



Report of: **Executive Member for Health and Social Care**

Meeting of:	Date	Ward(s)
Executive	29 September 2016	All

Delete as appropriate	Exempt	Non-exempt
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## **SUBJECT: Procurement Strategy - Block Contracts for Domiciliary Care Services**

### **1. Synopsis**

- 1.1 This report seeks pre-tender approval for the procurement strategy for block contracts for domiciliary care services in accordance with Rule 2.5 of the Council's Procurement Rules.
- 1.2 Contracts will provide high quality home care services to residents in the borough who are assessed as having a statutory need for community based care. Services will include the provision of a range of care and support options for all aspects of daily living to enable residents living in the borough to maximise life opportunities and lead fulfilling lives in the community.

### **2. Recommendations**

- 2.1 To approve the procurement strategy for a block contract for domiciliary care services as outlined in this report.

### **3. Background**

#### 3.1 Nature of the service

Islington Council currently commissions domiciliary care services through three cost and volume contracts with external providers. In 2015/16, services delivered 563,187 actual hours of care, averaging 10,800 actual hours of care per week to approximately 835 service users. Contracts deliver a broad range of care and support options that include personal and domestic care, respite care, day and night sitting services, waking night services, escorting services and support with accessing activities and

the wider community.

Providers are required to deliver appropriate and varying levels of support to meet the needs of all eligible client groups in the borough. These include individuals with physical, sensory and global learning disability, and mental health needs. Additionally, providers are required to demonstrate expertise, knowledge and sensitivity in their response to equality issues, impairment, disability, ethnic, religious, cultural and communication needs.

This procurement will provide opportunities to do the following:

1. Facilitate personalised adult social care and a working flexible delivery model in partnership with providers. The delivery model will extend opportunities for choice and control through self – directed support. It will empower service users to be directly involved in the care and support planning process with their care providers.
2. Maintain the safety, quality and continuous improvement of the Council's domiciliary care services by supporting local providers against a backdrop of growing instability in the wider market.
3. Contribute to a fairer Islington by helping people move into employment and earn a living wage. Contracts will stipulate the requirement to pay the London Living Wage (LLW) and travel time, and will offer guaranteed contracts of 16 hours and above. Contracts will also continue to work towards sourcing local recruitment and offering opportunities for care worker career progression.

We intend to award up to 6 contracts to successful providers for a maximum contract term of eight years (4+2+2 yrs). Contracts will be awarded to providers who are able to work across the borough. It is anticipated that three providers will work primarily in the north of the borough and three providers will primarily work in the south.

### 3.2 Estimated Value

The arrangement will be funded from existing Adult Social Services resources. The value of the procurement is estimated to be c. £78 million and the intended contract term is four (4) years with the option to extend for a further two years on two consecutive occasions.

This will be an activity based contract, procured on the basis of an hourly rate. The spend on this service for the last two years was £15 million, £7m in 2014/15 and £8m in 2015/16.

It is anticipated that expenditure will increase year on year. This is due to the predicted 9% increase of older people living in the borough by 2020 which suggests that demands on the service will increase.

Domiciliary care is a statutory service that helps to maintain residents in the community and reduce the number entering more expensive care settings. Any reduction in budget would need to consider the longer term impact on spend in those more expensive services.

Given the challenges in the domiciliary care market in London, considerable work has taken place since 2013 to develop domiciliary care cost modelling. We have worked with local service providers and have carried out targeted benchmarking work with neighbouring boroughs. We have compared cost and delivery models. This has shown that Islington currently secures value for money but questions the future financial sustainability of the current model for providers.

The proposed unit cost for the new service has been comprehensively modelled and has been assessed as value for money with respect to the pressures associated with specific requirements such as LLW and travel costs.

Reducing costs and spend have been considered in the following ways:

- Tenderers will be asked to bid below an agreed ceiling rate, a standard capped rate across all levels of need - low, medium and high thresholds. The rate is inclusive of provision at weekends, bank holidays and unsociable working hours

- The service is billed by the minute and spend is capped at the hours agreed in the individual service plan.
- Providers are required to make efficiencies through an electronic call monitoring system and efficient operational rostering in delivery
- Continued work within Adult Social Services regarding improved reablement and personalisation will enable a reduction in activity and therefore expenditure. However there continues to be a demographic pressure within Learning Disabilities and Older people services.

The key cost drivers for the service are:

- Ensuring quality
- Demographic pressure; this is a demand led budget
- Provider direct staff costs and application of the London Living Wage (LLW)
- Increased service user expectation
- Any further savings applied to funding from Central Government and the NHS
- Any statutory changes to the way client contributions for care are accessed and charged (including a decrease in service users who are assessable to contribute towards their care)
- Any unforeseen action as a result of CQC action

### 3.3 Timetable

The initial three year term for existing contracts is due to expire 31 May 2017, with an option to extend the arrangements for up to a further two year period until 31 May 2019. This procurement will deliver new contracts ahead of this timeline and with an intended commencement date of 1 April 2018. A lengthy lead in time has been factored into the procurement timetable to ensure providers have sufficient time to plan and implement the potential transfer up to 900 packages of care safely to any new provider of care.

