



Executive Decision Report

Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken	<i>Councillor M Ginn</i> Date of decision: 11 November 2013	
	<i>Councillor M Weale</i> Date of decision: 8 October 2013 Forward Plan reference: 04063/13/A/A	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
	<i>Tri-borough Contracts Approval Board</i> Date of decision: September 2013	 City of Westminster
Report title (decision subject)	APPROVAL TO VARY CONTRACTS FOR OLDER PEOPLE'S DAY SERVICES TO ENABLE A PHASED APPROACH TO MOVE THE SERVICES TO PERSONAL BUDGETS AND DIRECT PAYMENTS	
Reporting officer	<i>Interim Tri-borough Executive Director Adult Social Care:</i> <i>Liz Bruce</i> <i>Director Policy, Business Intelligence and Workforce:</i> <i>Martin Waddington</i>	
Key decision	Yes	
Access to information classification	<i>Open report.</i>	

1. EXECUTIVE SUMMARY

- 1.1 The report requests extensions and variations to contracts for a number of older people's day services in Hammersmith and Fulham, Kensington and Chelsea and Westminster, to enable a phased approach to move the services from current block contract arrangements to Personal Budgets.
- 1.2 The extension period will be used to put in place the appropriate processes and systems within Council (financial and care management) and to allow work to be completed with local day service providers to support them to move to this new funding approach. Adult Social Care commissioners will also be consulting with local residents and staff about day services developing more choice of opportunities, activities, services and support for older people in the future.
- 1.3 The extension period will also be used to pilot a scheme to enable older people to use day centres across the three boroughs and embed the new day centre transport bus services that will commence in February 2014.
- 1.4 This report takes forward the recommendations to personalise day services for older people from previous Key Decision and Scrutiny reports including "Changes to Day Services" 2011, "Remodel of Day Services" 2012 and "Changes to Day Services Update" 2013 (H&F), "Personalising Older People's Day Opportunities" 2010 and "Amendment to Funding Older People's Day Services" 2011 (K&C) and "Changes to Day Services for Adults with Social Care Needs – Responses to Consultation" 2011 (WCC).

2. RECOMMENDATIONS

Westminster (WCC) recommendations

- 2.1 To vary and extend the contract with **Pullen Day Centre** managed by Housing 21 from October 2013 until 31 March 2015 on a "Rolling" basis with a three month termination clause and a variation to phase funding over this period from a block contract to Personal Budgets.
- 2.2 To vary and extend the **Outreach Service** attached to Pullen from 1st October 2013 until 31 September 2014 with a three month termination clause. A review of the service will be conducted during the contract extension period leading to procurement.

Royal Borough of Kensington and Chelsea (RBKC) recommendations

- 2.3 *Kensington Day Centre and Quest* will be moving to Personal Budgets using a phased approach from October 2013, so that both day centres are fully purchased with Personal Budgets and Direct Payments from April 2014.
- 2.4 That the drop-in and lunch service provided at *Kensington Day Centre and Quest* for vulnerable older people continues to be block funded.

- 2.5 To note that the Council's in-house day centre *Miranda Barry*, which focuses on dementia day support will move to Personal Budgets after further work has taken place to develop a service that is a social and health resource for people with dementia.
- 2.6 To vary the grant funding agreement with the Pepper Pot Centre which terminates 31st March 2014 by extending the grant funding arrangements to 31 March 2015 with a three month termination clause and a variation to phase funding over this period from a grant to Personal Budgets for day care places.

Hammersmith and Fulham (H&F) recommendations

- 2.7 To vary the contracts with Nubian Life and the Asian Health Agency (Shanti Day Service) which both terminate on 31 March 2014 by extending the contract term to 31 March 2015 with a three month termination clause and to move the service from a block arrangement to a personalised budget approach.
- 2.8 To vary the contract with Notting Hill Housing Trust for Elgin Day Centre which terminates 30 September 2013 by extending the contract term to 31 March 2015 with a three month termination clause and to move the service from a block arrangement to a personalised budget approach. That a £50,000 saving is sought from the contract extension.

