


<p>Cabinet</p> <p>5 January 2016</p>	
<p>Report of: Luke Addams, Acting Director: Adults' Services</p>	<p>Classification: Unrestricted</p>
<p>Commissioning of adult social care and supported housing contracts</p>	

Lead Member	Councillor Amy Whitelock Gibbs, Cabinet Member for Health and Adult Services
Originating Officer(s)	Karen Sugars, Acting Service Head: Commissioning and Health
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

1. There are a number of adult social care and supported housing service contracts which, for a variety of reasons, have either expired or are due to expire in the near future. For these services it is necessary therefore to initiate procurement exercises as soon as possible in order to put in place new contractual arrangements that comply with the Council's Financial Regulations and offer best value. The services to which this requirement applies are listed in the body of the report.
2. In order to ensure continuity of service provision and to provide sufficient time to design and deliver new commissioning and procurement strategies for these services it is also necessary to seek authority to award, without competition, contracts to current providers for a duration sufficient only to allow these procurement activities to be completed.
3. There are also a number of contracts that were let in 2013/14 and 2014/15 for which the contract duration was set at two years with the option to extend for a further year. The initial two-year term for each of these contracts will therefore expire between now and March 2017. The Mayor in Cabinet is asked to delegate authority to the Acting Director of Adults' Services to utilise these extension periods.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Authorise the initiation of tender processes and subsequent awarding of contracts, subject to best value considerations being met by bids received,

in respect of the adult social care and supported housing services listed in paragraph 3.2 of this report;

2. Delegate authority to the Acting Director of Adults' Services following consultation with the Corporate Director of Law Probity and Governance and Monitoring Officer the power to decide to enter into all necessary agreements and undertake any other ancillary matter to give effect to the decision referred to in recommendation 1;
3. Authorise contractual terms of sixty months for each of the contracts to be let for the services listed in paragraph 3.2 of this report, that being an initial term of thirty-six months with the option to extend this initial term by two periods of twelve months each.
4. Authorise the direct award of contracts to existing providers of these services listed in paragraph 3.3 of this report for the duration identified for each service in order to ensure continuity of service provision to residents while new contracts are procured and let;
5. Delegate authority to the Acting Director of Adults' Services following consultation with the Corporate Director of Law Probity and Governance and Monitoring Officer the power to decide to enter into all necessary agreements and undertake any other ancillary matter to give effect to the decision referred to in recommendation 4;
6. Delegate authority to the Acting Director of Adults' Services following consultation with the Cabinet Member for Health and Adult Services, the Corporate Director of Law Probity and Governance and Monitoring Officer the power to exercise the contractual extension clauses contained in contracts for the social care and supported housing services listed in paragraph 3.6 of this report subject to being satisfied with performance and value for money.

1. REASONS FOR THE DECISIONS

- 1.1 To provide authority to undertake competitive procurement exercises in order to identify suitable providers to which contracts for the provision of the relevant services can be awarded.
- 1.2 To enable the direct award of contracts for the provision of the relevant services to cover the period until new competitively procured contracts are awarded with the aim of ensuring continuity of service to vulnerable residents in the interim.
- 1.3 To delegate to the Interim Director of Adults' Services the authority currently reserved to the Mayor in relation to the authorisation to extend existing contracts by the duration allowable under the terms of the contract. This authority to be exercised in consultation with the Cabinet Member for Health and Adult Services.