To mitigate any economic instability as a result of this timescale, the cost modelling for the unit price is based on projected costs in 2018/19.

The procurement is being brought forward due to pressure on current delivery capacity. The procurement will secure more providers with a more sustainable financial model. This will enable us to meet current and future demand for Islington's vulnerable residents.

The procurement project will last for two years. This will include a mobilisation period following contract award. During this time we will oversee the transfer of service users and enable TUPE processes to occur. We will seek to extend current contracts for ten months only to April 2018 to facilitate the procurement process and secure additional supply as expediently as possible.

We will involve service users in the development of the new specification and in the procurement process.

The following key dates must be reached:

Procurement Board approval	July 2016
Executive approval to proceed	September 2016
Publish advert and upload documents	November 2016
PQQ return and evaluation/shortlisting	January 2017
Tender despatch	March 2017
Tender return	April 2017
Tender evaluation and decision	May 2017
Award report executive approval	June/July 2017
7 month transition	September 2017- March 2018
Contract Start:	1 April 2018

Service user views are comprehensively sought on an on-going basis through existing contract quality assurance. Existing users will be informally consulted for their views, preferences and advice regarding future home care services during the project. This will feed into the development of the specification, as will the views of local stakeholder groups. These stakeholder groups will also be involved in the tender process.

### 3.4 Options appraisal

No suitable existing framework has been identified that the Council could utilise for this contract. The available routes for consideration are therefore, the provision of the service in-house, or competitive tender through a restricted or open procedure procurement route.

The provision of the service in-house will not provide value for money in terms of the operational delivery needs of the service and the volume of service required. The preferred procurement route is via a competitive tender through a restricted procurement route in order to restrict the number invited to tender from the large available domiciliary care market.

The contract model will be a cost and volume contract. Providers will be offered a guaranteed volume of service of 600 hours per week. Providers will be required to have an office location either in borough or within one mile of the borough boundary. This reduces the extent of travel required by workers during working hours when they need access to support. This model will deliver benefits in terms of service user choice, value for money and continuous improvement in quality and sustainability.

Collaboration has been considered with neighbouring boroughs and will not be progressed for this procurement. This is because contracts are either not appropriately co-terminus or specific Islington commitments such as the Unison Ethical Care Charter are not shared among neighbouring boroughs. Collaboration has also been extensively considered with Islington Clinical Commissioning Group (ICCG) who commission domiciliary care services for Continuing Healthcare patients within the borough. However the needs of these two services are not aligned at this time.

### 3.5 Key Considerations

The main social benefits considered within this project are lower unemployment and provision of good quality jobs.

Good quality jobs are created through the application of the London Living Wage (LLW) in an industry that is historically low paid and undervalued. Providers are also required to pay both travel time and expenses for workers to ensure the benefit of the LLW is fully realised. The provision of good quality jobs is further strengthened by the Council having signed up to the Unison Ethical Charter.

Providers will be expected to strive to source their workforce locally. There are currently 637 contracted staff delivering domiciliary care services in the borough and 43% live locally. Providers attend local employment fairs, local universities and host local recruitment days. Providers are also supported by the Council's Community Partnership Employment Support Officers to source staff and reduce local unemployment. The contract requirements for investment in the workforce and for sourcing local employment will therefore contribute to local economic sustainability.

The expectation for local recruitment, including liaison with the Council's Employment Team, and the financial benefits for staff, will contribute to the economy of the borough and a fairer Islington.

A requirement for the payment of LLW should only be included as a condition of this contract if there is no cross border interest in the contract following OJEU notice or if cross border bidders do not expect to use employees for this contract who are established in another EU member state. However, cross border interest in this tender is not expected.

The tendering and scoring process will take into account quality of service provision and the cost of

providing the service. The price is capped at the assessed ceiling rates and this should remove providers who are too costly or are charging above market rates for their service.

Contracts will include specific clauses that stipulate value for money and continuous improvement. Once awarded, the contract will continue to be monitored by Commissioning, Social Care and Finance through exception reporting of high cost care packages and referral patterns. Year-on-year trends will be made available to service management and commissioning staff to inform remedial action and control levels of monthly domiciliary care spend.

Contracts will include a requirement for Electronic Call Monitoring (ECM) which will produce both monetary and quality efficiencies. The introduction of the Council's provider portal will improve the payment turnaround times by providing clearer timely activity data from providers. This should assist the service not only in terms of the accuracy of their live system data but also to reduce the risk of payment for services that were not delivered.

