

**Responses and the Way Forward  
Following the  
Consultation on the Proposed Outline Procurement Model for  
Domiciliary Care Services for 2015/2016**

# Contents

## Introduction

Section 1	Overview of Consultation paper 'Proposed Outline Procurement Model for Domiciliary Care Services for 2015/2016'	4
Section 2	The Consultation Process	5
Section 3	Summary of Responses to the Consultation	6
Section 4	Themes from the Consultation	9
Section 5	Equality Screening	19
Section 6	Summary of Recommendations and Next Steps	24
<b>Appendix:</b>		
Appendix 1	Responses to the Consultation	25

## **Introduction**

The Belfast Health and Social Care Trust wishes to extend its thanks and appreciation to all those individuals and organisations who responded to 'Consultation on the Proposed Outline Procurement Model for Domiciliary Care Services for 2015/2016'

This paper sets out:

- A summary of the responses under consultation themes
- Trust response to issues identified within the summary responses
- Having considered the issues raised in response, the Trust proposed way forward in relation to the procurement of domiciliary care services which meet legislative requirements

### **Availability in other formats**

If you need this document in an alternative format please contact:

Clare McMahon  
Procurement Manager  
2<sup>nd</sup> Floor, Admin Building  
Knockbracken Healthcare Park  
Saintfield Road  
Belfast BT8 8BH

Tel: 02895045831

Email: [Clare.McMahon@belfasttrust.hscni.net](mailto:Clare.McMahon@belfasttrust.hscni.net)

## Section 1.0

### Overview of 'Consultation on the Proposed Outline Procurement Model for Domiciliary Care Services for 2015/2016'.

- 1.1 The provision of high quality domiciliary care services to the population served by the Belfast Trust is an important priority, as the service provides the personal care and practical support which is necessary to maintain Service Users in their own homes or when returning home after a stay in hospital. A major theme of Transforming Your Care is making the home the 'hub of care'. More people should be offered the choice to be cared for at home, with the right support, and with increased emphasis on promoting independence. Domiciliary care services are central to achieving this service vision.
- 1.2 The consultation document provided a summary of:
  - The current arrangements for the delivery of domiciliary care services within the Belfast Trust area
  - The strategic context and the need for change
  - The proposed future model of domiciliary care – statutory and non statutory sector
  - How the Belfast Trust is proposing changing purchasing arrangements for domiciliary care services delivered by non statutory Providers in line with the strategic service direction outlined
  - The requirement to meet legislative requirements
  - The proposed procurement model
- 1.3 The direction proposed by the Belfast Trust has been informed by feedback from Service Users and Carers receiving domiciliary care services purchased by the Trust. In addition, this consultation process provided the opportunity for feedback from all stakeholders including Provider organisations, Trade Unions and other organisations and individuals with an interest in the procurement of domiciliary care services.
- 1.4 The need for change was set out within the consultation document and specific reference was made to the EU procurement directives and legislative compliance. It was highlighted that the Trust procurement needs to be compliant with new legislation (deriving from EU Procurement Directives 2014/24/EU) to be implemented in 2015. Following the launch of the Trust's consultation, the Public Contract Regulations 2015 came into force on the 26<sup>th</sup> February 2015. As the value of these services exceeds 750,000 euro (equivalent of £625,050) an EU compliant tender process is now required.

## Section 2.0

### The Consultation Process

- 2.1 The consultation on the proposed outline procurement model for domiciliary care services was undertaken in order to allow all stakeholders to participate and contribute to the proposed procurement model. The consultation document included an equality screening template in accordance with the Trust's statutory duties under section 75 of the Northern Ireland Act 1998.
- 2.2 The consultation period began on 9<sup>th</sup> February 2015, following approval at Trust Board, and closed on 8<sup>th</sup> May 2015. The consultation was published on Trust website and on the Northern Ireland Public Sector Tender Portal.
- 2.3 The consultation document was also distributed via email by the Trust Corporate Communications Department to a range of consultees outlined as follows:

<b>Distribution of consultation document to the following:</b>
Partnership Boards
Local Government
MLAs
Chairs and Chief Executives of other HSC Trusts
Belfast City Council
Castlereagh Borough Council
DHSSPSNI
Statutory Agencies
Health and Social Care Board
Staffside & Trade Unions
Health Committee
Political Parties
Community Organisations
Service User & Carer Representative Organisations
External Providers of Domiciliary Care

