

## CABINET

20 June 2017

<b>Title:</b> Provision of Respite Care and Support Services for Disabled Children and Young People	
<b>Report of the Cabinet Member for Social Care and Health Integration</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> No
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<b>Accountable Divisional Director:</b> Chris Bush; Commissioning Director for Children's Care and Support	
<b>Accountable Director:</b> Anne Bristow; Strategic Director for Service Development and Integration	
<b>Summary:</b>  Respite provides invaluable support for disabled children, young people and their families.  Taking care of a Disabled Child offers many benefits, strengthening the parent-child bond, bringing fulfilment and happiness, boosting quality of life. But regardless of these advantages and the love a parent/carer has for the recipient of their attention, care giving can be emotionally and physically draining. This is especially true when added to other responsibilities at work and home.  Many Carers have to make some work-related adjustments to accommodate care giving. Over time, without relief and assistance, care giving can take a mental and physical toll on carers. Family caregivers may feel guilty trying to find relief from the responsibilities of care giving. But planned, periodic respites can benefit both carer and the cared for. Without breaks, carers can become stressed, resentful and even depressed. With a respite, they return to the task refreshed, re-energized and relaxed.  There is a statutory duty upon the local authority to ensure this provision exists.  This report seeks approval for the Council to commence a procurement exercise. This exercise is concerned with the establishment of Framework contract comprising a diverse range of services for the provision of respite and support services for disabled children and young people.  This exercise will culminate in the creation of a list of suitably qualified and experienced providers for the provision of respite and support services. All providers on the Framework will also be accessible to eligible families opting to receive a Direct Payment	

or Personal Budget securing them the peace of mind that a rigorously vetted list of providers of this nature offers.

The Framework Agreement awarded will be for a period of four years and is likely to be awarded to multiple providers. Forecasts indicate that total expenditure in this area over the four-year period will be approximately £1.9m.

The Framework is expected to be in place by 1 September 2017 with delivery commencing from 1 October 2017.

There is no fixed financial commitment involved with this proposed arrangement as costs will only be incurred when services are used via call off contracts.

### **Recommendation(s)**

The Cabinet is recommended to:

- (i) Agree to commence the procurement of a four-year framework contract for the provision of respite and support services for disabled children and young people, in accordance with the Council's Contract Rules and the strategy set out in the report; and
- (ii) Delegate authority to the Strategic Director for Service Development and Integration, in consultation with the Cabinet Member for Social Care and Health Integration, the Chief Operating Officer and the Director of Law and Governance, to award and enter into the framework agreements and all other necessary or ancillary agreements with the successful bidders.

### **Reason**

To assist the Council in achieving its priorities of "Enabling Social Responsibility" and "Growing the Borough"

## **1. Introduction and Background**

- 1.1 Results published from the 2011 census show that over 16,000 Barking and Dagenham residents provide some level of unpaid care, which is approximately 9% of the resident population. Nearly 30% of local carers (4700) provide more than 50 hours of care a week.
- 1.2 Taking care of a Disabled Child offers many benefits, strengthening the parent-child bond, bringing fulfilment and happiness, boosting quality of life. But regardless of these advantages and the love a parent/carer has for the recipient of their attention, care giving can be emotionally and physically draining. This is especially true when added to other responsibilities at work and home.
- 1.3 Many Carers have to make some work-related adjustments to accommodate care giving. Over time, without relief and assistance, care giving can take a mental and physical toll on carers. Family caregivers may feel guilty trying to find relief from the responsibilities of care giving. But planned, periodic respites can benefit both carer and the cared for. Without breaks, carers can become stressed, resentful and even

depressed. With a respite, they return to the task refreshed, re-energized and relaxed. Families of disabled children and young people are more likely to experience family breakup; respite can reduce family stress and prevent them reaching crisis point by enhancing emotional wellbeing, building resilience, and improving life chances.