3. REASONS FOR DECISION

- 3.1 The main reason for the recommendations is to move day centres from block contracts to more personalised purchasing arrangements.
- 3.2 Councils have been experiencing challenges in moving day services to more personalised arrangements, which is due to a number of reasons:
- Day services have **relied previously on block funding** to subsidise the overall service, even if numbers are low e.g. building costs, core staffing etc.
 - The issue of potential **market collapse** i.e. providers may find it difficult to sustain themselves without guaranteed funding if numbers drop e.g. staff retention, utility bills, building rents etc.
 - **Historical patterns of usage** that reflected block funding arrangements and availability of places rather than being based on levels of need
- 3.3 Also whilst we anticipate that older people in the future will want more choice and control over their services and have different expectations, the current cohort of older people favour more traditional day centres settings and social interaction with people of the same age.

- 3.4 Extending the contracts and phasing providers to Personal Budgets allows more time to develop systems both in the Councils and with day service providers to manage this new approach. Also it enables any risks and issues to be worked through and solutions sought.

BACKGROUND

Putting People First Concordat (2007)

- 3.5 All Councils were required to have seventy per cent of Adult Social Care service users on Personal Budgets by April 2013. With the implementation of the Care Bill in 2015 the target will be that every assessed person with care support will have a Personal Budget by April of the same year. Locally, there has also been a target aiming to get everyone on a Personal Budget by April 2014. This was driven by the *Putting People First Concordat* based on section three (3.3) of the Concordat (A Personalised Adult Social Care system). This does not mean that every person has to have a cash budget managed by them; however they need to have an amount of money allocated to their budget for their care support, whether virtual or actual. This means the process proposed in this report is in line with current government policy.
- 3.6 A **Personal Budget** is an allocation of money for the person's care following an assessment by Adult Social Care. In this case the budget allocation is for day services. The person may then ask the Council to choose and arrange the best service for them using the money allocated in their budget, or they may choose to have a **Direct Payment**, where they decide what service they use, arrange this directly and make payments to the day service provider.

Current Day Services

- 3.7 Tri-borough has nine external and two internal day services that will need to be moved to Personal Budgets. These include:

RBKC	Provider	Places available per day currently
Kensington Day Centre and Quest Day services	Octavia	60
Pepper Pot Centre	Pepper Pot	8
Total		68
H&F		
Elgin Day service	Notting Hill Housing Trust	25
Nubian Life day service	Nubian Life	16
Shanti day service "	Asian Health Agency	10
Imperial Wharf "	LBHF	25
Total		76
WCC		
Pullen "day service	Housing 21	25 (reduce to 20)
Leonora House " day service	Octavia	20
Total		45
Total Tri-borough		189

Dementia Specific Day Centres

Borough	Centre	Provider	Places per day
RBKC	Miranda Barry	RBKC	30
WCC	42 WPK Rd	Housing 21	25
H&F	St Vincent's	Alzheimer's Society	25
Total			80

3.8 The total number of day care places across the three boroughs available Monday to Friday is 269. Some day services offer reduced places on a Saturday and Sunday.

3.9 Westminster already has one day service at Leonora House that is purchased by individuals with Personal Budgets (via direct payments). The service delivered by Octavia Housing using 3rd party payments via Pendarels. (3rd party payments are when the Council pay an external organisation to receive, manage and payout an individual's budget on their behalf).

Future direction

3.10 Appendix one contains a brief description of the future direction for older people's day services with personalisation, moving to Personal Budgets and highlights some of the internal and external issues that need to be investigated during the contract extension period.