2. ALTERNATIVE OPTIONS

- 2.1 It is essential that the required procurement processes be undertaken in order to ensure that the Council is compliant with relevant European Union competition law as well as the Best Value duty in respect of the services to be procured. There is no identified reasonable alternative, therefore, to authorising the initiation of said procurement processes.
- 2.2 It is equally essential that the services to be procured are maintained in the interim until such time as new contracts are awarded and mobilised. This interim position will ensure continuity of services to the vulnerable residents to whom these services are provided. There is no identified reasonable alternative, therefore, to the proposed direct of award of contracts for a term sufficient to maintain continuity of service until the new contracts are awarded and mobilised.
- 2.3 Approval to let contracts for a term of sixty months is sought in respect of the services listed in paragraph 3.2 of this report. The initial term being thirty-six months with the option to extend for two further twelve month periods. This term is judged to provide the optimum combination of Best Value and service continuity. It is open to the Mayor in Cabinet, however, to vary the proposed term either for all contracts, or for specific individual contracts.
- 2.4 The report seeks the delegation of authority to the Acting Director of Adults' Services to award contracts following the conclusion of the required procurement processes. It is open to the Mayor in Cabinet to alternatively instruct that all, or specific, contract award recommendations are referred back to Cabinet for decision or be made by Individual Mayoral Decision.
- 2.5 The report also seeks the delegation of authority to the Acting Director of Adults' Services to extend existing contracts by a term allowable under the original contract. It is open to the Mayor in Cabinet to alternatively instruct that the existing authority not be delegated and that all, or specific, such extensions be referred back to the Cabinet for decision or be made by Individual Mayoral Decision.

3. DETAILS OF REPORT

- 3.1 Between 2010/11 and 2013/14 the Commissioning and Health service within the then Education, Social Care and Wellbeing Directorate undertook a wide range of commissioning and procurement activity to ensure that the adult social care and housing related support services contracted for:
- are strategically relevant;
 - provide best value; and
 - have been procured in a way that complies with relevant procurement legislation and the council's Financial Regulations and procurement rules.

3.2 There are, however, a number of service contracts which, for a variety of reasons, do not currently meet the above standards, and which have either expired or are due to expire in the near future. For these services it is necessary therefore to initiate procurement exercises as soon as possible in order to put in place new contractual arrangements that comply with the Council's Financial Regulations and offer best value. The services to which this requirement applies are listed in the table below.

Service	Background and action proposed
Domiciliary care block contracts and Preferred Provider Framework Agreement / spot purchased provision.	<p>A tender to replace the Framework Agreement has recently been abandoned due to significant delays in progress. A review of the procurement strategy and service specification is proposed in order to explore joint commissioning options with the CCG and to ensure that the new contracts are fit for purpose in the context of the Care Act, Children and Families Act, the Ethical Care Charter and recently published NICE guidance.</p> <p>This requirement incorporates the spot purchasing of packages of personal care and support for a small number of disabled children.</p>
Direct Payment Support Service	<p>This service was the subject of a previous procurement that was abandoned following OSC scrutiny of the original Mayoral decision to award the contract. It is now proposed that the service specification be reviewed in conjunction with the CCG and that a new service be jointly commissioned for both Direct Payments and Personal Health budgets. It is planned that this tender process be commenced in January 2016.</p>
Tower Hamlets Domestic Abuse Service	<p>This service is subject to a request to tender the service for a 3 year period effective from 1 April 2016 for which authority is awaited. In absence of this decision a request to extend the contract for a 12 month period is required to maintain stability to the service and allow sufficient time for a procurement exercise.</p>
Gateway Sheltered Housing Schemes	<p>This service is composed of 14 sheltered schemes. There is a need to provide continuity to the service whilst decisions are reached as to the future model of provision for sheltered housing. The service requires increased funding to maintain the provision which is included within the annual contract value and funded from within existing resources.</p>
Other sheltered housing schemes	<p>These contracts are composed of 5 schemes delivered across 4 contracts and community alarm provision to 2 of the services. They are subject to the same decision making process with regards to future model of care as the Gateway schemes above.</p>
Hostel Services	<p>Four hostel contracts end during the next financial year. The services are subject to review as the hostels strategy is developed. It is therefore, requested that the contracts are extended until 31/03/2017 to align contract dates if required, allow for a detailed review and procurement of the services in accordance with decisions made within the strategy.</p>
Aspen Court HC1	<p>This service is for the statutory provision of residential nursing and dementia care. The contract is subject to review</p>

