

	<p>Performance and Contract Management Committee</p> <p>27 February 2017</p>
<p style="text-align: center;">Title</p>	<p>Review of procurement and mobilisation of adult social care enablement service</p>
<p style="text-align: center;">Report of</p>	<p>Adults and Communities Director</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Urgent</p>	<p>No</p>
<p style="text-align: center;">Key</p>	<p>No</p>
<p style="text-align: center;">Enclosures</p>	<p>None</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Jess Baines-Holmes, Head of Service, 020 8358 3312, Jess.baines-holmes@barnet.gov.uk</p>

Summary

At the Performance and Contract Management Committee on 15th November 2016, it was agreed that a report would be presented to the Committee at a future meeting to review the procurement and mobilisation of the social care enablement service. A version of this paper has been noted by the Adults and Safeguarding Committee at their meeting on 23rd January 2017 meeting.

On 5th September 2016 the Enablement Homecare Service transferred from the previous incumbent provider, Housing and Care 21, to Aquaflo Care Ltd. Despite measures in place to mitigate the risk of disruption during the mobilisation period, the transfer proved problematic and the Council had to take steps to ensure that continuity of enablement and home care support was provided to residents receiving a service from Aquaflo.

Actions taken by the Council in the early weeks included frequent contact with and reviews of service users, provision of welfare checks, moving vulnerable clients to alternative care providers, mobilising an out-of-hours immediate response service and close working with Aquaflo on improvements. These ensured that where possible any negative impacts of loss of service were mitigated and resolved. Social work reviews of clients did not identify any

enduring harm attributable to Aquaflo's failure.

Throughout the challenging events, staff within Adults and Communities demonstrated great dedication and commitment. Many worked out of hours to ensure the safety of individuals. Colleagues came together to maximise resources and work effectively as part of a focussed response to ensure the safety of residents

Subsequently, the Council commissioned additional services using other Council suppliers in good standing, providing further capacity to support residents.

The investigation into these circumstances has shown that the Council's procurement and mobilisation approach was robust, with a dedicated service user and carer advisory group informing and participating in the process from the early service development to the award of contract. However, Aquaflo was unable to deliver the service to the quality required. This report outlines a number of actions to further strengthen the Council's approach to similar procurement exercises to reduce the likelihood of a similar occurrence.

In December, a new enablement service, Your Choice Enablement, was mobilised successfully through a carefully managed process administered by a dedicated team and with oversight from senior Council officers. Lessons learnt from the previous provider's failure were used to inform the approach and proved invaluable to the success of the new service.

Recommendations

- 1. That the Committee notes the report setting out the review of the procurement and mobilisation of the previous enablement service in Barnet.**

1. WHY THIS REPORT IS NEEDED

- 1.1 This report reviews the failure of Aquaflo Care Ltd to deliver the contracted enablement service and outlines additional mitigations that the Council has put in place to reduce the risk of such a failure occurring again.
- 1.2 On 5th September the Enablement Homecare Service transferred from the incumbent provider, Housing and Care 21, to Aquaflo Care Ltd. Despite measures in place to mitigate the risk of disruption during the mobilisation period, the provider failed to deliver the service they were contracted to provide and the Council had to take steps to ensure that continuity of enablement support was provided to residents who were users of the Aquaflo service.
- 1.3 Enablement is a service that provides tailored short term rehabilitation support to meet a person's identified goals, to improve skills and confidence in living independently in their own home and allow them to access their community.
- 1.4 For some people, this can be achieved in a week or two, for others it may be up to six weeks. During the enablement period, social work practitioners within the Council undertake regular reviews to identify whether someone needs care and support in the longer term. Enablement packages for individuals will range from a couple of visits per week to multiple daily calls of between thirty minutes and an hour, depending on individual needs. Clients using the service tend not to be the most vulnerable that the Council supports and over 70% require no further social care service at the end of the enablement period. In a typical year, 1,600 people will use the enablement service, approximately 24% of those who use Council funded adult social care.
- 1.5 The Council first established an enablement service in 2009 through a variation to an existing home care contract. This was then procured through a competitive procurement process in 2010. The provider was Housing and Care 21. The contract length was four years with a one year extension and there was a requirement under contract procedure rules to re-procure the service.
- 1.6 In 2014 the Council commenced planning to re-commission the home and community support service, which provides domiciliary care. Officers in the Joint Commissioning Unit also undertook a review of the health and social care enablement pathway. As a result of this, the enablement service was included as a lot within the home and community support procurement.
- 1.7 Though the procurement and mobilisation planning was robust, the provider failed to deliver the service. This report summarises the lessons learned from the process and the actions to be taken by the Council as a result to mitigate the risk of a provider failing to deliver the contracted service again.