The portal data will also quickly identify payment and service teams if services are consistently being delivered above authorised domiciliary care package hours set by Social Care management. This is of importance to track any packages which may require a review and to safeguard service users if patterns of non-delivery or under delivery begin to occur. A specific post is in place to manage this work.

The Council's Resource Team will monitor and manage referrals to each provider and negotiate placements on a case by case rotational basis.

Contracts will continue to be robustly monitored. The contract model will facilitate this with a small number of providers in terms of robust management controls, strong partnership relationships which will negate the need for additional internal contract management resource.

Providers are required to locate an office either within borough or within one mile of the borough boundary. This reduces the extent of travel required by workers during working hours when they need access to support. Payment for travel time requires providers to timetable workers visits efficiently by reducing the amount of travel between visits. This means locating visits within walking distance and where this is not possible to between 5-7 minutes. This contributes to local environmental sustainability.

The service function in terms of preventative care and maintaining independence at home supports people to lead fulfilling lives and contributes to social sustainability in the local community. The continued development of a flexible delivery model that facilitates more choice in the way services are delivered strengthens and supports this further.

TUPE applies for existing contracts. Experience from previous procurements for this service evidence a high likelihood that this will form part of the mobilisation of contracts. The project plan includes sufficient time and resource to accommodate this.

### 3.6 Evaluation

This tender will be conducted in two stages, known as the Restricted Procedure as the tender is 'restricted' to a limited number of organisations. The first stage is Selection Criteria through a Pre-Qualification Questionnaire (PQQ) which establishes whether an organisation meets the financial requirements, is competent and capable and has the necessary resources to carry out the contract. The PQQ is backwards looking and explores how the organisation has performed to date, its financial standing, information about their history and experience.

A limited or 'restricted' number of these organisations meeting the PQQ requirements as specified in the advertisement are then invited to tender (ITT). The second stage ITT is now forwards-looking using Award Criteria. Tenders will be evaluated on the basis of the tenderers' price and ability to deliver the contract services as set out in the evaluation criteria in order to determine the most economically advantageous tender (MEAT).

The proposed evaluation award criteria is MEAT based on 90% quality and 10% cost. The advertised

tender pricing schedule will be capped to ceiling rates in order to allow a greater margin for quality evaluation. The ceiling rates have been comprehensively analysed and assessed as appropriate for this service. This service is a high profile and high risk statutory service that delivers to a dispersed and vulnerable service user group through a remote workforce. The quality element of the evaluation is therefore key to securing a high quality service for the residents of the borough.

The full breakdown of the cost/quality award criteria is:

<b>Tender Award Criteria</b>	<b>Total</b>
<b>Cost</b>	<b>10 %</b>
<b>Quality – made up of</b>	<b>90%</b>
Proposed approach to operational delivery (including workforce development)	20%
Proposed approach to safeguarding of vulnerable adults and risk management	20%
Proposed approach to customer care	25%
Proposed approach to quality assurance and continuous improvement	25%
<b>Total</b>	<b>100%</b>

### 3.7 Business Risks

The project includes the following **risks**:

The procurement is unable to attract a healthy market to secure sufficient high quality supply to meet demand for the service in the immediate and long term future. It may result in a failed procurement that will impact in terms of safeguarding and reputational risk. This is mitigated by comprehensive pre-tender planning that includes developing a robust cost model to secure a healthy market and future financial sustainability for the service. This is also mitigated in terms of time to develop alternative solutions as the timing of the project leaves an option to further extend current contracts for up to 15 months.

Current providers are unsuccessful in securing contract award resulting in the transition of business from one provider to another with potential impact to continuity of care for service users. The greater the volume of business that requires transfer, the greater the risk. Operational and TUPE issues may affect a smooth transition of services both during and after contract mobilisation in terms of quality of service, capacity, user safety and satisfaction. This will be mitigated through comprehensive transition management before, during and after transition and a clear communication strategy.

The timetable slips due to unforeseen circumstances delaying the award and commencement of new contracts. This is mitigated through sufficient room to accommodate slippage as the timing of the project leaves an option to further extend current contracts for up to 15 months.

Service user implications to be considered within the project are those associated with the potential transitional arrangements following contract award as contracts are mobilised. Service users may become unsettled and upset by these processes. However, this will be mitigated through robust project management, consultation and an effective communication strategy with service users before, during and after any transition period.

The project offers the following **opportunities**:

It is intended that the requirement to invest in staff will drive up the quality of services delivered to service users. It is intended that the application of LLW, paid travel time, guaranteed hour contracts and options for career progression will attract and retain high quality staff delivering in the borough.

