



## Key Decision Report of the Interim Corporate Director of Housing and Adult Social Services

<b>Officer Key Decision</b>	<b>Date:</b> 15 November 2018	<b>Wards:</b> All
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<b>Delete as appropriate</b>	Non-Exempt	Exempt
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### **SUBJECT: Procurement Strategy – Dynamic Purchasing System (DPS) for home & community support and day opportunity services for people with disabilities**

#### **1. Synopsis**

- 1.1 This report seeks pre-tender approval for the procurement strategy in respect of Islington Council creating a Dynamic Purchasing System (DPS) for the procurement of home & community support and day opportunity services for people with disabilities, in accordance with Rule 2.7 of the Council's Procurement Rules.
- 1.2 A DPS is a fully electronic procurement tool and procedure that enables the purchasing of services.

#### **2. Recommendations**

- 2.1 To approve the procurement strategy for creating a Dynamic Purchasing System (DPS) for the procurement of home & community support and day opportunity services for people with disabilities, as outlined in this report.
- 2.2 To approve a review of Council-owned properties and new developments in the pipeline, to identify space that could be utilised for high needs day opportunity provision.

#### **3. Background**

- 3.1 Local Context

##### **Care in the Community**

In this context, we are defining 'home & community support' as any long-term service commissioned to meet eligible needs in a community setting, including people's homes. Relevant service types include: domiciliary care, homecare, outreach and some floating support services.

##### **Children and Young People**

The Council currently has a framework agreement in place with five (5) providers to deliver 1:1 Outreach Short Breaks. This framework agreement is coming to an end on 30 September 2018.

Regular short breaks enable parents / carers to continue to care for their disabled children, reduces family breakdown, and reduces the likelihood of requesting high cost services such as residential school provision and out of borough placements.

Short breaks are provided for children and young people following an assessment. Support is provided either in the family home or in the wider community to enable the child or young person to use a service or take part in an activity alongside other people. Support is usually required in the early evening, at weekends and/or school holidays.

### **Adults**

With the exception of packages arranged through the domiciliary care block contract (1516-121), all long-term 'home & community support' services for adults with disabilities are spot purchased.

### **Day Opportunities – Complex Needs**

For people with more complex needs, a regular day provision can support outcomes around social inclusion, developing skills, community integration and respite for family carers.

#### **Children and Young People**

A good range of day opportunities for children and young people with complex needs aged 2-16 are available through existing contracts with schools, adventure playgrounds, youth services and specialist short breaks services.

However, families have asked the Council to expand the range of local provision for young people with complex needs aged 15 – 25, which also allow some continuity of provision beyond 18 years. Families would like to begin using services that can help the young person transition to more appropriate adult provision. This provision is mainly wanted in the evenings during the school holidays and at weekends.

Further, the transition team are finding it increasingly difficult to secure appropriate local day opportunity placements for young people aged 18-25, particularly those with complex and challenging behaviours. Trend data suggests that, on average, 30-35 young people will continue to transition into adult services annually, of which:

- Four (4) can be expected to have complex and challenging behaviour – we are starting to see the impact of the new Integrated Learning Space (ILS), which is enabling some of our most complex young people to remain supported in-borough up to the age of 19
- A further five (5) can be expected to need regular access to day provision to avoid family carer breakdown

#### **Adults**

Islington has three in-house day opportunity services: Daylight (learning disabilities), Spectrum (Autism) and Outlook (physical disabilities / sensory impairments). There are a limited number of other services available in the borough, which restricts the choice that can be offered.

There are also limitations on the capacity of the services currently commissioned, particularly services that are equipped to meet the needs of young adults and those with complex and challenging behaviours.

As a result of these limitations, for adults with learning disabilities alone Islington spot purchased approximately £800,000 of day provision in 2017/18. A further approximately £150,000 was spent on transport services to facilitate attending services, with some additional escort costs on top.

In the spirit of the Care Act, we are confident that there are providers in the market who could run services to meet these needs locally. Service users would reap the benefits of shorter journeys and greater integration into the community in which they live. Islington would see a reduced need for costly out-of-borough placements and associated transport costs. However, particularly for adults with more complex needs and behaviours, providers need a base from which to host their service and in Islington this can be prohibitive. For these reasons, this report seeks support for a review of Council-owned properties and new developments in the pipeline, to identify space that could be utilised for high needs day opportunity provision. If space could be identified, an appropriate provider could be competitively tendered through this DPS.

