

## FOR PUBLICATION

### 1 Introduction

Scotland Excel is the Centre of Procurement Expertise for the local government sector in Scotland. It is a non-profit making organisation funded by participating council members. Established in 2008, Scotland Excel's remit is to work collaboratively with members and providers to raise procurement standards, secure best value for customers and to improve the efficiency and effectiveness of public sector procurement in Scotland.

Scotland Excel facilitates the development and sharing of best procurement practice and takes an active role in ensuring that the needs of the local government sector are understood within the wider landscape of procurement reform. It also develops and manages collaborative contracts for services where a strategic requirement is identified across the local government sector. Comments on the scope document are in line with these responsibilities and thus are limited to those relating to competition and procurement.

### 2 Themes and Key Questions

With regard to the invitation to comment on the market study notice Scotland Excel offers the following comments:

#### **Theme 1 : Consumer protection issues in the care home sector**

Questions 1-4: Scotland Excel has been asked by the majority of Councils in Scotland to undertake work on market intelligence and future procurement arrangements. Councils still award the contracts and undertake the contract management activity and so are best placed to address questions relating to consumer protection issues and the current complaint and redress systems.

#### **Theme 2: Older People's decision making on care homes**

Questions 5-6 Councils who undertake assessment and support peoples' choice of home are best placed to comment on their experience of the information available and whether this is working well in the sector. This would be undertaken as part of the care management responsibilities to people whose care they are funding.

#### **Theme 3: Regulation of care homes**

7 As part of the work relating to future procurement, Scotland Excel has been working in partnership with the sector and the Convention of Scottish Local Authorities on the development of a cost of care calculator which is being tested in the current care home fee negotiations with the sector in Scotland. This takes account of regulatory activity and cost.

Scotland Excel has also explored the extent of competition in the market in Scotland. It is not highly concentrated (394 providers as at December 2016), although a small number of large providers operating 4 or more care homes (20 providers) account for approximately 50% of all contracted expenditure (£470m annually) by Scotland's Local Authorities.

Traditionally local authorities have been directed by peoples' choice in relation to the provision of care home services in line with Scottish Government's Directions on Choice circulars and have not directly

extensively commissioned care home services other than for specific specialist purposes like rehabilitation or respite. There is therefore extensive competition in the sector in Scotland in relation to quality but not in relation to price for people supported by Councils. There may be more price competition for people funding their own care. In terms of competition on price, Councils negotiate a national rate annually which takes account of provider's costs in order to maintain equity in charging for care home care across Scotland. However, private contracting for care by individuals, who may or may not apply for Free Personal and Nursing Care, has always been a matter between the care homes and these individuals. It is known that the number of people self-funding their care is growing and that a different rate may be in place for those individuals dependent on how they have privately negotiated their care.

8 There is now a stronger role for Health and Social Care Partnerships in shaping the market through market facilitation plans. These are at an early stage in development and therefore the market at present is still self-determining in relation to quantity and location of places offered. This is likely to continue to be the case until such times as Joint Strategic Commissioning Plans have been fully developed.

9 It is anticipated that the "market shaping" role will be developed over the next few years and partnerships are working with all stakeholders including providers to articulate the use and extent of care home care in the future against other care models including care at home and supported accommodation.

#### **Theme 4: Competition between care homes**

10 to 12 Scotland Excel has developed a procurement strategy for Councils in Scotland, which will be going to consultation early February 2017. This is designed to gather specific views from care home providers and other stakeholders in terms of competition, long term sustainability and capacity across Scotland. When the consultation is concluded Scotland Excel will make the outcome of the consultation available to all interested parties.