

CABINET

18 July 2023

Title: Direct Award of Elements of the All-Age Care Technology Service Contract	
Report of the Cabinet Member for Adult Social Care and Health Integration	
Open Report	For Decision
Wards Affected: All	Key Decision: No
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Accountable Director: Chris Bush, Commissioning Director, Care and Support	
Accountable Executive Team Director: Elaine Allegretti, Strategic Director, Children and Adults	
Summary <p>The All-Age Care Technology service was tendered in 2021 and mobilised in 2022, following approval at Cabinet in February 2021. Due to the poor performance of the current service provider, a decision was made in May 2023 to partially terminate several elements of the contract. The requirement of this service is essential due to the local authority's obligations under the Care Act 2014 and no break in service can occur. Since the end of May 2023, the current service provider has continued to retain the terminated elements of the service, until an alternative provider could be awarded. An alternative provider has now been sought urgently to deliver the terminated elements of the service. Three prospective providers were consulted to explore the market. Out of the three consulted, only one provider confirmed that it could offer the service.</p> <p>Following legal advice, this report is seeking to directly award the terminated aspects of the current All Age Care Technology Service contract to Alcove for a two-year period (plus an optional 6-month extension only to be used if the digital switchover carries risk to residents), under reg 32(2)(c). This is while an open procurement process is run.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Approve the direct award of a contract to Alcove for the management and delivery of the terminated aspects of the All-Age Care Technology service, in accordance with the strategy set out in the report; and(ii) Delegate authority to the Strategic Director, Children and Adults, in consultation with the Cabinet Member for Adult Social Care and Health Integration and the Chief Legal Officer, to award and enter into the contract and any extension periods with Alcove to fully implement and effect the proposals.	

Reason(s)

To accord with the Council's Contract Rules and the Public Contract Regulations 2015 following the partial termination of a contract and the urgent need to source a provider to ensure continuity of service. The All-Age Care Technology Contract assists the Council in achieving its obligations under the Care Act 2014, as well as two of the priorities set out in the new Corporate Plan for 2023-2026:

- Residents are safe, protected, and supported at their most vulnerable;
- Residents live healthier, happier, independent lives for longer.

1. Introduction and Background

1.1 By Minute 85 (15 February 2021), the Cabinet resolved to approve the procurement of an All-age Care Technology solution to the residents of Barking and Dagenham, in accordance with the strategy set out in the [report \(minute 85\)](#).

1.2 The above link to the report provides a comprehensive overview of the key service elements that were being procured. However, for ease, the following summarises the three key service elements that make up the All-Age Care Technology service:

- **Service Element 1** – Innovation and development of technology and/or digital services for Barking and Dagenham residents that complement their own support and networks. This includes the combination of substantial expertise in both Social Care and Technological Innovation and how the intersection and collaboration of these specialisms can generate a model greater than the sum of its parts. Integral to this is the requirement to continuously improve and extend the range and use of technological and digital services and products to meet individually identified health and social care outcomes so the digital offer in Barking and Dagenham remains at the cutting-edge of technological advancement.
- **Service Element 2** – A 'Technology First' cultural change including a Care Technology Learning and Development programme so care and support provision in Barking and Dagenham becomes truly digital in its nature, enriched, and enhanced by technological solutions. This will include working with the Council, our partners, the care market, and our residents to understand and utilise digital technology and connectivity.
- **Service Element 3** – An innovative new operating model for leveraging care technologies and data to support better outcomes in care and support and deliver significant financial benefits. This includes the sourcing and deployment of technological and digital services and products curated to meet individual resident needs. Critical to this will be the collection, aggregation and analysis of data attained through such solutions to provide actionable insights pertinent to both support planning and the immediate welfare of our residents so that LBBD can keep people safe both proactively and reactively. This will include a flexible response-based service grounded in social care expertise and insight, to supplement the community response mobilised through the technology deployed.

1.3 Following the decision to approve the procurement at Cabinet in 2021, a comprehensive tender exercise was undertaken which culminated in the final award of the contract to the current contractor. This then led to a complex four-month mobilisation phase spanning matters relating to existing clients and significant technical considerations. A summary of the tender activity and dates were as follows:

Activity	Timeline
Tender and evaluation	April – December 2021
Contract award	December 2021
Mobilisation	January – May 2022
New service 'go live'	23 May 2022

1.4 The new service went live at midday on 23 May 2022, successfully transferring 2,440 residents from the former Careline service to the current contractor whilst maintaining service continuity and avoiding any break in connection to the monitoring centre. A series of immediate benefits of the new service has been felt by residents since the new service commenced including:

- The provision of a new falls pick-up service;
- 627 new residents connected;
- Provision of new digital technology to approx. 1000 residents.