## Section 3.0

### Summary of Responses to the Consultation

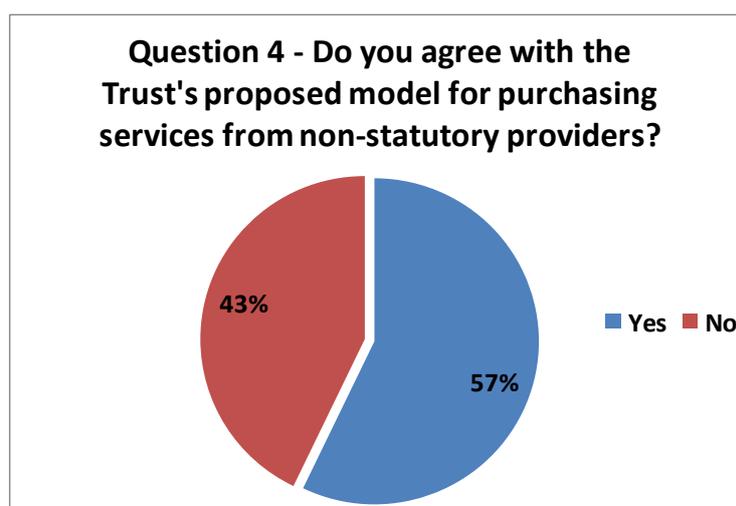
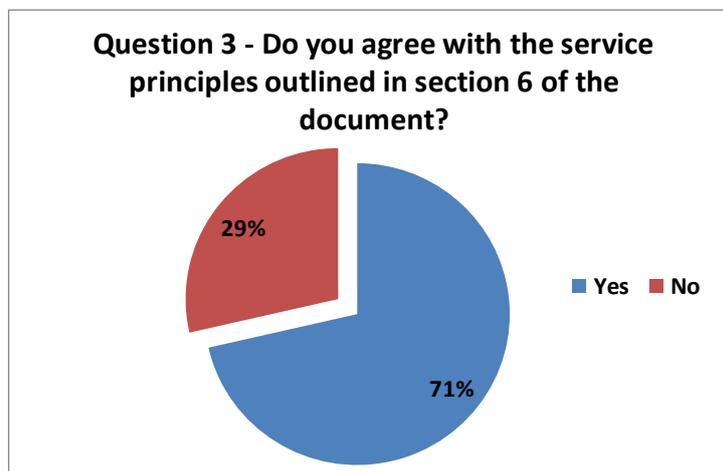
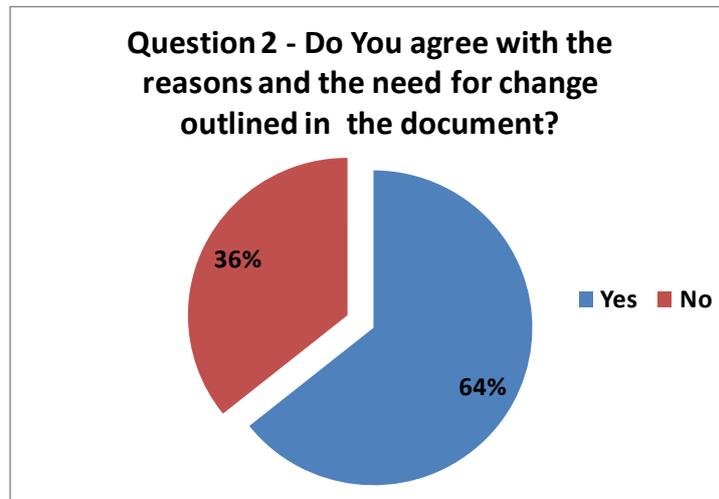
- 3.1 A consultation questionnaire was included within the consultation document. In total 19 written responses to the document were received from individuals, interested organisations and professional groupings.

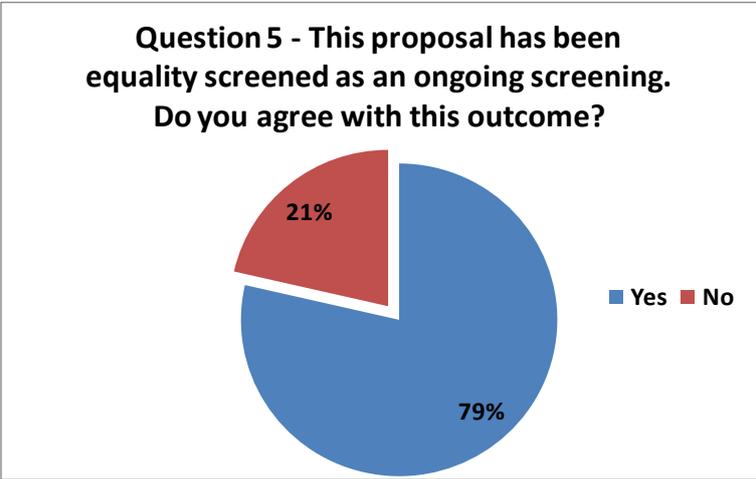
#### Written Responses Received by Key Grouping

<b>Sector</b>	<b>Number of Responses Received</b>
Non Statutory Provider Organisations	8
HSC Organisations	3
Trade Unions & Professional Organisations	2
Regulatory Body	1
Provider Representative Organisations	1
Representative Organisations – Patient Representation & Public Involvement	1
Charities	1
Carer	1
Anonymous Individual	1
<b>TOTAL</b>	<b>19</b>

- 3.2 Question 1 requested consultee details which are summarised in the table above. an additional 5 questions were asked in the consultation document. There were as follows:
- *Question 2* - Do you agree with the reasons and the need for change outlined in the document?
  - *Question 3* - Do you agree with the service principles outlined in section 6 of the document?
  - *Question 4* - Do you agree with the Trust's proposed model for purchasing services from non-statutory providers?
  - *Question 5* - This proposal has been equality screened as an ongoing screening. Do you agree with this outcome?
  - *Question 6* - Do you have any further comments you would like to make regarding the Trust's proposal for the procurement model for domiciliary care services?