- 1.4 There are many forms that respite and support services can take, the service can take place in the child's own home where additional support is provided to the service user in their home to enable the carer to have additional support or in a residential setting where the service users temporarily move to other accommodation, as well as in an educational or community venue or in their local environment. The services can be provided at various time including daytime, evening, weekend and overnight.
- 1.5 Whilst support services focus on assisting the families at times/dates when additional help is needed to ensure that families get to take a much needed break from their 24-hour caring; Respite is an opportunity for disabled children and young people to have fun, gain independence, learn and develop. The duration of respite breaks can vary from a number of hours during the day, overnight or for a period of consecutive days and nights. This provision is usually planned but in some cases may be accessed on an emergency basis.
- 1.6 This report seeks approval for the Council to commence a procurement exercise. This exercise is concerned with the establishment of a diverse range of providers and services for the provision of respite and support services for disabled children and young people.
- 1.7 This exercise will culminate in the creation of a list of suitably qualified and experienced providers for the provision of respite and support services. All providers on the Framework will also be accessible to eligible families opting to receive a Direct Payment or Personal Budget securing them the peace of mind that a rigorously vetted list of providers of this nature offers.
- 1.8 This exercise will allow the Council to:
  - Secure better value for money by having a pre-agreed pricing structure that commits the providers to maintain their base prices across the term of the contract
  - Change the service provision to meet current and future needs – the Framework will provide the Council with the flexibility to scale up or down usage to meet demand
  - Achieve better outcomes – Good quality services should lead to more consistent, needs-focused, respite and support service provision for children, young people and families;
- 1.9 Families told the Government that their number one priority was to have regular and reliable short breaks from caring. Consultation with Parents, Young People and Children resident in Barking and Dagenham has highlighted the importance of respite to them and the impact that they have. At the most recent consultation event

which took place during March 2017 - Parents expressed that Respite and support Services allow them to:

- Have a break from their caring responsibility
- Allow the parent/carer to spend time with other family members
- Gives opportunities for the disabled child or young person to have fun and social interaction outside the family.

They also expressed the following:

- Need to be better value
- More variety
- Consistent
- Be tailored for the individual
- Be increased

1.10 Currently Barking and Dagenham provide respite and support services for 272 children and young people using the following service providers for respite and support services:

Respite services are currently provided by:

- Indigo – Barnardos
- Water Lane - Barnardos
- The Vine Residential Services
- Hamelin House
- Haven House
- Satash Care

Support Services are currently provided by:

- Hope Superjobs
- Redspot
- London Care
- Inclusive Care Support
- Disablement Association of Barking and Dagenham

1.11 The table below show usage of respite and support services for the financial years 14/15 and 15/16.

Year	Number of Children & Young People			Total Number	Number of Hours		
	Respite Days	Respite Nights	Support Services		Respite Days	Respite Nights	Support Services
2014/15	50	19	28	69	15596	6064	13949
2015/16	48	15	26	63	14980	4416	13481

1.12 The cost for these services is in the region of £470k per annum with the total cost for the financial 2015/16 year being £507,566 and the following financial year (2016/17) with an expected spend of £435k. Please see the table below:

Provision	2015/16	2016/17*
Day	£209,040.59	£149,674.51
Domiciliary	£107,048.08	£60,034.02
Overnight	£191,478.00	£115,830.00

\*At 26/01/17

- 1.13 In addition to services purchased by the Council, there are currently 168 parents and carers in receipt of direct payments with a total spend in the region of £695K per annum.
- 1.14 During the financial year 15/16 the number of parents in receipt of direct payments was 184. This reduction is due to there being a large number of Care Package reviews taking place over the last 12 months with 132 Care Packages ceased due to the support no longer being required:

Year	Packages Ended
2013	16
2014	24
2015	64
2016	132

- 1.15 The following table also evidences the increased number of new care packages required:

Year	CPR's completed	Existing Packages	New Packages
2013	5	2	3
2014	8	2	6
2015	21	5	16
2016	206	154	52

The yearly number of Care packages has increased by approximately 60% each year. The anomaly to this is during 2016 where a large number of Care Package reviews took place and 132 packages ended.

