



**SCOTLAND**  
**EXCEL**



**SOCIAL CARE CATEGORY  
STRATEGY DOCUMENT**

APRIL 2018



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## 1. Introduction

This social care category strategy describes the current landscape, as well as providing an overview of relevant legislative, policy and economic matters that will impact and help shape the development of national social care frameworks. This strategy details Scotland Excel's plans for the ongoing management and re-tendering of existing contracts in the social care portfolio and the development of new frameworks over the period 2018-2021.

Continued expansion in social care includes a new role for Scotland Excel in care home services for older people. This role includes provision of market intelligence, financial risk monitoring, cost of care analysis and development of a procurement strategy. Estimated annual spend on care home services for older people is £400m. In addition, Scotland Excel is exploring procurement opportunities across adult supported living and care at home services. The total expenditure of these services is circa £800m per annum across Scotland.

The key strategic opportunities identified for 2018 – 2021 for the social care category are:

- Grow the social care team capabilities and appropriate specialist support to ensure there are the required skills and resources to manage the portfolio
- Implement the procurement strategy for care home services for older people
- Develop and implement a procurement strategy for adult supported living and care at home services
- Continue to develop and grow relationships with stakeholders from Health and Social Care Partnerships (HSCP)
- Continued monitoring of the changing social care landscape to ensure contracts support purchaser policy, meet needs and ensure compliance with guidance and legislation
- Increase local government skills in the procurement of social care services through:
  - Continued facilitation of the Social Care Procurement Practice Network
  - Support of the Professional Development Award in Commissioning, Procurement and Contracting for Care Services
- Undertake work to achieve further efficiencies from social care contracts including:
  - Exploration of options to improve rates of novation of pre-existing contract placements
  - Improve monitoring of provider financial stability and related advice to local authorities by securing external specialist financial support

- Review options for indexation with a view to developing a model which is better suited to social care service contracts
- Explore opportunities for the introduction of new technology to increase benefits purchasers receive from utilising contracts
- Place a central focus on achieving good outcomes for people using evidence, local knowledge, skills and resources to best effect.

## 2. Landscape

In 2015/16, £8.8 billion (71%) of local authority net spending on services was on providing education and social work services. Between 2011/12 and 2015/16 spend in these areas increased by 2% from 69% to 71%<sup>1</sup>. This increase is likely due to an increase in demand for social care services in addition to legislative and policy changes.

Current projections suggest that the population of Scotland will rise to 5.7 million by 2039, and that the population will age significantly, with the number of people aged 65 and over increasing by 53% between 2014 and 2039.

Despite considerable budget pressures, demand for social care services is expected to continue to increase year on year. An increasing older population is likely to put the greatest strain on services with the 75+ age group expected to increase by 29% by 2024 and 85% in total by 2039.<sup>2</sup>

In 2016 there were 15,317 looked after children in Scotland, a decrease of less than 1% from the previous year. This is the fourth consecutive year the numbers have decreased following a peak of 16,248 in 2012. In 2016, the number of children looked after in residential accommodation decreased, the first decrease since 2013. Similarly, the number of children in purchased foster care placements decreased for the first time since 2007<sup>3</sup>.

Alongside budget pressures and demographic changes social care commissioning is also facing complex changes in legislation, policy and guidance.

## 3. Legislation and Policy

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<sup>1</sup> [Local Government in Scotland, Performance and Challenges 2017](#), published March 2017.

<sup>2</sup> [Projected population of Scotland \(2014-based\)](#), published October 2015.

<sup>3</sup> [Children's Social Work Statistics Scotland 2015/16](#), published March 2017

### **3.1 Procurement**

The Procurement Reform (Scotland) Act 2014, Public Contracts (Scotland) Act 2015 and accompanying statutory guidance (the Procurement of Care and Support Services Guidance) replaced past social care procurement guidance and legislation moving away from ‘part B’ contracts to a new ‘light touch regime’. The new statutory guidance applies to all social care procurements of £50,000 and above and while this includes some additional requirements which will impact local authority procurements previously below threshold, the changes are less significant for Scotland Excel. Scotland Excel will benefit from the specific flexibility now noted in the legislation around above threshold social care procurements. In particular, this will allow innovative approaches for services such as Children's Residential Care and Education, Social Care Agency Workers and care home services for older people.