3.3 Out of the total 19 responses to the consultation 15 respondents chose to complete and submit the consultation questionnaire. A summary of the completed questionnaires (questions 2 to 5) is represented graphically as follows:





3.4 The last question (question 6) on the consultation questionnaire provided the opportunity for further comment. Where responses provided further comment, this information has been summarised under consultation themes.

## Section 4.0

### Themes from the Consultation

4.0 In relation to the other comments made a number of general themes emerged from the responses. The themes are:

- The consultation process
- The Regional direction
- Definition of domiciliary care services
- Specialist care
- The split of Domiciliary Care Services between Statutory and Non Statutory Service Provision
- Hourly Rate Paid to Non Statutory Providers
- Sustainability & the Number of Providers in the Proposed Outline Procurement Model
- Implementation of the Outcome of Procurement & Application of TUPE
- Quality Monitoring Framework
- Electronic Call Monitoring System

A summary of the comments and the Trust response to each of the themes is provided below under each heading:

#### 4.1 The Consultation Process

4.1.1 A number of responses were specifically around the process of consultation summarised as follows:

- A total of 4 organisations (which included 3 Provider organisations) and 1 individual expressed the view that there had been no formal consultation or feedback
- 1 response from an individual commented that the documents were not accessible, consultation not promoted on Trust website or by direct email to Service Users and Carers
- 2 responses from individuals included the view that Carers, one of the largest groups with dependents, have largely been marginalised or sidelined in the formation of this proposal
- 2 organisations acknowledged that the model had been developed incorporating the views and feedback of Service Users which was viewed as positive
- RQIA confirmed that feedback from Service Users and Carers is consistent with findings from inspections

4.1.2 *Trust Response.* The decision to implement a formal consultation process was taken in order to allow open engagement with all interested stakeholders. The key features of the consultation process are summarised as follows:

- The subject of the consultation was the proposed outline procurement model for domiciliary care services and views were sought regarding the Trust's proposal
- The consultation was launched on Trust website on the Monday 9<sup>th</sup> February 2015 via our Corporate Communications and was promoted via a News Article on the website

- As the subject of the consultation was a procurement proposal, the consultation was also published on the Northern Ireland Public Sector Tender Portal on Monday 9<sup>th</sup> February 2015
- In addition to the publication of the consultation, the documents were also circulated to a wide list of consultees registered with our Corporate Communications Department as per categories listed in section 2 which included Service User and Carer representative organisations
- As part of the development of a procurement model, the Trust reviewed existing research and undertook interviews with Service Users and Carers to consider where improvement could be made in relation of domiciliary care services
- The Trust survey was conducted with 143 Service Users and 85 Carers, the summary of which was published in the consultation document

## **4.2 The Regional Direction**

4.2.1 2 responses referred to the need for a regional approach to domiciliary care services and presented the following reasons:

- 1 organisation proposed that better outcomes for Service Users may be secured by a regional approach
- 1 organisation requested that procurement should be on hold until the conclusion of the HSCB Domiciliary Care Review

4.2.2 *Trust Response:*

- The current HSCB Domiciliary Care Review is ongoing with the expectation that a report will be completed in mid 2015
- The Trust is represented in the regional Domiciliary Care Review group chaired by the HSCB
- The Review Group has been monitoring a number of approaches to domiciliary care procurement by Trusts which are at different stages of development
- Any regional approach which may result from the review is expected to be planned for implementation in the medium to longer term
- The Trust's proposal for procurement and contracting for a term of 3 years plus the option of 2 x 1 year extensions will be in considered as part of any eventual recommendation arising from the Review for a regional approach to procuring this service

## **4.3 Definition of Domiciliary Care**

4.3.1 1 organisation raised an issue regarding the definition of domiciliary care services querying the basis and the rationale for the definition presented in the document including requests for clarification regarding the following:

- The basis and rationale of the definition of domiciliary care services
- The task to be undertaken by domiciliary Care Workers
- The scope of Specialist Care

4.3.2 *Trust Response:* Clarification around the above is provided as follows:

