



AGL/643

26 October 2009

Councillor Members of the Finance and Resources Committee  
City of Edinburgh Council  
City Chambers  
Edinburgh EH1 1YJ

Dear Councillor

### **CONTRACTS FOR THE PROVISION OF CARE AND SUPPORT SERVICES**

We understand that you are due to consider a report from officials tomorrow (Tuesday 27<sup>th</sup> October) regarding the award of contracts for the provision of care and support services. CCPS, the association for care and support providers in the voluntary sector, is leading a national debate on competitive tendering in social care and support. We would like to raise a number of urgent issues with you in relation to this particular tendering exercise in advance of your meeting.

In February this year, we wrote to your colleagues on the Health, Social Care and Housing Committee attaching a set of 'key messages' from providers about the re-tendering of social care services (this is attached for your reference). These messages are drawn from available and emerging evidence regarding the impact of re-tendering exercises.

In our view, the contract awards that you are now being asked to approve are highly likely to result in a series of consequences which are significantly at odds with the messages arising from that evidence. The particular points we would like to draw to your attention are these:

- According to the council's own tender documentation, 777 people in the city currently receive a service included in Phase 1 of this tender. Again, looking at the council's figures, only 51 of those individuals receive their service from an organisation that has been recommended for contract award, and we understand that fewer than a hundred people have been given a direct payment to enable them to make their own arrangements for support. Full information on the scale of the transfer is not yet available publicly, however these figures suggest that **the support of over 600 individuals may be transferred to a new provider, which is almost twice the number of total transfers arising from 13 separate tenders studied by CCPS in its 2008 report on service re-tendering<sup>1</sup>.**

---

<sup>1</sup> Re-tendering of social care services: service providers' perspectives, CCPS 2008

Scottish Government policy guidance on procurement specifically states that “Contracting authorities should have a strategy for the procurement of social care services which recognises the need to maintain the quality **and continuity of services and addresses the concerns of vulnerable service users and their relatives...** they should aim to strike a reasonable balance between legal requirements to competitively tender contract opportunities and the need to manage competitions effectively **while ensuring that quality and continuity of service is not adversely affected.**”<sup>2</sup>

Voluntary sector service providers have been involved in dozens of social care procurement exercises across the country, and their experience has been that service transfers are costly, disruptive, labour-intensive and a cause of very significant anxiety for people who use services, their families, and the staff who provide their support<sup>3</sup>. We have made considerable efforts during the course of this and other tenders to raise awareness of these issues among City of Edinburgh Council officials and elected members serving on the Health, Social Care and Housing Committee.

- Given the reduction in the number of organisations providing services in the city following this tender, **the providers recommended for contract award are likely to have to enter into multiple TUPE arrangements with a range of separate and independent organisations**, each of which will have its own set of terms and conditions. Again, providers’ experience of TUPE has been overwhelmingly negative: the impact both on the transferring workforce and on those managing the process is considerable, diverting effort and resources away from service improvement and development. Clear evidence for this was published in the CCPS report referenced above and in an independent research report issued earlier this year by the Scottish Centre for Employment Research (SCER) at the University of Strathclyde<sup>4</sup>. Again, City of Edinburgh Council officials are well aware of these reports and their contents: moreover, previous tendering exercises conducted by the City of Edinburgh Council have featured some very significant problems in relation to the way that TUPE issues have been handled, and in at least one instance we understand that this led to the collapse of the contract award process. We would urge you to seek detailed information from your officials in relation to these earlier experiences before approving a further series of contract awards in which the TUPE issues are likely to dwarf any social care service transfer dealt with by any other council in Scotland to date. Finally, on a point of detail contained in the report put to you by officials, and reflecting on the fact that TUPE exists to protect the pay and conditions of transferring staff, we would urge you to question how the projected 21% savings are to be achieved, given that staff costs typically make up more than 80% of the hourly rate for this type of service.
- **The vast majority of voluntary sector services due to be transferred as a result of this tender have been awarded ‘very good’ and ‘excellent’ gradings**

---

<sup>2</sup> Scottish Procurement Policy Note SPPN 10/2008: social care procurement: advertising and competition, Scottish Procurement Directorate August 2008

<sup>3</sup> See reference 1 above

<sup>4</sup> A Gathering Storm? Procurement, re-tendering and the voluntary sector social care workforce, University of Strathclyde SCER with the Voluntary Sector Social Services Workforce Unit, 2009

**by the Care Commission for the quality of care and support provided: this is significantly better than the track record of a number of the providers recommended for contract award.** The report to be put before you by officials on 27<sup>th</sup> October states that the first ‘specific objective’ of this exercise is that of ‘improving quality of service to customers.’ We would urge you to question your officials closely about this, since independent, objective evidence from the Care Commission indicates that services assessed by the regulator as ‘very good’ and ‘excellent’ stand to be transferred to private companies that have comparatively poor gradings records<sup>5</sup>. We have no argument on this point in relation to those providers awarded contracts where the standards achieved are at least comparable to and in some cases better than those of existing providers.