4 PROPOSAL AND ISSUES

4.1 Hammersmith and Fulham contract extensions

Service	Contract End Date	Extension	Value pa	Extension value	Total contract value
Elgin Close Day Services (contractor: Notting Hill Housing Trust)	30 September 2013	18 months	£228,764	Indicative £369,147	£1.1m(4 years)
Outreach	30 September 2013	18 Months	£35,965	£53,948	£143.8k(4 years)
N.B.					
Nubian Life Day Services (Contractor Nubian Life)	31 March 2014	12 months	£116,524	£116,524	£466k (4 years)
Shanti Day Services (Contractor: Asian Health Agency)	31 March 2014	12 months	£91,700	£91,700	£366.8k(4 years)

4.2 Westminster contract extensions

Service	Contract End Date	Extension	Value pa	Extension value	Total contract value
Pullen	30 September 2013	18 months	£252,877	Indicative £379,316	£1.19m (4.5 years)
Pullen Outreach	30 September 2013	12 months	£99,123	£99,123	£396.4k (4 years)

N.B. The figures above do not include any savings anticipated from the contract extension.

4.3 Kensington and Chelsea

Pepper Pot Centre	31 March 2014 Pepper Pot receive discretionary grant funding	12 months	£110,380	£110,380	£420.7k (4 years) Year 1&2 funding of the contract £100,000 per year.
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4.4 Contract extensions vary between 12 and 18 months. Depending on the current contract end dates, different extension periods will be required until April 2015.

5. CONSULTATION

5.1 As personalisation is about an individualised approach, the main consultation will be on a one to one basis with the person using day services and the care manager. They will discuss what, why and how the Councils will be personalising day services and the options. Given that the introduction of Personal Budgets will become a legal requirement for Councils when the Care Bill comes into force in April 2015, the proposed phased introduction of Personal Budgets does not require a full public consultation but does require the steps set out in this section of the report and paragraph 6.3 to implement this.

5.2 A FAQs sheet (Frequently Asked Questions) will be developed and made into an accessible version for users of services and their carers to read about the changes. This will be updated on a regular basis as new questions are asked. Carers will also be informed via the FAQs sheet. An information webpage will also be established.

5.3 Local advocacy services will be engaged to do an initial small group and one to one work (if required) with all people in day centres to make sure they understand what is happening and feedback any issues and concerns.

5.4 During the whole period of change, the local Older Residents Forum and Health Watch will be engaged to work with day centres to seek older people's views on and feedback to commissioners.

- 5.5 A regular provider forum has met bi-monthly to discuss the move to Personal Budgets and has had key speakers, including the Tri-borough ASC lead for personalisation, finance and the Tri-borough web portal team to discuss the future.

6. EQUALITY IMPLICATIONS

- 6.1 The essence of Personal Budgets and personalisation is to give people choice and control over their social care services, so there should be positive impacts. However, one of the major risks with personalisation is that as people exercise choice, some providers will grow and others may reduce in size, meaning that some people may not have the service of their choice if it changes or is no longer available.
- 6.2 Although the service is primarily for older people assessed as needing day services, carers do receive respite whilst the person is at the day centre and may assist in the person remaining at home. Each day service and Tri-borough ASC commissioners will hold meetings with carers to discuss moving to Personal Budgets.
- 6.3 A full Equality Impact Assessment will be actioned as this work commences in the autumn of 2013 to investigate impacts, which could possibly affect smaller local providers. This will be alongside ongoing consultation and feedback from people using services (and carers), representative organisations and providers.

7. LEGAL IMPLICATIONS

- 7.1 All Councils must have every person who is assessed as needing adult social care services on a Personal Budget by April 2015. This does not mean they have to have a cash budget managed by them; however they need to have an amount of money allocated to their budget for their care support, whether virtual or actual. This means the process proposed in this report is in line with current government policy.
- 7.2 In implementing the introduction of Personal Budgets due regard needs to be given to the public sector equality duties under s149 Equality Act 2010. As indicated at paragraph 6.3 a full Equality Impact Assessment will be carried out in autumn 2013, which will be informed by the consultation process described in section five of this report.
- 7.3 The proposed extensions of contracts and variations, which are Part B contracts under the Public Contracts Regulations, would mainly be governed by the Contracts Regulations of the Borough to which it relates and an appropriate exception from such rules, where required, would need to be justified on the grounds of dovetailing these various social care contracts on a Tri-Borough basis

as is mentioned this report. The contract variations would need to be agreed with the Service Providers.

