SUBJECT: Procurement Strategy – Learning Disabilities Supported Living Spot Purchase Framework Agreement

1. Synopsis

1.1 This report seeks pre-tender approval for the procurement strategy in respect of Islington Council utilising a Learning Disabilities Supported Living Spot Purchase Framework agreement in accordance with Rule 2.5 of the Council’s Procurement Rules.

1.2 The London Boroughs of Waltham Forest, Enfield and Hackney have established a framework for learning disabilities supported living spot purchases. A compliant OJEU process was followed to establish the framework. The contract notice on OJEU included provision for other London Boroughs to join the framework during its lifetime.

2. Recommendations

2.1 To approve the procurement strategy for the Council to join the Learning Disabilities Supported Living Spot Purchase Framework.

2.2 To delegate any subsequent contract award for call-off from the framework to the Corporate Director for Housing and Adult Social Services.

3.1 Background

3.1.1 The Learning Disabilities Supported Living Spot Purchase Framework has been awarded for a term of four (4) years commencing on the 21 January 2016. The framework is divided into four lots: Lot 1 Low Support, Lot 2 Medium Support, Lot 3 High Support, and Lot 4 Complex Support and Care.

3.1.2 Accommodation and support services for people with learning disabilities have improved in the Borough through a programme of new developments that have increased the choice, quality and value for money of available local services. However, there is more that can be done to ensure that local services offer real choice and flexibility to people with learning disabilities and to tailor and develop services to meet
3.1.3 Current services are procured with a reliance on large block contracts with a small group of local providers. The block contracts offer limited flexibility and commit the local authority (and service users) to long periods with incumbent providers, with service developments achieved through traditional contract monitoring.

3.1.4 Joining an existing framework of supported living providers across three neighbouring boroughs will provide the Council with the opportunity to further develop the local market for supported living services for people with learning disabilities. It will give access to a wide range of support providers with their housing partners who have a proven track record of providing quality services to other neighbouring London Authorities. There is no financial commitment for the Council to purchase any level of service.

3.1.5 The framework is flexible and can be used to provide support services to people who are in–borough and also to identify accommodation and support out of the borough if this is determined to be in the person’s best interests in meeting their individual needs.

3.1.6 The following providers have been accepted onto the framework:

- East Living
- Genesis
- Centre 404
- Yarrow
- Outlook
- Outward
- St John of God
- Dimensions
- Royal Mencap
- MCCH
- Lifeways
- Avenues

3.2 Estimated Value

3.2.1 Funding is provided by the existing budget for Learning Disabilities. The estimated value will depend on how many contracts are called-off through the framework and the volume of spot purchasing. The current contracts for supported living have a value of just over £5 million per annum. However, it should be noted that is one option set in the context of developing a wider commissioning strategy for learning disability services with different routes to meet the needs of this specific client group and evolving market.

3.2.2 The framework will provide the Council with the opportunity to realise savings through the comparative hourly rates currently paid by the Council within its contracts with the hourly rates on the framework in relation to the corresponding Lots. In addition further savings could be realised through the non-payment of voids which are currently being paid within the block contracts.

3.2.3 Many service users in this client group have high, complex needs, therefore, it is anticipated that any call-off from the framework is likely to be a key decision.
3.3 **Timetable**

<table>
<thead>
<tr>
<th>Sign off process</th>
<th>Date</th>
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<tbody>
<tr>
<td>Commissioning and Procurement Board</td>
<td>28-Jul-16</td>
</tr>
<tr>
<td>Joint Board</td>
<td>06-Sep-16</td>
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<tr>
<td>Executive</td>
<td>29-Sep-16</td>
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</tbody>
</table>

All existing provision is currently in contract. However, the commissioning intention is to pilot the framework on a suitable scheme to be agreed in consultation with services users and other stakeholders (e.g. carers, partners, etc.)

3.4 **Options appraisal**

3.4.1 This framework offers the Council the opportunity of joining in a collaborative procurement with at least three other London Boroughs. Benchmarking carried out by the commissioning team suggests that savings can be made against the hourly rates currently being paid. Working closely with the other boroughs will also facilitate the sharing of ideas which may help to shape future commissioning strategies.