- The current DHSSPS definition of domiciliary care services is “...the range of services put in place to support an individual in their own home. Services may involve routine household tasks within or outside the home, personal care of the client and other associated domestic services necessary to maintain an individual in an acceptable level of health, hygiene, dignity, safety and ease in their home.”
- The above definition is reflected in the definition of domiciliary care services used by the Trust for the purpose of this proposal which is as follows, “the provision of personal care and support that is necessary to maintain a Service User in a measure of health, well-being, hygiene and safety as directed by the Trust”.
- The current HSCB Regional Contract and Service Specification for Domiciliary Care Services includes a range of tasks and these will be detailed as a requirement in the Service Specification used for the proposed procurement process.
- The Trust’s proposal for the procurement of domiciliary care services does not include any proposal to widen the definition of domiciliary care services nor further expand the role of domiciliary care provision beyond the current remit as detailed in the current regional contract.
- The Trust’s proposal makes reference to ‘Specialist Care’ in order to confirm that this is outside of the scope of the procurement process for domiciliary care and more clarity is provided in section 4.4

#### **4.4 Specialist Care**

4.4.1 There were comments received in 2 responses with regard to the provision of specialist care. These comments are summarised as follows:

- 1 organisation agreed with the need for bespoke packages to be introduced, although at present these are not well defined and requested transparency regarding the regional procurement process
- 1 organisation commented that meeting the health needs of patients and clients requires skilled professional nursing care directed, supervised or proved by a registered nurse who has been trained to provide that care and is accountable for the quality of care
- 1 organisation requested further details of the regional procurement process for complex needs and requested more clarity around who will the delivery of care will be conducted

4.4.2 *Trust Response:* The Trust’s proposal for the procurement process for domiciliary care services does not include nursing care and the purchasing of services for those individuals with complex needs is not within the scope of the Trust’s proposed procurement process. This separate and distinct regional procurement process for complex health needs is in development:

- Procurement and Logistics Service (PaLS) are in the process of developing a home nursing tender for individuals with complex health needs on behalf of each of the 5 HSC Trusts
- This process will be subject to its own equality screening process.
- There will be robust governance arrangement ensuring that the successful Providers are required to have registration with the Regulation and Quality Improvement Authority (RQIA) as a Nursing Agency to provide nursing

care in a home setting and as a Domiciliary Care Agency to provide personal care

- It is noted that the above is separate to the Trust's proposal on the outline procurement model for domiciliary care services

#### **4.5 The split of Domiciliary Care Services between Statutory and Non Statutory Providers**

4.5.1 There were a number of differing views (offered by 5 organisations, including 3 Providers, and 1 individual) regarding the role of the statutory domiciliary care service and the split of domiciliary care services between statutory and non statutory provision. These issues are summarised as follows:

- 2 organisations queried why the statutory provision is not required to take part in a tender process with one of those organisations expressing the view that the continued recruitment by the Trust into the much more expensive public sector is counter strategic to obtaining the best value for the public purse and anti-competitive
- 1 organisation expressed the view that that there should be a business case for the statutory service including options for expansion of market share
- 1 individual expressed the view that statutory provision is of a higher standard, as the hourly rate covers all the overheads and that external Providers cannot provide a similar quality service with lesser funding

4.5.2 *Trust Response:* Transforming Your Care confirms that a diverse choice of provision should be available to meet the Health and Social Care needs of older people, (including statutory and independent sector provision) the procurement proposal set out by the Trust fits within the TYC Strategic Direction for service provision. Within this context the Trust's plans for statutory service provision are summarised as follows:

- Under the new Public Contract Regulations 2015, regulation 12 exempts public authorities from tendering in instances where services are meeting in house requirements. As the Trust's statutory domiciliary care service meets the criteria of the regulation, this service will not be subject to tendering under this procurement process
- A modernisation and investment plan is in place for statutory service provision within the Trust in order to ensure the ongoing and continuous improvement of statutory services to meet demand
- The Trust has invested resources to develop and modernise the statutory domiciliary care service and will continue to invest £10M per annum into this service through new contracts of employment for care workers
- The statutory service will continue to provide a vital role which underpins the overall range of domiciliary care services provided by the Trust to Service Users, in line with the Service Principles
- The statutory domiciliary care service forms a valued and essential part of the overall provision of domiciliary care services providing a safety net

4.5.3 The Trust has taken into consideration the issue of domiciliary care market share split between the statutory and the non statutory service and the balance of this split between the two types of service provision. More

flexibility has been built into the proposed model for the procurement of domiciliary care services from non statutory Provider to allow for any potential changes to the proportional split between the statutory domiciliary care service and non statutory Providers within the contract period. In the light of responses to the consultation, the Trust has reviewed this level of flexibility and the proposal has been refined as follows:

- The level of guaranteed volume proposed in the procurement model will be adjusted from 80% to 75% of the total baseline volume increasing the level of flexibility
- The objective of offering sustainability to Providers through guaranteed volumes, and the opportunity for efficiency via economy of scale forms the basis of the model and the adjustment made has taken this into account.
- The guaranteed volume will be allocated across the proposed tender lots to offer
- The remaining volume allocated using a flexible spot purchasing framework will be revised from 20% to 25% of the total baseline volume.
- The increased level of flexibility built into the procurement model will facilitate any potential future changes to the split between statutory and non statutory domiciliary care services

