

## **WEST DUNBARTONSHIRE COUNCIL**

### **Report by the Director of Community Health & Care Partnership**

**Community Health & Care Partnership Committee: 2<sup>nd</sup> February 2011**

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**Subject: Guidance on the Procurement of Care and Support Services**

#### **1. Purpose**

- 1.1** This report seeks to advise members of the publication and content of the Guidance on the Procurement of Care and Support Services and seeks approval to undertake the key actions required by it.

#### **2. Background**

- 2.1** This guidance was jointly published in September 2010 by the Scottish Government and CoSLA. It was produced by a Reference Group involving all key stakeholder interests. The Reference Group was advised by bodies responsible for regulating, inspecting and auditing the commissioning of services.
- 2.2** The final guidance was produced following a public consultation and meetings with service providers, service users, regulatory bodies, local authorities and their legal advisors and the Human Rights Commission.
- 2.3** The consultation and our response to it were the subject of reports to the Social Work and Health Improvement Committee on 17<sup>th</sup> March and 11<sup>th</sup> August 2010.

#### **3. Main Issues**

- 3.1** The guidance has been developed in recognition that the procurement of care and support services is a complex area. In some instances social care principles may not appear to fit with procurement rules: there are apparent tensions between public bodies' duty to respond to individual needs and wishes and the tendering or retendering of services. The guidance aims to assist public bodies to make decisions that comply with all applicable policies, European Union and domestic law and human rights obligations.

- 3.2** The guidance applies to the procurement of:
- social care and support services for children and families, younger people, adults including older people;
  - housing support services; and
  - social care and support services commissioned by criminal justice organisations.

The guidance applies to those services provided by external providers but not those provided in house, delivered through shared service arrangements or grant funding.

- 3.3** The guidance defines ‘procurement’ as “the process by which public bodies purchase goods, services and works from third parties”. Procurement is one element of a wider commissioning process. The Social Work Inspection Agency (SWIA) defines strategic commissioning as “the term used for all the activities involved in assessing and forecasting needs, agreeing desired outcomes, considering options, planning the nature, range and quality of future services and working in partnership to put these in place”. Strategic commissioning should provide a clear rationale for service development and procurement activity.

- 3.4** The guidance applies where a public body procures services on its own behalf and to the collaborative procurement of services, for example where a local authority and the NHS jointly procure services. The guidance highlights where legislation applies to local authorities or where local authority officers, such as the Chief Social Work Officer, have a statutory role.

- 3.5.** The guidance has been developed in recognition that the procurement of care and support services requires special consideration within a public body’s overall approach to the procurement of goods, works and services because of the significant impact it has on the life, health and well being of service users and their carers. In order to achieve the best outcomes for service users and carers and to respect their rights it is essential that the views they express are taken into account as an integral part of any procurement process.

- 3.6** The guidance expands upon previous guidance published by the Scottish Procurement Directorate (SPD) in 2008. It also highlights a number of key actions required of public bodies to ensure that their procurement of care and support services are consistent with the guidance and the applicable law.

- 3.7** Public bodies are asked to focus on the following key actions to implement the guidance:

### 3.7.1 Local strategies, policies and financial regulations/standing orders

Public bodies should have commissioning strategies for all the main care groups which are supported by delivery plans and should work progressively towards an overarching commissioning strategy.

Public bodies should have written and approved policies and procedures for the procurement of care and support services which reflect developments in self-directed support and the Guiding Principles in this guidance.

Public bodies should review their financial regulations and standing orders to ensure that they make appropriate provision for the procurement of care and support services.

### 3.7.2 Leadership and governance

Public bodies' local financial regulations and standing orders should describe the governance arrangements for the social care procurement function and individual procurement exercises.

These arrangements should articulate roles and responsibilities including (where appropriate) the role of the Chief Social Officer, and ensure clear leadership and accountability.

They should also outline the process for decisions to be approved by the appropriate decision-making forum.

### 3.7.3 Knowledge and skills

Public bodies should ensure that staff involved in the procurement of care and support services receive the training required to develop and maintain their knowledge and skills.

### 3.7.4 Defining the requirement and securing services

Public bodies should produce a procurement plan for every procurement exercise.

Public bodies should ensure that they will undertake consultation, where appropriate with service users and carers, service providers and trade unions.

### 3.7.5 Contract and relationship management

Public bodies should ensure that suitable contracts are in place with all providers delivering care and support services.

Every contract for care and support services should be managed by a nominated contract management officer.

### 3.7.6 Evaluation of procurement activity

Public bodies should evaluate every procurement exercise to determine what worked well and areas which could be improved in future procurement exercises.

## **4. People Implications**

**4.1** There are no personnel issues associated with this report.

## **5. Financial Implications**

**5.1** There are no financial implications associated with this report.

## **6. Risk Analysis**

**6.1** Members are aware of the severe financial situation facing the council at the present time. It is possible that 'procurement savings' will feature in future budget options. To embark on such a course will require our procurement arrangements to be 'fit for purpose'. The extension of a procurement approach to the provision of care and support services will require to be conducted professionally and with precision. The adoption of the action associated with this guidance will provide a framework for this to happen.

## **7. Equalities Impact**

**7.1** A current equalities impact summary is in place for our current arrangements any changes would require a new assessment to be undertaken.

## **8. Conclusions and Recommendations**

**8.1** This guidance provides a useful framework to update our existing policy and procedures for the procurement of care and support services to produce arrangements which take account of service user needs and wishes whilst complying with our duties and obligations within good practice procurement.

**8.2** Members are asked to approve that officers of the Community Health and Care Partnership, working together with colleagues from Legal and Administrative and Corporate Procurement services, progress the actions proposed by the guidance and report back to the appropriate committee(s) with their conclusions and recommendations at the earliest opportunity.

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Keith Redpath  
Director of the Community Health & Care Partnership  
Date:

**Person to Contact:** Max Agnew, Section Head, Quality Assurance and Training Section (01389 772196)

**Appendices:** None

**Background Papers:** Link to the Scottish Government website:  
<http://www.scotland.gov.uk/Publications/2010/09/21100130>

**Wards Affected:** All