracts in place with a value of approximately £19.5m

- 4.3 The strategic direction and ultimately the commissioning intentions of the Council and partner agencies are set out and reported to members through committee reports outlining the various strategies and action plans from strategic planning groups. Recent examples of these include:

- Mental Health Accommodation and Support (Report 141-2009): Development of accommodation and support for 17 individuals with severe and enduring Mental Health Difficulties in conjunction with NHS Tayside
- Partnership in Practice (Report 659-2007): Outlined service developments for people with learning disabilities and their families
- Dundee Adult Mental Health Strategy (Report 523-2008): Joint strategy to implement national mental health policies at a local level
- Dundee Older People Strategy (Report 415-2008): Joint strategy with NHS Tayside
- "A Plan for Dundee's Children" (Report 51-2006): Looked at the needs of all children and young people whilst keeping a clear focus on those children and young people who face particular challenges in their lives.
- Social Work Department Service Plan (Report 137-2008)

- 4.4 In addition, Cases Sub-Committee will approve individual care packages over the approved threshold rate.

- 4.5 Critical to the process of transforming these commissioning intentions into real services for service users is an effective procurement policy for social care services.

- 4.6 The attached policy document, "Procurement Policy for Social Care Services", outlines formally for the first time, how the Social Work Department procures these services in a manner which ensures service delivery is in line with the Department's visions and values and meets the recommendations of "Changing Lives" (the 21st Century Review of Social Work) whilst pursuing the aims of Efficient Government in accordance with the recommendations of the McClelland Report in Public Sector Procurement, Best Value and Following the Public Pound. The policy also provides guidance to ensure that the process of procuring services is compliant with relevant legislation such as the European Union (EU) Treaty of Rome and the EU Procurement Consolidated Directive, given effect in Scotland through "The Public Contracts (Scotland) Regulation 2006." It is intended that this policy will reflect and complement established corporate policy and procedure and ensure that procurement activities within the Social Work Department comply with the standing orders of the Council and more recently established Tayside Public Procurement Consortium procedures.
- 4.7 The policy includes operational procedures which detail the procurement process and the contract monitoring process implemented once the service is operational. This includes ensuring that set outcomes are achieved, expenditure is monitored and changes to service user requirements are managed and provided for.
- 4.8 Given the number and size of appendices associated with the procurement policy, these has been omitted from the attached document but a full policy with all appendices have been passed to the Group Leaders and Depute Lord Provost Ian Borthwick.

5.0 POLICY IMPLICATIONS

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues.

7.0 CONSULTATION

- 7.1 The Chief Executive, Depute Chief Executive (Finance), Depute Chief Executive (Support Services) and Head of Finance have been consulted in the preparation of this report.

8.0 BACKGROUND PAPERS

None.

Alan G Baird
Director of Social Work

Date: 8th April 2009

DUNDEE CITY COUNCIL

SOCIAL WORK DEPARTMENT

PROCUREMENT POLICY

FOR

SOCIAL CARE SERVICES

2009

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INTRODUCTION

This Procurement Policy reflects the Department's statutory responsibility to ensure the provision of social care services to meet the needs of vulnerable people: (Section 12) Social Work (Scotland) Act 1968 and (Section 22) Children (Scotland) Act 1995. Increasingly, this responsibility needs to be met through a diverse provision of services, including those which are commissioned from a range of independent and voluntary sector providers. The Contracts Section within Social Work Department will work closely with operational colleagues across all service areas within the Department; with our partners in health and with a range of other stakeholders, to ensure responsible procurement procedures are followed and that appropriate contractual frameworks are in place for externally purchased services (Social Work Department Service Plan 2008-11).

It is essential to ensure, in accordance with the European Union (EU) (Treaty of Rome) 1957 and the European Union (EU) Procurement Consolidated Directive given effect in Scotland on 31st January 2006 by 'The Public Contracts (Scotland) Regulation 2006', that where services are contracted out, Local Authorities are compliant with relevant legislation. Under the above legislation, Social Care Services are classified as Part B Services. The requirements for the procurement of Part B services are considered within this policy and the proposed Operational Procedure (Appendix 1) will be undertaken in accordance with Council's obligations under the Act.

It is intended this policy and associated procedural guidance will provide the Social Work Department with a helpful tool to ensure the process of securing social care services is undertaken in accordance with required regulations. Furthermore, it is intended this policy will ensure that social care procurement activities within the Social Work Department comply with the Council's Standing Orders, reflects the principles of Tayside Procurement Consortium and complement Dundee City Council's Corporate Procurement Policy.

AIMS AND OBJECTIVES

The overall purpose of this Procurement Policy for Social Care Services in Dundee is to ensure service delivery is in line with the Social Work Department's Visions and Values. It also aims to ensure the recommendations of "Changing Lives" (The 21st Century Review of Social Work) are implemented, particularly those in relation to service user and stakeholder involvement in the planning and delivery of services.