## **4.6 Hourly Rate Paid to Non Statutory Providers**

4.6.1 6 organisations, including 5 Providers, and 1 individual raised a number of issues regarding the hourly rate paid to deliver domiciliary care services. The issues raised can be summarised as follows:

- 2 organisations queried how the Trust will undertake to ensure that the rate paid will enable Providers to recruit and retain staff
- 2 organisations raised the issue of National Minimum Wage Compliance (NMWC) with one organisation stating that the Trust must ensure that the level of funding allows employers to ensure compliance with all aspects of legislation including NMWC
- 2 organisations expressed the view that the Living Wage is a requirement for Care Workers
- 1 organisation expressed the view that a lesser focus on hourly rates as the key criteria for Provider choice would improve procurement outcomes
- 1 organisation recommended that hourly rates need to be constructed based on the actual cost of delivering a care hour
- 1 organisation voiced the opinion that the lowest average rates in the UK are those paid in Northern Ireland

4.6.2 *Trust response:* The Trust intends to tender for domiciliary care services via an open process which will allow organisations to submit bids. In summary:

- Tender bids will be scored on a Quality and Price basis and it is the intention of the Trust to weight the ratio with a higher emphasis on Quality compared to Price. Tenderers will be asked to submit their Price as part of their tender bid
- The Price submitted by the organisation must include all elements of service delivery as laid out in the service specification and subject to the terms and conditions of contract.
- The terms and conditions of contract will require Providers to comply with all relevant legislation including NMWC

4.6.3 The Trust cannot enforce the application of the Living Wage as a legislative requirement. There is currently no policy direction in place in Northern Ireland regarding the application of the Living Wage in public contracts.

#### **4.7 Sustainability & the Number of Providers in the Proposed Outline Procurement Model**

4.7.1 There were a number of comments (from 9 organisations, including 4 Providers, and 1 individual) specifically regarding the proposed procurement model and the sustainability of the model as follows:

- 3 organisations supported the principle of a smaller number of Providers
- 2 organisations voiced concerns regarding the reduction in the number of service Providers from 23 to 9 under the proposed model
- 2 organisations expressed concerns regarding geographical zoning in relation to application of TUPE and potential inequity of service provision across the Trust
- 1 organisation welcomed the proposal not to apply geographical zones in relation to continuity of care if Service Users move location within the Trust area.
- 1 organisation requested further explanation regarding the reasons for the chosen model and the rationale behind the decision to propose 9 Providers to form the model
- 1 organisation expressed the view that there is no evidence that a reduction in the number of service Providers will automatically improve services
- 1 organisation expressed the view that a smaller number of Providers will allow real and meaningful ways to improve and innovate
- 3 organisations agreed with the principle of sufficient opportunity for different types and sizes of organisations to compete for activity

4.7.2 *Trust Response:* The Trust considered a number of options and scenarios before deciding on a proposed procurement model. This is summarised as follows:

- The Trust considered the possible procurement models and selected the proposed model based on the ability of the model to offer sustainability and stability of service whilst also providing a level of flexibility
- It was concluded that a level of flexibility is required and therefore a cost/volume model to a % of baseline volume with spot purchase for the remaining % formed the proposed model
- The process of consideration included analysing a number of options with regard to numbers of Providers
- For each option the Trust considered the strengths and weakness within the context of the total available baseline volume, continuity of care and quality monitoring
- The Trust considered geographical zoning and concluded that there was no significant benefit to applying to a condensed urban area
- The Trust's proposal to reduce the number of Providers to 9 has the objective of striking the balance between requirement to provide stable service provision through continuity of care and the economies of scale

which can be gained by consolidation. For example a scenario with 3 or 4 Providers would offer a higher level of economy of scale but would present a greater risk to continuity of care and service delivery

- The Trust's proposal recognises, and takes account of, the various types of organisations which may wish to tender for domiciliary care services including Small and Medium sized Enterprises (SMEs) & Social Economy Enterprises (SEEs)

#### **4.8 Implementation of the Outcome of Procurement & Application of TUPE**

4.8.1 There were a number of comments made and issues raised (by 5 organisations, including 3 Providers, and 1 individual) with regard to the implementation of the outcome of the proposed procurement process and the potential application of the TUPE and service provision change regulations. A summary is as follows:

- 5 organisations voiced concerns regarding disruption to services due to staff instability/loss of contracts/implementation of change has been made
- One individual voiced the opinion that as Clients may have to transfer to new Providers it is essential that the patient care plan paperwork is reviewed and updated in advance
- One organisation requested clarity to be provided as to how the Trust will protect successful Providers from claims under TUPE
- One organisation voiced the opinion that contracts will collapse on the 'wholly or substantially identified' test for transfer
- One organisation requested that the Trust will engage fully with the task of preparing Service Users, Trust staff and Providers for the procurement process

4.8.2 *Trust Response:* As set out in the consultation document, it is the intention of the Trust to develop a robust implementation plan in order to minimise the potential disruption to service during the period where new contracts are awarded and put in place. This is summarised as follows:

