



Notice of Non-Key Executive Decision

Subject Heading:	Complex Placements Framework
Cabinet Members:	Councillor Frost, Cabinet member for Health and Adult Care Services
SLT Leads:	Barbara Nicholls, Director of Adult Social Care
Report Author and contact details:	Daren Mulley, Senior Commissioning Manager T: 01708 433982 E: daren.mulley@havering.gov.uk
Policy context:	At a local level, this contract supports Havering Council meet its priorities in its Corporate Plan 2019/20. This plan sets out how the Council intends to invest and transform the borough with an emphasis on improving the lives of vulnerable children, adults and families. In summary, this contract ensures the Council fulfils its aim of ensuring that the needs of the most vulnerable are met and that people are supported to be healthy and active.
Financial summary:	The budget for this procurement will come from both Children and Adult budgets. Contracts will be awarded under a dynamic purchasing system framework which will have no minimum or maximum value, nor will any commitment to expenditure by the Council be stipulated within the contracts. Expenditure will only be incurred when referrals are made. The Actual Net expenditure for the respective client groups and services for 2018/19 for complex placements was £20m

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Relevant OSC:	Individuals
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This paper seeks approval to commence a full EU compliant tender process for a new complex placements dynamic purchasing system (DPS) framework which will be introduced to commission individual packages of care and support to children and adults with complex needs. The DPS will operate for 5 years with an option of a 2 year extension commencing on 1st May 2020.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution, Part 3.3 Powers of Members of the Corporate Management Team; Contract powers (a) To approve commencement of a tendering process for all contracts above a total contract value of £500,000.

STATEMENT OF THE REASONS FOR THE DECISION

1. Background

In recent months, Havering Council has developed a complex cases pathway, requests for packages of support for both adults (of all ages) and children and young people are referred into this pathway and the Joint Commissioning Unit's (JCU) complex cases officers make suitable placements and negotiate the most cost effective price, i.e. they both commission and broker new packages of care and support. Care packages are currently spot purchased from a wide range of providers (30+) in the absence of a structured system for awarding contracts to providers and purchasing services from them. The pathway is used for most support packages who meet care Act eligibility criteria (except Direct Payments which are paid by the service user directly to the Provider): for the following cohorts;

- Adults with learning disability
- Adults with mental health needs
- Adults with needs resulting from physical and/or sensory disabilities
- Older people with complex needs
- Other vulnerable adults who meet Care Act eligibility criteria
- Children with complex needs

There is a statutory duty on Councils to provide care and support to those in need as provided under the Care Act 2014, sections 18-19. Further section 8 of such Act provides for the way in which the Local Authority can do this: (1) (b) care and support at home or in the community.

2. Proposal

With the complex cases pathway developed, it is now time for the Council to turn its attention to how it purchases services for children and adults with complex needs. To resolve this, the JCU is therefore proposing using a DPS. This will reduce the need for spot purchasing by allowing a number of providers to be awarded contracts to deliver services by successfully applying for this tender. This paper is proposing that the following services will be included in the framework:

- **Supported Living services:** These services will be commissioned for both children and adults. Supported living services are community based personal care and/or support for clients where care (e.g. moving and washing) and/or support (e.g. housing related, recreational activities) is delivered flexibly according to each individual care package in the child's or adult's home and local community. An emphasis of supported living is to encourage and develop skills and independence. Packages will range from either a few hours a week to 24 hour support. For adults, care and support will be provided in either shared or self-contained accommodation.
- **Residential Care:** This service will be commissioned for adults only. Residential care service provides personal care for clients where care/support is delivered in a registered care home setting with 24 hour support.
- **Nursing Care:** This service will be commissioned for adults only. Nursing care provides personal care for clients where care/support is delivered in a registered care home setting with 24 hour support including registered nurses.
- **Domiciliary Care:** This service will be commissioned for adults only. Domiciliary care provides household and personal care for clients where care is delivered at a service user's home.
- **Live in Care:** This service will be commissioned for adults only. Live in care provides care and support where the carer has their own living space in the client's home.

