

Committee: Cabinet

Date of meeting: 16 March 2023

Title of Report: Award of Framework Contracts for Day Opportunities in Cumberland and Westmorland and Furness Council's Administrative Areas

Report by: John Readman – Executive Director: People

Cabinet Member: Patricia Bell – Cabinet Member: Health and Care Services

What is the Report About? (Executive Summary)

1. This paper seeks approval to appoint providers who have met or exceeded the minimum standards required to the Framework Agreements for Day Opportunities from 1 April 2023 for a period of 2 years:
 - Framework for Day Opportunities in Cumberland Council's administrative area
 - Framework for Day Opportunities in Westmorland and Furness Council's administrative area
2. These Frameworks will replace the current county wide Flexible Framework for Independent Day Services which will run until 31 March 2023
3. The Framework Agreement has been commissioned and procured in-line with the Council Plan 2018-2022 outcome – *People in Cumbria are healthy and safe* and the Council's Contract Procedure Rules (Part 5H).

Recommendations of the Executive Director

Cumberland Council Administrative Area:

4. Cabinet is recommended to approve the establishment of:
 - the Framework for Day Opportunities in Cumberland Council's administrative area from 1st April 2023 for a period of 2 years. The Framework value is estimated at £4,713,800 for the full term.
5. Cabinet is recommended to approve the appointment of the providers referenced in:
 - Appendix 1 of this report to the Cumberland Day Opportunities Framework
6. Cabinet is also recommended to delegate approval of the appointment of all future providers who are eligible to gain access to this flexible Framework, throughout the term of the Framework, to the Director of Adult Social Care and Housing.

Westmorland and Furness Administrative Area

7. Cabinet is recommended to approve the establishment of:
 - the Framework for Day Opportunities in Westmorland and Furness Council's administrative area from 1st April 2023 for a period of 2 years. The Framework value is estimated at £981,600 for the full term.
8. Cabinet is recommended to approve the appointment of the providers referenced in:
 - Appendix 2 of the report to the Westmorland and Furness Day Opportunities Framework.
9. Cabinet is also recommended to delegate approval of the appointment of all future providers who are eligible to gain access to this flexible Framework, throughout the term of the Framework, to the Director of Adult Social Care.

Background to the Proposals

10. The Care Act 2014 requires Councils to provide services which enable a shift towards more personalised care and support. In providing services for Adults who meet Care Act eligibility criteria, the Council must have regard to the need to promote individuals' well-being, including physical and mental health, emotional wellbeing, participation in work, education, recreation, and social and economic wellbeing.
11. The Act further identifies that high-quality, personalised care and support can only be achieved where there is a vibrant, responsive market of service providers. Duties are placed on councils to commission a diverse and sustainable range of care and support providers who continuously improve quality and choice, in order to meet the needs of people who need care and support.
12. The current Flexible Framework for Independent Day Services, which adopts an Any Qualified Provider approach to procurement, came into operation June 1st 2017 and will run until 31 March 2023.

Current Position

13. Day Opportunities play a key role in supporting disabled and older people to maintain and develop new skills, prevent social isolation, support inclusion and presence in their local communities and provide a break from caring and support for unpaid carers ensuring they can continue to offer ongoing support.
14. The Independent Day Services Framework includes 22 independent sector providers across a range of locations in the footprint of Cumbria County Council with a current annual commitment £2.848m.