8 PROCUREMENT

- 8.1 The Procurement guidelines for all three Tri Borough Councils allow for an extension of current contracts in order to allow for the tendering of a new service or to remodel a current service to affect change to a new, agreed, service delivery model.
- 8.2 LBHF Contract Standing Order 20.2.3 allows for the variation of contracts provided that there is no breach of the Public Contracts Regulation (2006). Any variation where the value exceeds £100,000 must get Cabinet approval. Standing order 20.2.4 requires that any "report recommending a variation to the term of a contract shall include reasons for the proposed extension which demonstrate the need for the extension is genuinely exceptional".
- 8.3 According to Regulation 2.27 (b) of the Royal Borough of Kensington and Chelsea's Contract Regulations: No variation may be made until approved by the relevant Cabinet Member if the effect of that variation taken on its own, or taken cumulatively with any preceding variations would:
- (i) extend the contract period by 50 per cent or more than three months whichever is the greater;
 - (ii) add more than 20 per cent to the estimated value of the contract for contracts between £100,000 and £275,000; or
 - (iii) add more than 5 per cent to the estimated value of the contract for contracts exceeding £275,000; or
 - (iv) increase the estimated value from below £100,000 to £125,000 or more; In remodelling the day services in RBKC, approval will need to be sought for the Cabinet Member.
- 8.4 Section 8 of the WCC Procurement Code requires all extensions to be subject to the same approvals as those for letting a new contract. This report is being presented to the Contract and Commissioning board before being taken to Cabinet Member and the Tri-borough Contracts Approval Board for final decision.
- 8.5 Procurement endorses the recommendations made in this report with regards to the services listed above. A previous report was presented to the Adult Social Care Contracts and Commissioning Board on 15 July 2013, where options for procuring the services in this report were discussed. It was the recommendation of the board that an extension report be presented to allow for the development of the new services.

8.6 Tri-borough Adult Social Care Contracts have advised that there are two main risks. Firstly, challenge from other day service providers because the Councils have not tendered these services through an open and competitive process. It is however considered that the risk of challenge is low as the extension, and therefore the contract were it to be retendered, is only be for 12-18 months. Secondly, current providers do not wish to continue providing the service. Commissioners' have been working with local providers over the last year to get ready for the new model of purchasing and there is no indication that they do not wish to continue offering day services.

8.7 A full risk log is provided in appendix 2.

9 RISK

9.1 Section eight of this report highlights some of the procurement risks related to the extension of contracts, however it must be noted that there are risks in the proposed longer term approach to move away from block contracts with day services. These are briefly discussed below, with mitigation approaches

9.2 Risk and Mitigation table.

Risk	Mitigation
Market Collapse	A phased approach to move off block contract arrangements will be adopted over a period of 12-18 months. A provider forum has been established and is looking at market issues and sharing good practice between providers around how they are managing the move to Personal Budgets and develop a business approach.
Personal Budget users (using a Direct Payment) decide to spend their money elsewhere and the day service is no longer viable	This is a core principle of personalisation that people have choice and control over the services they purchase. Commissioners have been working with day services through a provider forum to discuss marketing their services.
Reducing size of day centres	In some cases this is already happening as stronger assessment, charging and choice are starting to see numbers reducing in current services.
The Council's have less control of day services, as we are no longer the contractor of the service and the individual will be the purchaser	This is linked to the changing role of commissioning and contracting to one of a market enabler and developer rather than the traditional council purchasing role.
Safeguarding	Commissioners and the Tri-borough Safeguarding team will be working on systems and protocols as part of the phased move from block contracts to Personal Budgets.