The DPS is considered to be the most appealing procurement solution and will have some key advantages. First, it is flexible in that suitably qualified and experienced private and voluntary providers can join the DPS at any time by successfully completing the evaluation process. Secondly, the Council, subject to Public Contract Regulations (2015), can modify how the DPS is applied in the future (providing this has been made clear to all). Thirdly, it will not commit the local authority to purchasing any volume from a provider.

3. Project Management of the Tender

A project initiation document has been written and approved by the JCU's Programme Manager which outlines the structure and governance of this project to tender the care and support services. The objectives of the project will be:

- a) To implement robust and coherent pricing, quality assurance and performance management arrangements by putting in place a framework (i.e. Dynamic Purchasing System) that ensures that Havering purchases appropriate packages of support at the most effective price.
- b) To enable the council to attract a much broader range of quality providers more able to provide support and care staff with a wider variety of specialist skills and who can offer more person centred support to people with a variety of complex

needs.

- c) To ensure that the services are commissioned to meet the Council priorities of the Council and offer the best value for money
- d) To ensure the tender follows Corporate and EU Procurement Regulations and Local Authority Financial Regulations
- e) Ensuring that choice, control, health and well-being, including safeguarding, features as high priorities in the tender.
- f) Establishing outcomes that will allow the Council to judge the performance of the Providers on the framework
- g) To ensure the Provider delivers a non-judgemental and inclusive service which treats service users with dignity, respecting gender, sexual orientation, age, physical or mental health ability, religion, culture, social background and lifestyle choice.

In order to deliver these objectives, a formal project management structure has been established including a Project Board which meets regularly once a month to supervise the project. Project Board members include representatives from Adult Social Care, Children's Social Care, Procurement, Finance & Legal.

4. Procurement Approach

This procurement will be subject to and adhere to the Council's Contract Procedure Rules. The procurement will follow a formal tender process in line with the EU procurement process in accordance with the Public Contracts Regulations 2015, which require compliance with principles of non-discrimination, equal treatment and transparency.

Providers who express an interest in the tender will be required to use CapitalESourcing, the Council's E-Procurement system to prepare and submit their bids. It is proposed that the weighting for Providers joining this framework will be 100% quality. Price will be evaluated when commissioning each individual package of care and support through the dynamic purchasing system. Price will be evaluated up to 100% so that other factors including family preference can also be taken into account when purchasing packages of care and support (weighting criteria will be agreed by the Project Board). This will be a single stage tender using the Restricted Process which will offer the opportunity and support to less experienced providers to submit a tender for this framework contract.

The Council will use its standard terms and conditions for the provision of these services with appropriate break and contract modification clauses. The contracts will be further tightened with service specification requirements and expected outcomes. Key performance indicators will also be outlined in the service specification. Performance management will be carried out by the Council.

At this stage, the key benefits of this procurement are as follows;

- a) compliance with national and EU regulations in relation to the purchasing of services
- b) a structured and transparent process for packages of support that come through the complex case pathway

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- c) robust governance protocols and processes in place to manage the DPS framework effectively
- d) improved efficiency for purchasing packages of care and support
- e) the DPS will make it easier for new providers in the market to bid to provide services.
- f) contracts will improve accountability, performance, outcomes and quality assurance
- g) the DPS framework will contribute to Havering getting better value for money
- h) the DPS framework will enable organisations to continue to deliver support throughout the transitional period from young person to adult
- i) opportunities for an increase in the number of organisations providing services leading to a wider range of service provision and customer choice

With regards to the procurement timetable, the key milestones are;

- a) Decision to go out to tender approved in July 2019
- b) Suppliers Information Event arranged for October 2019
- c) Tender published in December 2019
- d) Cabinet approval to award contracts in March 2020
- e) Contracts issued in April 2020
- f) The DPS framework begins on 1st May 2020

OTHER OPTIONS CONSIDERED AND REJECTED

1. **Option 1 - Do nothing:** Current agreements with providers have varying quality standards and pricing which together with the administration of spot purchasing governance and documentation has resulted in an inefficient process that does not deliver proven value for money. If we do nothing this will continue to add pressure to service budgets and provide an inconsistent service to service users. Rejected.
2. **Option 2 - Join an existing framework:** There are no suitable existing frameworks in place that will enable the Council to specify the providers and standards of delivery we require across the geographical boundaries stipulated in our tender. Rejected.