### **Day Opportunities – community networks**

To meet needs around social inclusion and accessing the community, there is an identified gap in the market for providers who can support small groups of people with a shared outcome or interest, to pool budgets and other resources to take part in an activity together. Working in this way is a much more effective use of a personal budget, through reduced duplication and increased social networks.

#### **Children and young people**

Around 120 disabled children and young people choose to do a community activity such as swimming, soft play, dance, drama climbing. Families are often accessing similar activities at similar times and are each paying for a support worker to supervise the child, who may not require dedicated 1:1 support.

#### **Adults**

Results of the 2017/18 Adult Social Care Outcomes Framework (ASCOF) survey indicated that only 42.5% of adults accessing services have as much social contact as they would like. This figure has decreased by 1.5% since 2016/17.

## 3.2 Nature of the services to be procured

### **Home & Community Support**

In recognition of the different specialisms that are required from the support staff, it is proposed to split this into four (4) lots:

1. Lot 1 – mild / moderate need
2. Lot 2 – complex health needs / profound and multiple learning disabilities (PMLD)
3. Lot 3 – complex / challenging behaviours
4. Lot 4 – high-functioning autism

Each lot will have its own specification attached to it, particularly outlining the skills and knowledge requirements for the staff.

### **Day Opportunities – Complex Needs**

5. Lot 5 – high needs day provision (LD / autism / PD / SI)

In the specification for this lot, we will indicate that providers can apply with or without premises. This creates room for different models of service to be proposed and provides a mechanism for securing a provider if we are able to identify premises within the borough for this purpose.

### **Day Opportunities - Community Networks**

6. Lot 6 – community networks working with five (5)+ service users

This is a new service type for Islington and will need careful specification to ensure it fills the identified gap in the market and is attractive and deliverable for providers. Co-producing the specification will support this. Commissioners have also approached colleagues in Barnet who have procured similar network arrangements to understand lessons learned.

## 3.3 Partnership Working

It is proposed that the DPS is jointly procured between children's and adult services in Islington.

Benefits include:

- Access to a wider provider market
- Efficient commissioning where providers are shared
- Potential for contract monitoring efficiencies
- Reduced transition points
- Increased ability to understand and plan for emerging needs

It is also proposed that the DPS is jointly procured between Islington and Haringey. This is currently being discussed by senior management within Haringey local authority and CCG and we await the outcome. If Haringey were to join the procurement, benefits would include:

- Access to a wider provider market
- Potential efficiencies through economies of scale
- Increased choice for residents

Appropriate governance processes will be followed in both boroughs, as required.

### 3.4 Estimated Value

As outlined above, we currently spend £60,000 pa within the existing children's framework and over £1million on spot purchase arrangements in adult services for these types of packages.

It is not envisaged that all of this spend will be immediately redirected via the DPS. However, as these packages are reviewed and changed, social workers / brokerage officers will be encouraged to make use of the DPS. The DPS will be the primary source for any new packages / services.

Reflecting on this, it is proposed that the DPS be valid for four (4) years with a maximum value of £2 million for services procured by Islington. The maximum value of services to be procured by Haringey is yet to be confirmed. If these values were exceeded within the four-year period, the DPS would need to be re-tendered.

### 3.5 Timetable

- Seek pre-tender approval in Islington, and Haringey if applicable – October 2018
- Finalise draft service specification – October 2018
- Consult on draft specification with service users, family carers and providers – November 2018
- Market engagement with providers – November/December 2018
- Tender publication – January 2019

### 3.6 Options appraisal – Children and Young People

**Option 1:** Commission a Dynamic Purchasing System jointly with adult services

Advantages:

- A DPS is a flexible procurement tool which new providers can apply to join during the period of validity.
- There are choice, quality and price benefits associated with having a wider range of providers working locally.
- Helpful synergy with the DPS for adult services potentially leads to reduced contract management costs

**Option 2:** Commission a framework agreement via a direct invitation to quote (DITQ) for the children and young people's services

Advantages:

- Advantages are as above, with the exception of the first point.

Drawbacks:

- A framework agreement is fixed at the point of tender, so the range of providers to work with is limited.
- A DITQ is not advertised and therefore will not reach the wider market of providers.

### 3.7 Options appraisal – Adults

**Option 1:** Continue with current spot purchasing arrangements

Drawbacks:

- Packages agreed outside of a purchasing mechanism, such as a framework or DPS, are more difficult to monitor for quality and to hold accountable for issues.
- It is also more difficult to negotiate fair rates.
- It is an inefficient use of social worker / brokerage officer time, searching for appropriate providers / services. Social workers / brokerage officers must then spend time determining the quality of the service and negotiating costs.