### **3.2 Self Directed Support**

The Social Care (Self-directed Support) (Scotland) Act 2013 requires local authorities to offer individuals choice over how they receive their social care support. The legislation is designed to enable individuals and their families to put in place the specific support they require to meet their personal circumstances and desired outcomes. The legislation sets out four options:

- Option 1 – Direct payment to the supported person
- Option 2 – Selection of support by the supported person with arrangements made by the local authority
- Option 3 – Selection of support by the local authority for the supported person with arrangements made by the local authority
- Option 4 – Different options used for different elements of a person's care and support

A key finding from the Audit Scotland report<sup>4</sup> highlights that despite many examples of positive progress, Self Directed Support (SDS) has not yet been fully implemented by authorities. The report adds that “approaches to commissioning can have the effect of restricting how much choice and control people may have”.

Option 2 poses the greatest challenge in terms of procurement where a provider has chosen not to participate in a contractual relationship but an individual chooses to have their support delivered by the provider. Scotland Excel must continue to facilitate maximum choice within frameworks and

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<sup>4</sup> [Audit Scotland Self-directed Support 2017 Progress Report published August 2017](#)

contracts under which services for people are delivered and these must reflect as much of the available market as possible. This may mean continuing to contract with services even where this is not desirable for the local authority (for example, Care Inspectorate grades are poor) and where this approach leads to a loss of economies of scale and additional complexity in terms of contract monitoring.

Option 1 also raises some potential issues for procurement in terms of whether it is possible and desirable for individuals to access national contracts to arrange their own support. Currently, Scotland Excel's frameworks are not available to individuals seeking to arrange their own support having taken direct SDS payments. However, in areas where individuals are already contributing towards the cost of the service they receive (for example telecare and community meals) this may become an issue which requires greater exploration and consideration in future generations of these frameworks.

Scotland Excel will continue to explore innovative approaches to procuring social care services utilising the flexibility of the 'light touch regime', such as the flexible framework agreement approaches taken for Children's Residential Care and Education Services (including short breaks) and Social Care Agency Workers. This approach should go some way in offering flexibility and choice to services users whilst ensuring a contractual framework.

### **3.3 Health & Social Care Integration**

The Public Bodies (Joint Working) (Scotland) Act 2014 established Integrated Joint Boards (IJBs) to take forward the integration of health and social care in each local authority area. The Act puts in place nationally agreed outcomes and requires the IJBs to integrate health and social care budgets. The IJBs are also responsible for the delivery of strategic commissioning plans although they will not directly undertake contracting activity.

For the majority of local authorities, 2016/17 was the first operational year for Integration Joint Boards (IJBs) which represented a key new stakeholder group for the social care team.

Over the next three years the team will need to continue to invest significant resource in establishing relationships with this group. The social care team will continue to work closely with COSLA and strengthen links with HSCP Chief Officers, Chief Finance Officers and integration managers.

In addition, contract notices for new procurements across the category teams will need to ensure both health boards and local authorities are entitled to access arrangements on behalf of the IJBs should any purchasing responsibility change as a result of integration.

### **3.4 Children and Young People (Scotland) Act 2014**

The Children and Young People (Scotland) Act 2014 has a direct impact on Scotland Excel's frameworks for Fostering and Continuing Care Services and Children's Residential Care and Education Services (including short breaks) services. The Act increases the age young people can remain in their placements from 18 to 21 and places a duty on local authorities to support young people to remain unless continuing the placement could be considered detrimental to their wellbeing. The Scotland Excel children's services frameworks have been designed to allow for continuing care with discussions regarding pricing to be agreed on an individual basis. However, the impact on capacity within already stretched services such as foster care is unclear and will require monitoring by the team.

### **3.5 Community Empowerment (Scotland) Act 2015**

Scotland Excel recognises that every person using social care services deserves the highest quality care and support, and the maximum opportunity to influence how that support is arranged and managed. Effective procurement plays a central role in driving up quality, enabling people to meaningfully direct their own care and support, facilitating integrated service delivery, and making the most effective use of the available resources to deliver the care and support that will achieve what matters most to people - personalised, community-based support that promotes health and wellbeing.

The Community Empowerment (Scotland) Act 2015 seeks to improve outcomes for communities by improving the process of community planning and ensuring local service providers work more closely with communities to meet the needs of the people who use services.