- It is proposed to allow 9 months to a year for an implementation period taking into consideration transfers which may occur as a result of contract award. The provision of accurate information within the Care and Support Plan for each Service User will be fundamental to ensuring continuity of the service and the care to be provided
- The Trust will undertake to plan for implementation and engage fully with the task of preparing Service Users, Trust staff and Providers for the results of contract award as an outcome of the procurement process
- The Trust intends to request, receive and collate TUPE (employee liability) information from existing non statutory Providers and to make these details available as part of the tender process. This advance notification and consideration of costs will allow Providers to take into consideration service provision change and/or TUPE implications when making a tender application
- The Trust has reflected on the responses received. In order to promote certainty and continuity of care, to protect existing experienced staff and to avoid instability in the workforce, the Trust has concluded that, following the procurement, contracts should be awarded on the basis that the TUPE and the Service Provision Change regulations will be deemed to apply.

The Trust will undertake to work alongside Providers in ensuring the delivery of TUPE principles

- In accordance with the TUPE and Service Provision Change clauses within the current contract with domiciliary care Providers, any pre transfer TUPE liabilities will lie with the incumbent Provider. Any post transfer liabilities will lie with the replacement Provider

## **4.9 Quality Monitoring Framework**

4.9.1 There were a number of comments (from 4 organisations) made in responses with regard to the Quality Monitoring Framework. These are summarised as follows:

- All responses welcomed or endorsed the strengthening of monitoring
- RQIA noted the Trust's review of the quality monitoring framework and in particular the commitment to regular engagement with Service Users

4.9.2 *Trust Response:* As stated in the consultation document, the current arrangements for quality monitoring were reviewed. This is summarised as follows:

- The Quality Monitoring Framework has been reviewed and revised to ensure that the highest quality standards and safety of care are delivered
- A proactive programme of service monitoring for a reduced number of Providers will provide an effective and efficient use of quality monitoring resource
- The current quality monitoring resource is stretched across a large number of Providers and the Trust's proposal for a reduction in the number of Providers seeks to concentrate and focus this resource to maximum effect

## **4.10 Electronic Call Monitoring System**

4.10.1 There were a number of comments (from 6 organisations, including 3 Providers, and 1 individual) regarding the Trust's proposal to implement an Electronic Call Monitoring System summarised as follows:

- 1 individual stated the opinion that the monitoring system should free up staff to do their job and allow honest and real time feedback
- 1 organisation outlined concerns regarding the efficacy of improving the resultant service for Service Users and what improvements it would have to offer for the working conditions for staff
- 1 organisation welcomed the introduction of Electronic Call Monitoring to access to real time information that will ensure that Service Users received the service that the Trust purchases for them
- 1 organisation noted that such a system would offer agencies and staff working in the non statutory sector protection in terms of lone working and the ability to communicate effectively
- 1 organisation stated that the document does not address the issue of Provider fraud
- 1 organisation queried whether the Trust plan to make this system available to community nursing staff such as district nurses

4.10.2 *Trust Response*: It is the intention of the Trust to implement an Electronic Call Monitoring System for domiciliary care services for the following reasons:

- In order to ensure that Service Users receive the care purchased by the Trust by accurately recording the time spend by Care Workers in the home delivering the care required, as set out in the Care and Support Plan
- The facilitation of communication between the Care Worker and Provider 'base' can assist with the protection of lone workers
- There is a regional business case being developed for this system and the Trust is involved in this process

4.10.3 The scope of this proposal is the procurement of domiciliary care services and the introduction of Electronic Call Monitoring for this service. Community nursing staff such as district nurses are not included within the scope of this proposal

#### **4.11 Other Issues Raised**

4.11.1 There were a number of issues raised in the responses which fall outside of the scope of this proposal and are not under the remit of the proposed outline procurement model for domiciliary care services. These issues are identified as follows:

- Assessment of Service User needs
- The potential reduction of service delivery
- References to the need for more detail which relate to the Service Specification
- Service User choice

4.11.2 *Trust Response*: the above issues raised are not included within this proposal and clarification is provided as follows:

- The proposed procurement model will not present any change to the way in which Trust social care staff assess and individual's need
- There is no reason why the changes proposed within this consultation would lead to a Service User receiving more or less care and support than they would under the current service delivery
- The purpose of this consultation was to lay out the outline of the proposed procurement model, to inform stakeholders of the Trust's plans and to gain opinion on the proposal
- The detail of the service requirement will be set out in the Service Specification which will be available upon advertisement of the tender.
- Service User choice regarding how their service is provided is dealt with in the current proposal for Self Directed Support and under this initiative there are a number of options for Service Users who wish to arrange some or all of their support instead of receiving services arranged by the Trust
- Where the Service User prefers to have services arranged by the Trust staff will work with Service Users to ensure that they are satisfied with the service provided



## Section 5.0

### Equality Screening

5.1.1 A total of 19 consultation responses and within this there were 15 responses to the consultation questionnaire. The consultation questionnaire posed the following question “This proposal has been equality screened as an ongoing screening. Do you agree with this outcome?”. 14 respondents took the opportunity to provide an answer to the question.

