

## CABINET

21 March 2023

<b>Title:</b> Dynamic Purchasing System for Disabled Adaptation Works and Services	
<b>Report of the Cabinet Member for Adult Social Care and Health Integration and the Cabinet Member for Children’s Social Care &amp; Disabilities</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 Director:</b> Chris Bush, Commissioning Director	
<b>Accountable Strategic Leadership Director:</b> Elaine Allegretti, Strategic Director Children and Adults	
<b>Summary:</b>  <p>The Council is required, under the Equality Act 2010 and Care Act 2014, to make reasonable adjustments to meet identified needs of persons living in council properties. Additionally, the Council has a statutory duty to approve mandatory Disabled Facilities Grants (DFG’s) for adaptations to the home environment to promote independence and keep people living in their own homes in safety and with dignity for longer. Adaptations can help to prevent or delay the need for care and support, both of which are central themes of the Care Act 2014; where adaptations cannot be progressed quickly, this can significantly impact upon resident outcomes and wellbeing. It is therefore critical that adaptations are provided quickly and efficiently to support residents to stay living in their homes, reducing unnecessary reliance on hospital beds and residential placements and the associated decline in independence and quality of life.</p> <p>Since 2019, the Council have successfully used the Plymouth City Council Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC (INCIC) to facilitate and manage Barking and Dagenham’s Disabled Facility Grants (DFG) for disabled adaptation works and services within private properties, providing a cost-efficient solution enabled by flexibility, economies of scale and increase competition amongst suppliers to drive down prices to offer savings. Additionally, since 2021, approval was granted to expand the use of the DPS for disabled adaptation works and services to Council properties to expedite clearing the backlog of jobs which has accumulated throughout the Covid-19 pandemic with the incumbent provider. This has provided a more efficient and cost-effective means for new jobs to be completed.</p> <p>To ensure that the Council meets its legal duties and strategic priorities in the most efficient and economically advantageous way, approval is sought to renew the access and use of the DPS for disabled adaptation works and services to both private and Council properties. This will support better service equity across the borough, ensuring</p>	

that vulnerable residents will receive disabled adaptations in a timely way and to a high-quality standard irrespective of tenure.

### **Recommendation(s)**

The Cabinet is recommended to:

- (i) Agree that the Council enters into an access agreement in respect of the Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC (INCIC) for the provision of disabled adaptation works and services, in accordance with the strategy set out in the report; and
- (ii) Authorise the Strategic Director, Children and Adults, in consultation with the Chief Legal Officer, to award and enter into the call-off contracts and all other necessary or ancillary agreements with the chosen suppliers over the duration of the access agreement.

### **Reason(s)**

To accord with the Council's Contract Rules and assist the Council in achieving its priority of 'Prevention, Independence and Resilience'.

The DPS is compliant with Public Contracts Regulations 2015 (PCR 2015) and has been advertised in the Official Journal of European Union (OJEU) as well as the UK government Contracts Finder. The DPS is compliant for all contracting authorities to use, negating the need for a new competitive procurement exercise.

## **1. Introduction and Background**

- 1.1 The Council is required, under the Equality Act 2010 and Care Act 2014, to make reasonable adjustments to meet identified needs of persons living in council properties. Additionally, the Council has a statutory duty to approve mandatory Disabled Facilities Grants (DFGs) for adaptations to the home environment to promote independence and keep people living in their own homes in safety and with dignity for longer.
- 1.2 Through consultation with the Core Commercial Team, it was agreed to award the Disabled Adaptations service for Council properties to the incumbent provider in September 2018. At the outset of this arrangement, it was anticipated that the incumbent provider would develop this area of business specialism in order for it to be delivered directly by them, however this has not manifested. Instead, the incumbent provider has sub-contracted services to third party suppliers due to it not having the specialism in-house and has therefore acted as a go-between by managing and administering the works to other suppliers once the Equipment and Adaptations team provide the detail of the adaptation that is required.
- 1.3 The Council's requirement under this arrangement was for disabled adaptation works and services including the supply, installation, servicing and maintenance of stair lifts, through floor lifts, hoists and step lift equipment. The service also provides

major adaptations that are valued above the £1000 threshold. This includes, ramps, level access showers, extensions or any other general building works to make the existing property accessible to disabled residents in Council owned properties.