Leases Leases with a number of day centres are either Pepper Corn or very reduced rents and will cease in 15/16'	A longer term property strategy for some day services will need to be developed, for example this could linked to the better development and usage of sheltered and extra care lounge room facilities.
Dependent on other departments and systems From care management to finance, the personalisation of day services is dependent on other departments, personnel and systems being in place to make it work.	To engage these departments as part of the project as required.
Personalising day services may affect other ASC and NHS services	To consult and engage as appropriate.
Pressure on preventative day services as people increase their choices and criteria is implemented	To engage in dialogue with these services through provider forums and contract monitoring.
Current block funding arrangements reflect historical patterns of usage, and do not take account of voids or irregular patterns of use and therefore do not provide reliable benchmarking information for unit costs	A Tri-borough and wider Councils day care cost benchmarking exercise has commenced.
Carers and the potential impact on respite	Carers will be engaged as part of the process of informing and supporting users about their future options with day services.

10 FINANCIAL AND RESOURCES IMPLICATIONS

10.1 The overall spend on older people's day services, including in-house facilities and staff across the Tri-borough is around just over £3m per year. Contract prices vary between £90,000 and £380,000 per centre/service in the third sector to around £0.4-£5m for in-house day services. In-house services have higher running costs due to internal recharges and other Council overheads.

Borough based spending on older people's day services (not including transport)

10.2 H&F based on current funding levels

	2013/14 October 13'-April 14'		2014/15		2015/16		Total costs of proposal 1.5 years
	Confirmed budget figure £	Costs of proposal £	Confirmed budget figure £	Costs of proposal £	Confirmed budget figure £	Costs of proposal £	
<i>Please separate revenue and capital implications into two tables</i>							
Current Budgets							
Council Revenue budget	£157,365		£522,953		£	£	£680,318
Council Capital budget							

External funding sources, e.g. TfL, NHS etc.							
SUB TOTALS	£157,365		£522,953		£	£	£680,318
Start-up Costs							
Lifetime Costs		£144,865		£472,953			£617,818
Close-down Costs							
TOTAL	£157,365	£144,865	£522,953	£472,953			
Savings (indicative)		(£12,500)		(£50,000)	0	0	(£62,500)

10.2.1 Annual spend on each day centre in H&F

H&F	
Nubian Life	£116,524
Elgin Day Centre	£278,209
Elgin Outreach	£35,965
Imperial Wharf	£385,300
Shanti	£91,700

10.2.2 St Vincent's day service for people with dementia is being tendered separately. The cost at the time of going to tender was £337,300.

10.2.3 Up to £50,000 saving will be negotiated with Notting Hill Housing Trust (NHHT) for Elgin day centre with the contract extension. Savings cannot be achieved until quarter four 2014, as a three month minimum notice period is required.

10.3 K&C based on current funding levels

	2013/14 October 13'-April 14'		2014/15		2015/16		Total costs of proposal 1.5 years
	Confirmed budget figure £	Costs of proposal £	Confirmed budget figure £	Costs of proposal £	Confirme d budget figure £	Costs of proposal £	
<i>Please separate revenue and capital implications into two tables</i>							
Current Budgets	£465,184	£465,184	£930,367	£930,367			£1,425,581
Council Revenue budget	£397,529	£397,529	£795,058	£795,058			£1,192, 587
Council Capital budget							
External funding sources, e.g. TfL, NHS etc.	£77,665	£77,665	£155,329	£155,329			£232,994
SUB TOTALS							
Start-up Costs							
Lifetime Costs							
Close-down Costs							
Savings							
TOTALS	£397,529	£397,529	£950,387	£950,387			£1,425,581

10.3.1 Annual spend on each day centre in K&C.

RBKC	
KDC & Quest	£377,147 (including £155,329 NHS)
PPC	£110,380
Miranda Barry	£442,840

10.3.2 That up to £27,000 is made available as a “rolling” funding arrangement with a three month notice facility to the Octavia Housing services (Kensington Day Centre and Quest). This is to deliver a drop-in and lunch service for vulnerable older people and that the requirement to tender is waived under RBKC standing orders.