Number of Framework Providers	Annual approximate Cost ('spot' purchased only)
22 in the Cumbria County Council footprint	£2,847,700 for 2022/23
14 work in Cumberland Council's footprint	£2,356,900 for 2022/23
11 providers operating across Westmorland and Furness Council's footprint	£490,800 for 2022/23

15. All are commissioned on a 'spot' purchase basis and there is no spend committed/guaranteed against either of the frameworks. The values stated in this report are based on current and predicted activity. These frameworks do not commit the new Local Authorities to this level of spend.
16. Support ranges from "traditional" building based services; to work in cafes; shops; horticulture; support into employment and voluntary work and adult education.
17. Day Opportunities Support is provided to approximately 900 individuals, 520 supported by Cumbria Care and 360 by Independent Sector Providers.
18. Of these, around 150 utilise either Direct Payments or Individual Service Funds.
19. In Cumberland Council, 286 people are supported through existing independent sector providers. This costs £2,356,900 per annum (CCC commissioned services only, excluding direct payment, individual service funds and self-funders)
20. In Westmorland and Furness 74 people are supported through existing independent sector providers. This costs £490,800 amount per annum (CCC commissioned services only, excluding direct payment, individual service funds and self-funders).
21. There is a significant difference in the costs for independent day opportunities support across the 2 new unitary authorities. In Westmorland and Furness there is less capacity within the independent sector market for day opportunities, thus Cumbria Care provide a larger proportion of the day opportunities demand than they do in Cumberland. In addition, a higher proportion of people in Westmorland and Furness access services through the use of Direct payments. Neither of these arrangements form part of the day opportunities framework or factor into the specified funding envelop.
22. In Cumberland 147 people are supported by the Council's in house provider Cumbria Care giving a combined total of 513 people supported with the independent sector and direct payment provision. In Westmorland and Furness 243 people are supported by the Council's in house provider Cumbria Care giving a combined total of 387 people supported with the independent sector and direct payment provision. As such the totality of day opportunity provision is broadly aligned and equitable with the demographics across the two new Local Authority areas.

23. As the new frameworks will start on 1st April 2023, consultation has taken place with the relevant Cabinet Members for both new local authorities who support the award for the frameworks.

The Proposed Frameworks

24. Permission to procure the Frameworks was granted by the Executive Director - People via People Directorate Management Team on the 29th November 2022.
25. The focus of the Frameworks will be upon outcome-based support, with providers expected to both demonstrate innovative solutions to meet individual needs and clearly evidence how individual outcomes have been achieved.
26. The Service Specifications has been developed with existing providers, people who use the services and professional staff from both the NHS and the Local Authority.
27. The Framework Agreements adopt an “Any Qualified Provider” approach, with a broad range or catalogue of services.
28. The Day Opportunities Frameworks are flexible frameworks which are open to new providers and services throughout the duration of the term. Any new organisations wishing to submit a bid can do so at any time and the relevant Council will evaluate and notify providers every 6 months.
29. The Frameworks will also be open to Health Commissioning bodies in relation to individuals who are funded either fully or partially via health funding streams.

Evaluation

30. The Frameworks:
- Framework for Day Opportunities in Cumberland Council’s administrative area
 - Framework for Day Opportunities in Westmorland and Furness Council’s administrative area

were advertised widely on 12th December 2022: as an Open Tenders via FaTS (Find a Tender Service), The Chest and the national portal (Contracts Finder) to ensure that all providers of support services, including potential new entrants to the Cumbrian market, were able to view the tender opportunities.

31. The advertised Award Criteria in the ‘Invitation to Tender’ (ITT) documents was based on 100% quality. It was considered that the evaluation panels could not assess financial submissions on a comparative basis given the differing level of needs, services and locations, consequently, prices submitted were for information only.

32. The tender processes ran from 12th December 2022 to 13th January 2023.
33. At the Tender deadline, the Council had received bids from:
- 12 providers for Cumberland Council Day Opportunities Framework who proposed 17 services; and
 - 7 providers for Westmorland and Furness Council Day Opportunities Framework who proposed 15 services.

All bids were subsequently evaluated against the advertised award criteria. Following evaluation:

- 10 providers for Cumberland Council Day Opportunities Framework who proposed 15 services; and
 - 6 providers for Westmorland and Furness Council Day Opportunities Framework who proposed 14 services.
34. A summary of the Providers who have met the required standard can be found in **Appendix 1** for Cumberland Council and **Appendix 2** for Westmorland and Furness Council.
35. As the Framework is open for the duration of the term, providers who fail to gain a place on the Frameworks can re-apply at any time.