5.1.2 The majority of responses (12 out of 14 responses) to the consultation questionnaire stated ‘yes’ in answer to the question. Where responses stated ‘no’ to the question with comments and also where respondents made statements with regard to the equality screening, the points raised and issues identified were summarised.

5.1.3 The following table details the Trust response to each point made:

<b>Consultee feedback</b>	<b>Trust Response</b>
Qualitative consultation would have been of benefit on this sensitive issue	The decision to implement a formal consultation process was taken in order to allow open engagement with all stakeholders. The subject of the consultation was the proposed outline procurement model for domiciliary care services and views were sought regarding the Trust’s proposal. The Trust’s proposal was informed by feedback via surveys with Service Users and Carers.
The adverse impact of non-contractual compliance on service users should be risk assessed.	Risk assessment does not form an integral part of any equality or human rights screening template or assessment.
There should be no barriers to the receipt or provision of care because of any issue of community identity.	The Trust would accord with this statement. Belfast Trust does not perceive nor anticipate any barriers to the receipt or provision of care because of any issue of community identity. The Trust is committed to equality of opportunity, equality of access to services and the promotion of good relations in all aspects of its service provision.

Impact on those receiving care who are also Carers should have been evaluated

There is no evaluation of specific cultural issues for Black / Ethnic minority recipients of care.

There is no stipulation of the requirements on service delivery of legislation such as the Sexual Orientation (Services) Order 2006, or comparable legislation on goods and services for Race, Gender, Disability, Age.

It is not reasonable to draw screen impact conclusions for service provider staff from 'not affected' Trust staff data. This organisation's bank of evidence shows substantial adverse impact on

The Trust undertook surveys with a range of 143 Service Users and 85 Carers from across the Programmes of Care and identified priorities for the provision of domiciliary care. This was outlined in the consultation document and RQIA indicated that these priorities were consistent with their findings from inspections.

On the basis of the information available there are a small percentage of service users who are from a BME community. The ethos of the care is to ensure that the individual needs of each Service User are accommodated. There was no evidence to indicate that this impact would be negative for any individuals from a BME Community.

Age discrimination legislation has not yet been extended to the provision of Goods, Facilities and Services in Northern Ireland. The Screening template has been developed based on the model template from the Equality Commission of Northern Ireland and focuses on Section 75 of the Northern Ireland Act 1998 – and the positive duties to promote equality of opportunity and the desirability to promote good relations, as opposed to the discrimination legislation. By upholding and fulfilling these duties, it would be envisaged that there would be no discrimination on any grounds. Under the Terms and Conditions of Contract any Provider Organisation will have to comply with relevant binding legislation that applies to public authorities. On acceptance of a submitted tender bid, they are therefore bound by such legislation.

Belfast Trust is statutorily obliged to screen any potential impact on its staff and as such, the Trust does not have an obligation to reflect impact on

<p>privatised / re-privatised / first employment private sector staff, and this entire section requires further analysis and re-wording. The section on better promotion of equality for ‘staff’ would have been an opportunity to look at impacts of employment issues such as the Living Wage, but this opportunity has not been taken.</p> <p>The section on Human Rights should not have been restricted to ECHR rights. The template advised by HRC to HSCB on Stage I of the Statutory Homes Review is comprehensive across the full range of rights including UN and socio-economic. Nor should boxes be ticked (universally ‘neutral’) without expressed rationale in consultation.</p>	<p>privatised/re-privatised/first employment private sector staff – thus negating the need to further analyse or re word. The Living Wage is a broader issue and is not as a direct outcome of this proposal and as such should be debated in a different forum.</p> <p>On the basis of the information available, there was no evidence to indicate that implementation of this proposal would invoke any potential considerations of human rights and as such the Trust indicated that the impact would be neutral. Providers will be required to comply with Human Rights Act 1998. The Trust will review the template from the Northern Ireland Human Rights Commission regarding Statutory Homes and consider integration of the UN Conventions and any other relevant instruments and this can be considered when drawing up the new terms and conditions of contract.</p>
<p><b>Consultee feedback</b></p> <p>The organisation is unable to endorse any equality screening process associated with the proposed model for purchasing domiciliary care services because, as noted throughout this consultation response, we fundamentally disagree with the Belfast Health and Social Care Trust’s definition of what constitutes domiciliary care. We believe that the proposal to deliver aspects of nursing and health care within a domiciliary care model has significant equality and human rights implications.</p> <p>More specifically, the organisation requests the evidence to support the conclusion (page 31) that “Trust staff are</p>	<p><b>Trust Response</b></p> <p>The scope of this proposal is domiciliary care and does not cover the delivery of nursing or healthcare under the auspices of domiciliary care.</p> <p>The Trust’s proposal for the procurement process for domiciliary care services does not include nursing care and the purchasing of services for those individuals with complex needs is not within the scope of the Trust’s proposed procurement process. Procurement and Logistics Service (PaLS) are in the process of developing a home nursing tender for individuals with complex health needs on behalf of each of the 5 HSC Trusts.</p> <p>Belfast Trust employees are not affected by this proposal and as such the Trust has recorded this in the screening</p>

not affected by this proposal”.