1.5 Notwithstanding the above successes, there have been a series of failures within the current service which have inhibited the All-Age Care Technology service from supporting LBBD to fully realise its vision and ambition for Care Technology. As a result of these failures and the contractor's poor performance across two of the three service elements, the Council took the decision to partially terminate the service with the current contractor on 25 May 2023.

1.6 As a result of the partial termination, the contractor has retained the following core operational service elements of the current All-Age Care Technology service:

- 24/7 monitoring and response service;
- The falls pick-up service;
- Data insights and integration;
- Social value elements as outlined in the original tender;
- The standard aspects relating to liability and risk management, in addition to, staff background and development, safeguarding (including escalations), accessibility, information governance, IT and Technical, connectivity, business continuity and any other relevant compliance or legislative requirements.

1.7 It was agreed that the current contractor would continue to deliver on some key, ancillary aspects of the service until such time that a new provider was awarded and mobilised following legal advice. This included referral management, assessments, installations, collections and repairs.

1.8 The partial termination of the All-Age Care Technology Service has left the local authority in an urgent situation. The limited provision of these services on an interim basis under the current contractor carries a risk for the Authority, especially in relation to its duties under the Care Act 2014. Additionally, some aspects have ceased delivery entirely, such as the innovation and culture change elements of the

service which are fundamental to the delivery of the vision, as well as other technical practicalities for the Council such as the fact that the digital switchover requires urgent upgrades to the technology that a number of our residents have in place.

- 1.9 As a result, the local authority has taken legal advice to determine the best way forward and the procurement strategy below has been proposed to enable the local authority to fulfil the requirements of the full service and to take forward its duties under the Care Act 2014.

2. Proposed Procurement Strategy

Outline specification of the works, goods or services being procured

Overview and context

- 2.1 As stated above, more information on the service elements, the service outcomes, the benefits and the data compliance and integration elements of the service can be found in the original Cabinet report.
- 2.2 For the benefit of this report, the local authority is looking to directly award a contract for the management and delivery of two of the three elements under the All-Age Care Technology contract (as set out in the specification), that were terminated with the current contractor. This includes assessments and installations, along with the associated culture change and the provision of technological innovations.
- 2.3 Following legal advice, and due to the urgency involved, the local authority approached three prospective providers. The providers included two former bidders that originally bid for the All Age Care Technology service in 2021, as well as a third provider who had previously undertaken a pilot Pathfinder project with the local authority.
- 2.4 Providers were asked to consider:
 - Their interest in delivering the partially terminated elements of the contract;
 - An estimated mobilisation timeframe to operationalise the service elements from Friday 30 June;
 - The minimum viable duration that the bidder would consider undertaking this contract for; considering mobilisation timeframes, technical integrations, digital switchover etc;
 - Whether the elements could be delivered within the annual budget of £300k, supported by the accompanying technology capital budget of £0.5m-£1.5m per the original Cabinet report.
- 2.5 Responses were received from all three prospective providers, however only one provider was able to express an ability and willingness to pick up the service with the urgency required. This provider is Alcove and it is proposed that under the grounds of Regulation 32(2)(c) of the Public Contracts Regulations 2015 (see legal comments below), Cabinet directly awards the terminated aspects of the original All Age Care Technology service to Alcove. As per the legal advice, the contract will be awarded for a two-year period while an open procurement process is run for the

longer-term service. This is the minimum possible timeframe that the contract can be awarded, noting the potential disruption that the anticipated digital switch over will cause towards the end of 2024 and mobilisation and de-mobilisation periods.

- 2.6 Alcove has significant experience and an excellent reputation in delivering technology enabled care services and works with a number of local authorities and NHS organisations across the UK. The organisation has over 18,000 devices and users globally in a range of settings and cohorts across social care and are committed to person-centred co-production and delivery.

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

- 2.7 The estimated cost of the service to be directly awarded to Alcove is £4.5m and can be broken down as per the following:

Contract term	Service budget	Technology budget
Year 1	£300,000	£1.5m (max)
Year 2	£300,000	£1.5m (max)
Optional 6 months extension	£150,000	£750,000 (max)
Total	£750,000	£3,750,000
	£4.5m in total over 2 years (+ 6 months)	

Duration of the contract, including any options for extension

- 2.8 Initial term of two years with an option to extend by a period of six months, in the event that the digital switchover prevents the safe transition of clients, and the Authority has no alternative options the extension period will be taken.
- 2.9 It should be noted that mobilisation will begin immediately (from Friday 30 June) as no break in service can occur for the reasons set out above.