There are two parts of the Act that could potentially affect Scotland Excel. The first is Participation Requests, which provide a mechanism for communities to have a more proactive role in having their voices heard in how services are planned and delivered. The second is Participation in Public Decision-Making, which enables Ministers to require Scottish public authorities to promote and facilitate the participation of members of the public in the decisions and activities of the authority, including in the allocation of its resources.

Involving people and communities in making decisions helps build community capacity and also helps the public sector identify local needs and priorities and target budgets more effectively. Recognising these two important parts of the Act, Scotland Excel will develop meaningful participation and engagement processes.

### **3.6 General Data Protection Regulation (GDPR)**

The General Data Protection Regulation (GDPR) comes into effect in May 2018, the most significant change is that action can be taken against both a data controller and a data processor (currently action can only be taken against a data controller). Fines for breaches are also becoming more significant. Under the current Data Protection Act, the maximum fine is £500,000, under the GDPR fines of up to 20 million Euros or 4% of group worldwide turnover (whichever is greater) can be levied against both data controllers and data processors. A breach in respect of information shared under a Scotland Excel framework could result in a large fine for the local authority and/or provider as well as negative media attention and distress to service users and their families where sensitive information has been lost. Social care contracts are the highest risk category for Scotland Excel and the social care category team will need to work closely with providers, local authorities and legal advisors to ensure compliance with GDPR.

### **3.7 Case Law & Other Changes**

In addition to the introduction of new legislation recent case law has had an impact on several areas of social care and will continue to have an impact over the next three years.

Legal findings in cases regarding holiday pay and pay for sleepovers have meant many providers, particularly those providing residential services, have had to review and increase their staffing costs.

The Scottish Government has brought together a group of experts from the sector to carry out a National Review of care allowances to ensure they meet the needs of children living with both kinship and foster families. Scotland Excel has been invited on to the expert group.

This year, an employment tribunal ruled that two foster carers were employees of a local authority. Historically foster carer agreements with local authorities have been considered not to be contracts. However, the agreement between the local authority and foster carers differed from normal foster care agreements in that they were referred to as 'elite foster carers', offering more generous remuneration than usual foster care agreements. It should be noted however, that the tribunal judge was careful to add that this finding in favour of the claimants should not be taken as a finding about the status of ordinary mainstream foster carers. It was due to the specific facts of the case. Scotland Excel will continue to monitor any further similar legal cases.

### **3.8 Policy & Guidance**

Significant changes to policy and guidance will also have an impact on social care contracts in the coming years.

Following the national review of foster care, the specifications for the fostering and continuing care services framework ensure that the providers will comply with any requirements and implement any national standards or guidance and any good practice recommendations resulting from the review. The Scottish Government is currently working with stakeholders to plan how the new learning and development standard for foster care can be implemented and will be reviewing care allowances.

The Scottish Government commissioned a secure care national adviser post based at Centre for Youth and Criminal Justice (CYCJ) at the University of Strathclyde, to carry out an independent, analytical, strategic and practice focused review of secure care in Scotland. In October 2016, the key messages arising from this review were published in the report *Secure Care in Scotland: Looking Ahead*<sup>5</sup>. As a result of this review, the Scottish Government has established a Secure Care Strategic Board to lead the development of a strategic approach to responses to children and young people in and on the edges of secure care in Scotland. Scotland Excel is represented on the Board, which will report to Ministers by December 2018.

The most significant review taking place is the Independent Care Review which will “identify and deliver lasting change in the care system and leave a legacy that will transform the wellbeing of children and young people”.<sup>6</sup> The Review is in its initial discovery phase and will progress through a number of stages of work. Each phase of the Review will be guided and informed by the recommendations and actions implemented in the phase before.

The social care team will need to continue working closely with review leads to ensure work and changes in these areas are reflected in the appropriate contracts.

Scotland’s new Health and Social Care Standards<sup>7</sup>, were published by Scottish Government in June 2017 and will be used from April 2018. The Health and Social Care Standards set out what service users and their families should expect when using health, social care or social work services in Scotland. They are no longer just focused on regulated care settings but for use in health and social care, as well as in early learning and childcare, children’s services, social work and community justice. Scotland Excel’s recently renewed contracts ensure alignment with the new standards however, some contracts specifically reference the previous care standards in the service specifications therefore amendments will be required to bring specifications in line with new regime.