Procurement process

- 1.8 Following a review by officers in the Joint Commissioning Unit of the health and social care enablement pathway, a strategy for all local enablement services was developed. This included the gathering of best practice and review of current services to inform the specification for the re-commissioning of the enablement homecare provision. The Council's home care contracts were also coming to an end and the enablement service formed a specific lot within the home and community support procurement.
- 1.9 The Council undertook a competitive procurement process for Home and Community Support as required under EU public procurement legislation. The enablement service was one lot within this larger procurement. The authorisation to commence came from the Procurement Forward Plan 2015/2016, which was agreed by Policy and Resources Committee on 13 January 2015. A working group of service users and carers were involved for over a year in the procurement process, including bid evaluation.
- 1.10 Following a report to the Adults and Safeguarding Committee in November 2015, where it was agreed to include the payment of travel time for care workers in home and community support contracts, the procurement specified that bidders needed to pay travel time. The procurement also specified that bidders had to take account of increases in the National Living Wage in their bids.
- 1.11 The Council used a number of methods to select the successful bidder for the enablement contract. The bids were subject to comprehensive evaluation, carried out by legal, procurement, adult social care operations and commissioning, users and carers.
- 1.12 A financial evaluation was undertaken which assessed financial standing, stability and sustainability of the tenderer. Aquaflo passed all financial checks in the procurement process.
- 1.13 A series of method statements were set for bidders, covering a number of important areas of delivery. Bidders were asked to provide supporting documentation including job descriptions, policy and procedures and a mobilisation plan.
- 1.14 Bidders were asked to reference past experience of their ability to deliver in their responses to the method statements. The use of these examples was scored more highly. Aquaflo were able to reference delivery of 1,500 hours of homecare per week in neighbouring Brent and the enablement service for Bexley.
- 1.15 In efforts to mitigate the risk of poor quality but low cost services winning the procurement, pass / fail hurdles and minimum quality thresholds were also employed. This meant that there were a number of mandatory requirements that had to be met in order for a bid to be compliant and minimum scores which had to be achieved in respect of certain quality criteria for evaluation.

- 1.16 Critically, bidders had to have received a rating of 'Good' under the regulator, the Care Quality Commission's current inspection system or 'Met all Standards' under the previous inspection regime. These ratings are not equivalent, however procurement advice received was that as not all bidders would yet have a received an inspection under the new system it would be unfair to exclude ratings received under the previous one.
- 1.17 Aquaflo did not have a Barnet branch and provided the inspection report of their nearest located branch, Stratford, which had met all standards upon inspection in May 2014.
- 1.18 Experienced staff from the Council's procurement, finance and social care services undertook each part of the evaluation. A number of providers did not meet the minimum quality criteria and therefore did not proceed to the final stages of the evaluation process. The process was robust and well managed.

TUPE Transfer

- 1.19 It was identified at the outset of the procurement that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) were likely to apply as a result of the re-commissioning of the enablement service. As the service was already delivered by an external supplier, the Council would not be a party to the transfer of staff.
- 1.20 The Council's policy is to facilitate and support the flow of information in the interests of a successful transfer and continuity of service but it has no legal standing in the process. The position of the Council is to remain as a conduit for information but not to take an active role in managing the process. Both suppliers advised that they were experienced in managing the handover of staff and Aquaflo provided a project plan for the process of consultation and transfer.
- 1.21 Housing and Care 21 initially advised that there were likely to be 31 workers subject to TUPE, however on 1st September Housing and Care 21 informed Aquaflo that only 12 staff would transfer. It is unclear why the other workers were not eligible to transfer. Communications between the new provider and the transferring staff were limited.
- 1.22 Although there had been contingency planning undertaken by Aquaflo in order to prepare for the eventuality that no or a limited number of staff transferred, the significantly reduced cohort and the manner of transfer did have an impact on service delivery. The transferring staff were not well briefed or equipped to carry out the service on day one and were lacking uniforms, identification and a clear understanding of the differing working practices.