It is intended that this investment in staff will increase the capacity of providers to comprehensively deliver to the needs of the service and strongly contribute to the Council's prevention strategy.

It is intended that the requirement to pay travel time and expenses, coupled with the geographical location of providers will drive operational efficiencies in terms of provider timetabling resulting in

increased continuity of care for service users.

- 3.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.
- 3.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

<b>Relevant information</b>	<b>Information/section in report</b>
1 Nature of the service	Contracts will provide high quality home care services to residents in the borough who are assessed as having a statutory need for community based care  See paragraph 1.2
2 Estimated value	The estimated value per year is £8.9m  The agreement is proposed to run for a period of 4 years with an optional extension of 2 plus 2 years.  See paragraph 3.2
3 Timetable	Executive approval to proceed - 29/09/16 PPQ advert – November 2016 PPQ evaluation – January 2017 ITT advert – March 2017 Tender evaluation and decision – May 2017 Award report executive approval - June/July 2017 Transition Period - September 2017- March 2018 Contract Start – April 2018  See paragraph 3.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	The preferred route for procurement is a competitive tender through a restricted procurement. A cost and volume contract model has been selected as it will deliver benefits in terms of service user choice, value for money and continuous improvement in quality and sustainability. Collaboration has been considered with neighbouring boroughs and Islington Clinical Commissioning Group however neither were appropriate because contract were not co-terminus or due to specific LBI commitments.  See paragraph 3.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	These have been considered in terms of good quality jobs and reducing unemployment realised through the requirements for investment in the workforce and local recruitment. TUPE will apply.  See paragraph 3.5

6 Evaluation criteria	MEAT 90% Quality 10%Cost The award criteria price/quality breakdown is more particularly described within the report.  See paragraph 3.6
7 Any business risks associated with entering the contract	High risk service. Risks of failing to attract a healthy market, putting the welfare of service users at risk and impact to reputation - mitigated through comprehensive project management and clear communication strategy  See paragraph 3.7

#### 4. Implications

##### 4.1 Financial implications:

The report seeks pre-tender approval for the procurement strategy for the provision of domiciliary care services to residents in the borough who are assessed as having a statutory need for community based care. The intention is to award up to six contracts to successful providers for a maximum contract of eight years (four years with the option to extend for a further two years on two consecutive occasions).

These services are currently funded from Adult Social Services base budget, and the proposals outlined in this report will not result in a budget pressure for the department. It is anticipated that expenditure in the contracts will increase year on year to meet London Living Wage requirements, and additional funding will be sourced from Corporate Market Inflation bids to meet these requirements.

##### 4.2 Legal Implications:

The Council has power to provide home care services for residents having a statutory need for community based care services under the National Assistance Act 1948, section 29. The council also has a general duty in exercising its functions under part 1 of the Care Act 2014 to promote the 'well-being' of individuals. Well-being includes (a) physical and mental health emotional well-being and personal dignity (b) control by the individual over day to day life (c) participation in work education, training or recreation (section 1). Section 45 of the Health Services and Public Health Act 1968 also places a duty on local authorities to promote the welfare of older people "in order to prevent or postpone personal or social deterioration or breakdown". Therefore the council may provide domiciliary care services for those who are assessed as having a statutory need for community based care. The council may enter into contracts with providers of such services under section 1 of the Local Government (Contracts) Act 1997.

The threshold for application of the Public Contracts Regulations 2015 is currently £589,148,000.00 (for light touch services). The value of the contract to be let is above this threshold and will therefore need to be advertised in the Official Journal of the European Journal (OJEU). The council's Procurement Rules require contracts over the value of £164,176.00 to be subject to competitive tender.

Further legal comments will be provided on conclusion of the procurement process.

##### 4.3 Environmental Implications

No negative environmental impact is expected in the procurement of this service. The service involves delivery by a dispersed workforce to residents in their own homes within the community.

##### 4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed in July 2016. The service is expected to have a positive impact on older people and people with disabilities. It is also expected to positively impact on the economy of the borough as a whole and contribute towards a fairer Islington.

## 5. Reason for recommendations

- 5.1 This report recommends the approval of this procurement strategy to maintain safety, quality and continuous improvement in the provision of domiciliary care services for the borough. The strategy also aims to further the Council's strategic drivers to facilitate the personalised care services and contribute to a fairer Islington by improving job opportunities for residents and employment conditions by ensuring workers are paid London Living Wage, travel time and being offered contracts which guarantee a minimum of hours a week. The procurement will be delivered ahead of the expiry of current contracts because there is a need to increase the number of providers delivering in the borough. This will secure the supply of high quality services that will meet current and future demand.

**Appendices:** None

**Background papers:** None

Final report clearance:

**Signed by:**

*Janet Burgess*

Date: 30 August 2016

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