	and will require a further extension to facilitate the review process, which may require an annual uplift.
Various Carers Short Breaks Services	There are a range of Carers Breaks/care in the home which have been rolled over in anticipation of the tender for domiciliary care which has now been abandoned (See above). These services will be retendered with the domiciliary care services.
Learning Disabilities Day Service provision (spot purchased)	<p>A range of Day Opportunities provision for people with a Learning Disability. The intention is to bring these contracts together into a preferred provider list with a greater emphasis on routes to employment (with the exception of the service provided at Antill Road, which is focussed on people with more complex and high needs.) The current preferred provider list was too limited to operate effectively. There is a need to coordinate the contract end dates to facilitate the design of a new service specification and go back to the market.</p> <p>A paper will be planned for Cabinet in the New Year to enable a consistent and consolidated approach which makes the most of opportunities for people with a Learning Disability and/or Autism to maximise their independence, whilst ensuring value for money for the Council</p>
Antill Road Complex and High Needs Day Service	Day service provision for people with complex learning and associated physical disabilities. Let on a block contracted basis. To be considered as part of the above Cabinet paper.
Poetry in Wood Supported Employment Service	Specialist learning disability service to be considered as part of the above Cabinet paper.
Bubble Club Supported Employment Project	Specialist learning disability service to be considered as part of the above Cabinet paper.
JET Employment Service	Specialist learning disability service to be considered as part of the above Cabinet paper.
Easy Build website project	The intention would be for the coordination of this project to be part of the service specification for the JET Employment Service, thus providing better coordination, a small saving for the Council and better value for money.
Khat Project	Specialist project for supporting individuals within the Somali community in relation to Khat usage. Further work is required to establish the future commissioning arrangements for this service.
Mental Health Wellbeing and Recovery Services	These services are currently out to tender, and the requirement to take the contract award recommendations to Cabinet for approval means that a short extension of 3 months is required for the current equivalent services, which contracts for which expire on 31 March 2016.

3.3 In order to ensure continuity of service provision and to provide sufficient time to design and deliver new commissioning and procurement strategies for these services it is also necessary to seek authority to award, without competition, contracts to current providers for a duration sufficient only to allow these procurement activities to be completed. The table below lists the

services to which this requirement applies, the current provider, the duration of the contract required and the value of the proposed contract.

Service	Current Provider	Contract duration sought	Value of proposed contract
Domiciliary care block contracts and Preferred Provider Framework Agreement / spot purchased provision.	Apasen Allied Healthcare group Apasenth (Consortium) Aquaflo Nursing and Care Athlone Care Carewatch Newham and Tower Hamlets Circle Support Excelcare Homecare Division Focus Care Link London Community Home Care Mantra Recruitment Mi Homecare (First Class Recruitment) Oasis Care Agency Redspot homecare Sanctuary Homecare Sevacare (UK) Soma Care (formerly Amonet) Supreme Homecare	12 months to 26 November 2016.	c£17million (an approximate figure given the spot purchased and demand led nature of the service)
Direct Payment Support Service	Real DPO	To cover the period from February 2015 (retrospective) to 30 October 2016.	£588,000
Tower Hamlets Domestic Abuse Service	Hestia	12 months. To cover the period from 1 April 2016 to 31 March 2017.	£308,671
Gateway Sheltered Housing Schemes	Gateway Housing Association	12 months. To cover the period from 1 April 2016 to 31 March 2017.	£305,000
Other sheltered housing schemes	East Thames Centra Mercers One Housing	12 months. To cover the period from 1 April 2016 to 31 March 2017.	£119,744
Hostel Services	Providence Row Look Ahead Care and Support Salvation Army	3 to 12 months. To cover the period from 1 April 2016 to 31	£1,128,293