10.4 WCC based on current funding levels

	2013/14 October 13'-April 14'		2014/15		2015/16		Total costs of proposal
<i>Please separate revenue and capital implications into two tables</i>	Confirmed budget figure £	Costs of proposal £	Confirmed budget figure £	Costs of proposal £	Confirmed budget figure £	Costs of proposal £	1.5 years
Current Budgets							
Council Revenue budget	£207,995	£207,995	415,990	415,990			£623,987
Council Capital budget							
External funding sources, e.g. TfL, NHS etc.							
SUB TOTALS							
Start-up Costs							
Lifetime Costs							
Close-down Costs							
Savings							
TOTALS	£207,995	£207,995	415,990	415,990			£623,987

10.4.1 Annual spend on each day centre in WCC

WCC	
Pullen	£252,877
Pullen Outreach	£99,123
Octavia PB service at Leonora (£32 per day * 20 users* 2 days per week*50 weeks)	£64,000

10.4.2 42 Westbourne Park is a dementia day service delivered by Housing 21. The current cost is £322,682. The contract terminates in 2015 and the service will be procured.

10.4.3 The contract extension for Pullen Day Centre managed by Housing 21 will seek to deliver up to a £50,000 saving from winter 2014.

Liz Bruce

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Local Government Act 1972 (as amended) – Background papers used in the preparation of this report

Putting People First Concordat 2007

http://www.cpa.org.uk/cpa/putting_people_first.pdf

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Comments on the report

Legal	Babul Mukherjee - H&F and K&C Rhian Davies – WCC Kevin Beale – H&F
Procurement	Paulo Borges – Tri- borough ASC contracts Joanna Angelides – Procurement Consultant H&F
Finance	Mark Sone – RBKC David Hore - H&F John Agboola - WCC

1 Personalising Older Peoples Day Services

- 1.1 The three Councils have already agreed to move older people's day services from block contract arrangements to Personal Budgets, where a more individualised purchasing approach will be adopted. Whilst this is a clear direction, the practicalities of undertaking this approach with both internal council processes and how the external day services market manage this needs considerable planning and support.
- 1.2 Below summarises how Adult Social Care intend to implement Personal Budgets and Direct Payments for older people's day services and some of the issues and processes that need to be worked through.
- 1.3 A more detailed brief will be presented to senior officers and members in the autumn/winter of 2013 based on the below proposals.

2 How an older person will purchase a day care place in the future?

- 2.1 A person with assessed day care needs and a Personal Budget will have three choices in how they receive their money and are supported.
 - 1 If the older person wants the Council to manage and purchase their day services on their behalf not wanting any choice or they do not have the capacity to decide or make a choice, the Council will "**Spot Purchase**" a day service on their behalf at local centre. Initially single borough, however the intention is to be able to purchase across the Tri-borough area in the future. To be compliant with the Procurement Regulations and Council standing orders, Legal services and the procurement teams are investigating the best option to spot purchase in the future.
 - 2 The person decides they want a particular day service or centre and will be given a *direct payment* to buy this, but does not want to manage the payment. In this case they will receive a **Managed Account**, which is where the Council or an external agency manage the money and pay invoices on the person's behalf to the day service or services. The intention is to have a council based service in the future to provide managed account support.
 - 3 The person decides they want their budget as **Direct Payment** and arrange and purchase their own day services.

3 Cancellations

- 3.1 Commissioners are working with finance and care management to establish suitable cancellation periods and process for day services. Unlike homecare, day services have fixed costs like buildings and core staff teams, so suitable notice periods are needed if someone is in hospital or dies for example.

4 Cross borough purchasing

- 4.1 There will be a pilot during the summer and autumn 2013 to enable about 10 older people to buy a day care place in a different Tri-borough to the one they reside in. The reason for piloting this approach is to monitor financial processes e.g. the recharging of one borough to another and to also investigate more flexible transport options and other issues.

5 The market and how they manage the change

- 5.1 A key concern is how the day service market will manage this move to Personal Budgets. Block contracting has meant day services have not had to worry about falling numbers as they have a guaranteed budget, however with Personal Budgets there is no longer a guarantee of funding. Day services need to market what they do, investigate more flexible staffing, provide more attractive services and opportunities and look at the wider potential of self funders not known to the Council.
- 5.2 This is a major shift in thinking and commissioners have already been working with the market since the autumn 2012 to move this forward.