- 1.16 As the Council continues to pursue its agenda of personalisation it is anticipated that the number of children and young people being supported by directly commissioned services will reduce.
- 1.17 To assist with the personalisation agenda, direct payments can be issued to individual families so there is flexibility, choice and control over the service(s) which can be purchased.
- 1.18 For those parents in receipt of direct payments it has often been found that the average provider's hourly rate is considerably higher than the Direct Payment award

(£9.57) and opting for a Direct Payment is likely to be less than the value of securing provision, meaning that many parents often face a short-fall. Therefore, a review of the direct rate may be required.

- 1.19 It is highly unlikely that a position will be arrived at where no children and families are being supported by directly commissioned services as no family can be legally compelled to accept a Direct Payment in lieu of direct service provision.
- 1.20 Furthermore if, as is hoped, an increasing number of families *do* choose a Direct Payment so that they may make their own arrangements for respite and support services, they will need access to providers who are suitably qualified and experienced to meet the needs of their child. This Framework agreement would offer families a significant degree of reassurance in this respect.
- 1.21 A Framework agreement will also enable us to support families to do more for themselves in line with the Ambition 2020 agenda. As there is no commitment to use any of the services offered, it provides the Council with the flexibility to scale up or down usage to fit with future Ambition 2020 operating models.
- 1.22 The service vision is to commission outcome focused services that encourages choice across a diverse selection of locally based providers. The contract will be structured in a way that does not create barriers to entry to SMEs, allows flexibility in the call-off procedure so as to allow for family choice.
- 1.23 Local Providers are encouraged and supported to offer services in response to feedback from parent, carers, children and young people to ensure that services are accessible for local families.
- 1.24 This formalised approach will continue to drive savings through driving down costs at the call off stage. It will also enable financial transactions to be based on contracted prices, helping with cost containment and expenditure forecasting.
- 1.25 The funding for respite and support services is included in the Revenue Support Grant for local authorities.
- 1.26 Our Core offer has contributed to enabling us to meet the objectives set out in the Children's and Young People Plan to improve support and fully integrate services for vulnerable children, young people and families by:
  - enabling increased numbers of parents with children with a disability or special needs accessing short breaks through personalised budgets (100 plus families); and
  - enabling children, young people and families to be more independent and self-sufficient leading the life they want.
- 1.27 Statutory duties make it clear that if there is an identified need for respite and support services then these must be provided. A contract needs to be put in place to ensure that the needs and personal well-being of the service users in relation to respite and support services is met. This is in order to fulfill the Councils duty to meet the needs and help people to achieve their personal well-being outcomes where these have been assessed.

