

## **Scotland Excel Executive Sub Committee**

**To: Executive Sub Committee**

**On: 6 March 2014**

### **Report by Director**

#### **National Care Home Contract**

#### **1. Introduction and Background**

This report provides the Executive Sub Committee with a progress update with regards to Scotland Excel taking on a much more active role in the procurement and management of the National Care Home Contract. The report sets out the expected benefits and potential risks.

Appendix 1 sets out a brief history of the development and implementation of the contract from 2006 to the present day. A key point is that a national fee rate is set and negotiated annually. The contract is then used to spot purchase care home placements locally. The contract has not been subject to any past competitive tendering.

As at March 2014, 31,943 people were living in older peoples care homes in Scotland at an estimated cost of circa £600m per annum. With the exception of Shetland Islands Council, the National Care Home Contract is currently used by all Scottish councils.

In recent years there have been major changes in the landscape that have a direct impact on the National Care Home Contract and how it is managed including:

- Implementation of the Public Bodies (Joint Working) (Scotland) Act 2014, which sets out the process for the integration of health and social care, and delivery of joint strategic commissioning plans;
- Recommendations from the National Task Force Development Group covering areas such as rehabilitation and prevention, personalisation, capacity planning, risk management, care home governance, quality assurance, fee structures and costs;
- Continued risk of major care provider failure (such as Southern Cross) with no national intelligence for providers operating across councils.

Against this background, it is proposed that Scotland Excel undertakes the management of the National Care Home Contract. Scotland Excel is currently in dialogue with COSLA to move forward with a value proposition and a series of sample reports have been produced for council and partnership feedback.

## **2. Procurement Process**

Currently the National Care Home Contract is negotiated annually by a team of senior local government officials, led by COSLA. Scottish Care and the Coalition of Care Providers Scotland (CCPS) lead the negotiations on the providers' side and council Leaders make the final decision about the terms of the contract and national fee levels. Negotiations have generally led to increased % on rates to cover inflation and other specific cost pressures, for example current fee negotiations for 2015/2016 have a specific focus on responding to the low levels of pay in the care home sector.

One council recently conducted a separate procurement exercise for care home places, based on the national rate with a fixed percentage increase across 3 years. The procurement however failed to elicit sufficient interest from providers.

Scotland Excel expect to review the present contracting approach and all alternate options with purchasers, providers and other stakeholders within the first 12 months of taking on the procurement management of the contract.

## **3. Benefits of Scotland Excel taking on Procurement Management**

Scotland Excel would ensure that policy directives are supported via any future procurement management, including community benefits, workforce management, self directed support and sustainability. Core benefits that Scotland Excel would bring outwith current arrangements include:

- supporting the development of Joint Strategic Commissioning Plans including stakeholder and market analysis, performance management, benchmarking, spend analysis, opportunity assessment, procurement strategy and national provider monitoring;
- contributing to the implementation of the National Task Force Development Group recommendations;
- developing an early warning system across Scotland which would alert partnerships to anticipated market failures, with a particular focus on providers in financial distress;
- creating and sharing national business and market intelligence to complement local contract monitoring information and provide the basis for informed negotiation;
- applying price indexation methodology to assess perceived cost pressures within the care home sector and provide a basis for joint discussion on managing these pressures;
- monitoring of workforce conditions including, where relevant, the payment of the living wage and modelling of the costs of any future workforce initiatives;
- undertaking a provider development programme to improve quality and encourage innovation; and
- reporting to all stakeholders on industry performance.

None of these activities are being delivered presently. Whilst councils actively engage with services at a care home level, there are no resources in place to performance monitor at a national and provider level with implications for loss of opportunities to identify efficiencies or risk across the sector.

## 5 Resources

Management of the National Care Home Contract cannot be undertaken within present resources. The skills required to effectively manage the National Care Home Contract include procurement, commissioning, data analysis, financial accounting and risk management. The resources to support these activities need to reflect the contract spend, circa £600m per annum with approximately 353 providers across circa 887 care homes.

The resources currently in place provide capacity only to annually negotiate fees, as well as some policy development work. Moving forward however there is an opportunity to enhance contract management activities, particularly in respect to providers operating across Scotland (it is estimated that circa 49% of annual spend is shared by 15 providers). There is no national monitoring of contract performance, or shared intelligence about the achievement of outcomes for older people or the state of the workforce in terms of pay conditions. As stated above there is no national intelligence which would provide early warning of potential major failure of large providers.