PRE-DECISION CONSULTATION

The pre-decision consultation has involved engaging with a number of stakeholders for the tender. In summary, the following table presents the type, methods and stakeholders engaged in the pre-decision consultation;

Type	Methods	Consultees
Project Board	Formal regular meetings phone, email	a) Joint Commissioning Unit b) Children Social Care

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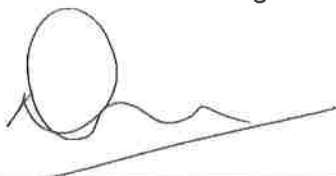
		c) Adult Social Care d) Legal Services e) Procurement f) Finance
Prior Information Notice	Notice published via the Council's procurement system	a) Current Care providers b) Other interested Providers in the market

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Daren Mulley

Designation: Senior Commissioning Manager

Signature:



Date: 20th June 2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. The decision is for the approval to commence a full EU compliant tender process for complex placements using a dynamic purchasing system, to commission individual packages for both adult and children.
2. The operation of DPS falls within section 34 of the Public Contracts Regulations 2015. The service also falls within Schedule 3, namely the light touch regime of the Public Contracts Regulations 2015 ('Regulations').
3. Both the Light Touch regime and the DPS require that a PIN notice and/ or contract award notice to be published, together with the publication of a contract award notice when the contract is awarded. The contract will also have to be published in contract finder. In addition the DPS rules require the Council to indicate the period of validity of the DPS in the OJEU or PIN notice (Regulation 27).
4. Although the Light Touch Regime affords a higher degree of flexibility in respect of how the Council may procure the Service under the DPS, officers must still ensure compliance with the principles laid out in the Treaty of the Functioning of the European Union relating to transparency, non discrimination, equal treatment and proportionality. The process selected must also take into account the need to ensure quality, continuity, accessibility affordability, availability and comprehensiveness of the service and needs of the users (section 76 of the Regulations). In this regard though there may be some departure from the requirements of clause 34 of the Regulations (DPS rules),, compliance with Regulation 34 will demonstrate compliance with the EU principles.
5. If Officers intend to procure fully under the Regulations the evaluation process must be based on the most economically advantageous tender which, using a cost-effectiveness approach or price/quality ratio, offers the best price. The evaluation criteria will have to publish and needs to be observed in undertaking the procurement process.
6. Where the officers choose to follow a Light Touch regime under the Regulations, despite a more flexible choice of process the Council still needs to comply with the Council's Contract Standing Orders (CSO).
7. Where a decision falls within the definition of a Key Decisions (namely one which is likely either to incur significant expenditure, make significant savings or to have a significant impact on those living or working in 2 or more Wards) it will be subject to a 28 day public notice key decision and Part 4.5 Overview and Scrutiny Procedure Rules, (Rule 15) and the Council's call-in procedure.

FINANCIAL IMPLICATIONS AND RISKS

The Complex Placements Programme will cover several client groups and service types within a new commissioning framework for Adults and Children's Services. Actual net expenditure in 2018/19, for the services covered by this framework, amounted to £20.08m against a budget of £14.38m, as shown in the table below.

To join the Framework, providers will be assessed on Standard Selection Criteria based 100% on quality. The Council will then seek bids for all new packages of care and support through its Dynamic Purchasing System (DPS) from all eligible providers

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on the Framework. Bids will be evaluated based on a pre-determined weighted criteria (yet to be determined), based on price, availability, suitability to meet the client's needs, and preference of the Council, Service User and/or family/carers.