3.4.2. A contract can be called off from the framework for an individual on a spot purchase basis and by further mini competition for a larger value service. As the hourly rates are set by the framework, the evaluation of submissions would be based on an assessment of the comparative quality and ability to meet the individual's needs and outcomes. For larger contracts to support a number of people within a scheme the Council can run a mini competition and set additional criteria that it would like providers to meet. This enables both the integrated learning disability partnership to purchase future individual placements from a wide range of accredited supported living providers and also provides the option for existing block contracts to be drawn off the framework.

3.4.3. In order to be appointed to the framework all the providers have been through a rigorous process of quality assurance and are offering very competitive hourly rates due to the potential volume of business that a collaborative framework can provide.

3.4.4 The framework has yet to be tested by the Council and we need to ensure that it can meet both the volume and range of diverse local needs of people with learning disabilities/autism and challenging needs. Therefore, this strategy is to give the commissioning team the opportunity to use this framework as part of a wider strategy for learning disability support services currently being reviewed.

**Benefits**

- Generate savings through providing existing and future supported living services through a framework agreement providing quality services at competitive hourly rates.

- Developing the local market by proving access to range of accredited providers, providing greater choice of both housing and support providers.

- Provide access to a wider pool of skilled, experienced supported living providers with a proven track record of providing services for people with complex, challenging needs which will enable people to both remain and move back to the borough from residential care and assessment and treatment provision.

- Increased choice, value for money and personalised services through the option of calling-off from the framework on a Direct Payments or Individual Service Funds basis.

**Limitations**

- While the strengths of the framework is in its competitive hourly rates and range of providers, it does not have the local fit of a Council lead framework agreement in terms of all of the providers being committed to paying the London Living Wage within the ceiling hourly rates.
• As this is a framework agreement it does not allow new providers to join during the 4 year period of the framework.

3.5. **Key Considerations**

3.5.1 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.

3.5.2 Currently the local service provision for this type of care and support is dominated by a limited number of service providers. This has its own associated risks if these providers go into administration, or if there are issues that affect both their reputation and safeguarding.

3.5.3 Seven of the twelve providers on the framework agreement have made a commitment to pay the London Living Wage (LLW) within the hourly rates submitted. The Council will work within the parameters of the framework to only call-off contracts with providers who have made a commitment to paying the LLW.

3.5.4 Supported living services help service users to retain their independence whilst encouraging links with the local community. Service users will have access to a range of care and support promoting community based activities and services which will be shaped by the individual’s choice.

3.6 **Evaluation**

3.6.1 The framework evaluation was set at 70% quality and 30% cost. Ceiling hourly rates were set for each of the lots allowing quality to be a focus of the service. Having 30% based on cost still allowed for some price based competition on the hourly rates submitted.

3.6.2 In order to call-off a contract from the framework the Council will email the requirements for meeting the specific needs of the person(s) to be placed and the support package required to all the framework participants who are capable of providing the specialist services. The assessment of proposals will be made against pre-determined criteria on a case by case basis according to the individual needs. The overall criteria are as follows:

- Overall suitability of the Proposal for meeting the Service User’s specific personal outcomes, requirements and needs; - 50%
- Compatibility, skills, experience and knowledge of the Framework Participant’s proposed worker(s) evaluated against the specific outcomes, requirements and needs of the Service User to be placed; - 25%
- Weekly Price of carrying out the Proposal in line with the hourly rate submitted in the pricing schedule while tendering - 25%

3.7 **Business Risks**

3.7.1 Whilst the block contracting arrangements have historically given providers some comfort and financial stability in terms of business planning, the other potential consequence is that when the contracts are due for tender there are substantial risks for local providers where the majority of their business has been tied in with the Council.

3.7.2 The Council could potentially purchase packages of care from providers through the framework on a spot rather than block purchase basis. This offers providers the opportunity to diversify in terms of spreading risk and the potential for new business.
3.8  The Employment Relations Act 1999 (Blacklist) Regulations 2010

These 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.