- 1.4 Equivalent provision within private properties has been successfully managed and administered through the Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC (INCIC). The recommendation to use and access the ARMI DPS for this purpose was approved in October 2019 for a maximum contract term of five years.
- 1.5 Due to the Covid-19 pandemic and significant resourcing issues, a backlog of disabled adaptation works and services to Council properties developed which could not be feasibly cleared by the incumbent provider. Consequently, there was a significant risk that the authority was unable to meet its statutory obligations, in addition to the wider implications which may exacerbate the ongoing challenges within the health and care system.
- 1.6 To address this issue and mitigate the associated risks to the Local Authority and prospective service recipients, approval was granted to expand the use of the DPS for disabled adaptation works and services to Council properties to expedite clearing the backlog of jobs which had accumulated. Using the DPS has provided an efficient and cost-effective means for new jobs to be completed, delivering a better quality of service to residents and the health and social care system at a reduced cost.

## **2. Proposed Procurement Strategy**

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

- 2.1.1 The DPS set up for Adaptations, Repairs, Maintenance and Improvements all relates to the home environment needs of the elderly and disabled communities. The DPS consist of 20 Lots as detailed below:

- Bathroom Adaptations & Associated Building Works
- Bathroom Adaptations & Associated Building Works including Design
- Provision and Installation of Shower and/or Bathroom Cubical (Prefabricated Cubicles)
- Hoists
- Kitchen Adaptations & Associated Building Works
- Kitchen Adaptations & Associated Building Works including Design
- Minor Building Works
- Ramps, Paths and Hard-standing including Handrails
- Stair lifts (Internal and External)
- Through floor lifts (Internal)
- External Mechanical Access Lifts (e.g. step lifts)
- Disabled Living Equipment (e.g. raised WC seats, bath lifts etc.)
- Disabled Living Equipment Requirements/Assessment
- Assistive Technology Services
- Door openers and entry systems
- Major Adaptations Extensions, Conversions
- Home Repair & Maintenance including handyperson service

- Disabled Living Home Design Services
- Occupational Therapy and Trusted Assessors Services
- Case Management Service

- 2.1.2 This list of Lots provides the authority with a 'one stop shop' style procurement exercise on a case-by-case basis. The DPS offers constant refreshing of contractors and products and seeks response from the market to meet the need of elderly and disabled people. Individual or packages of work can be awarded through the 'Lots' on the DPS via an online system that offers robust Consumer protection and insurance backed warranty of work.
- 2.1.3 Unlike a traditional framework, Contractors /Suppliers (Providers) can apply to join at any time. It is an 'open market' solution designed to provide buyers with access to an unlimited group of pre-qualified providers. Suppliers can apply to single or multiple lots within a DPS. The rules relating to the usage and creation of a DPS come from The Public Contracts Regulations 2015 (PCR2015).
- 2.1.4 The 'open market' nature of a DPS supports micro business, Small and Medium sized enterprises (SMEs), or businesses with little or no experience in tendering for work with the public sector subject to adherence with the associated selection requirements set out on the DPS. The selection stage is less onerous, as the provider only has to compete this stage on entry to the DPS (and thereafter periodically reconfirm its status) instead of having to do so separately for all procurements.
- 2.1.5 As the DPS is open to providers throughout its duration, new start-ups, or businesses that wish to expand into new public-sector markets will not be frozen out of the market. The division of DPS into category by type of requirement or size of contract can be arranged to ensure that niche suppliers and SMEs have maximum opportunity to compete. LBBD have worked closely with Independence CIC (INCIC) to continuously improve the number and quality of local providers who can deliver across the respective Lots supporting the Council's Social Value Policies.

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

- 2.2.1 There is no upfront cost to access the DPS, nor minimum annual cost that the Council would be committed to. INCIC will be paid a management fee of 1% of the completed adaptation works total on a monthly basis in arrears.
- 2.2.2 Given the volatile nature of this service area, it is impossible to specify the precise amount of adaptation works that would go through the DPS but based upon activity in recent years this is not expected to exceed £1M annually for Council Properties, and £1.5M annually for DFGs (private properties). Based on these figures, the contract value to Independence CIC for the maximum eight-year contract term across both strands is not estimated to exceed £200,000 (1% fee).
- 2.2.3 The formalisation of this new arrangement would amalgamate both strands (Council and DFGs/Private) and commence 01 April 2023. Consequently, this new arrangement, once approved through respective governance, would supersede the existing provisions referred to within this report – specifically any remaining term for the DFG strand.

