



Integration Joint Board
Strategic Planning Delivery and Commissioning Committee

26th October 2023

This Report relates to
Item 9 on the Agenda

Non Registered Third Sector Contract Review

Paper presented by Sharon Walker

For Approval

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List of Background Papers:	Procurement of Care and Support Services Best Practice Guidance (https://www.gov.scot/publications/procurement-care-support-services-best-practice-guidance/) Procurement Reform (Scotland) Act 2014 (https://www.gov.scot/publications/procurement-reform-scotland-act-2014-stautory-guidance/pages/13/) IJB Strategic Planning, Delivery and Commissioning Committee 'Third Sector Partners' Contracts' 27 th October 2022 and 8 th December 2022 Health and Social Care Leadership Group 'Non-Registered Third Sector Contract Review' 17 th August 2023
Appendices:	Appendix 1 - Procurement Options and Timeframe

1. Introduction

- 1.1 Dumfries and Galloway Council and NHS Dumfries and Galloway commission a range of health, social care and support services on behalf of the Integration Joint Board (IJB). The total annual spend is £89.1million, £12million of this relates to non-registered third sector partners across 72 different services.
- 1.2 Some of the contracts for these services have been in place for many years and are not compliant with current procurement rules.
- 1.3 This paper seeks approval from the IJB Strategic Planning Delivery and Commissioning Committee to commission non registered third sector services differently to ensure procurement rule compliance. This may include termination of contracts that are not delivering as expected to meet the £320k saving target for 2023/2024.

2. Recommendations

- 2.1 **The IJB Strategic Planning, Delivery and Commissioning (SPDC) Committee is asked to:**
- **Note that several long standing contracts with non-registered third sector partners are not compliant with current procurement rules**
 - **Note the procurement process and timeframe required to achieve compliance with procurement rules for non-registered third sector services with non-compliant or no contract in place.**
 - **Request the IJB issue a direction to both Dumfries and Galloway Council and NHS Dumfries and Galloway to commission services differently or terminate contracts that are not delivering as expected.**

3. Background and Main Report

- 3.1 A significant proportion of care and support is commissioned from independent sector and third sector partners. In Dumfries and Galloway these account for approximately £89m of the IJB annual budget, comprising Care Home placements through the National Care Home Contract and Care Homes for Adults LD and Autism Contract (£35.5m) and Care and Support at Home through the National Flexible Framework (£41.5m).
- 3.2 £12million of the IJB spend relates to 72 different care and support services provided by non-registered third sector partners.
- 3.3 The quality or availability of health and social care services can have a significant impact on the quality of life and health and wellbeing of people who might use them and their Carers. Therefore, buying any care and support service is a complex task and requires special consideration within a public body's overall approach to the procurement of goods and services.
- 3.4 Procurement practice has a number of processes used to ensure that appropriate, quality services are commissioned to deliver the outcomes determined by strategic commissioning plans within available resources. These processes are regulated through the Procurement Reform Act 2014 and associated guidance, see background papers.

3.5 **Contracts Review**

3.6 In order to be compliant with procurement rules all activity must comply with principles of transparency, equal treatment and non-discrimination, proportionality and mutual recognition. Contracts must be awarded through genuine and effective competition unless there are exceptional reasons to the contrary. The IJB can be assured that the national contracts for Care Home and Care and Support at Home services assured that independent sector partner contracts are fully compliant.

3.7 A review of current non registered third sector contracts has been undertaken to understand the levels of compliance with procurement legislation. The current procurement compliance status and value of third sector commissioned services are:

- 16 compliant contracts – total value £3,484,864.38;
- 32 non-compliant contracts – total value £4,516,275.53
- 24 no contract – total value £4,627,793.38
 - 7 will move to existing frameworks
 - 9 will become grant agreements

3.8 40 of the non-registered third sector commissioned services delivered by 27 providers require action to ensure compliance (32 non-compliant plus 8 with no contract or route to grant agreement or existing framework). The total value of these commissions is £6,061,022.83

3.9 **Achieving Procurement Rules Compliance**

3.10 In order to reach compliance for services with non-compliant contracts or no contract there is a need to go through an appropriate procurement exercise. The different procurement options and timeframes for procuring services are outlined in **appendix 1**.