Options Considered and Risks Identified

36. **Option (a)**
Approve the recommendations as outlined in paragraphs 4,5,6,7,8 and 9 which would allow the two new unitary authorities to utilise the awarded services from 1st April 2023.
37. **Option (b)**
Do not approve the recommendations in paragraphs 4,5,6,7,8 and 9. This option will mean the implementation of the new contracts under the new frameworks will not be in place for 1st April 2023 following the expiration of the current framework on 31st March 2023. There would be risk to the continuation of these services and alternative arrangements would have to be made to maintain access to services for those with eligible needs

Reasons for the recommendation/Key benefits

38. Approving the new Day Opportunities Frameworks for the two new unitary authorities will enable the Councils to carry out their statutory duty of providing Day Opportunities supporting disabled and older people to maintain and develop new skills, prevent social isolation, support inclusion and presence in their local

communities and provide a break from caring and support for unpaid carers ensuring they can continue to offer ongoing support.

39. Approving the recommendations means the Councils will have a legal and compliant method of allocating Day Services from 1st April 2023.

Financial – What Resources will be needed and how will it be Funded?

40. Day Opportunities contracts are funded by the AD Adults Older and Younger Adults budget to a value of £2.848m annually. The budget is not subject to savings approved in the MTFP.

41. Contracts are demand related but (at 2022/23 prices) are expected to cost up to:

£m	Annual	2yr contract
Cumberland	2.357	4.714
Westmorland & Furness	0.491	0.982
	2.848	5.696

42. Inflation will be provided for in the MTFP in line with contract terms.
43. Should the framework not be awarded up to £2.848m annually will be available for investment in alternative services.

Legal Aspects – What needs to be considered?

44. Section 111 of the Local Government Act 1972 enables local authorities to enter into contracts to deliver their functions.
45. The award of the Framework for Day Opportunities in Cumberland Council's administrative area and the Framework for Day Opportunities in Westmorland and Furness Council's administrative area are proper decisions for Cabinet.
46. In relation to the Local Government Reorganisation owing to the estimated value of each Framework, the relevant award falls within the scope of the General Consents issued by both Cumberland Shadow Authority (which provides consent for the award of non-capital contracts up to the value of £5million) and, Westmorland and Furness Shadow Authority (which provides consent for the award of non-capital contracts up to £2million) for the purpose of the Direction issued by the Secretary of State under section 24 of the Local Government and Public Involvement in Health Act 2007.
47. The estimated value of both Frameworks exceeds the relevant threshold for the purpose of the Public Contracts Regulations 2015 (PCRs). The contents of this report confirms that the contract opportunities were advertised, and the procurement procedures conducted in compliance with the PCRs.
48. The framework agreements and call off contract documentation were prepared by legal services.

49. Cabinet may therefore approve the establishment of both Frameworks and the appointment of those providers detailed in Appendix 1 to the Framework for Day Opportunities in Cumberland Council's administrative area and those providers detailed in Appendix 2 to the Framework for Day Opportunities in Westmorland and Furness Council's administrative area under rule 6.37 of the Contract Procedure Rules (part 5H Constitution).
50. The County Council will enter into the framework agreements with the providers which along with any live call off contracts will, on 01 April 2023, transfer to the new councils automatically by operation of law using the provisions in section 16 of the Local Government and Public Involvement in Health Act 2007. The new councils will enter into section 16 agreements which set out the contracts (including framework agreements) that are being transferred to each new council from the sovereign councils.
51. The Shadow Executive of Cumberland Council and the Shadow Cabinet of Westmorland & Furness Council will ultimately agree the content of the section 16 agreements setting out the contracts that are being transferred to each new council from the sovereign councils.