Actions

- 1.23 *The Council to insist on greater oversight of staff transfer for high risk services. As a minimum the Council will monitor progress against detailed*

milestones from a joint plan to manage the transfer and demand evidence of progress.

Mobilisation

- 1.24 A thorough service transfer and mobilisation plan was agreed with both the old and new provider and regular weekly meetings were held to assess progress against this. This was managed using the Council's project management methodology. The project was overseen by a project board chaired by the Community and Wellbeing Assistant Director in the Adults and Communities Delivery Unit. The project had the full range of formal project controls in place including regular progress and risk reporting along with regularly updated action, risk and issue logs.
- 1.25 Four weeks prior to the new service commencing, existing enablement service users received a letter from Barnet Council notifying them that there would be a change of provider to Aquaфло from 5th September and provided contact details if there were any concerns or questions.
- 1.26 Due to the short term nature of the enablement service, it was agreed that a letter would only be sent to service users a week prior to the new service as many would cease their enablement service, prior to Aquaфло becoming the provider. All those still in receipt of enablement received a letter advising that their care package would transfer to the new provider.
- 1.27 Adult social care staff in the Council received regular written updates on the transition and mobilisation and all staff face to face briefings led by the Adults and Communities Senior Management Team. There were also specific and tailored briefings from the Heads of Service and their managers in team meetings. The staff who would be working directly with Aquaфло met weekly with them to monitor the handover.
- 1.28 At one of these regular meetings run by the Council on 1 September, in the week prior to the planned go-live date of 5 September, Aquaфло raised for the first time that there were problems with poor quality information about service users being transmitted between the then incumbent provider and Aquaфло. Council staff worked hard to mitigate this by working closely with Housing and Care 21 to gather their information and then collating information on client enablement plans from the Council's own systems to provide to Aquaфло. This included two Council officers working through the weekend prior to go-live on 5 September 2016 to ensure that Aquaфло had sufficient information to provide agreed enablement packages to existing service users. Based on the output of this work, the Council believed it was safe to go-live with the new contract.
- 1.29 On 6 September 2016, the Council's project manager escalated to managers within the Adults and Communities delivery unit that there were serious concerns about gaps in the information on clients held by Aquaфло and that there were a significant numbers of missed and late calls. This triggered an immediate response by adult social care management and staff to ensure that service users received care and that their welfare was assured.

- 1.30 The Council has a provider failure policy that sets out the appropriate response to a failure. The Council has previously managed two provider failures in the domiciliary care sector specifically the 2014 failure of two domiciliary care firms, Personnel and Care Bank, who were issued with a default notice and then handed back their contract, and London Care who had their contract terminated.
- 1.31 In line with this the Council consulted with other Local Authorities to identify any shared concerns and agreed a joint approach where appropriate.
- 1.32 Providers of registered care can experience quality failures and when this occurs the Council will oversee a process of support and improvement to ensure residents are kept safe and services improve, or that people are appropriately moved to a new provider. In these circumstances the Council works closely with the Care Quality Commission (CQC).
- 1.33 The Council contacted the CQC inspections manager to advise of risks to individuals and evidence of regulatory breaches and to co-ordinate with CQC monitoring and inspection activities.
- 1.34 Once made aware of the problems with the new service, the Council put in place a comprehensive range of measures to ensure the continuity and provision of care to residents. These included:
- Adults and Communities staff contacted everyone who should have received care to confirm their well-being. Where alternative care was urgently needed it was put in place immediately. Further checks were then made throughout the period of each individual's enablement service.
 - Two members of adult social care staff were sent to Aquaflo's office to support them with the planning of care rosters.
 - For some cases the Council immediately put in place care from other homecare providers instead of the Aquaflo service and informed individuals and their families of this.
 - The Council commissioned additional capacity from its strategic homecare providers to make any urgent care visits. This included 57 welfare checks on 7 September.
 - Adults and Communities stopped any new referrals to Aquaflo's enablement service.
 - Adults and Communities put in place an out of hours emergency support service to deal with concerns from clients and provide additional cover for care visits over the weekend. This included care provision from Your Choice Barnet, which has established a personal assistant service.
 - Regular updates from management on situation management were cascaded to the various teams in Adults and Communities responding to the situation.
 - Carrying out social work reviews of clients to assess their on-going needs and ensure that these are met.