In relation to the reference to TUPE arrangements (paragraph 7.4), the organisation does not accept the rationale behind this commentary and nor do we believe that the explanation at section 13 provides any clear evidence of how the adverse effect upon service users will be mitigated. The Belfast Health and Social Care Trust needs to be much more transparent in its intentions in this respect

**Consultee Feedback**

This organisation would suggest that the BHSCT needs to consider further evidence in relation to religion / ethnicity or sexual orientation of disabled people who may use domiciliary care.

And would ask if provision has been made within the procurement model to ensure that providers can meet the specific requirement of section 75 groups.

**Consultee Feedback**

We feel that Carers, one of the largest groups with dependants, have largely been marginalised or sidelined in the formation of this proposal and its

template.

In addition to the above it is the opinion of the Trust that TUPE and the Service Provision Change regulations will apply. In order to promote certainty and continuity of care, the Trust will undertake to work alongside Providers in ensuring the delivery of TUPE principles.

The ECNI guidance on implementation of Section 75 for public authorities states that “If a consultee/stakeholder, including the Commission, raises a concern with supporting evidence about a screening decision, a public authority should reconsider screening its policy again”. The Trust has not identified any potential major impact in terms of equality or human rights in regard to this proposal but will examine any cogent evidence on major adverse impact provided by the consultee and if appropriate, review their screening outcome accordingly.

**Trust Response**

Belfast Trust would seek clarification as to whether there is a specific body of evidence that ought to be considered. The Trust did engage with Service Users and Carers across the Programmes of Care to assess impact and priorities for service users.

There is currently a stipulation regarding compliance with Section 75 Legislation and Human Rights Legislation within the terms and conditions of the contract. The Trust will ensure that feedback from this consultee will be taken on board in regard to achieving best practice in terms of equality and human rights.

**Trust Response**

The Trust undertook surveys with service users and carers to inform this proposal. There is no plan within this proposal to withdraw essential support services and

<p>associated equality screening and should be given due consideration as they are the ones who will be the most significantly impacted should these changes result in further withdrawal of essential support services.</p> <p>In section 2 of the equality screening, which is supposed to consider available evidence / needs, experiences and priorities, in the section which is supposed to consider the impact on carers, there is just an oblique, stock-answer reference to political opinion.</p>	<p>therefore there will not be significant impact.</p> <p>The reference to political opinion was due to a formatting error in the screening template and this was corrected in the consultation update published and circulated to consultees on the 3<sup>rd</sup> April 2015.</p> <p>Feedback from Carers was considered and informed this proposal.</p>
---	--

- 5.4 The Trust will continue to monitor the potential impact on disruption to service and should the actual impact be greater than originally anticipated the Trust will commit to further mitigate against this impact.

## Section 6.0

### Summary of Recommendations and Next Steps

- 6.1 The Trust is required to meet the new legislative requirements as per the Public Contract Regulations 2015 and move forward with the procurement of domiciliary care services via an EU compliant tender process.
- 6.2 The Trust intends to adopt the proposed outline procurement model (as set out in section 9 of the consultation document) as the next step in the process and will develop this model in more detail in the service specification for the tender.
- 6.3 In adopting the proposed outline procurement model, the Trust has revised and refined one of the features of the model with regard to guaranteed volume. In the light of responses to the consultation an increased level of flexibility has been built into the model to facilitate any potential changes to the split of statutory and non statutory service provision.
- 6.4 Allowing for a timeframe to fully develop the service specification and supporting tender documentation, it is the intention of the Trust to subsequently advertise the tender in quarter 3 of this financial year i.e between October and December 2015. Contract award and the implementation plan to manage the outcome of this will take place for the start of the next financial year i.e. 2015/16.
- 6.5 The planning for implementation will be given priority in order to prepare Service Users, Providers and Trust staff for the transition period. In addition, the Trust will work alongside Providers to ensure the delivery of TUPE principles with the key objective of promoting continuity of care to Service Users.

**Appendix 1**  
**Responses to the Consultation**

1.	Prime Care
2.	Patient and Client Council
3.	Optimum Care
4.	Family Carer
5.	Caremark
6.	Quality Care
7.	Unison
8.	Northern HSC Trust
9.	South Eastern HSC Trust
10.	RQIA
11.	Mears Care
12.	Health and Social Care Board
13.	Independent Health and Care Providers
14.	Royal College of Nursing
15.	Connected Health
16.	Age NI
17.	Bryson Care
18.	Anonymous
19.	Disability Action