## **2. Proposed Procurement Strategy**

### **2.1 Outline specification of the works, goods or services being procured.**

- 2.1.1 Respite and support services fall under the EU Procurement Regulation 'light touch' regime. The 'light touch' regime is still fairly flexible, though it is essential that an OJEU notice is published and similarly a contract award notice. The Council will ensure that any procedure followed is open, fair and transparent for providers.
- 2.1.2 The Council, in partnership with the family, will select suppliers to provide services via a "direct call-off". If a direct "call off" is not feasible then a mini competition will be held with the providers within the specific category to ensure that the most suitable provider is selected, the selection will be based on price, quality, and the needs of service users.
- 2.1.3 The Framework Agreement will be advertised (as detailed in section 2.5) and providers will be asked to meet minimum standards, as well as completing method statements (with a threshold to ensure only those that meet the Council's quality standards enter the list). A pricing schedule will also be completed by providers. Corporate Procurement will work with the Service in order to ensure the correct balance is found between ensuring the tender documents are 'light' enough to not be perceived as a barrier to local and/or SME providers, whilst also being robust enough to ensure that the correct quality/price is achieved.
- 2.1.4 London Borough of Barking and Dagenham will invite expressions of interest from suitably qualified respite and support service providers interested in joining a Framework Agreement to provide services for disabled children and young people and their families.
- 2.1.5 The new framework will comprise of two lots as follows:
- Support Services
  - Respite Services
- 2.1.6 There are a number of accepted advantages to agreeing a contractual framework over spot-purchasing:
- Quality assurance can take place both with regard to statistical returns, as well as regular meetings with providers;
  - Good practice and training opportunities can be shared amongst providers and forums held with local partners;
  - Good quality services should lead to more consistent, needs-focused, respite and support service provision for children, young people and families;
  - A pre-agreed pricing structure that commits the providers to maintain their base prices across the term of the contract;
  - Guaranteed pricing structure for local residents and those in receipt of direct payments
- 2.1.7 The particular contractual method recommended to Cabinet, that is a Framework Agreement, would have additional advantages. It would not oblige the local authority to purchase any particular volume from a provider. The 'call off' contract

would be for a term that can range for a couple of weeks, months or years based on the needs of service users. Each Call-Off Contract to be awarded pursuant to the Contract shall be awarded on the following basis:

- The appointed Providers' Schedule of Rates shall be entered upon a "Value for Money" spreadsheet. When procuring a Care Package, the Authorised Officer shall enter the details of the Care Package on the spreadsheet. The total cost of the Care Package shall be automatically calculated for each of the appointed Providers. The Call-Off Contract shall be awarded to the Provider with the lowest total cost for that Care Package.
- In cases where the Service User or their parents / carers have expressed a choice of Provider or where particular specialist input is required, the Authorised Officer may at his / her discretion award the Call-Off Contract for that Care Package to a particular Provider irrespective of whether that Provider offers the lowest price for that Care Package. Additionally, where there is a need for a complex Care Package requiring extensive input, the Authorised Officer may select three or more suitably qualified Providers from the Framework to quote an inclusive price for the Care Package. In these cases, the Authorised Officer shall record his / her reasons for doing so. Where the Authorised Officer has invited a select number of Providers to quote for a complex Care Package, that Care Package shall be awarded to the Provider who has submitted the most economically advantageous quotation for the specific Care Package.
- For each individual Care Package purchased, the Council shall issue to the selected Provider an Individual Service User Agreement letter (as set out in Appendix A of this Specification), along with a copy of the Service User Care Plan. This Agreement together with the previously executed Contract shall form the Call-Off Contract.

## **2.2 Estimated Contract Value including the value of any uplift/extension period.**

2.2.1 The contract will be a Framework Contract that will have no minimum value. No commitment to expenditure by the Council will be stipulated within the contract itself. Expenditure will only be incurred when referrals are made. The estimated expenditure is as follows:

- LB Barking and Dagenham: up to circa. £470k per annum (circa. £1.9m in total). This figure does not include the 168 parents and carers currently in receipt of direct payments with a total cost of £695K per annum.

## **2.3 Duration of the contract, including any options for extension.**

2.3.1 The Framework Agreement will be for a period of 4 years.

## **2.4 Is the contract subject to the (EU) Public Contracts Regulations 2015? If Yes and the Contract is for services, is it subject to the light touch regime?**

