

CABINET

16 November 2021

Title: Procurement of Framework for Day Care and Home Care Services for Residents with Disabilities	
Report of the Cabinet Member and Champion for Disabled People	
Open Report	For Decision
Wards Affected: All	Key Decision: No
Report Author: Amolak Tatter, Commissioning Manager Jackie Fisher, Lead Commissioner – Disabilities	Contact Details: E-mail: jackie.fisher@lbbd.gov.uk
Accountable Director: Stephan Liebrecht, Operational Director, Adults' Care and Support	
Accountable Strategic Leadership Director: Elaine Allegretti, Strategic Director, Children and Adults	
Summary: Home Care Home Care (also referred to as domiciliary care) is health care or supportive care provided to individuals either to adults, young people and/or children by a professional carer, either at their home or where they may be living. This is in contrast to care in other settings such as hospitals, care home or shared accommodation. These services include support with day-to-day activities as well as personal care and health related support. Typical activities may include 'Basic Care' such as bathing, toileting, and feeding, as well as 'Health Activities' such as tracking of vital signs, bloods, etc. The benefits of home care for all are multifaceted and include: a). Lower costs and reduced demand on scarce hospitals or care home beds b). Increased overall satisfaction for patients and residents who are in familiar settings where they are comfortable. c). Prevention of escalation of increasing need through early detection of vital signs of poor health. The Care Act 2014 mandates that Councils provide a range of choice of providers for individuals to access homecare support, whilst ensuring that individuals have choice and control over their support purchases through use their own personal budget or managed to personal budget to pay for services to meeting their required needs. Day Care The purpose of a Day Service is to support the Service User in improving their quality of life. A Day Service should assist the Service User to lead an independent and fulfilling life, help them to maintain a healthy lifestyle, and to promote and enhance effective	

personal support networks. This supports Barking and Dagenham's commitment to helping people live safely and independently and be socially included within their local communities. A successful Day Service should support the Service User to take greater control of their own life and encourage them to remain as independent as possible within their own home, the community and within their chosen way of life.

The Service User must be at the centre of all decisions about how they are supported. The Service Provider should provide services in such a way that the Service User is able to feel secure, confident and included in all decisions regarding the service provided to them.

The Care Act 2014 mandates that Councils provide a range of choice of providers for individuals to access support, whilst ensuring that individuals have choice and control over their support purchases through use their own personal budget or managed to personal budget to pay for services to meeting their required needs.

The framework will ensure we are compliant in line with the Act and financial contractual regulations; in addition, will also ensure that service users who are purchasing 'goods' from the providers meet the appropriate threshold and criteria. The borough currently has a waiver in place for both services, until 31st March 2022.

The framework will support service users:

- who manage their own funds and can choose which services they wish to commission;
- whose funds are managed by a payroll agency; or
- where the Local Authority manages the services users' funds.

This is further illustrated in a flowchart and payment mechanisms for purchasing care and support shown in Appendix 1.

There is an existing waiver in place for the Homecare and Daycare services; however, the need is present and increasing. Providers who do not have contracts in place with the Council, will continue delivering domiciliary care and day care placement for people with disabilities aged 18 and over, until a formal contract arrangement can be implemented.

In the interim, there are mechanisms in place for the associated providers for the financial year ahead (1st April 2021 – 31st March 2022) to ensure the continuity of care for Homecare and Daycare services.

Transition

The Children and Families Act 2014 introduced a procedure of support which extends from birth to 25-years, whereas the Care Act deals with Adult Social Care (ASC) for anyone 18-years and over.

The statutory guidance for the Care Act clearly supports the inputs required of ASC prior to the young person 18th birthday; therefore, there will be a group of young people aged between 18 to 25 who will be entitled to support though both pieces of legislation. The two Acts also have the same emphasis on outcomes, personalisation, and the integration of services. It is therefore essential that the planning and implementation of both of these Acts is joined up and practitioners work together with young people and families in the co-production of their plan.