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

2.3.1 A four-year contract with the option of a two further two-year extension options at the sole discretion of the Council (4+2+2) to access and use the Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC (INCIC).

2.3.2 Given the nature of the DPS, the council will award and enter into the call off contracts and all other necessary or ancillary agreements with the chosen suppliers through the DPS over the duration of the access agreement for the purpose of Disabled Adaptation to Council Properties

## 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 The contract is above the (EU) Public Regulations threshold for works and therefore subject to the (EU) Public Regulations. The DPS is compliant with Public Contracts Regulations 2015 (PCR 2015) and has been advertised in the Official Journal of European Union (OJEU) as well as the UK government Contracts Finder.

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

2.5.1 Enter into an access agreement for four-years with the option of two further two-year extension options at the sole discretion of the council to access and use the Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC (INCIC) via the Contracting Authority Access Agreement.

2.5.2 To then award and enter into the call off contracts and all other necessary or ancillary agreements with the chosen suppliers over the duration of the access agreement for the purpose of Disabled Adaptation Works and Services to Council Properties

2.5.3 This agreement is for the Management and Operation of an Adaptations, Repair, Maintenance, and Improvement (ARMI) Dynamic Purchasing System (DPS). The primary focus of this DPS is to facilitate and manage disabled adaptations within Barking and Dagenham for both Council properties and Disabled Facility Grants (DFG). The DPS has been configured to be very flexible and can accommodate most organisations who might wish to join it and operates through tailored software specifically developed for this service area.

2.5.4 The DPS is compliant with Public Contracts Regulations 2015 (PCR 2015) and has been advertised in the Official Journal of European Union (OJEU) as well as the UK government Contracts Finder. The DPS is compliant for all contracting authorities to use, negating the need for a new competitive procurement exercise. We will follow the requirements that all awards over £25k are published in accordance with prevailing regulations, e.g. Contracts Finder.

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

- 2.6.1 The DPS Customer Access Agreement and accompanying terms and conditions will be used for the delivery of this service.
- 2.6.2 The management responsibility for the contract lies with Care and Support Commissioning and the contract will be managed in line with a contract management plan to be set out within the final specification.
- 2.6.3 Service performance will be monitored through a series of Key Performance Indicators (KPIs) that includes quantitative and qualitative data, service user, practitioner and provider feedback, led by the Enabling Independence Team.
- 2.6.4 For private properties, the contract for any works awarded via the DPS will be between the successful appointed contractor and the DFG Grant Recipient.
- 2.6.5 For Council properties, the contract for any works awarded via the DPS will be between the successful appointed contractor and LBBB.

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

- 2.7.1 There are significant cost efficiencies which may be realised as a consequence of awarding the proposed contract and utilising the DPS for disabled adaptations for Council Properties pertaining to the difference in the management and administrative fees of the DPS in contrast to the fees charged by the incumbent. As referenced at Section 2.2.2, the nature of disabled adaptations is subject to several variables which can impact upon demand, activity and associated spend. Based on the annual budget of £1m for disabled adaptations to Council properties, the management and administrative fees of using the DPS would be £10k per year, in contrast to £70k for the incumbent provider – facilitating a potential annual cost efficiency of £60k, or £480k over the course of the maximum recommended contract term.
- 2.7.2 Additionally, the access and use of the Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) provided by Independence CIC will enable the Council to improve its current capacity and processes in its procurement and delivery of disabled adaptations as well as the associated costs and choice that is provided to residents.
- 2.7.3 The DPS provides additional cost-effective benefits once set up for a wider use than a traditional framework, due to ordering and monitoring methods, potential adaptation design efficiencies and economies of scale and will enable the Council to provide adaptations to the home environment which promote independence and keep people living in their own homes in safety and with dignity for longer. Wherever possible, LBBB will signpost local providers to join the DPS to support local business to access work within boroughs utilising the DPS.

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

2.8.1 Award criteria will be set by the Council when conducting the call for competition as set out for this DPS. Given the nature of works, there are minimum quality standards which need to be satisfied before jobs are evaluated on price.

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

2.9.1 Applications to the DPS would be encouraged from providers able to demonstrate potential to muster additional social value through the development of local employment opportunities as well as training and development of local volunteers and students/trainees.

2.9.2 The Council will encourage applications from local providers to join the DPS who are able to demonstrate an ability to meet the Council's strategic aims to protect vulnerable people whilst developing sustaining services and building resilient communities. Those able to demonstrate an ability to interface with other services of a similar nature to resolve the causes and symptoms of referrals would also be welcomed.