3.8.1 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

<table>
<thead>
<tr>
<th>Relevant information</th>
<th>Information/section in report</th>
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</thead>
<tbody>
<tr>
<td>1 Nature of the service</td>
<td>Supported Living Framework Agreement</td>
</tr>
<tr>
<td></td>
<td>See paragraph 3.1</td>
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<tr>
<td>2 Estimated value</td>
<td>The estimated value per year is up to 5 million</td>
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<tr>
<td></td>
<td>See paragraph 3.2</td>
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<tr>
<td>3 Timetable</td>
<td>The timetable is outlined within this report.</td>
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<tr>
<td></td>
<td>The estimated start date is the beginning of October 2016.</td>
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<td>See paragraph 3.3</td>
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<tr>
<td>4 Options appraisal for tender procedure including consideration of collaboration</td>
<td>Outcome of options appraisal are described within this report.</td>
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<td>opportunities</td>
<td>See paragraph 3.4</td>
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<td>5 Consideration of:</td>
<td>A requirement for the payment of LLW will be included as a condition of this contract</td>
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<tr>
<td>Social benefit clauses;</td>
<td>TUPE will apply.</td>
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<td>London Living Wage;</td>
<td>See paragraph 3.5</td>
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<tr>
<td>Best value;</td>
<td></td>
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<tr>
<td>TUPE, pensions and other staffing implications</td>
<td></td>
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<tr>
<td>6 Evaluation criteria</td>
<td>The cost  quality breakdown is:</td>
</tr>
<tr>
<td></td>
<td>70% quality</td>
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<tr>
<td></td>
<td>30% cost</td>
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<td></td>
<td>See paragraph 3.6</td>
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<tr>
<td>7 Any business risks associated with entering the contract</td>
<td>There are some business risks but these are low and manageable.</td>
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<tr>
<td></td>
<td>See paragraph 3.7</td>
</tr>
<tr>
<td>8 Any other relevant financial, legal or other considerations.</td>
<td>See paragraph 4.</td>
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4. Implications

4.1 Financial Implications

4.1.1 This report seeks approval of the procurement strategy for the Learning Disabilities Supported Living Spot Purchase Framework. This has been awarded for a term of four years commencing from January 2016. The framework is divided into four lots: Lot 1 Low Support, Lot 2 Medium Support, Lot 3 High Support, and Lot 4 Complex Support and Care.
4.1.2 The funding for the framework will be from existing resources within the Islington Learning Disabilities Partnership (ILDP) pooled budget, and will not result in a budget pressure for the department. There are no direct savings attributed to the implementation of the spot purchase framework, however it is anticipated that savings will be realised through reduced rates through each of the Lots. Further savings could be realised through the non-payment of voids which are currently being paid within the block contract arrangements.

4.1.3 Further work will need to be carried out in collaboration with Finance to quantify how much savings can be realised through the framework so that this can form part of the Medium Term Financial Strategy (MTFS).

4.2 Legal Implications

4.2.1 The Council has a duty to make arrangements for providing residential accommodation and care for persons who by reason of illness and disability are in need of care and attention which is not otherwise available to them (section 21 National Assistance Act 1948 (as amended). The Care Act 2014 also provides the council with duties and powers to meet the needs for care and support of eligible adults (sections 18 and 19). The Council has power to enter into contracts with providers of such services under section 1 of the Local Government (Contracts) Act 1997. The Executive may provide Corporate Directors with responsibility to award contracts with a value over £2,000,000 (Procurement Rule 14.2).

4.2.2 The social care services being procured are subject to the light touch regime (Light Touch Services) 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 £625,050.00. The value of the proposed contract is above this threshold. The council’s Procurement Rules for Light Touch Services require competitive tendering for contracts over the value of £500,000. Using a framework that has been properly established by another local authority in accordance with the Regulations and with advertisement in the Official Journal of the European Union (OJEU) will satisfy the council’s obligation to comply with the Regulations as well as the council’s Procurement Rules.

Call off contracts may be awarded following a mini competition to the highest scoring tenderer as set out in the report, subject to the tender providing value for money for the council.

4.3 Environmental Implications

4.3.1 An environmental risk assessment has been undertaken and sent to the Energy Services team. Minimal environmental impact was noted around staff usage of transport. To mitigate this risk the provider(s) will be encouraged to promote the use of public transport or walking/cycling where possible.

4.4 Resident Impact Assessment

4.4.1 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.

4.4.2 A resident impact assessment has been carried out with regards to the proposed purchasing of care and support through this framework agreement. The framework will develop local services to people with learning disabilities and will therefore have a positive impact on this vulnerable resident group.

5. Reason for Recommendations

5.1 There is an increasing need in the borough for supported living accommodation for people with a learning disability. The framework will offer access to a wider range of support providers with their housing partners.
Final report clearance:

Signed by: [Signature]

Date: 16 August 2016

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