2.4.1 This contract is subject to the (EU) Public Contracts Regulations 2015.



## **2.5 Recommended procurement procedure and reasons for the recommendation.**

- 2.5.1 The tender procedure will be conducted in compliance with any European Treaty principles, in addition to the Council's Contract Rules. The tendering of this service will be advertised on the Council's website and on Contracts Finder ensuring that the Framework Agreement has been advertised to a big selection of the market.
- 2.5.2 There is a requirement for the tender to be advertised in the OJEU as it is subject to the Regulations and this will be adhered to. The Council's own Contract Rules require a formal tender procedure to be followed and the EU Treaty principles of transparency, non-discrimination and equality of treatment do apply. This route has previously worked well: providers engaged with, and had no issues with, the way in which the procurement procedure was administered. Interested parties will be invited to tender on the basis of a compliant tender.
- 2.5.3 This will be a single stage tender using the Open Procedure and making the process less onerous to encourage interest from SME's and Social Enterprises to submit a tender for this Framework contract. All providers who express an interest in the tender will be issued with a tender pack which will give clear details on the price/quality criteria and weightings. The weighting will be 80% price, 20% quality.
- 2.5.4 This price/quality split has been arrived at to ensure a framework of providers of sufficient quality. The higher than usual weighting applied to the price component is mitigated in other ways with flexibility in the call-off procedure so as to allow for family choice. Tender documentation will make it clear that no direct award will be made to those organisations that are too expensive and we will be able to award based on price at the call-off stage if this is more tangible.
- 2.5.5 In order to ensure that the quality of the service is satisfactory there will be a pass threshold and a minimum quality score will be set that providers must meet to be admitted to the Framework. Combined, this approach will ensure that only providers that are of good-quality *and* are price-competitive are placed on the framework.
- 2.5.6 Following the evaluation of the tenders, providers will be advised if they have been successfully placed on the Framework. This will result in a shortlist of preferred providers.

### **Expected Tender Outline**

<b>Activity</b>	<b>Completion Date</b>
Develop Specification/Tender Documentation	March/April 2017
Cabinet	20 June 2017
OJEU Notice submitted/ITT Published	June 2017
ITT Bidders' Clarifications/Enquiries deadline	July 2017
Tender Returns and Evaluations	July 2017
Tender Evaluations	July 2017
Approval to Award - Delegated	August 2017
Internal call in period	August 2017

Award/Rejection letters	August 2017
Contract Award	September 2017
Contract Start Date	1 October 2017

## **2.6 The contract delivery methodology and documentation to be adopted.**

2.6.1 Service to be delivered by external providers. Documentation to be adopted will be the Council's standard terms and conditions.

## **2.7 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract.**

2.7.1 Utilising a Framework Agreement will allow more flexibility and competitive tendering at call off stage.

2.7.2 To ensure providers are vetted and that base prices are available for local residents and those in receipt of Direct Payments.

2.7.3 To improve outcomes for children and young people with special educational needs and/or disabilities in accordance with the five Every Child Matters outcomes, and more specifically:

- ensure children and young people in the borough are safe;
- narrowing the Gap - raise attainment and realise aspiration for every child;
- improve Health and Wellbeing, with a particular focus on tackling obesity and poor sexual health;
- improve support and fully integrate services for vulnerable children, young people and families; and
- Challenging Child Poverty - preventing poor children becoming poor adults.

## **2.8 Criteria against which tenderers are to be selected and contract awarded**

2.8.1 The price/quality ratio upon which contracts will be awarded will be 80% price, 20% quality. Providers will be ranked per lot based on their tender submission.

2.8.2 A 'call off' will follow based on the services we need and a mini competition will be conducted where a direct 'call off' would be unsuitable due to price or service user needs.

## **2.9 How the procurement will address and implement the Council's Social Value policies.**

2.9.1 The Council's Social Value policies and the Social Value Act 2012 are broadly aligned, and thus, these contracts will help address and implement the aims by:

- **Promoting employment and economic sustainability:** tackle unemployment and facilitate the development of skills
- **Building the capacity and sustainability of the voluntary and community sector:** enabling groups to provide the service and encourage volunteering and employment of local residents

- **Creating opportunities for SME's and social enterprises:** enabling the development of local businesses in the provision of this service.

### **3. Options Appraisal**

#### **3.1 Option 1: Do nothing**

The Council could purchase these services from their current suppliers without having contractual cover in place. This option would fail to be compliant with EU procurement legislation as well as the Council's own policies. There would also be a high degree of risk associated with this option, exposing the Council to potential price increases and deficit budgetary positions. Without contracts in place we cannot enforce DBS (Disclosure and Barring Service) checks being mandatory, or that service providers have the correct policies and procedures in place.