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?

- 2.10 Yes. This contract award would ordinarily be subject to the Light Touch Regime but as an open market procurement strategy is not being used, this does not apply.

Recommended procurement procedure and reasons for the recommendation

- 2.11 Regulation 32(2)(c) of the Public Contract Regulations 2015, being the use of the negotiated procedure without prior publication. This would be a waiver of the Contract Rules under r 35.5(h) being exceptional circumstances (i.e., a partially terminated contract due to poor provider performance and no other alternative). The services are essential and no gap in service provision is possible as this would breach the Council’s duties under the Care Act 2014. Consequently, an open procurement for the terminated aspects of the service is implausible in these urgent circumstances.

The contract delivery methodology and documentation to be adopted

- 2.12 The Council shall be using its standard terms and conditions, which contain a robust termination clause, including the option to terminate without cause on the provision of 12 months' notice. Any minor breaches may also be grounds for termination. However, Commissioning intends to closely monitor the provider with regular meetings and reporting, mitigating the need for such measures. Should they be required, the terms of the contract provides for grounds to terminate.

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

- 2.13 Benefits tracked will be both financial and non-financial and may include the following cost saving and cost avoidance measures:

Cost saving (cashable)	Cost avoidance (non-cashable)
Reduction in domiciliary care packages / hours of care	Avoidance of higher cost care packages both in the community and in care homes
Reduction in care home placements/1:1 hours	Delayed admission to care homes
Reduction in supported living packages	Avoiding short term admissions to care home delaying the need for the introduction of long-term care services
Reducing the use of primary and community care resources	Supporting family/informal carers
Reducing the number of delayed transfers of care and their length	Reducing the number of unplanned hospital admissions/readmissions
Reducing the number of emergency ambulance call-outs and unnecessary A&E presentations	

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

- 2.14 As per process set out in paras 2.3-2.5 above.

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

- 2.15 As this procurement is a Waiver/Direct Award, LBBD is not able to evaluate the Social Value commitments offered. However, to comply with the Councils strategy to ensure Social Value is delivered by all supplier's contracting with the council for over £100,000, Alcove have been notified of the Councils Social Value policies and will be provided with the Social Value Toolkit. As part of the contract signing agreement, LBBD will liaise with the Alcove account manager to discuss and encourage Social Value commitments.
- 2.16 Any commitments made will be in addition to the service Alcove are providing and will be monitored by the Commissioning team.

London Living Wage (LLW)

- 2.17 Alcove will pay London Living Wage in accordance with requirements on all contracts for services and works where the contract is for at least two hours a week for eight consecutive weeks.

How the Procurement will impact/support the Net Zero Carbon Target and Sustainability

- 2.18 As per the specification for the All-Age Care Technology service, Alcove will be expected to ensure that their processes are as efficient as possible to support a reduced carbon footprint. A key element of the specification relates to the provider taking a proactive approach to maximising the use and recycling of solutions where possible. In addition, where equipment is deemed end of life, Alcove will be expected to establish environmentally friendly methods of disposal to help LBBD reduce its carbon footprint. These elements will be discussed and taken forward as part of mobilisation and contract monitored through the Commissioning team.

Contract Management methodology to be adopted

- 2.19 The contract will contain specific service requirements and expected outcomes as above. Key performance indicators will be outlined in the service specification and agreed with the provider. Commissioners will undertake the contract and performance management of the service. Contract monitoring meetings will take place on a monthly basis and a robust mobilisation plan will be followed with weekly mobilisation meetings.
- 2.20 Robust governance arrangements for the service will be implemented that draw in necessary strategic input, including the development of a strategic relationship management plan and overseeing spend and benefits delivered.