- **Council figures suggest that no fewer than 18 specialist and experienced voluntary organisations are going to be ‘put out of business’ in the city in respect of this area of care and support,** despite in many cases having worked in partnership with the council for more than 20 years; having in many cases supported the same individuals and families for similar lengths of time; and having again in many cases had no significant issues of quality or performance raised with them by the council prior to this tender taking place. Only four voluntary organisations are to remain providing services in this area. It is a cause of particular concern that services to people with mental health problems currently provided by specialist organisations may be transferred to organisations with no track record in this field and no apparent links to current Scottish Government mental health policy, including the important developing agenda on recovery. Referring back to the point above, it is very difficult to see how these contract awards will result in quality improvement under these circumstances.
- **We are aware that considerable numbers of people receiving support have applied to the council for a direct payment (DP),** the granting of which would enable them to remain with their existing provider rather than have their support transferred elsewhere. Imperatives to afford choice to people using services, and to involve them in decisions that affect their lives, are set out quite clearly both in the National Care Standards published by Scottish Ministers and in the Codes of Conduct for social services workers and employers published by the Scottish Social Services Council. It is therefore a matter of very serious concern that the DP applications of dozens of individuals have been suspended pending contract award and service transfer, since many individuals have applied for DP precisely in order to avoid such a transfer. Not to process these applications until transfer has taken place seems to us to be a clear departure from current Scottish Government policy and guidance, as well as being in breach of the relevant

---

<sup>5</sup> According to Care Commission figures, the 10 voluntary sector providers with the largest volume of existing services in Phase 1 – **none** of whom have been recommended for contract award - have all achieved ‘positive’ gradings for quality of care and support in 2009 (ie. ‘good’, ‘very good’ or ‘excellent’), with the majority in the ‘very good’ or ‘excellent’ category. By contrast, **none** of the private companies recommended for contract award has been awarded an ‘excellent’ grading in any of its support services or housing support services anywhere in Scotland in the most recent round of inspections. In the case of two of these companies in particular, a very significant proportion of services have only attained a grading of ‘adequate’. No private company has attained a grading of ‘very good’ in **all** its services, compared to at least nine of the existing providers whose services stand to be transferred.

professional standards and codes as noted. It is also causing very significant levels of distress and anxiety among service users, all of whom were sent a letter last week by council officials, informing them that their service may be transferred. We would urge you to try to understand that in many cases, these individuals have a relationship with their current provider that goes back 10, 20 years or more, and the impact of these developments on people who are already facing considerable challenges in their lives should be not be underestimated.

As noted above, we are very much aware that the precise nature and scale of the service transfers that may result from your decision on 27<sup>th</sup> October are not yet in the public domain: we have tried in this communication to set out what the council's own documentation suggests will be the case, although we accept that the detail may not be borne out in all respects by more up to date information. Nevertheless, we believe that the general thrust of the key issues we have raised remains crucial, even though the actual numbers involved may change. Under the circumstances we would urge you to question council officials in detail regarding these points before approving their recommendations.

Finally, we would want councillors and officials alike to understand that we appreciate the financial pressures facing local government in general and care services in particular. We also appreciate that competitive tendering can, when handled appropriately, contribute to councils' responses to these pressures. However having led the debate in this area and produced a series of important survey and research evidence in relation to it, we feel obliged to highlight the potentially very serious negative consequences of the council's actions on this occasion.

This letter is being copied for interest to your colleagues on the Health, Social Care and Housing Committee, as well as to a number of agencies with a keen interest in the matters at hand, including the Social Work Inspection Agency, the Care Commission, the Scottish Procurement Directorate and others.

Yours sincerely



**ANNIE GUNNER LOGAN**  
Director



CCPS  
9 Ellersly Road  
EDINBURGH  
EH12 6HY  
T: 0131 337 3295

E: [annie.gunner\\_logan@ccpscotland.org](mailto:annie.gunner_logan@ccpscotland.org)

W: [www.ccpscotland.org](http://www.ccpscotland.org)