3.11 The IJB has previously confirmed its commitment to supporting the sustainability of third sector partners to continue to deliver care and support with a stated desire to move to a three year commissioning cycle that will enhance contractual certainty for these partners. A direction was issued by the IJB on 8th December 2022 to Dumfries and Galloway Council and NHS Dumfries and Galloway to transition all third sector commissioned services to three year contracts by end of December 2024 (see background papers).

3.12 The procurement exercise proposed here will take account of the December 2022 direction by moving to 3 year contract terms. However, the volume of contracts involved means that this will not be concluded until 31 March 2025.

3.13 Table 1 shows the timeframe and values for the 40 non-registered third sector commissioned services.

Number of Commissioned Services (40 in Total)	Contract Start Date	Value
23	April 1 st 2024	£4,008,795.33
17	April 1 st 2025	£2,052,227.50

Table 1: Number of Commissioned Services, Contract Start Date and Value

3.14 **Realising Savings**

3.15 This procurement exercise provides an opportunity to make changes to existing contract service specifications, develop appropriate service specifications for those with no contract or terminate contracts. This would enable the £320k savings agreed in the budget paper presented to the IJB in April, to be met.

3.16 **Maintaining Procurement Compliance**

3.17 A procurement strategy and plan will be produced and reviewed annually to ensure there is a clear and robust process going forward for all non-registered third sector services commissioned by the Health and Social Care Partnership now and in the future. This will be managed through the Contract Management Group and can inform future budget setting.

4. **Conclusions**

4.1 Procurement processes have been identified to ensure compliant contracts are in place, for duration of three years if possible, as directed by the IJB on 8th December 2022.

4.2 Adopting this approach will enable the Partnership to be more in control of the budget and how it is spent and more informed to make changes such as commissioning differently or terminate contracts.

4.3 The £320K saving target agreed at the IJB in April 2023 can be met through commissioning contracts differently or terminating any that are not delivering as expected.

5. **Resource Implications**

5.1 The direction will provide financial savings.

6. **Impact on Integration Joint Board Outcomes, Priorities and Policy**

6.1 Non-Registered third sector organisations provide a wide range of services which support the delivery of the IJB Strategic Commissioning Plan and Model of Care.

6.2 Non-registered third sector organisations support delivery of the National Health and Wellbeing Outcomes and the IJB Strategic Commissioning Plan

6.3 Non-registered third sector support specifically aligns to:

- SCI 1 People are supported to live independently at home and avoid crisis
- SCI 3 People and communities are enabled to self manage and supported to be more resilient
- SCI 7 People's chosen outcomes are improved through available financial resources being allocated in line with Model of Care and delivering best value.

7. **Legal and Risk Implications**

7.1 Having compliant contracts for all non-registered third sector commissions will help to ensure that all parties fulfil their legal and financial obligations as well as meet quality standards under the negotiated agreements.

8. **Consultation**

8.1 This paper has been developed in consultation with Health and Social Care Leadership Group, the Contract Management Group, Strategic Planning, Commissioning and Transformation Commissioning Managers and Contract Manager, Head of Strategic Planning and Commissioning, Deputy Head of Strategic Planning and Commissioning, Dumfries and Galloway Council Finance and Information Manager, Dumfries and Galloway Council Senior Procurement Officer.

9. Equality Impact Assessment

9.1 An Equality Impact Assessment is not required at this time and has not been undertaken for this paper but will be part of the procurement process

10. Glossary

EQIA	Equalities Impact Assessment
IJB	Integration Joint Board
SPDC	Strategic Planning, Delivery and Commissioning
HSCLG	Health and Social Care Leadership Group