		March 2017.	
Aspen Court HC1	HC1	9 months. To cover the period from 1 July 2016 to 31 March 2017.	£1,543,000
Various Carers Short Breaks Services	Age UK Apasen Jewish care St Hilda's	12 months. To cover the period until 30 November 2016	c£341,537 (an approximate figure given the spot purchased and demand led nature of the service)
Learning Disabilities Day Service provision (spot purchased)	Apasen BPCA Tower Project Vibrance	3 months. To cover the period from 01 July 2016 to 30 September 2016.	TBC
Antill Road Complex and High Needs Day Service	Vibrance	6 months. To cover the period 01 April 2016 to 30 September 2016.	£144,955.50
Poetry in Wood Supported Employment Service	Poetry in Wood	18 months. To cover the period from 1 st April 2015 (retrospective) to 30 th September 2016	£96,000
Bubble Club Supported Employment Project	MAP Squad	18 months. To cover the period from 1 st April 2015 (retrospective) to 30 th September 2016	£121,013
JET Employment Service	Tower Project	18 months. To cover the period from 1 st April 2015 (retrospective) to 30 th September 2016	£68,451
Easy Build website project	Rix Centre UEL	8 months. To cover the period from 1 st February to 30 th September 2016	£3,000
Khat Project	Mind	9 months. To cover the period from 1 st April to	£48,750

		31 st December 2016	
Beside	Beside	3 months. To cover the period from 1 st April to 30 th June 2016	£14,664
Voluntary sector network	Community Options	3 months. To cover the period from 1 st April to 30 th June 2016	£2,080
Service involvement project	Community Options	3 months. To cover the period from 1 st April to 30 th June 2016	£11,399
Evening Service	Mind in Tower Hamlets	3 months. To cover the period from 1 st April to 30 th June 2016	£3,022
Mind in Tower Hamlets Inclusive Mental Health Service	Mind in Tower Hamlets	3 months. To cover the period from 1 st April to 30 th June 2016	£58,607
Welfare Rights Service	Mind in Tower Hamlets	3 months. To cover the period from 1 st April to 30 th June 2016	£17,491
Complementary Therapies	Mind in Tower Hamlets	3 months. To cover the period from 1 st April to 30 th June 2016	£7,204
Support Project	Praxis	3 months. To cover the period from 1 st April to 30 th June 2016	£10,506
Bondhon Project	St Hilda's	3 months. To cover the period from 1 st April to 30 th June 2016	£10,705
African Caribbean Support Group	Mellow	3 months. To cover the period from 1 st April to 30 th June 2016	£3,498
Vietnamese Support Group	Vietnamese Mental Health Organisation	3 months. To cover the period from 1 st April to 30 th June 2016	£10,406

3.4 The primary reasons why this situation has arisen are as follows:

- Significant delays in some tender processes leading to a situation where it has become necessary to abandon those processes in order to redesign

the service specifications and procurement approach so that they can provide fit for purpose outcomes;

- Difficulties in progressing specific projects through an extended period of political and organisational uncertainty;
- Loss of expertise and capacity within the Commissioning and Health service arising from post deletions and a number of experienced staff seeking secondment opportunities elsewhere in the Council;
- In some cases developing national policy has also had an impact. In relation to domiciliary care, for example, the Ethical Care Charter, recent NICE guidance and the impact of the Care Act have all contributed to a need to review the service specification and procurement strategy.

- 3.5 Prior to the above procurement exercises being undertaken the necessary work to design a suitable commissioning approach and to develop service models and specifications will be undertaken. Agreement will be reached with the Lead Member for Health and Adult Services as to how elected Members have the opportunity to appropriately contribute to the design and specification work. Cabinet is reminded that once tender processes have been formally commenced elected Members will not be involved in the process of evaluating bids and formulating contract award recommendations.
- 3.6 There are also a number of contracts that were let in 2013/14 and 2014/15 for which the contract duration was set at two years with the option to extend for a further year. The initial two-year term for each of these contracts will therefore expire between now and March 2017. In some cases officers are able to exercise the authority to extend the contract for the third year without a further executive decision. In other cases, however, the previous Mayor stipulated that he wished to be formally consulted with regard to extending the contract.
- 3.7 In the interests of efficiency, the Mayor is requested to delegate the authority to extend the contract, for a term up to that allowed by the original contractual terms and conditions, to the Acting Director of Adults' Services. Any such decision to extend a contract in this way will only be made subject to the Acting Director being sufficiently assured that the performance, quality and value for money expectations set out in the original contract and associated specification are being met or exceeded, or that where these are not being met there are sustainable plans to correct this for the additional term. Decisions to extend will also be made following consultation with the Cabinet Member for Health and Adult Services, the Corporate Director for Law, Probity and Governance and Monitoring Officer.
- 3.8 The contracts for which the authorisation described in 3.6 above is being sought are set out and described in appendix one to this report.
- 3.9 The Commissioning and Health Service Management Team are now re-implementing programme management arrangements previously in place

over the period 2012 to 2014 in order to ensure that all future commissioning and procurement activity is managed proactively and that the current circumstances are not repeated in the future. The scope of these programme management arrangements will extend to all procurement activity planned for the period 2016 to 2019 (subject to an annual review of scope, effectiveness and proportionality) and include the active engagement of Legal Services and the Corporate Procurement service.