**Option 2:** Commission more community-based packages through existing agreements - the domiciliary care block contract and in-house day provisions

Drawbacks:

- The services available via the domiciliary care framework are often not appropriate for this cohort, given requirements around meeting specialist needs e.g. profound learning disability, complex autism, etc.
- There is a limit to the capacity of existing local providers.
- Regarding in-house provision, Spectrum in particular is at capacity and has been for some time.
- There are quality and price benefits associated with having a wider range of providers working locally.

**Option 3:** Commission a Dynamic Purchasing System for Care in the Community and Day Opportunities for Adults with Disabilities

Advantages:

- A DPS is a flexible procurement tool which new providers can apply to join during the period of validity.
- There are choice, quality and price benefits associated with having a wider range of providers working locally.
- Formalising the commissioning arrangements around these services further enhances our ability to control price, monitor quality and hold providers accountable.
- Helpful synergy with the DPS for LD supported living services.

**Option 4:** Commission a framework agreement for Care in the Community and Day Opportunities for Adults with Disabilities

Advantages:

- Advantages are as above, with the exception of the first point.

Drawbacks:

- A framework agreement is fixed at the point of tender, so the range of providers to work with is limited.

### 3.8 Conclusion of options appraisals

On balance of the advantages and drawbacks, the preferred option within children's and adult services is to jointly commission a DPS for care in the community and day opportunity services.

### 3.9 Key Considerations

The Care Act makes it explicit that local authorities must shape the local market to offer people with care and support needs a diverse and vibrant range of provision, and commissioning and purchasing practices should facilitate this, to ensure people have a real choice of services that can offer personalised solutions.

Currently the local offer for this type of care and support is dominated by a limited number of service providers and does not have the capacity to meet all current and future needs.

A requirement for the payment of London Living Wage (LLW) will 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.

TUPE would not apply.

### 3.10 Evaluation

This procurement is being conducted in accordance with the Public Contracts Regulations 2015. The procurement is subject to the light-touch regime under Section 7 Social and Other Specific Services. Under Regulation 76 the Council is free to establish a procedure, provided that procedure is sufficient to ensure compliance with the principles of transparency and equal treatment of economic operators (service providers). It is anticipated that the approach will use a two stage procedure.

The award criteria will be 80% quality and 20% price.

The quality element will be broken down into:

- Service model (25%)
- Delivering outcomes (25%)
- Quality assurance and safeguarding (20%)
- Social Value (10%)

We may decide to invite providers to present their response for one of these criteria.

### 3.11 Business Risks

There is minimal risk of challenge to this procurement given that a majority of these services are currently spot purchase arrangements.

There are significant business opportunities around:

- Increased control over quality and price
- Enhanced local offer that is more responsive to current and future need
- More robust network of high quality local providers

The service specification will be co-produced with service users and family carers.

### 3.12 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 complete an 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.

The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	<p>The establishing of a Dynamic Purchasing System (DPS) for the procurement of care in the community and day opportunity services for people with disabilities.</p> <p>See paragraph 3.2</p>
2 Estimated value	<p>The DPS agreement has an estimated value of up to £2million of Islington Council spend.</p> <p>See paragraph 3.4</p>
3 Timetable	<ul style="list-style-type: none"> <li>• Seek pre-tender approval in Islington, and Haringey if applicable – October 2018</li> <li>• Finalise draft service specification – October 2018</li> <li>• Consult on draft specification with service users, family carers and providers – November 2018</li> <li>• Market engagement with providers – November/December 2018</li> <li>• Tender publication – January 2019</li> </ul> <p>See paragraph 3.5</p>
4 Options appraisal for tender procedure including consideration of collaboration opportunities	<p>On balance of the advantages and drawbacks, the preferred option within children’s and adult services is to jointly commission a DPS for care in the community and day opportunity services.</p> <p>See paragraph 3.8</p>
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	<p>Due consideration has been given to these key areas and the proposed strategy is compliant.</p> <p>See paragraph 3.9</p>
6 Evaluation criteria	<p>The award criteria breakdown is 20% price / 80% quality.</p> <p>The award criteria price/quality breakdown is more particularly described within the report.</p> <p>See paragraph 3.10</p>
7 Any business risks associated with entering the contract	<p>Business risk is minimal.</p> <p>See paragraph 3.11</p>
8 Any other relevant financial, legal or other considerations.	<p>See paragraph 4.1 – 4.4</p>

## **4. Implications**

### **4.1 Financial implications**

The recommendation of this report is to approve the procurement strategy for a dynamic purchasing system for home and community support and day opportunities for people with disabilities. The DPS will be provided, managed and supported from existing Adult Social Services resources (systems and staffing) and therefore will not result in a budget pressure for the Council.