2.9.3 We will be discussing social value commitments with both Independence CIC as the organisation running the Dynamic Purchasing System, as well as with contractors undertaking the adaptation works, particularly where contractors have a combined value of jobs over £100k.

## 2.10 **Contract Management methodology to be adopted**

2.10.1 The contract will contain specific service requirements and expected outcomes. Key performance indicators will be outlined in the service specification and agreed with the provider. Commissioners will undertake performance management of the service.

2.10.2 Contract monitoring meeting will take place each quarter to review performance reports and contribute to the continuous development of the service. In addition, annual reviews will be required to be completed by the provider, to include feedback on contract outcomes.

## 3. **Options Appraisal**

3.1.1 **Option one – continue with the incumbent provider for disabled adaptations to council properties.** This is not a recommended option due to several cost and quality issues. For example, in FY21/22 the incumbent provider completed 16% of adaptations jobs within 3 months. By contrast, 90% of jobs put through the DPS were completed within the same timeframe. Additionally, in FY 21/22, almost one third of adaptations jobs given to the incumbent provider resulted in complaints from residents due to delays or were handed back by the provider due to resourcing issues. In comparison, for DFG cases put through the DPS, 2% of jobs were returned (due to the resident no longer wanting the adaptation) and 4% of jobs had complaints (all of which were due to incorrect OT specifications, and not due to the

contractors involved). In addition, as outlined above, the DPS offers significant cost efficiencies to Council budgets compared to the incumbent provider.

3.1.2 **Option two – procure a new framework.** The cost to procure a new disabled adaptations framework for the Council would be anticipated to cost in excess of £50,000 and would potentially increase existing risks to the Council. Accessing an existing framework would be limited to the availability of existing Contractors/Suppliers as well as the products available from when originally tendered. A new framework would not allow for the admission of new Providers, when the market or customers demanded as such. Whilst there are recognised benefits in the use of a frameworks, there are important limitations in terms of choice and compliance for disabled adaptations, in particular DFGs, as well as increased risk to be considered. In view of the above, this option is not recommended.

3.1.3 **Option three (recommended) – renew the access and use of the DPS for disabled adaptation works and services to both private and Council properties.** This will support better service equity across the borough, ensuring that vulnerable residents will receive disabled adaptations in a timely way and to a high-quality standard irrespective of tenure. The DPS will allow for wider procurement and flexibility in the market which is in turn anticipated to deliver better value for money given the continuous market competition facilitated through the platform on a project-to-project basis. This option would not preclude the incumbent provider from being added to the DPS to compete for jobs in both Barking and Dagenham and other Local Authority areas who use the DPS. Other benefits of utilising the DPS:

- Improved cost efficiencies in relation to the reduced management and administrative fees
- Higher quality provision, resulting in reduced waiting times for vulnerable residents, greater customer satisfaction, and improved outcomes for the health and care system.
- Increased opportunities for local SMEs, supporting the Council's Social Value Policies

#### 4. Waiver

4.1 Not applicable.

#### 5. Consultation

5.1 The proposals in this report have been consulted upon with both the Commercial Director and with the incumbent provider.

5.2 The proposals have also been considered and endorsed by the Corporate Performance Group on 26 January and the Procurement Board on 20 February 2023.



## **6. Corporate Procurement**

Implications completed by: Euan Beales, Head of Procurement

- 6.1 The Council's Contract Rules require all spend over £50,000 to be conducted in an open market, however this requirement can also be satisfied where the Council can access and use a pre-procured route to market. A Dynamic Purchasing System (DPS) is a recognised way of working and is compliant with the Council's Contract Rules as well as the Public Contract Regulations 2015, as long as the process used to complete the requirement is followed as stated by the owning Authority.
- 6.2 From a procurement perspective, the use of a DPS is a satisfactory method of engaging with a wide variety of suppliers, which can be scaled with suppliers being added and removed, which allows for greater market saturation unlike a standard framework where the supplier numbers are fixed. The DPS also allows for any capable local suppliers to be signposted to gain access and the opportunity that may not be available to them if a larger/wider framework was procured based on volume and turnover criteria.
- 6.3 The contract term to access the DPS as stated in the report is a 4-year initial term with the option to extend by two further periods each for 2 years so a potential total of 8 years. It is my recommendation that towards the end of year 3 a benchmarking exercise should be undertaken to ensure the service delivery matches the Councils and the end users' expectations and if the costs are reflective of the market at this time. This should be repeated prior to the agreement of the extension periods.