There are process and procedures in place for 'Transition', where it appears that a child is likely to have needs for care and support after becoming 18, and it would be of significant benefit to the child to do so and if the consent condition is met:

- (a) whether the child has needs for care and support, what those needs are, and
- (b) whether the child is likely to have needs for care and support after becoming 18 and, what those needs are likely to be.

The benefit of having an all-age contract is assisting with service mapping, and the continuity of care for young people transitioning from children to adult services.

Recommendation(s)

The Cabinet is recommended to:

- (i) Agree that the Council proceeds with the procurement of a framework for day care and home care services for residents with disabilities and/or mental health, in accordance with the strategy set out in the report; and
- (ii) Authorise the Strategic Director, Children and Adults, in consultation with the Cabinet Member and Champion for Disabled People and the Strategic Director, Law and Governance, to conduct the procurement and award and enter into the contract(s) and all other necessary or ancillary agreements with the successful bidder(s), in accordance with the strategy set out in the report.

Reason(s)

To enable the Council to fulfil its statutory duties as prescribed by the:

- Children Act 1989
- Children and Families Act 2014
- Care Act 2014

To deliver better outcomes for adults, children and young people, in accordance with our commitment in the borough manifesto.

1. Introduction and Background

1.1 Homecare

- 1.1.1 It is a longer-term aim that the Council develops a quality approved framework of specialist Learning Disabilities (LD) and/or mental health home care agencies able to effectively meet the care and support need of those with learning disabilities and/or mental health issues in the borough.
- 1.1.2 The Care Act 2014 mandates that Councils provide a range of choice of providers for individuals to access support, whilst ensuring that individuals have choice and control over their support purchases through use their own personal budget or managed to personal budget to pay for services to meeting their required needs. These services may be for people with profound and multiple learning disabilities

who have limited mobility, are non-verbal, have impaired hearing, and/or limited communication or mental health issues.

- 1.1.3 The availability of these services ensure that vulnerable residents are receiving good quality care from providers of their choice, that they are happy with and trust. It will also mean that service users with specific preferences, e.g. language or culturally specific services, will be able to have these preferences met. This can at times necessitate the need for Commissioners and Operational to commission varied personalised home care services ad-hoc and in a limited time frame.
- 1.1.4 If a service user requests to have their care and support delivered by an agency that do not hold a contract with the Council, and they do not wish to manage their care via a Direct Payment, the Council are required to follow their wishes and commission the care package. A large proportion of the service users with care packages currently being delivered by providers without contracts have been receiving their care package for several years.

1.2 **Daycare**

- 1.2.1 It is a longer-term aim that the Council develops a quality approved framework of specialist LD and/or mental health day care services able to effectively meet the care and support need of those with learning disabilities and/or mental health issues in the borough.
- 1.2.2 The Care Act 2014 mandates that Councils provide a range of choice of providers for individuals to access support, whilst ensuring that individuals have choice and control over their support purchases through use their own personal budget or managed to personal budget to pay for services to meeting their required needs.
- 1.2.3 These services may be for people with profound and multiple learning disabilities who have limited mobility, are non-verbal, have impaired hearing, and/or limited communication or mental health issues.
- 1.2.4 The availability of these services ensure that vulnerable residents are receiving good quality care from providers of their choice, that they are happy with and trust. It will also mean that service users with specific preferences, e.g., language or culturally specific services, will be able to have these preferences met.
- 1.2.5 If a service user requests to have their care and support delivered by a service provider that does not hold a contract with the Council, and they do not wish to manage their care via a Direct Payment, the Council are required to follow their wishes and commission the care package. A large proportion of the service users with care packages currently being delivered by providers without contracts have been accessing their current building-based day provision for several years.
- 1.2.6 In addition, we want to move from the traditional building-based model to a community based inclusive model. Working with local providers to ensure that all residents can access the facilities they offer in various setting such as community hubs and/or faith group settings, ensuring that the service user has a choose.