To ensure the financial viability of the programme, it is imperative that considerable weighting is applied to the cost/VFM element, when determining the selection criteria on which the new contracts will be placed with providers on the Framework.

The increased focus and development of market knowledge on complex placements should result in finding and negotiation of placements at reduced unit costs, and therefore, there is a projected cost avoidance in Adult Social Care of £100k in 2019/20.

From April 2020, it is expected that as the provision for complex placements is provided through the DPS, rather than the current spot purchasing arrangements, further cost avoidance will be demonstrated. This will need to be monitored and compared to past placement costs to illustrate the benefits that are realised from this programme.

Finance Table: Costs of Services covered by Complex Placements Framework

Service Type/ Client Group	Cost Centre	Revised Budget (Net) 2018/19 £'000	Actual/ Outturn (Net) 2018/19 £'000	Outturn Variance (Net) 2018/19 £'000	Budget (Net) 2019/20 £'000
Adult Social Care					
Homecare/Live-In Care and Supported Living					
Clients aged 18-64 (not LD/MH)					
Physical Support	A31885	648.7	1,456.5	+807.8	648.7
Sensory Support	A31890	6.1	13.4	+7.3	6.1
Social Isolation/Other	A31985	9.0	145.7	+136.7	9.0
Memory & Cognition	A31995	134.5	382.1	+247.6	134.5
Learning Disabilities	A32005	3,540.0	6,178.8	+2,638.8	3,540.0
Mental Health	A32185	168.1	504.8	+336.7	168.1
Total Homecare, Live-In & Supported Living		4,506.4	8,681.3	+4,174.9	4,506.4
Residential Care					
Clients aged 18-64 (not LD/MH)					
Physical Support	A31885	636.5	834.8	+198.3	636.5
Sensory Support	A31890	65.4	67.1	+1.6	65.4
Memory & Cognition	A31995	49.6	171.8	+122.2	49.6
Learning Disabilities	A32005	7,357.0	7,985.8	+628.8	7,357.0
Mental Health	A32185	570.0	468.2	-101.8	570.0
Total Residential Care		8,678.5	9,527.7	+849.2	8,678.5

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Nursing Care					
Clients aged 18-64 (not LD/MH)					
Physical Support	A31885	331.4	862.1	+530.7	331.4
Memory & Cognition	A31995	19.4	46.5	+27.1	19.4
Learning Disabilities	A32005	235.7	208.7	-26.9	235.7
Mental Health	A32185	250.8	237.5	-13.3	250.8
Total Nursing Care		837.3	1,354.8	+517.5	837.3
Total Adults		14,022.1	19,563.8	+5,541.6	14,022.1
Children's Services					
Children with Disabilities & Short Breaks					
Children with Complex Needs - Supported Living	A39000	359.2	520.5	+161.3	359.2
Total Children's Services		359.2	520.5	+161.3	359.2
Total Complex Placements		14,381.3	20,084.2	+5,702.9	14,381.3

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no implications or risks anticipated to council staff as the employees involved in the delivery of the current service are employed directly by existing Providers.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA has been completed and found that the services set out in this report will

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker



Signed

Name: Barbara Nicholls

Cabinet Portfolio held:

CMT Member title: Director Adult Social Care

Head of Service title

Other manager title:

Date: 27.06.2019

Lodging this notice

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

For use by Committee Administration

This notice was lodged with me on

4/9/19

Signed

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not have a negative impact on any of the protected characteristics. Indeed, this tender will make a positive contribution to the health and well-being of people with disabilities and related protected characteristics. The action to be undertaken in respect of the new contract will include monitoring how services meet the needs of all eligible users, including those from ethnic minority communities and disabled people. The Council will also ensure that potential providers have undertaken equality training and adhere to the Council's Fair to All Policy or their own equivalent.

BACKGROUND PAPERS

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