## **7. Financial Implications**

Implications completed by: Philippa Farrell, Head of Service Finance

- 7.1 The paper outlines a series of options for the delivery of adaptations for disabled people. The financial comments will focus on the preferred option, which is to renew the access and use of the DPS for disabled adaptation works and services to both private and Council properties and terminating the use of the incumbent provider for the delivery of this service.
- 7.2 Adaptations for Council properties are funded from the Housing Revenue Account (HRA). It is capital expenditure as an enhancement to the property. There are two projects under this heading the Adults Care and Support capital program that relates to non-HRA properties and HRA stock investment that relates to HRA properties. The incumbent provider's work relates to the HRA stock investment properties. The capital budget to spend with the incumbent provider is £1m to deliver these works. The budget to spend with the incumbent has not been fully utilised in the last two years. In 20/21 & 21/22 we spent on average 25% of the budget allocation. This is due to delays on the side of the incumbent that have resulted in a backlog. In 22/23 we've only spent £274k which would indicate an out-turn of £350k/£375k. If we were following the same trend as the two previous years, you would anticipate that we would be forecast to spend £750k/£800k. This demonstrates that works have fallen significantly behind. Because this work is of a capital nature the outstanding work and budget is rolled into future years. It is noted by the service that DPS has a good record of delivery of jobs and at the current time has delivered 100% of allocated jobs within this financial year.

- 7.3 Although overall the DPS contract will overall cost less in terms of the management fee, it is likely that they will be able to complete jobs at a rate that the incumbent provider has not been able to and therefore in year spend will be higher on the capital program, which is a positive result for delivery. Most significantly works will be completed for disabled individuals and this is likely to prevent escalation of conditions to require higher levels of Council intervention. As outlined above the contractual saving will be the difference in the management fee of 1% with DPS compared to 7% of the incumbent, against a £1m budget this is a saving of £60k per annum. It is not assumed that there will be a timeframe of enhanced levels of activity to catch up on the backlog. Therefore, there is no forecasted year of inflated cost and activity.

## 8. Legal Implications

Implications completed by: Kayleigh Eaton, Principal Contracts and Procurement Solicitor

- 8.1 This report seeks approval to use the Plymouth City Council Adaptation, Repair, Maintenance and Improvement (ARMI) Dynamic Purchasing System (DPS) managed by Independence CIC (INCIC). This DPS has been procured in accordance with the Public Contracts Regulations 2015 for use by all local authorities, LBBB is therefore permitted to use this DPS. This also ensures compliance with the Council's own Contract Rules which requires a competitive tendering exercise be undertaken for any contract above £50,000.
- 8.2 This report states that the intention is for LBBB to sign up to the access agreement allowing it to use the DPS for a period of 4 years with the option to extend for 2 further periods of 2 years. During this period the Council will be able to enter into various call-off contracts as and when a need arises for the Council. This ensures a compliant route to market for all respective works and service requirements within this area.
- 8.3 It is understood that there is a possibility that this arrangement will result in the transfer of an employee from the incumbent provider to the Council under TUPE regulations. Once this is known, the client department will need to factor this into the new procurement timeframe. Therefore, there is a possibility that the commencement date for this arrangement will need to be pushed back to allow sufficient time to comply with those obligations. Enquiries to determine this are ongoing.

## 9. Other Implications

- 9.1 **Corporate Policy and Equality Impact** - Awarding this contract will allow the Council to improve its current capacity processes and compliance in its procurement and delivery of its disabled adaptations as well as the associated costs and choice that is provided to service recipients. This will build resilience and improved well-being in people that receive care and support services from the Council.
- 9.2 **Safeguarding Adults and Children** - The providers delivering works through the DPS must have in place the necessary Safeguarding protocols, in line with Council

Policy and must demonstrate a good working knowledge of the Working Together to Safeguard Children 2018 document and the 6 principles of adult safeguarding.

- 9.3 **Health Issues** - The provision of the services facilitated through the DPS can help improve the effectiveness of treatment and, in some cases, help early intervention or prevent the need for treatment and so ensuring the best use of resources. The proposal is in line with the outcomes and priorities of the joint Health and Wellbeing Strategy. The proposal will have a positive effect on our local community.

**Public Background Papers Used in the Preparation of the Report:** None.

**List of appendices:**

- Appendix 1: EIA Screening Tool