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<sup>5</sup> <http://www.cycj.org.uk/wp-content/uploads/2016/10/Secure-Care-in-Scotland-Looking-Ahead.pdf>

<sup>6</sup> <https://www.carereview.scot/what-we-do/>

<sup>7</sup> [Health and Social Care Standards: My support, my life](#), published June 2017.

In 2017, the Scottish Government announced an expansion of free early learning and childcare (ELC), doubling entitlement to 1140 hours per year by 2020 for all 3 and 4 year olds and eligible 2 year olds. In addition to this, Scottish Government wants all childcare workers delivering the funded entitlement, across all sectors, paid at least the Living Wage from the introduction of the entitlement to 1140 hours in 2020. This represents a significant challenge to local authorities in ensuring the expansion is delivered locally, underpinned by the principles of quality, flexibility, accessibility and affordability. Scotland Excel will continue to offer support to the Scottish Government and COSLA as this flagship transformation project is rolled out.

Given the significant change ongoing in a range of areas, Scotland Excel's social care contracts will need to be carefully crafted to enable sufficient flexibility and opportunity for variation to ensure that contracts do not become obsolete.

### **3.9 Living Wage**

The local government sector has a commitment to pay the voluntary "Scottish" Living Wage to all adult care workers. The commitment does not extend to care workers operating in the children's services sectors creating a question of pay parity and practical issues for providers of both children's and adults services and providers who have staff operating in other parts of the UK where the Living Wage will not be paid.

The commitment to pay the Living Wage also raises some practical enforcement issues as it is not possible to mandate the payment of the voluntary Living Wage in a procurement exercise.

The Social Care Team has however been promoting and encouraging the benefits to providers of paying the Living Wage, with some success. The numbers of providers on care frameworks paying the Living Wage has risen from 29% at the point of tender to 81% as at February 2018.

For Scotland Excel, all providers on the Care Homes for Adults with Learning Disabilities framework now pay the Living Wage. Given however Scotland Excel is currently reviewing procurement arrangements for care home services for older people, as well as adult care and support services, the Social Care Team will need to carefully consider the Living Wage more widely going forward.

The Social Care Team will also continue to promote the benefits to all awarded providers from paying the Living Wage, including children's services.

### **3.10 Cost Drivers**

The majority of the social care team's contracts are indexed against inflationary indicators such as the consumer price index (CPI). It is recognised however that these general indices are not always appropriate. It has proven difficult however to identify a suitable index which is reflective of the costs of providing services. CPI, for example, is tracking with minimal increases however this is not reflective of costs being reported by many providers.

Actual costs are influenced by the changes in policy and legislation outlined above and have been compounded by increasing pension costs, large increases to the minimum wage and changes to national insurance contributions which have also put additional pressure on staffing costs for services where these costs comprise the majority of overall costs.

In order to try to develop a more appropriate approach to indexation for social care services a review of this process for social care services will be undertaken in 2018/ 2019. The outcome of this work will aim to propose a variation on the standard indexation process for social care utilising alternative sources of data to inform a cost of care tracker rather than utilising traditional inflationary indicators.

## **4. Current Position**

### **4.1 Children's Services**

Scotland Excel's children's services portfolio consists of three well established contracts.

#### **4.1.1 Fostering and Continuing Care Services**

The current foster care and continuing care services framework began in March 2017 and will continue until March 2019, with the option to extend up to March 2021.

This framework includes an expanded scope of provision, which allows for the purchase of enhanced services and continuing care.

Considerable investment in contract management will be required to keep abreast of potential recommendations and changes from the Care Review and National Review of care allowances.

#### **4.1.2 Children's Residential Care**

The current framework is due to expire in March 2018. Renewal activities for the second-generation framework began in April 2017.

A key aim of the renewal framework is to ensure sufficient choice of quality and value for money providers with capability and capacity to deliver these services through increased provider participation. Utilising the flexibility offered under the 'light touch regime' a Flexible Framework

Agreement has been designed which will allow awarded providers to apply to amend existing services and add new services to the framework. On no less than two occasions, new entrants will be permitted to apply to be included within this arrangement during years 3 and year 4 of the framework. Additions of services or providers to the framework will be evaluated against the same criteria as in the original tender.