- Regular provider meetings led by the Delivery Unit Director and / or the Assistant Director to ensure swift action was taken to rectify issues with late or missed calls.
- Providing regular updates to staff including through emails and verbal briefings.
- Conversations and support to staff members to help them re-prioritise their work to ensure there was sufficient capacity to respond to the urgent issues. In addition to management cover, five staff members volunteered to provide additional out-of-hours capacity paid at over-time rates to telephone service users, check on their welfare and respond to any issues in care provision, arranging alternative provision where necessary.
- The Adults and Communities senior management team held multiple daily status and planning meetings with the appropriate officers working with clients and providers; regularly briefing the Leader, Committee Chairman, Chief Executive, Commissioning Director and taking on weekend duty work to respond to the situation.

Actions

- 1.35 *Contract terms will now include a stipulation that the provider's rostering system must be fully embedded prior to contract commencement and a new system cannot be installed without the express written permission of the Council. This will ensure that the Council will be able to monitor the delivery of services in real time and ensure visits are all executed and recorded live.*
- 1.36 *The Council will require oversight of any critical system change management process.*
- 1.37 *The Council will require evidence that rosters / schedules are in place ahead of contract go-live and not rely on assurances that they are.*

Contract termination

See exempt report

Adults and Communities staff feedback

- 1.38 During the Aquaflo failure, staff were regularly updated via team meetings, briefings and formal and informal communications.
- 1.39 Following this, a series of workshops were then held to both further update staff and to provide an opportunity for staff to feed back on their experiences and views. Three workshops were held, two with the teams most involved, and one for any staff to attend. Staff took the opportunity to talk about the events, but also to make valuable recommendations for future actions to assist in mitigating risk. Feedback from the teams has already been used to inform mobilisation of the new service.

New Service

- 1.40 The Council is now working with The Barnet Group to deliver a new enablement service 'Your Choice Enablement'. This commenced on 5th December and has been managed by a dedicated project manager, project team and the support of all allied services.
- 1.41 Service user feedback has been good to date and close monitoring will continue to ensure that this remains the case. This includes weekly calls to service users, regular meetings with the provider at operational and strategic levels, and the co-location of the service within the Adults and Communities Delivery Unit.
- 1.42 The service went live with a fully functional electronic call monitoring system in place, in line with Council requirements to ensure visits can be tracked. There have been no missed visits reported.
- 1.43 A Council brokerage officer is also co-located with the Your Choice Enablement service.

Conclusion

- 1.44 The investigation into the enablement procurement and mobilisation has shown that the Council's approach was robust but that Aquaflo was unable to deliver the service to the quality required. The actions set out in the sections above should mitigate the risk of another provider failing to deliver and reduce the likelihood of a similar occurrence.
- 1.45 This review has also shown the dedication and commitment of many staff in the days and weeks following the commencement of the new service. Many worked late into the evening and through weekends to ensure the safety of individuals. Colleagues came together to leverage resources effectively and to support the delivery of the contingency plan and business continuity response. This work highlights the best of Council staff's collaboration and commitment to the needs of Barnet's vulnerable people.

2. REASONS FOR RECOMMENDATIONS

- 2.1 To provide the Committee with a review of the procurement and mobilisation of the enablement service as requested in November.

Impact on service users

- 2.2 It is clear that the majority of the 130 clients transferred to Aquaflo experienced one or more missed visits during September 2016. One of the challenges in this situation has been that Aquaflo had not been using the Council's Call Monitoring software as required within the contract and so the Council cannot fully determine the precise number of visits missed.