Potentially the DPS will be used to purchase all home and community support and day opportunities for people services which total approximately £1m per annum, the move to DPS will enable the service to deliver departmental MTFs savings and ensure value for money any additional cost arising from this will have to be managed within existing resources.

### **4.2 Legal Implications**

The Council has duties under section 17 of the Children Act 1989 to provide services to children in need. The Council also has duties to make arrangements to meet the care and support needs of eligible adults under the National Assistance Act 1948, section 21 (as amended) and the Care Act 2014, sections 18 and 19. The council may enter into contracts for such services under section 1 of the Local Government (Contracts) Act 1997.

The services being procured are subject to the light touch regime set out in Regulations 74 to 77 of the Public Contracts Regulations 2015 (the Regulations). The threshold for application of this light touch regime is currently £615,278.00. The value of the proposed contracts is above this threshold. It will therefore need to be advertised in the Official Journal of the European Union (OJEU). There are no prescribed procurement processes under the light touch regime. Therefore the council may use its discretion as to how it conducts the procurement process provided that it: discharges its duty to comply with the Treaty principles of equal treatment, non-discrimination and fair competition; conducts the procurement in conformance with the information that it provides in the OJEU advert; and ensures that the time limits that it imposes on suppliers, such as for responding to adverts is reasonable and proportionate. Following the procurement a contract award notice is required to be published in OJEU. The council's Procurement Rules require light touch contracts over the value of £500,00.00 to be subject to competitive tender.

In compliance with the requirements of the light touch regime in the Regulations and the council's Procurement Rules the proposal outlined in the report is to advertise a call for competition in OJEU and procure the service using a competitive tender process by way of a dynamic purchasing system

### **4.3 Environmental Implications**

The environmental implications of this procurement fall into two categories; those related to in-home support and those related to day services and group support. The main impact of in-home support is likely to be the transport used by the care giver. If travelling by car, this could involve emissions (depending on the engine type) and congestion. Walking, cycling or using public transport would be preferred options and the service specification will make clear that the providers are expected to make best use of these modes. There will also be some in-home impacts, such as energy use or waste generation, and the service specification will outline that providers are expected to support people to recycle within their homes.

For the day services and group support, the main impacts will be related to the buildings used to deliver the services (energy, water, waste), as well as travel to the services by the users. Any building-based day provisions will be expected to adhere to local waste and recycling policies. With regards to the transport impact, this procurement seeks to develop a more robust local support offer for people with disabilities, which will potentially reduce the need for transport services to out-of-borough placements.

### **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 on 29 August 2018 and the summary is included below:

Establishing a new DPS via which to purchase community-based support and day opportunity services for people with disabilities does not negatively discriminate against people with protected characteristics. The service will positively support people with disabilities to live meaningful lives as independently as possible in their local community. Providers delivering these services play a vital role in supporting fair and equal access to the community.

Purchasing services via a DPS rather than existing practices will increase choice and control by facilitating access to a wider range of providers and service offers. Having a more robust and varied local offer will help ensure services are designed around individual needs and preferences, including needs and preferences which are related to protected characteristics.

## 5. Reason for recommendations

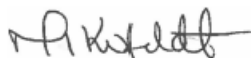
- 5.1 There is not currently an adequate mechanism by which to commission and procurement home & community support and day opportunity services for people with disabilities. Existing arrangements are unable to meet existing and future demand and carry significant risks and limitations. A DPS will greatly improve Islington's options and ability to meet the requirements of the Care Act and meet the needs of local people with appropriate services. Working jointly across children's and adult services will support smoother transition arrangements and encourage a more varied provider market.
- 5.2 Support is sought for a review of Council-owned properties and new developments in the pipeline to facilitate the availability of specialist provision within the borough for some of our most complex residents.

## 6. Record of the decision

- 6.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

**Final report clearance:**

**Signed by:**



**Interim Corporate Director of Housing and Adult Social Services**

**Date:** 15/11/18

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