#### **3.2 Option 2: Tendering the service**

Tendering the service would comply with the Council's Contract rules and also EU Treaty principles. Through the procurement of a Framework Agreement the Council will fulfil its statutory duties to children, young people and their parents/or carers.

In addition, as we continue to encourage parents and carers to take up direct payments and personal budgets it's important that they have a number of qualified providers to deliver services on our behalf. A Framework Agreement would give parents more options and services when using direct payments.

Parents are keen to continue accessing services delivered by local organisations – Conversations are taking place with our local providers and a Market warming day will be held so that potential local providers can meet with Parents, Carers and young people to discuss the types and services that they would like. The advantages of providers that better reflects the makeup of its end users is self-evident, in that services will as a result be better designed and delivered for those it seeks to serve.

This is the recommended option.

#### **3.3 Option 3: Join an existing framework**

There is no suitable existing framework in place.

#### **3.4 Option 4: Joint Procurement:**

This option has been explored however there are currently no suitable procurement exercises taking place for our requisite timescales.

### **4. Waiver**

#### **4.1 Not applicable.**

## **5. Equalities and other Customer Impact**

- 5.1 Respite and support services will contribute to disabled children and young people having positive life chances and assist in their educational and social development.
- 5.2 Children's Services will be responsible for supporting providers to deliver high quality services. The call-off contract will specify expectations in this respect. Regular equality impact assessments will be made.
- 5.3 As this is a service for one of our most vulnerable groups the chosen providers will be required to conform to all our local and national safeguarding procedures. This will be checked at the tender stage and post-appointment by regular meetings and unannounced monitoring meetings where required.

## **6. Other Considerations and Implications**

### **6.1 Risk and Risk Management**

- 6.1.1 There is no current contract in place for these services.
- 6.1.2 As a Framework Agreement there is no specific guarantee to any provider of a level of service and, by extension, expenditure. A Framework will encourage market competition; provide the flexibility and a larger selection than tendering individual services which would tie us into a contract with one provider.
- 6.1.3 The tender exercise will assist in assessing the financial stability of any prospective providers.
- 6.1.4 Once financial stability has been established the main risk involved will be the quality of the service delivered. Technical ability will be assessed during the tender stages. Providers will be expected to demonstrate:
  - a minimum of three years relevant experience;
  - a commitment to quality and continuous improvement;
  - evidence of commitment to enhancing the lives of disabled children;
  - a commitment to engaging children and young people in service delivery design; and
  - Evidence of commitment to staff development and training.
- 6.1.5 Once a provider has been selected via the 'call off' procedure, written contractual arrangements will contribute to ensuring a quality service. The contract will have a dedicated contract manager. Quarterly monitoring reviews will be conducted and the once contracts have been awarded providers will be requested to complete a monitoring form on a quarterly basis before these reviews. The monitoring form will collect information about the service and will be based around the contract terms and conditions and service specification.
- 6.1.6 Council officers will conduct unannounced monitoring visits focusing on the quality of the provision. Quality surveys will be conducted by the provider and the Council and will be aimed at parents / carers and children. The provider will have to report any complaints made to the Council.

6.1.7 Providers delivering services for children and young people under 8 will be subject to external inspection from Ofsted. For providers of services for children and young people over 8 we will encourage voluntary registration with Ofsted. Applicants will need to supply personal information, sign a declaration that they can meet the requirements and give evidence of a valid first aid certificate. Providers will be asked to provide the DBS check numbers in addition to Safeguarding and Child Protection Policies, as a part of the procurement procedure providers will be asked to obtain minimum insurance thresholds.