Council Plan Priority – How do the Proposals Contribute to the Delivery of the Council's Stated Outcomes? (Outcomes - People in Cumbria are Healthy and Safe, Places in Cumbria are well connected and thriving, the Economy in Cumbria is growing and benefits everyone)

52. The procurement of Day Opportunities Framework Agreements for the two new unitary authorities will support the councils to meet the following council plan (2018-22) priorities:
 - People in Cumbria are healthy and safe
 - The economy in Cumbria is growing and benefits everyone
 - Everyone will be supported to meet their aspirations
 - Locally responsive services will be in place to meet the different needs of different communities across Cumbria
 - Those who need specialist or emergency service will receive them when they need them

What is the Impact of the Decision on Health Inequalities and Equality and Diversity Issues?

53. All aspects of Health, Equality and Diversity were considered during the commissioning of the Framework Agreement and included in the final specification and terms and

Health & Safety Implications – What needs to be considered?

54. The County Council has a responsibility under the Health & Safety at Work Act 1974 and associated Management of Health & Safety at Work Regulations to ensure as far as is reasonably practicable that there are arrangements in place to ensure a healthy and safe working environment.

55. In the context of this report, this places a joint responsibility on the Council as commissioner of services as well as any appointed contractor delivering the service to ensure the highest possible health, safety and wellbeing standards are in place for any care commissioned.
56. The procurement, selection and contract management arrangements through the framework provide an opportunity to ensure good levels of health and safety competence are demonstrated in line with the commitments made within the Corporate Health Safety and Wellbeing Policy Statement agreed by Cabinet in July 2022.
57. From 1 April 2023, health and safety responsibility for Day Service provision will transfer from Cumbria County Council to Cumberland and Westmorland & Furness Unitary Councils as part of the Cumbria Local Government Reorganisation programme and any commissioned care provision through the framework will be subject to the health and safety governance arrangements in place for each Unitary Authority.

Appendices and Background Documents

Appendix 1 – List of recommended providers Cumberland Council

Appendix 2 – List of recommended providers Westmorland and Furness Council

Key Facts

Electoral Division(s): Countywide

Executive Decision	Key Decision Included in Forward Plan	Exempt from call-in	Exemption agreed by scrutiny chair	Considered by scrutiny, if so detail below	Environmental or sustainability assessment undertaken?	Equality impact assessment undertaken?
Yes	Yes	No	n/a	No	No	No

Approved by the relevant Cabinet Member/s on _____ (please state date)

Previous relevant Council or Executive decisions

Consideration by Overview & Scrutiny

Background Papers

None

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APPENDIX 1

List of Providers who have successfully completed applications for the Framework for Day Opportunities in Cumberland Council's administrative area

Provider	Service
Age UK West Cumbria	Day Services
Carlisle Mencap	Carlisle Active
	Independence Studio
	Community Outreach
Chrysalis	Building Based
	Community Outreach
	Intensive Support
Copeland Occupational and Social Centre	Activities Centre
Cumbria Cerebral Palsy	The Resource Centre
Mind in Furness	Recovery Programme
R&R Day Services Ltd	R&R Day Services
The Glenmore Trust	The Acorn Circle Group
Triple A Project (All About Autism)	Navigator Programme
West House	Community Activities
	Enterprises

APPENDIX 2

List of Providers who have successfully completed applications for the Framework for Day Opportunities in Westmorland and Furness Council's administrative area

Provider	Service
4 Eden	Skills4Eden
Age UK Barrow and District	Information and Advice
	MCST
	Social Activities
	Telephone Befriending
Chrysalis	Building Based
	Community Outreach
	Intensive Support
Cumbria Quality Care	Day Services
The Oaklea Trust (Right2Work CIC)	Appleby Hub
	Community Works
	The Furniture Warehouse
	Future Choices
Triple A Project (All About Autism)	Navigator Programme