2. Proposed Procurement Strategy

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

2.1.1 Daycare

The purpose of a Day Service is to support the Service User in improving their quality of life. A Day Service should assist the Service User to lead an independent and fulfilling life, help them to maintain a healthy lifestyle, and to promote and enhance effective personal support networks.

This supports Barking and Dagenham's commitment to helping people live safely and independently and be socially included within their local communities. A successful Day Service should support the Service User to take greater control of their own life and encourage them to remain as independent as possible within their own home, the community and within their chosen way of life.

2.1.2 Home Care

The provider shall provide a service designed to enable Service Users to optimise their independence and their self-care skills so they can remain in their own home for as long as possible.

Services should be provided in a way that maintains the Service User's independence in as many aspects of daily living as possible. This may mean assisting someone to do something for themselves (self-care), rather than providing direct care, or may mean working alongside the Service User to enable them to main control of their own domestic environment. The services must also be built around the individual Users need and desired outcomes as opposed to having set rules that must be followed to supply care.

2.2 Estimated Contract Value, including the value of any uplift or extension period

2.2.1 Due to the fluid nature of the contracts and the ad-hoc usage of agencies, it is difficult to accurately forecast spend for each agency; however, current activity has been used to calculate the approximate yearly values, in the table below. Although every effort has been made to accurately forecast the anticipated demand, to ensure we allow for any increase across the lifespan of the contacts, a 30% 'buffer' will be applied across the contracts.

Services	1-year		3-year		4-year	
	Forecasted Costs	30%Buffer Costs	Forecasted Costs	30%Buffer Costs	Forecasted Costs	30%Buffer Costs
Day Care Adults Learning Disabilities	£604,300	£785,590	£1,812,900	£2,356,770	£2,417,200	£3,142,360
Day Care Adults Mental Health	£53,112	£69,045	£159,336	£207,136	£212,448	£276,182
Home Care Adults and children	£501,800	£652,340	£1,505,400	£1,957,020	£2,007,200	£2,609,360
Home Care Adults Mental Health	£1,717,685	£2,232,990	£5,153,055	£6,698,971	£6,870,740	£8,931,962

2.3 Duration of the contract, including any options for extension

2.3.1 The duration of the framework contract will be for three years with an option to extend for a further year.

2.4 Is the contract subject to (a) the (EU) Public Contracts Regulations 2015 or (b) Concession Contracts Regulations 2016? If Yes to (a) and contract is for services, are the services for social, health, education or other services subject to the Light Touch Regime?

2.4.1 This contract is subject to the (EU) Public Contracts Regulations 2015 and is subject to the Light Touch Regime. As the procurement will be undertaken under the Light Touch Regime, it will not be subject to the full rigor of the Public Contracts Regulations 2015, however, we will ensure that the procurement is open, transparent, and fair.

2.4.2 The report has been drafted in line with the current rules; however, will be subject to change according to new guidance.

2.5 Recommended procurement procedure and reasons for the recommendation

2.5.1 The service will be procured in line with the Public Contract Regulations 2015 through a 'light touch regime' and line with the Councils contract rules. The tender opportunity will be advertised in Find a Tender, on the Council's e-tendering portal (Bravo), Contracts Finder and the Council's website following the open process.

2.5.2 Potential suppliers will be required to complete Supplier Information in addition, to a tender submission document (including method statements) to ascertain suitability to deliver the services that they wish to offer. An evaluation of the Tender Submission will take place once the deadline has passed for submission. 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 provider(s) must meet, to be considered for the framework. Overall scores will be collated, and the providers who meet the thresholds will be added onto the Framework Agreement. Following the award of contract, the standstill period will commence.

2.6 The contract delivery methodology and documentation to be adopted

2.6.1 Referrals to the services will be made in line with the specific needs of the resident that is in need of the support. With the drive for residents to have choice and control of the services they need.