## **6.2 Safeguarding Children**

6.2.1 Access to suitable Respite provision, as well as being a duty upon the Council, can play a significant role in safeguarding, as can any provision that reduces stress in the family environment. The opportunity for children and young people to access provision that help them develop social skills and manage behaviours in conjunction with their peers, as well as the impact of allowing the opportunity for parents and carers to take a break from these duties should not be underestimated. Nor should the role this plays in reducing stress factors that can contribute to familial breakdown and, at times, the escalation to more targeted and acute services that can be the culmination.

6.2.2 It is essential that all providers added to this Framework have the necessary skills and policies for identifying safeguarding concerns, and that the organisations themselves are capable of safeguarding these vulnerable children and young people effectively. The tender procedure, specification(s) and all resultant contracts must make these responsibilities explicit.

## **6.3 Health Issues**

6.3.1 As a group, disabled children, and their families, are among the most vulnerable people in our community. The needs of these children are highly complex, and they, along with their parents and siblings, are at high risk of poor health outcomes.

6.3.2 Secure, respite and support services are often key to achieving positive outcomes, but caring for a disabled child can be a stressful experience that places considerable pressure on a family. It is for this reason that we need to ensure we have an effective range of family support services in place.

## **7. Consultation**

7.1 Consultation for this tender exercise has taken place through circulation of this Cabinet Report. The draft report after having been circulated to all required consultees as listed at the beginning of this report was then endorsed by the Corporate Procurement Board on 15<sup>th</sup> May 2017.

## **8. Corporate Procurement**

Implications completed by: Francis Parker – Senior Procurement Manager

8.1 A framework is suitable for this contract due to the nature of the works procured. The division into lots for Support and Respite services makes sense due to the

differing specifications. It will allow efficient direct awards where suitable but also mini-competitions which will drive value for money

- 8.2 The procurement will be subject to the Light-touch regime and will need to be advertised in the OJEU.
- 8.3 The high price weighting will deliver value for money and the inclusion of minimum quality thresholds will ensure quality is delivered to a desired standard.

## **9. Financial Implications**

Implications completed by: Daksha Chauhan, Group Accountant, Children's Services Finance

- 9.1 This report requests approval to start the procurement of a four-year framework contract for the provision of respite and support services for disabled children and young people, and delegate authority to the Strategic Director for Service Development and Integration to award the contract.
- 9.2 There is no financial commitment with the framework contract, as spend will be incurred when services are requested from the providers. It is estimated that the authority will spend approximately £0.5m per annum on respite care, which has a budget of £495k in 2017/18. There is also a budget of £698k for direct payments in 2017/18 which is sufficient based on the forecast spend of £699k in 2016/17.

## **10. Legal Implications**

Implications completed by: Kayleigh Eaton, Contracts and Procurement Solicitor, Law & Governance

- 10.1 This report is seeking approval to tender a four-year framework for the provision of Respite and Support Services for disabled children and young people from 1<sup>st</sup> October 2017.
- 10.2 The services being procured are subject to the Light Touch Regime under the Public Contracts Regulations 2015 (the Regulations). The threshold for application of this regime is currently £589,148. The value of the proposed contract is above this threshold meaning that it will 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.
- 10.3 Clauses 2.5.1 and 2.5.2 of this report states that the contract will be advertised in OJEU as well as on the Council's website and Contracts Finder and 2.5.3 notes that the process will follow an Open tender process as set out in the Regulations. This appears to comply with the requirements of the Regulations and the Council's

Contract Rules and therefore would appear to be following a compliant tender process.

- 10.4 Contract Rule 28.7 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval.
- 10.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.
- 10.6 The report author and responsible directorate are advised to keep the Law and Governance Team fully informed at every stage of the proposed tender exercise. The team will be on hand and available to assist and answer any questions that may arise.

#### **Public Background Papers Used in the Preparation of the Report**

- 2011 Census Barking and Dagenham (<https://www.lbbd.gov.uk/wp-content/uploads/2014/09/2011-Census-Borough-Analysis.pdf>)
- Consultation Report

**List of Appendices:** None