VISION AND VALUES

Dundee City Council strives to improve the health and fitness of the community (The Council Plan 2007-11). The Council needs to meet the demand for more care in the community and help people live longer and healthier lives. In addition, Dundee's Integrated Children's Services Plan is founded on a vision of outcomes for children that they feel safe, nurtured, healthy, respected and responsible, included, active and can achieve their full potential.

Social Work Department's Service Plan (2008-11) sets out a number of shared aims. This procurement policy aims to assist with the achievement of the following goals:

- Develop more personalised services and promote greater self-determination of service users.
- To further develop partnership working that leads to improved services and better outcomes for people.
- Shifting the balance of care from residential to community settings
- Continue to achieve an improved quality of service which delivers better outcomes for people
- Achieve Best Value and best practice in managing our people and resources

In order to achieve these goals and deliver on stated outcomes, the Social Work Department will continue to develop the range and quality of available services and will strengthen partnerships as part of a common purpose and commitment to achieving stated outcomes for its service users. Service user and carer involvement will be integral to the procurement of all social care services.

Specifically, Social Work Department is committed to:

Community Care

- shifting the balance of care, with more emphasis on and more services provided at home than from institutions;
- Investing in additional community services including care at home, accommodation with care and intermediate care.

Children

- a review of the use of external placements and the development of local alternatives
- the development of more robust supports to children and families during evenings and weekends
- the creation of an integrated and co-located early years and family support service
- the creation of an integrated and co-located service for children with disability
- the creation of an integrated multi-agency response to children affected by parental substance misuse

Criminal Justice

- Propose viable community options to the Courts and Parole Board that address both risks and needs and protect the public from harm

All of the above commitments will be underpinned by an appropriate procurement policy which will ensure compliance with required regulation, promote transparency and fairness and match the assessed needs of the people who require our services.

One of the main functions of the Social Work Department's Contracts Section is to support external providers to deliver quality services which match the requirements of service users. The team liaises closely with external agencies and service users, therefore, keeping up to date with the external environment is essential. Particular external issues over the life of the current service plan period impacting on service delivery include: the removal of elements of ring-fenced funding within the local government finance settlement; the move to an outcomes based assessment of service provision; the implementation of the national care home contract and improvements in service user and stakeholder involvement and consultation.

WHAT IS PROCUREMENT ?

The office of Government Commerce defines procurement as:

***"The process of acquiring goods, works and services, covering both acquisitions from third parties and from in-house providers. The process spans the whole cycle from identification of needs, through to the end of the service contract or the end of the useful life of an asset".
(Dundee City Council Corporate Procurement Strategy 2007 - 2011).***

In terms of "the whole cycle" referred to in the above definition, for Social Work Department, it is important to define what is meant by the term "Commissioning". Commissioning is:

***"the strategic decision-making function required to identify service priorities and allocation of resources and should therefore drive the procurement process".
(Commissioning and Procurement Strategy, Orkney Council 2007).***

It is vital however that these functions are not considered in isolation. The flowchart (Appendix 4) outlines the Commissioning and Procurement Cycle which helps illustrate the need for an integrated approach.

Performance Management

An effective commissioning and procurement process should deliver good outcomes for individual service users. To this end, the contracts section, in partnership with operational colleagues and other stakeholders, will strive to:

- ensure that externally purchased services continue to meet the assessed needs of individual service users
- ensure that money is spent effectively and that externally purchased services deliver value for money

- ensure externally purchased services meet legal and contractual obligations
- ensure service providers work within a model of continuous improvement
- identify good and bad service provision and take necessary action where an improvement is required

The Contracts Section has developed some key performance indicators (Appendix 7) based on the above desired outcomes and the Social Work Department will measure its performance in relation to the achievement of those objectives.

Corporate Procurement Strategy

Dundee City Council has established a Corporate Procurement Strategy for 2007 - 2011 which outlines the Council's Strategic Vision and aims to meet its obligations in relation to:

- efficient government
- best value
- the requirements of the McClelland Report (2006)

The Strategy also aims to demonstrate:

- transparency
- accountability
- customer focus
- continuous improvement
- corporate social responsibility.

The Corporate Strategy acknowledges that different products and services (social care and educational services) may require a different approach to procurement and that this requirement will be reflected in the Corporate Strategy. (The Corporate Procurement Strategy is attached as Appendix 6 for reference and information).

This Social Work Department Policy upholds the principles of Best Value in Procurement. This policy will assist Social Work Department in the procurement of services to meet its stated objectives. In addition, this policy and related procedural guidance seeks to further the aims of Efficient Government in accordance with the recommendations of John McClelland's Report on the Review of Public Sector Procurement (2006) and also comply with the Council's obligations in relation to Following the Public Pound. At the same time, adoption of this policy will further the Council's aims in terms of corporate social responsibility in the areas of health, safety and welfare; equality and ethical procurement.