Home Care/Domiciliary Care	
Adults	Children
Personal Care General household chores Shopping Meal preparation Assistance to attend appointments Assistance to go shopping Assistance to access community activities Support to visit friends and family Assistance with household chores	Personal Care Support with activities in the home Support to access the community Support to access group activities

Assistance with meal preparation Assistance with gardening	
Day Care Services	
Building based day provision Community based services Faith groups Volunteering opportunities Out-reach Services	N/A

Nb. This is not an exhaustive list and there may be occasions when other support may be requested

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

- 2.7.1 The providers will be locked into the costs for the duration of the contracts
- 2.7.2 Utilising a Framework Agreement will allow more flexibility and competitive tendering. Using a Framework Agreement will ensure that the Council are able to provide wider ranging of Daycare and Homecare service that meets the need of the service users.
- 2.7.3 As there are demand led services there may not be savings and efficiencies, however, there will be more rigorous checks carried out with providers and guaranteed costs for services being delivered.

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

- 2.8.1 The tender process will be carried out in compliance with the Council's Contract Rules and Public Contract Regulations. The tender opportunity will be advertised on OJEU and will be published on the Council's website, e-tendering portal (bravo) and on Contracts Finder.
- 2.8.2 Providers will be required to respond to Quality encompassing technical method statement questions (60%), and Pricing requirements in a pricing schedule (30%) and additional Social Value (10%).
- 2.8.3 Entrance to the Framework will be on the basis of the most economically advantageous tender with a split of 60% quality and 30% price additional Social Value (10%). Price will be assessed based on contract prices based on current volume provided by providers and quality will be assessed according to provider's responses to the method statement questions. Providers will be ranked per Lot that they can provide based on their tender submission.

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

- 2.9.1 The Council is committed to ensuring that services are delivered in a way that protects the quality of the environment and minimise any adverse impact on community well-being.

Areas of additional Social Value in Care & Support Commissioning, the contractors will need to clearly outline and consider the following options from below:

- **Investment in local people:** incentivizing contractors to take on local people from vulnerable groups. Employment for people with Learning Disabilities and poor Mental Health are still below the London Average.
- **Investment in the local economy:** supporting local job creation by sourcing goods and services from organisations with premises/operations based in the borough and supporting initiatives to build the capacity of local suppliers.
- **Community participation and engagement:** procuring from organisations with a social purpose, involving citizens in service design and decisions, and helping to build the capacity of local civil society organisations such as through volunteering, mentoring and provision of facilities.

2.9.2 The evaluation panel has agreed that the technical submission will expect the provider to focus on “Investment in local people”.

2.10 **Contract Management methodology to be adopted**

2.10.1 The providers for the Homecare and Daycare is for Barking & Dagenham residents with Learning Disabilities and/or mental health issues. The providers on the framework will work within a results-based accountability model that will have an integrated approach with staff working within Community Mental Health Teams (CMHT), GP’s and A&E, Hospital departments.

2.10.2 Quarterly provider forums and half-yearly contract monitoring meetings will be held to ensure they are continuing to deliver to the specification, agreed targets and provide a budget update. In addition, an annual service review will be undertaken.

2.10.3 Where there are concerns that the providers are not delivering, exceptional meetings will be implemented, these could be weekly for nightly or monthly

3. **Options Appraisal**

3.1 **Option 1 – Do Nothing**

This option was considered and rejected. This option is not viable because the Council needs to ensure that it is fulfilling its duties as stated in the Care Act and the intervention / engagement required for residents with learning disabilities and/or with mental health issues to maintain their day to day lives

3.2 **Option 2 – Utilise an existing Framework agreement**

This option was considered and rejected on the basis that it is not a feasible one. Refusing to commission care from a service user’s preferred provider because they are not on the list would place the local authority in breach of their duties under the Care Act.