3. Options Appraisal

- 3.1 A full options appraisal for the service was presented in the original Cabinet report. In terms of this contract award, the following options were assessed:
- 3.1.1 **Option One: Do nothing:** This option was discounted as the service could not operate with significant gaps due to the partial termination with the existing contractor. The contract forms part of our obligations under the Care Act 2014 and therefore operating without these service elements is not an option. This would also compromise our ability to achieve the vision and ambition set out for the service in the original tender as well as the local authority's ability to meet obligations under the Digital Switchover.
- 3.1.2 **Option Two: Undertake a competitive tender process:** This option was rejected due to the extreme urgency in the need to fulfil the terminated elements of the service. A competitive tender process shall be undertaken, but for the interim period, a provider must be in place to operate this essential service.
- 3.1.3 **Option Three: use of a negotiated procedure without prior publication through regulation 32 of the PCR 2015 and waive the Contract Rules under**

rule 35.5(h) (recommended): Following legal advice and the process undertaken above, this option is being pursued and is our preferred option, enabling the Council to award the contract on the basis of urgency and necessity.

4. Waiver

- 4.1 Under rule 35.5(h) where there are other circumstances which are genuinely exceptional, the Contract Rules may be waived and a contract may be directly awarded (or negotiated without prior publication, as the case may be).

5. Consultation

- 5.1 A series of engagement activities have been undertaken which contribute to the overarching care technology and digital agenda. This includes consultation with residents and professionals which have been undertaken directly through the reviews conducted by Healthwatch, SOCITM, and 'Breezie' as outlined in the previous Cabinet report.
- 5.2 A key facet of the Care Technology service is the consultation and co-production with residents, families and professionals and this will be undertaken by Alcove as part of the contract award.
- 5.3 The proposals in this report were considered and endorsed by the Procurement Board on 7 July 2023.

6. Corporate Procurement

Implications completed by: Euan Beales, Head of Procurement

- 6.1 The Councils Contract Rules require all spend in the Gold threshold to be procured in the open market. Due to the urgency and the fact the requirement was unforeseen, Procurement Board and Cabinet are able to waive the Contract Rules.
- 6.2 As stated in the report, the recommended route to market is to award a contract without prior competition (negotiated process) which, if justified, can be conducted in conjunction with Regulation 32 of the Public Contract Regulations 2015.

7. Financial Implications

Implications completed by: Paul Durrant (Finance Manager – People & Resilience)

- 7.1 This report seeks Cabinet agreement that the Council proceeds with the contract award to Alcove for 2 years, 6 months for management and delivery of all-age Care Technology solutions to the residents of London Borough of Barking and Dagenham.
- 7.2 The estimated contract value for the entire contract period of 2 years, 6 months is £4.5million. This indicates an annual funding requirement of £1.8million effective from 30 June 2023.
- 7.3 There is currently £1.650m funding available for the annual contract value:

Source of Funding	Annual funding
Service budget (former Careline)	£740,000
Assistive Technology budget	£160,000
Better Care Fund	£450,000
DFG contribution	£300,000
Confirmed funding	£1,650,000
Contract sum required	£1,800,000
Retained service budget for current contractor (monitoring and response)	£300,000 (approx.)
Total budget requirement	£2,100,000
Shortfall	£450,000

- 7.4 This would leave a contract shortfall of £0.450m. However, there is a requirement to provide equitable support to both Social and Private residents. To deliver our statutory duty there is a requirement for the Housing Revenue Account (HRA) to provide a financial contribution. Presently, £0.500m is set aside for this commitment and would make the model sustainable in 2023-34. This is being put forward in the HRA Funding for the Capital Programme Report presentation at the Asset and Capital Board.
- 7.5 In 2024-25 there is currently no commitment to support this service by way of HRA Funding, which would leave a deficit of £0.450m.
- 7.6 It should be noted, that the HRA business plan is currently under review and the commitment to support this programme is at risk. If this commitment were withdrawn the contract would not be sustainable. However, it should be noted that we would be treating social residents differently to private residents, which is likely to face legal challenge.
- 7.7 Government Funding for Disabled Facilities Grant is intended to fund adaptations for owner occupiers, private tenants, or private registered providers. However local authorities with a Housing Revenue Account should fund adaptations for council tenants.
- 7.8 The methodology for charging for both the HRA (social residents) and Disabled Facilities Grant (private residents) needs to be reviewed to ensure a consistent equitable treatment is applied.

8. Legal Implications

Implications completed by: Lauren van Arendonk, Contracts & Procurement Lawyer

- 8.1 This report seeks to approve the award of a contract to Alcove through regulation 32 of the Public Contract Regulations 2015 (PCR 2015). Reg 32 of the PCR 2015 permits the use of the negotiated procedure without prior publication in specific and unique circumstances.
- 8.2 In the specific cases and circumstances laid down under regulation 32, contracting authorities may award public contracts by a negotiated procedure without prior publication. Under reg 32(2)(c), insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting

authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with, an authority may award a contract without prior publication.