This Departmental Policy therefore aims to compliment the Council's vision by outlining the procedures and practice which will be adopted within the Social Work Department in relation to the procurement of social care services. Whilst procurement will be undertaken in accordance with established procurement principles, Social Work Department is also committed to service user involvement in the planning and delivery of services and supports the right of all individuals to make choices about who they want to support them and how those services are delivered. Although this may present challenges, satisfying procurement legislation should not exclude service user involvement and consultation. The Policy Note (SPPN 10/2008) from the Scottish Government's Procurement Directorate advises local authorities that contracts for services for vulnerable people can be framed in a way which would allow the service

provider to continue to provide a service to an individual service user for an extended period (e.g. the provision of continuous or "lifetime" support for an individual), subject to satisfactory performance, for as long as that support is required.

Service User and Stakeholder involvement in the planning and delivery of services is a core requirement of all providers and therefore an integral part of all contractual relationships. The Department is also committed to involving carers in the planning and delivery of services, and strives to meet this commitment through delivering on the aims and objectives within its Carers Strategy.

Furthermore, evidence of Service User and Stakeholder involvement in the planning and delivery of services and evidence of ongoing consultation is now a core theme within The Care Commission's Grading System and failure to evidence good practice will have a detrimental effect on final grades. Social Work Department's links with The Care Commission in relation to Contract Monitoring has strengthened over recent years and it is hoped opportunities for joint regulatory activity will continue to be explored.

In an effort to enhance service user and carer understanding of the procurement and maximise opportunities for their involvement in the process, an easy read document entitled "Procurement - What Does it Mean for Me?" (Appendix 8) has been developed and will be used as a familiarisation tool prior to tendering processes being undertaken with service users and/or carers being involved.

Legislative Framework

The Scottish procurement regulations came into force on 31 January 2006. The Public Contracts (Scotland) Regulations 2006 were introduced to implement the European Union's directive on procurement within the public sectors. The new Directive updated the existing provisions and case law.

Classification of Services

In terms of the Public Contracts (Scotland) Regulations 2006, Local Authorities are a 'contracting authority' and Social Work Department must comply with the necessary regulations: Part A relates to the procurement of goods and equipment and those commodities are the main focus of the Council's Corporate Procurement Strategy. Part B relates to health and social care services. All of the services commissioned by the Social Work Department to meet the needs of individuals will be classified as Part B under the legislation. A list of goods and services and their categories under the legislation is attached (Appendix 9).

The process of procuring those services classified as Part A must meet the requirements in full, whereas Part B services have to meet less of the prescriptive demands. In any event, the Council must adhere to the general principles and keep up to date with any relevant case law of the European Court of Justice.

Irrespective of a service contract's classification under the Regulations, and irrespective of whether the contract's value is below the threshold at which the full regulations apply, general principles of equal treatment, non-discrimination between providers, transparency and the need for 'adequate publicity' apply.

In effect, the principle (established by the European Court of Justice) is that contract opportunities need to be publicised, unless there are sound and objective business reasons for not publicising them.

Notwithstanding the above, the Council's Standing Orders apply to all contracts entered into for the supply of goods, plant, equipment, vehicles, furnishings, materials or commodities (See Appendix 5).

Dundee City Council Standing Orders - Tender Procedures

The Council's standing orders dictate the financial thresholds for a formal tendering procedure. When goods and services over £10,000 are required to be financed from the revenue budget, tenders should be invited. Services between £10,000 and £50,000 do not require to be reported to Committee, Those in excess of £50,000 must be reported. The Director of Social Work has delegated powers within the Council's Standing Orders and the relevant section is attached at Appendix 5. In addition, Report 381-2006 authorised further authority to the Director of Social Work to approve community care packages for adults up to proposed levels. Approval is also sought from cases sub-committee for individual care packages as required.

Advice about whether the requirement for goods or services fall within required tendering procedures should be sought. The Social Work Department's Contracts Section will advise on the legislative and technical aspects including possible considerations under Transfer of Undertakings Protection of Employment (TUPE), the required action and steer the procurement process.

Procurement Principles: Health and Social Services

The Regulations classify Health and Social services under Part B. In order to comply with the requirements for Part B services, the attached Operational Procedure (Appendix 1) will guide Dundee City Council Social Work Department in the application of a standard approach which ensures equal treatment, non-discrimination between providers, transparency and the need for 'adequate publicity'.

Conclusion

The Social Work Department's Contracts Section will continue to steer the procurement process and ensure Social Work Department's compliance with legislation and policy. The documentation contained within Appendices 1 - 9 is provided to assist those people involved in the procurement process to understand the broad principles of procurement and recognise where the Department's activities sit within the wider legislative context.