This option would also result in all service users being forced to switch to a provider from the new framework which would interrupt their continuity of care and result in them losing the relationships they have built up with their carers.

The recent COVID-19 pandemic has also meant that this option would further not be feasible as the Local Authority are required to discharge service users from hospital rapidly, only commissioning through contracted providers would result in failure to do this and increasing numbers of delayed discharges attributed to social care.

3.3 **Option 3 – Develop a new specialist Framework agreement**

This is the recommended option as this will allow for residents to have a greater choice of providers knowing they have been through a robust tender process.

4. **Waiver**

4.1 Not applicable.

5. **Consultation**

5.1 The table below set out the consultation process has or will be undertaken.

Providers Consultation Event	11 th August 2021
Service Users/Carers Consultation Event	16 th August 2021
PRMG	
Procurement Sub Board	4 th Oct 2021
BAU	14 th October 2021
Procurement Board	18 th Oct 2021
Portfolio Cllr Worby	19 th Oct 2021
CSG	21 st Oct 2021
Report to Cabinet	19 th Nov 2021
Circulate expression of interest to providers	22 nd Nov 2021
Advertise and send out tender application packs	December 2021
Tender submissions to be returned	January 2022
Reviewing all tender submissions and interview?	January/February 2022
Approval and award of contract	March 2022
Framework Goes Live	1 st April 2022

6. **Corporate Procurement**

Implications completed by: Francis Parker – Senior Procurement Manager.

6.1 The proposed Open tender is compliant with the Councils contract rules and the PCR 2015.

6.2 A framework is a suitable delivery model, but we must be very clear about how contracts are awarded from the framework.

7. **Financial Implications**

Implications completed by: Florence Fadahunsi, Finance Business Partner.

7.1 The Council is seeking Cabinet approval to set up a framework contract for Day Care and Home Care services for residents of Barking and Dagenham for 3-year

duration with an option to extend for one year. This contract will cover clients in Mental Health, and adults and children in the Disability Services.

- 7.2 The proposal will improve the quality of service to LBBD clients with the development of a quality approved framework of specialist Learning Disabilities (LD) and/or mental health home care and day care agencies able to effectively meet the care and support needs of our residents.
- 7.3 The annual value of the contract is £3,739,965 which is based on the 2020/21 outturn gross expenditure of the package types with a 30% buffer, as set out in 2.2 above. The total contract amount over the 4-year period exceeds £14.9m and a clear and transparent procurement process will be required. In addition to this, rigorous contract monitoring will be needed to ensure the quality of service delivered meets the needs of our vulnerable residents.

8. Legal Implications

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

- 8.1 This report is seeking approval to tender a framework for Day Care and Home Care services for Residents with Disabilities for a period of 3-years with an option to extend for 1-year.
- 8.2 The services being procured are subject to the Light Touch Regime under the Public Contracts Regulations 2015 (the Regulations). The value of the proposed framework is above the threshold meaning that it will need to be advertised in Find a Tender. 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 complies with principles of transparency and equal treatment of economic operators; conducts the procurement in conformance with the information that it provides in the Find a Tender 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 Find a Tender.
- 8.3 Clause 2.5 of this report states that the contract will be advertised in Find a Tender, on the Council's e-tendering portal (Bravo), Contracts Finder and the Council's website in compliance with the Regulations. This appears to be following a compliant tender process.
- 8.4 Contract Rule 28.8 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval.
- 8.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contracts following the procurement process with the approval of Corporate Finance.
- 8.6 The legal team will be on hand to assist and advise as required.