- 2.3 The Council worked hard to minimise the impact on clients. Everyone who contacted the local authority with a concern had a review of service within a week. Service Users received welfare checks arranged by the Council, telephone calls and visits from Council staff. There was a quick response to every individual issue raised and it was ensured that those most vulnerable were quickly transferred to new providers.
- 2.4 Open cases all had an allocated Council worker who has seen the adult face-to-face at least once. From this engagement, it has been established that there were two safeguarding concerns and these were followed up in accordance with the Council's procedures.
- 2.5 Under the old contract, there was sometimes a waiting list for enablement as the wider care market is stretched and recruitment to care worker posts can be challenging. The Council has an enablement triage team in place to screen and prioritise all referrals.
- 2.6 Referrals for enablement have been directed to other providers and other suitable services have been provided. Where necessary, the Council has commissioned additional services to meet the needs of residents and support safe discharge from hospital working jointly with health colleagues to find the right outcome.
- 2.7 All those in receipt of the Aquaflo were reviewed and these reviews have not identified any enduring harm attributable to Aquaflo's failure.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 The work to ensure a safe and sustainable enablement service is delivered to the residents of Barnet will continue.
- 4.2 The actions outlined in this report will be undertaken with the appropriate services during future procurement and mobilisations activities.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Commissioning an Enablement service supports the Corporate Plan priorities of Managing Demand for Services (Fairness) and Transforming Services (Opportunity), specifically:

Working with older people to design and manage services that help them to be more independent and self-care through access to information, resources and community networks.

Helping the NHS manage the cost of A&E and hospital admissions through greater provision of primary and community care and improving the experience of service users, promoting independence and enabling self-care. By 2020 social care services for adults will be remodelled to focus on promoting independence, with a greater emphasis on early intervention. This approach, working with housing and health services, will enable more people to live for longer in their own homes.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

See exempt report

5.3 Social Value

5.3.1 N/A

5.4 Legal and Constitutional References

5.4.1 Under the Council's Constitution, Responsibility for Functions (Annex A) the terms of reference of the Performance and Contract Management Committee includes the following responsibilities:

- Monitoring of Performance including, but not limited to, targets of Delivery Units and Support Groups including Customer Support Group; Re; the Barnet Group Ltd (including Barnet Homes and Your Choice Barnet); HB Public Law; NSL; Adults and Communities; Family Services; Education and Skills; Street Scene; Public Health; Commissioning Group; and Assurance.
- Receive and scrutinise contract variations and change requests in respect of external delivery units.
- To make recommendations to Policy and Resources and Theme Committees on relevant policy and commissioning implications arising from the scrutiny of performance of Delivery Units and External Providers.
- To receive reports on relevant performance information on Delivery Units providing services under the remit of the Committee.

5.4.2 Responsibility for Functions, Annex A (as outlined in the council's constitution), states that the Adults & Safeguarding Committee is responsible for those powers, duties and functions of the Council in relation to Adults and Communities, which includes the promotion of the best possible Adult Social Care services.

5.4.3 Under s2 of the Care Act 2014, there is a duty to provide or arrange services that reduce needs for support among people and their carers in the local area, and contributes towards preventing or delaying the development of such needs. Enablement usually encompasses providing support and services

within the service user's own home and must be provided for up to 6 weeks without any financial charge being made.

5.5 Risk Management

5.5.1 The Council actively sought to mitigate risk arising through the provider's failure in the ways described above. The priority is now to ensure that those requiring a short-term enabling service in their own homes can be effectively supported to regain their independence through the new provider, Your Choice Enablement.

5.6 Equalities and Diversity

5.6.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

5.7 Consultation and Engagement

5.7.1 Representatives of service users and carers were involved throughout the procurement process, participating in the development of the service specification and throughout the procurement evaluation.

5.8 Insight

5.8.1 N/A

6. BACKGROUND PAPERS

6.1 Approval to commence procurement via sign-off of procurement forward plan 2015/2016 - Policy and Resources Committee, agenda item 10, 13 January 2015

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MIId=7864&Ver=4>

6.2 Approval of contract award via Officer Full DPR, 8 March 2016 signed by the Adults and Communities Director in consultation with the Chairmen of Adults and Safeguarding and Children, Education, Libraries and Safeguarding Committees <http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=6186>

6.3 Approval of the Enablement Home Care Commissioning Strategy, Adults and Safeguarding Committee, agenda item 13, 12th November 2015

<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MIId=8362&Ver=4>

- 6.4 Update on adult social care enablement service, Urgency Committee, agenda item 9, 17th October 2016
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=716&MId=9062&Ver=4>
- 6.5 Update provided by the Chairman, Adults and Safeguarding Committee, agenda item 7, 10th November 2016
<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=8674&Ver=4>
- 6.6 Review of procurement and mobilisation of adult social care enablement service
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=8675&Ver=4>