- 3.10 A specific set of programme management arrangements have been drafted for this purpose and are in place with effect from December 2015. Delivery of the various procurement projects will be overseen by a Procurement Programme Board chaired by the Acting Service Head: Commissioning and Health. The Board will formally report via the Competition Planning Forum and Strategic Competition Board. The first meeting of the Procurement Programme Board is scheduled for January 2016 and it will meet monthly thereafter. Terms of Reference for the previous equivalent Board have been updated to ensure they are fit for purpose. Minutes from each meeting of the Board will be circulated to the Lead Member for Health and Adult Services as a means of ensuring that the administration maintains oversight of progress.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report proposes to initiate procurement exercises for a number of contracts within the Adults Services directorate. While these new procurement and commissioning activities are undertaken it is proposed that a number of contracts are extended without competition and also options to extend for a year are utilised for other contracts which currently exist.
- 4.2 The contracts in general cover a fairly significant part of the Adult Social Care budget, the values of the contracts to be continued or extended are broken down in section 3.3 and Appendix 1 of this report. These contracts are currently budgeted for within 2015/16 and if extended would be met from existing commissioning budgets for the duration of their extensions.
- 4.3 The design and implementation of the new procurement exercises mentioned in this report need to ensure maximum value for money.

5. LEGAL COMMENTS

- 5.1 The report proposes necessary procurement exercises to be restarted in relation to a number of key adult social care services for residents within the borough. In order for these procurement exercises to be completed, the current contractual arrangements need to be extended by way of new contracts awards without competition. This is to ensure that there is no break in the service provision to individuals who benefit from these services and to whom the Council is exercising a duty or power towards.

- 5.2 The Care Act 2014 (the 2014 Act) has been in effect since April 2015 and places a number of general duties on the Council when it is exercising functions under the 2014 Act. They include –
- i. To promote an individual's well-being. Well-being is defined in the 2014 Act and includes control by the individual over day-to-day life. In exercising this general duty the Council must have regard to the importance of preventing or delaying the development of needs for care and support as well as and the importance of the individual participating as fully as possible.
 - ii. To promote integration of care and support. The statutory guidance supporting the Act includes guidance for Council departments working more closely together and in a joined up manner.
 - iii. To establish and maintain a service for providing people in its area with information and advice relating to care and support. This service should include information about the choices and types of care and support available, choices of providers available and how to access the care and support.
 - iv. To promote diversity and quality in the provision of services within the locality. Under this section the Council must ensure that commissioning and procurement practices deliver the services that meet the requirements of the Act.
- 5.3 The 2014 Act replaces the notion of FACS (Fair Access to Care Services) eligibility and replaces this with a national eligibility threshold. That threshold is set out in the Care and Support (Eligibility Criteria) Regulations 2014, which came into effect at the same time as the 2014 Act. This threshold will need to be taken into account through the proposed procurement exercises to ensure that services are available which assist in meeting the legal duty of the Council under the 2014 Act.
- 5.4 Section 5 of the 2014 Act places a general duty on the Council to promote the efficient and effective operation of a market in services for meeting care and support needs in its area. This is commonly known as 'market shaping' and 'commissioning'. The Council must facilitate a local market that offers a diverse range of high quality and appropriate services. The proposals in this paper align with the Council's general duty.
- 5.5 The Council has a duty to continue to meet the needs of an adult and support for any carers in the event of provider failure in accordance with section 48 of the 2014 Act and the Care and Support (Business Failure) Regulations 2015 (SI-2015/301). The proposals in this paper shall assist in avoiding any temporary duty arising upon the Council.
- 5.6 Since 2007 there has been a duty on the Council, through its Health and Wellbeing Board, to undertake a Joint Strategic Needs Assessment (JSNA) to address needs, understand community assets and inform commissioning of local services. The current LSNA is under review with a view to being

refreshed through 2016. It is advised that any procurement exercise is cross referenced to the JSNA.