9. Other Implications

9.1 Risk and Risk Management

Risk	Likelihood	Impact	Risk Category	Mitigation
Delay to / failed procurement process	Low	Medium	Medium	Set and monitor realistic implementation timetable
No tender received	Low	Medium	Medium	High level of publicity around the tender launch in various contract register platforms and via the Council for the Community and Voluntary Sector. Market engagement.
Providers who do not have the experience in applying for tenders maybe put off from submitting a bid.	Low	Low	Low	Soft touch discussion will be undertaken with such providers and offer support, especially to small providers.
Providers who choose not to be part of the Framework and may continue to offer services.	Low	Medium	Medium	To work along with such providers and where possible to ensure they are quality assured, policies in place and staff are appropriately trained.
Providers who are not successful for the Framework, could still be commissioned by service users to provide services.	Low	Medium	Medium	Ensuring that the service user is aware that the provider is not the Borough's Framework. Where possible to ensure they are quality assured, policies in place and staff are appropriately trained.
Contract award decision challenged by unsuccessful provider(s)	Low	Medium	Low	Procure contract in line with Council's contract rules and EU Public Contracts Regulations. Ensure documentation is kept.
Provider(s) fails to meet their obligations	Low	High	Medium	Clear set of outcomes set out in service specification and agreed with providers. Robust and regular provider meetings and performance monitoring procedures, performance indicators and consequences of failure to meet them set out in service contract.

There are systems and mechanism in place to ensure any risks around the service user are managed and where there are concerns, these will be taken up with the provider, if required action plans implemented. In addition, provider forums will be implemented, along with risk management system to ensure that delivery remains on track and remedial action can be taken as necessary.

There would need to cooling period before awarding the contract as there will be providers who are delivering services; therefore, we need to ensure there is a smooth transition and continuity of care.

9.2 **TUPE, other staffing and trade union implications** - Not Applicable

9.3 **Corporate Policy and Equality Impact** - The Framework will ensure that we move away from the 'traditional' way individuals accessed services to a more efficient way; whereby the individual have more control, choice and are able to choose providers who are able to meets their needs; therefore, ensuring good quality services, as and when required.

The Equality Impact Assessment (EIA) Screen Tool has been completed (Appendix 2) to ensure there is:

- Increase choice and control
- Competitive pricing
- Qualitative approved providers
- More secure contract framework

9.4 **Safeguarding Adults and Children** - Staff working with the young people and vulnerable adults will be expected to have a current Disclosure and Barring Service (DBS) check. In addition, as a part of the framework exercise all providers, including those who are already provide services will be thoroughly assessed on child protection and safeguarding methods they employ, ensuring they have updated policies in place, along with annual training which must be delivered to their staff. All providers commissioned through the framework either working with adults and/or young people to be aware of LBBD safeguarding procedures and must adhere to incident reporting as part of their contractual obligations.

9.5 **Health Issues** - A Framework Agreement will ensure that the health needs of vulnerable members of society are better supported, particularly in regard to ensuring that they are able to make choices. The Care Act 2014 mandates that Councils provide a range of options for individuals to access homecare support, whilst ensuring that individuals have choice and control over their support purchases.

Public Background Papers Used in the Preparation of the Report:

The following background papers were relied on in preparation of the report.

- Scrutiny Review – Day Opportunities and Community Centre Provision in Haringey: https://www.haringey.gov.uk/sites/haringeygovuk/files/day_ops_report_-_final2.pdf
- Haringey Future Services Co-Design -Learning Disabilities Day Opportunities: <https://www.minutes.haringey.gov.uk/documents/s81795/Appendix%204%20-%20Co-Design%20Output%20LD%20Day%20Opps.pdf>
- Community-based day activities and supports for people with learning disabilities: <https://www.scie.org.uk/publications/guides/guide16/messages/commissioning.asp>
- Sparking change in public systems – Nesta: https://media.nesta.org.uk/documents/100_days_to_change_a_system_v8.pdf
- Learning disability week: A call for change – Nesta: <https://www.nesta.org.uk/blog/call-change-learning-disability-week/>
- Day Services Review – Essex County Council: <https://bit.ly/2RAqQ6c>

List of appendices:

Appendix 1: Flow Chart and Payment Mechanism

Appendix 2: EIA Screening Tool