Significant engagement activities were carried out with a wide range of stakeholders. This included consultations on the specifications and terms and conditions. A working group consisting of representatives from providers and purchasers met to discuss the strategy for the renewal of the framework and to discuss comments received from the specification consultation. Comments from both consultation exercises and the working group were considered in the development of the renewal of the framework. Scotland Excel also engaged with the Care Inspectorate, Education Scotland, Association of Directors of Education in Scotland (ADES) and CELCIS. Discussions centred around key priority areas such as raising attainment levels, the impact of the revised care standards and the rights of the children and young people in care. Scotland Excel secured the involvement of young people who have had experience of care. They were involved in the review of the specifications and in the creation and evaluation of quality elements within the tender.

The framework has been designed to allow for continuing care with discussions regarding pricing to be agreed on an individual basis. However, the impact on capacity is unclear and will require monitoring by the team.

A focus of contract management activities under the new framework will be to support local authorities to transfer existing individual placement agreements (IPAs) and increasing completion rates for new IPAs. Providers and local authorities are keen to continue with regular meetings of the working group to support continuous improvement across children's residential care and education services, this will require investment from the team.

Going forward this framework is likely to remain one of the most resource intensive contracts the team is required to manage.

#### 4.1.3 Secure Care

Secure care is a third-generation arrangement consisting of four individually negotiated contracts. The current contracts will cease in March 2020.

Decisions regarding the purpose, vision and configuration of secure care services in Scotland, including commissioning approaches, will be made by the Scottish Government chaired Secure Care Strategic

Board. During 2018, Scotland Excel will require to continue to sit on the Strategic Board to contribute to the development of a strategic approach.

## **4.2 Adult Services**

The social care team currently has one contract in the adult services category which is Care Homes for Adults with Learning Disabilities.

### **4.2.1 Care Homes for Adults with Learning Disabilities**

Care Homes for Adults with Learning Disabilities was established in 2015 following a recommendation in the Scottish Government's learning disability strategy The Keys to Life<sup>8</sup>. Learning disability policy and guidance is focused on people being supported to live in the community and not in residential care. However, it is recognised that for a very small group of individuals with particularly profound learning disabilities/autism that a residential placement may be the best option.

The Care Homes for Adults with Learning Disabilities framework is a complex framework covering a high-risk service and Scotland Excel continues to invest time in managing the framework to ensure that risks are mitigated and the framework is working for both purchasers and providers.

New and existing support arrangements are expected to continue to increase each quarter and the team have been supporting local authorities to move existing support arrangements onto the framework.

The Scottish Government and Local Government have committed to paying all care workers in adult social care the Living Wage. This has been managed locally, local authorities and providers have agreed increases after individual negotiation or agreement. In response to the Scottish Government's Living Wage commitment, Scotland Excel has been working with purchasers and providers. Several fee negotiations took place and providers were given the opportunity to increase their weekly fee to cover the increase in costs associated only with Living Wage.

The spend on the Care Homes for Adults with Learning Disabilities framework has continued to grow and the feedback from local authorities who use the framework has been generally positive and has allowed the sharing of best practice and development going forward.

## **4.3 Community Care**

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<sup>8</sup> <https://keystolife.info/>

#### 4.3.1 Telecare & Telehealth Technologies

The current framework for telecare and telehealth technologies will end in December 2018. Scoping and strategy development work is underway for the third-generation of this framework.

Scotland Excel are working closely with key stakeholders from Local and Scottish Government, NHS, suppliers and local authorities to ensure that requirements for the future are met. Scotland Excel sit on a Technical Advisory Group, chaired by the Local Government Digital Office. This group brings together key stakeholders from NHS24, Scottish Centre for Telehealth and Telecare, local authorities and housing associations to, developing different wave trials and project streams to improve the technological advances of digital telecare. This will allow Scotland Excel to ensure findings are directly incorporated into the procurement strategy for the next generation framework, allowing it to be future proofed and fit for purpose.

It is expected that as technology and connectivity improves and the demand on health and care services increases that this usage of technology enabled care will increase. This will support people with a wide range of needs and enable people to continue to live independently or with the support of carers in their own home for as long as possible. The use of technology enabled care can also promote innovative redesign of traditional care packages which can lead to efficiencies.