It is estimated that Scotland Excel will require circa £250k per annum to undertake the necessary activities. This delivers a 0.5FTE commissioning manager, 0.5FTE legal services, one procurement specialist, a financial specialist, a data specialist and administrator. The overall cost to councils is estimated at only 0.04% of the current expenditure across Scotland.

While it is recognised that this cost comes at a time when budgets are under pressure, many of the planned activities that would be funded will prevent a likely duplication of strategic commissioning plan effort in councils. Any shared service arrangement would deliver significant efficiencies in terms of procurement and performance management, data analysis, financial accounting and risk management. As a benchmark it is estimated that if each council undertook the function of separately commissioning and procuring care home services it would cost circa £1m (refer Appendix 2).

## 6. Risks

The procurement management of the National Care Home Contract brings a number of risks, including:

| Risk Description                               |         |    | Impact | Likely | Controls   |
|--|---------|----|--------|--------|--|
| Councils                                       | default | on | High   | Low    | Requires agreement prior to transfer of responsibility or work will not commence     |
| resources to deliver activity                  |         |    |        |        |  |
| Providers refuse to engage with Scotland Excel |         |    | High   | Medium | High levels of provider engagement and the development of incentives within contract |

|  |       |      |        |   |
|--|-------|------|--------|---|
|  |       |      |        | terms for the provision of performance information  |
| Scotland underestimates the level of resources required to deliver stated outcomes | Excel | High | Low    | Deliverables are tied to levels of resources with the development of a service level agreement with Councils  |
| Partners default on their commitment to contribute to outcome of fee negotiations  |       | High | Medium | High levels of partnership working with all stakeholders including Scottish Government, COSLA and Provider representative bodies to ensure that fee negotiations can be funded              |
| Major care failure not predicted   |       | High | Medium | Although controls can be put in place to identify risk there will be instances of unanticipated failure. This needs to be made explicit in service level agreements with purchasing bodies. |

The key to Scotland Excel delivering benefits across Scotland will undoubtedly be high levels of stakeholder engagement and following agreement to transfer responsibility for the National Care Home Contract, Scotland Excel would host a series of mobilisation meetings with councils to assist and encourage their engagement and the realisation of the potential benefits. Additionally Scotland Excel will continue to work with COSLA, Scottish Government, Scottish Care and CCPS throughout the lifetime of the contract to ensure that the contract continues to meet the needs of stakeholders.

## 7 Timescales

A full project plan for transfer of responsibilities can be drawn up following formal agreement to the transfer of procurement activity to Scotland Excel. In the meantime it is suggested that the following high level timescales would apply:

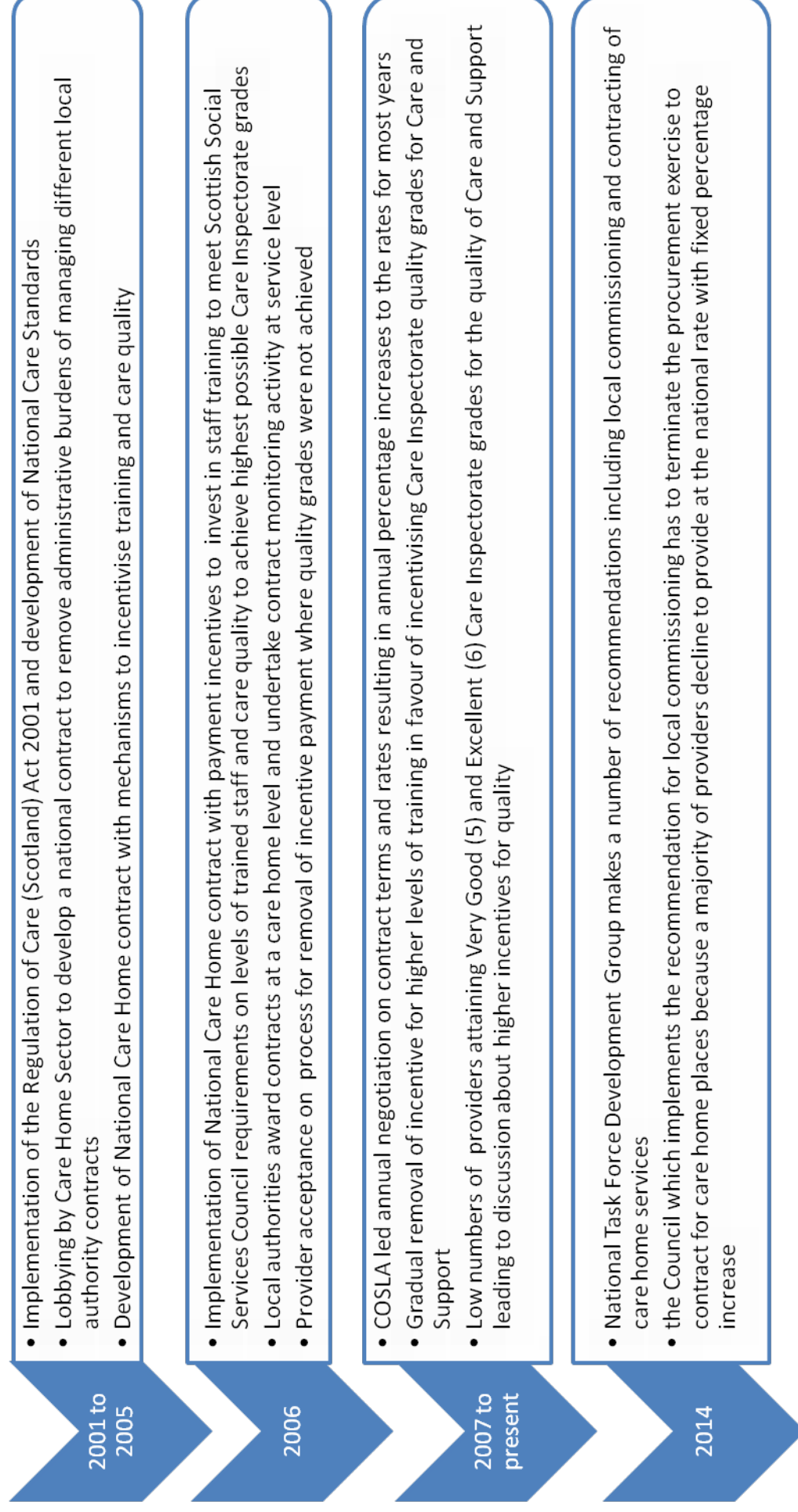
| Task   | Timescale         |
|--|-------------------|
| Development and agreement on governance        | March 2015        |
| Approval to transfer management                | April 2015        |
| Contract mobilisation                          | April to May 2015 |
| Develop report structure with all stakeholders | June 2015         |
| First performance reports                      | September 2015    |

## 8 Conclusion

The challenge is to deliver the benefits outlined above of a national shared collaborative approach which maintains equity across Scotland, while providing scope for local commissioning arrangements. Key to this is partnership working at national level. Scotland Excel has proven experience in the delivery of national arrangements and is well

placed to provide market oversight and risk management, under the governance of the partners.





## Appendix 2

| Estimated cost to Council of local procurement of care home places |  |                     |                    |         |            |            |  |  |  |
|--|--|---------------------|--------------------|---------|------------|------------|--|--|--|
| Salaries only  |  |                     |                    |         |            |            |  |  |  |
| Post   | days spent   | NJC pay scale point | Salary p.a. 1.4.14 | Cost    | Oncost 15% | Total      | Comment  |  |  |
| Commissioning manager  | 40   | 51                  | 44598              | £4,887  | £733       | £5,621     | Procurement strategy negotiation                     |  |  |
| Procurement officer  | 236  | 36                  | 30810              | £19,921 | £2,988     | £22,909    | Strategy development/tender management               |  |  |
| Administration   | 20   | 14                  | 16776              | £919    | £138       | £1,057     | Document handling                                    |  |  |
| Legal services   | 10   | 38                  | 32613              | £894    | £134       | £1,028     | Legal advice/functions                               |  |  |
| Finance  | 20   | 25                  | 22257              | £1,220  | £183       | £1,402     | Price evaluation/guidance                            |  |  |
| Total costs  |  |                     |                    | £27,841 | 4176.11    | £32,017    | Averaged per council                                 |  |  |
|  |  |                     |                    |         |            | £1,024,539 | For 32 councils if salary and process was equivalent |  |  |
| Note 1   | Salary scales are estimated for these functions and may vary by Council size   |                     |                    |         |            |            |  |  |  |
| Note 2   | The estimated days spent is based on Cost and Effectiveness considerations from a report prepared for the European Commission in March 2011 this would result in a requirement for 116 days per Council dedicated to the framework agreement tender exercise alone with an estimated minimum 120 days for planning, development of procurement strategy, equality impact assessment, risk register and engagement with providers |                     |                    |         |            |            |  |  |  |