- 5.7 The Council should note that all the contracts listed at paragraph 3.3 of this report requiring the award of new contracts for interim periods fall within the remit of “social and other specific services” in accordance with regulation 74 and Schedule 3 of the Public Contracts Regulations 2015 (the Regulations). Contracts exceeding £625,000.00, namely Domiciliary Care, Hostel Services and Aspen Court require compliance with the Regulations and the Council would be required to place an advert in the Official Journal of the European Union (OJEU) together with a further notice in the OJEU when a contract is awarded, amongst other things. Whilst the remainder of the contracts are below the threshold, the Council must however subject the services to a level of competition to ensure compliance with the principles of transparency, equal treatment and non-discrimination. With regards the intended procurement exercises for the various services listed at paragraph 3.2, the Council will be required to comply with the same rules described above in respect of the formalities and processes to be undertaken for them.
- 5.8 However, it is noted that in order to comply with the regulations, the relevant procurements will take a significant period of time to complete. There is, therefore, a contradiction in legal obligations with which the Council must comply as the Council is also legally obliged to ensure that services continue to be provided and in particular that under no circumstances are service users left at risk. Therefore, the intention is to award interim contracts but only for a period long enough to allow the Council to undertake the appropriate procurements. It is therefore, clear that the intention of the Council is to protect service users rather than distort the market place.
- 5.9 It should also be noted that it is unlikely that any of the services attract crossborder interest for the purposes of the European Law.
- 5.10 In respect of the short term contracts only and for the purposes of the constitution it is permissible to take the decision to not follow the Council’s Procurement Procedures where the Council is satisfied that one of the grounds for waiving them under section 12 of the Procedures is applicable. The ground which could be relied upon is 12.1(a) of the Procedures which states that a waiver is permissible where “the nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and has demonstrated that only a single source of supply is available, or it is otherwise clearly in the Council's interest to do so”. Due to the short term nature of the services and the need to ensure continuity of service it is clear that in the specified circumstances only the existing providers would be able to offer the services on an interim basis by continuing the current provision.
- 5.11 Reasons are provided in the report as to why it may be considered appropriate to deviate from the Council's Procedures, which may be summarised as follows:

- the Council has conducted preparatory work and intends to conduct public procurement as quickly as possible from the date of any Cabinet approval;
- the Council is obligated to continue to provide services in accordance with its statutory functions and it would be undesirable for no services to be provided until the new procurements have been completed and may in certain circumstances lead to the Council breaching other statutory obligations; and
- it is arguably in the Council's best interests to extend the contracts and align them with the award of a contract under the intended procurement exercise.

- 5.11 There is a risk of challenge to the proposed contract awards for alleged non-compliance with the duties outlined in 5.8 and 5.10 above. The risk is lessened as the Council has, arguably, a pragmatic reason for requiring these short term contracts and has some basis, by reason of the preparatory steps taken, that it is not the Council's long term intention to avoid competition. The Council should note that new short term contracts are issued to the organisations under advice from Legal Services
- 5.12 The Council should note that in respect of the contracts listed at paragraph 3.3, robust monitoring will be required to evaluate performance and impacts. In addition, the Council should prepare detailed implementation strategies to align it with the award of contracts under the intended procurement exercises listed at paragraph 3.2 for the various services in order to ensure that mobilisation is operationally proficient and to minimise disruption to the service users and prevent the need for contractual changes post contract award(s) which could be inconsistent with the Regulations and the Council's Procedures.
- 5.13 The Council has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This is referred to as the Council's best value duty. One of the ways in which the Council achieves best value is by subjecting its purchases to competition and procuring the services listed at paragraph 3.2 of this report will likely assist the Council in complying with this duty and with its Procedures. The Council should note that each of the services should be tendered as one procurement procedure wherever possible, with each of the different packages comprising a different "lot" under the procurement(s). This would be a methodology consistent with the new emphasis under the Regulations and would be compliant with the Council's Procedures.
- 5.14 The Council should note that it is required by the Public Services (Social Value) Act 2012 to consider how its procurement activities might secure the improvement of the economic, social and environmental well-being of Tower Hamlets. The Council should be satisfied that due regard will be given to these duties for the intended procurement exercises.