- 8.3 Due to the poor performance of the current contract, which was unforeseeable and outside the control of the authority, the Council. The Public Contract Regulations 2015 permit a waiver of the standard open procurement process, if the requirements under reg 32 are met, specifically, circumstances outside of the authority's control that require urgent contract award. The decision maker may approve a waiver of the Contract Rules and contract award without prior publication in certain permitted circumstances; the current circumstances seem to meet the requirements for regulation 32.
- 8.4 Subsequently, it follows that a waiver of the Contract Rules is required. Rule 35.5(h) permits a waiver of the Contract Rules in exceptional circumstances, enabling a contract to be directly awarded to a provider. In this case, the direct award shall take the form a contract award through the negotiated procedure and without prior publication.
- 8.5 Importantly, the contract is being awarded for a period of 2 years, plus 6 months – which would only be used if the digital switchover were to prevent the safe transition of residents to a new supplier. This is only insofar as is necessary, as a procurement process would take 12 months to run and mobilisation of the service (and demobilisation at the end of the term) also take several months either side. Given that this contract needs to align with the current contract with the remaining elements, two years is the minimum term. This route to contract was supported by external legal advice obtained.

9. Other Implications

- 9.1 **Risk and Risk Management** – The register, to be completed imminently, will provide a systematic review of potential risks in areas such as Information Governance, Compliance, Business Continuity, Cybersecurity, Technological Changes, Vendor Management, and Legal Obligations. This document will be periodically updated to reflect any changes in the operational or regulatory landscape, ensuring it remains a relevant and effective risk management tool. High-level risks relating to these areas have also been identified and captured in the Departmental Risk Register for Adult Social Care.
- 9.2 **Corporate Policy and Equality Impact** – The EIA for the All-Age Care Technology service can be found as part of the original Cabinet documentation pack here: [Care Technology - App B.pdf \(lbbd.gov.uk\)](#)
- 9.3 This service will allow us to expand the Council's current service offer enabling more people to participate in and benefit from Care Technology and Digital solutions. This will build resilience, choice and improved well-being in people that receive care and support services from the Council. This approach in building solutions aims to address current shortfalls for key groups in accessing such services. The Service should meet the needs of diverse user groups, for example by providing language support according to LBBB policies, or arranging visits compatible with religious preferences (e.g. avoiding certain days). Groups include (but are not limited to):

- Black and ethnic minority communities
- Religious communities
- Adults with visual and/or auditory impairments, including deaf blind adults
- End of life/palliative care
- Adults with communication difficulties
- Non-English speakers
- Adults with British Sign Language (BSL) as their first language
- Adults with learning and/or physical disabilities and/or mental health issues, including dementia

9.4 **Safeguarding Adults and Children** – As per the service specification, the service providers will be reviewing whether the individual is safe, as set out in the Pan-London Multi-Agency Safeguarding Policy & Procedures. Compliance with Barking and Dagenham’s safeguarding policies with a clear understanding of the council’s responsibilities and liabilities will be integral to the contract monitoring process.

9.5 **Health Issues** - The services provided through this contract will have a positive impact on the health and wellbeing of the local community, supporting residents to better self-manage their own health including long-term conditions, perform tasks they would otherwise be unable to do and/or increase the ease or safety with which tasks can be performed.

9.6 **Business Continuity / Disaster Recovery** - the following actions will take place to support and mitigate the impacts on the continuity of supply to the Council:

- Alcove will prioritise and ensure sufficient resilience in the supply chain. This includes implementing a robust Business Continuity Plan and establishing resilient supply chains. The initial Business Continuity Plan with Alcove is already in place.
- The provider's Business Continuity Plans will be refined and enhanced throughout the mobilisation phase to ensure their appropriateness and effectiveness in addressing potential disruptions.
- The resilience of the supply chain will be considered a crucial component of the contract obligations. The provider will be obligated to incorporate and maintain business continuity measures to guarantee uninterrupted supply to the Council. These measures and the BCP will be tested on an annual basis by the provider in partnership with the local authority.

9.7 Overall, these measures will provide assurance that the selected provider is committed to safeguarding the continuity of supply. By actively addressing potential disruptions and enhancing the resilience of the supply chain, the Council can rely on a reliable and uninterrupted flow of goods or services from the provider.

Public Background Papers Used in the Preparation of the Report:

Report to Cabinet 15 February 2021 (Minute 85), [Procurement of an All-age Care Technology Service](#)

List of appendices: None