#### 4.3.2 Community Meals

The Community Meals framework is a second-generation framework which went live in September 2015 and will end in August 2019. Local authority participation on the framework has increased by an additional six compared with the previous framework.

To increase competition in this market ahead of any new development, Scotland Excel will engage with potential new suppliers however work in this area has not been successful in the past.

Analysis of local authority usage of Community Meals, Telecare and Care Home Services for Older People will be conducted to determine whether preventative measures to keep people at home such as community meals and telecare are successful in reducing care home usage. Details of this research will be shared with local authorities and IJBs to support the improved usage of Community Meals and Telecare.

### **4.4 Services for Older People**

#### 4.4.1 Care Home Services for Older People

A significant majority of placements, in older people residential care, throughout Scotland are purchased from the independent and voluntary sector through the model National Care Home

Contract (NCHC). The NCHC has existed since 2006 and has provided a sound contractual platform offering transparency and consistency for both purchasers and providers of older people residential care. Since the publication of Task Force report on Residential Care for Older People in 2014 there have been a number of emerging initiatives taking forward the recommendations contained within the report itself.

To support the wider work being undertaken, Scotland Excel secured funding from the majority of HSCPs/ local authorities to provide procurement and contract management services for care home services for older people. Since the project inception Scotland Excel has been working closely with a range of stakeholders; including CoSLA, Scottish Government, provider representative organisations and council / HSCP lead officers.

There are four main themes, for which, Scotland Excel has lead development responsibility:

- Market intelligence
- Financial risk monitoring
- Cost analysis
- Procurement strategy.

In 2018/ 2019, Scotland Excel is scheduled to conclude development of a cost of care calculator and implement the procurement strategy set out in a public consultation document in 2017.

## **4.5 Other**

### **4.5.1 Social and Care Agency Workers**

Recruitment and retention of staff in social care is an increasing pressure for employers in all sectors and this framework complements local authorities' internal arrangements for filling temporary vacancies and staff absences, enabling them to purchase the services of a range of professional and support staff from independent agencies. This is the first national framework in Scotland for agency workers focusing on social care staff.

The framework won both the Scottish and United Kingdom Procurement Innovation or Initiative of the Year Awards in 2015 and 2016 respectively. It was recognised particularly for ensuring that payment of the Scottish Living Wage can be made to all agency workers contracted by a local authority.

The framework is due to end in July 2018 and work has commenced on the successor framework. The new iteration of the framework will build on the success already achieved in the first generation,

through revised contract specifications and terms and a continued emphasis on fair work practices. In addition, a Flexible Framework Agreement has been designed to improve geographical coverage, specifically in relation to rural supply issues. Additions to the framework will be evaluated against the same criteria as in the original tender.

## **5. Opportunities and Risks**

### **5.1 New Areas of Work**

Local authorities continue to request additional work in social care however the core team is currently working at capacity and has been unable to progress additional requests. To pursue further procurement opportunities, in April 2017, the Scottish Government provided 2 years of funding (2017/2019) to:

- Adult supported living – Develop and roll out a national framework that increases transparency on fees and outcomes delivered to people accessing these services.
- Care at home – Explore the sustainability of current fee levels and the opportunity to standardise costs, support outcomes-based service delivery, and provide a centralised resource for monitoring the financial sustainability and workforce practices of providers.
- Respond to identified skill gaps by expanding the existing procurement academy to deliver learning programmes, including Health and Social Care Integration, Procurement of Care and Support Guidance, and Self-directed Support.
- Deliver operational efficiencies through consideration of a national vacancy tool.

In 2017/ 2018, Scotland Excel, in partnership with commissioners and providers made good progress in establishing a greater understanding of the national picture for adult supported living and care at home services. In 2018/ 2019, Scotland Excel, in continued partnership with commissioners, providers and people using services, will develop and implement a national procurement strategy that supports local strategic commissioning needs.

#### **5.1.1 Adult Supported Living**

Scotland Excel has completed some preliminary research into the adult supported living market (i.e. where 24 hour care and support is provided to a person in their own tenancy). It is estimated that circa £450 million per annum is spent on adult supported living. Many existing packages of care were commissioned through direct negotiation by discharge teams at the time of the closure of the long stay hospitals. The early research suggests that only limited requirements have been subjected to any form of open competition. It is also noteworthy that a major proportion of spend is concentrated

across a relatively small number of providers. The preliminary research indicates a concentrated market place, but with very limited exposure to how costs contrast and compare between individuals, providers and localities.