- 5.15 Any change in provision or services should be considered in accordance with the public sector equalities duty under the Equalities Act 2010, which requires the Council when exercising its functions to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. The Council should perform a proportionate equality analysis before determining its preferred procurement option and prior to any changes being made. It is likely that consultation with service users, service users' families and other stakeholders will need to take place in order to understand potential impacts.
- 5.16 Any consultation carried out for the purposes of assessing the impact of service changes should comply with the following criteria: (1) it should be at a time when proposals are still at a formative stage; (2) the Council must give sufficient reasons for any proposal to permit intelligent consideration and response; (3) adequate time must be given for consideration and response; and (4) the product of consultation must be conscientiously taken into account. The duty to act fairly applies and this may require a greater deal of specificity when consulting people who are economically disadvantaged. It may require inviting and considering views about possible alternatives.

5.12

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 Individual procurement projects will be subject to Equalities Assessments as necessary, and service specifications for each service to be procured will address all relevant equalities requirements relevant to the service being procured.
- 6.2 The Council's existing methodology for deriving community benefits from procurement exercises will be fully utilised in order to ensure that successful bidders commit to activities that add value to and enhance local communities. These added value benefits will be geographic in nature, such as hosting social events in specific communities and / or specifically targeted towards local residents by for example offering apprenticeships and other employment and training related opportunities. The extent to which additional community benefits are derived will vary depending on the size, value and nature of the contract being procured.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The current prices for all of the contracts listed in paragraph 3.2 above were all secured through a competitive procurement process undertaken within the last four years. While, therefore, those prices may not reflect the relevant markets today, they did represent the most economically advantageous prices available at the time of tender. These contracts were let on a fixed price basis so pricing remains as was at the time the contracts were originally awarded. The domiciliary care contracts are an exception to this, as prices for these

services have been updated on an annual basis to match LLW increases. There will not be a further increase in LLW during the term for which the directly awarded contracts being sought however.

- 7.2 The awarding of direct contracts for an interim period is specifically intended to provide time to undertake robust procurement processes for each of the services listed in paragraph 3.2. Contracts will be awarded to bidders submitting the most economically advantageous tenders and in full compliance with the Council's Procurement Procedures in order to ensure that Best Value is achieved.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no specific environmental impact issues arising as a result of this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There is a risk of challenge to the Council from the market in circumstances where the Council continues to contract with a provider beyond the advertised term of a contract. The proposals set out in this paper are designed to mitigate this risk as far as possible by initiating new competitive procurement processes in order to secure new contracts for all of the services subject to this risk. This risk also needs to be set against the Council's duties in respect of the provision of community care services as well as the impact on vulnerable service users were any of the services that are the subject of this report not maintained in the interim.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no specific crime and disorder reduction implications arising as a result of this report.

11. SAFEGUARDING IMPLICATIONS

- 11.1 The services which are the subject of this report are all provided to individuals who are either vulnerable or at risk of vulnerability related to their community care needs and / or as a result of actual or potentially insecure housing situations. The cessation of any of these services until such time as new contracts could be procured and let would therefore have direct safeguarding implications for the individuals concerned and would inevitably increase the risk to those individuals. The proposal to maintain the necessary services, by direct award of contract, until the point when new contracts are let is specifically intended to remove this risk.

Linked Report

- NONE

Appendices

- Appendix 1: Contracts for which extensions can be exercised but for which authority is required to extend.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- Adults' Services Procurement Programme Board Terms of Reference
- Commissioning and Health Procurement Programme Management Arrangements

Officer contact details for documents:

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