### 5.1.2 Care at Home

It is estimated that circa £400 million per annum is spent on care at home services. Unlike the adult supported living market, competitive tendering of care at home services has become the norm over recent years, with most local authorities awarding frameworks/ contracts via Public Contracts Scotland. This has resulted in a strong understanding of fees paid across Scotland, as well as good intelligence on market concentration. Most care at home providers operate locally/ regionally, with limited cross country provision.

## **5.2 Technology**

As Scotland Excel's contracts have become established and contract owners have sought ways to maximise value to customers it has become increasingly apparent that new technology is required to achieve this additional value.

A key risk for local authorities utilising Scotland Excel's social care service contracts is sharing information effectively and compliantly with the Data Protection Act.

With the introduction of GDPR, there is a need to consider more effective ways of exchanging social care management information securely.

A secure information sharing portal would reduce the risk of potential breaches, enabling local authorities, providers and Scotland Excel to share information quickly and safely.

A secure portal specifically commissioned to facilitate the use of Scotland Excel's contracts could also have some additional benefits such as vacancy monitoring. The portal could enable providers to publish details of beds available in residential units, foster carer vacancies and available agency workers for participating local authorities. The efficiency savings for both local authorities and providers are potentially substantial as this would enable a move away from the current resource intensive practice of phoning individual providers (sometimes large numbers of providers) to identify whether a suitable vacancy is available. In addition, such a portal may have the capability to give people using services a better way to exercise choice and control and could help underpin the principles of self directed support. We also envisage such a portal assisting care managers in quickly finding appropriate local services.

### **5.3 Transfer of Pre-Existing Placements**

Social care team contracts for services for people do not include any form of automatic novation of placements which pre-date the framework agreement therefore unless purchasers and providers specifically agree to move placements under a new set of framework terms the new framework applies to the purchase of new placements only. While a framework generally lasts no more than four years, individual placements entered into under the framework can last for as long as required and in some cases can be significant lengths of time (for example a fostering placement may now last up to 21 years). Where purchasers do not transfer placements, they are likely to find themselves in a situation where they have placements made under various sets of terms and conditions with only placements made under the current framework subject to a nationally agreed fee variation process. In addition, fee variation for all other placements will be subject to individual agreement between the relevant purchaser and provider. This situation creates a significant resource burden for purchasers both in terms of effectively managing placements and the varying terms which apply to them as well as managing potentially large numbers of fee variation requests.

In order to prevent this situation, the social care team have strongly encouraged local authorities and providers to work together to review placements and agree to novate placements. For two main reasons however many existing placements are not being novated onto Scotland Excel frameworks. Firstly, the resource required to review all existing placements to determine suitability for novation. Secondly, where purchasers have conducted a placement review exercise, they are reluctant to agree placements on a framework at a higher rate than that currently paid.

It is likely to be necessary for Scotland Excel contract owners to conduct analysis of individual local authority current placements (where they are willing to share this) in comparison to framework prices to support local authorities to undertake the novation process. This detailed level of benchmarking is resource intensive and will need to be factored into work plans for individuals going forward. Scotland Excel will also explore more creative ways to engender greater contracting flexibility for local authorities. For example, longer duration frameworks and expanding the use of frameworks that allow for new provider entrants during the lifetime of a framework.

## **6. Summary**

Local authorities face considerable budget and demographic challenges in the procurement of social care services in the period 2018/ 2021. The number of elderly people is increasing and more children are being looked after. While we are living longer, the number of years we spend in good health is not increasing, so increasing numbers of people will need help for longer.

Scotland Excel as the centre of procurement expertise for the local government sector needs to work in partnership with local authorities to develop procurement and contract management strategies that respond to the unrivalled challenges brought about by fiscal austerity and increasing demand.

Scotland Excel has set ambitious targets to grow its social care spend under active contract management sevenfold over 2018/ 2021, with the portfolio projected to expand from £200 million to £1.4 billion. It is our aim to ensure Scotland Excel provides additional support to HSCPs as they look to develop new models of care that respond to the unquestionable societal challenges.