

Cabinet	 TOWER HAMLETS
27 February 2018	
Report of: Denise Radley, Corporate Director Health, Adults and Community	Classification: Unrestricted
Adult Social Care Procurement Plan	

Lead Member	Councillor Denise Jones Cabinet Member for Health and Adult Services
Originating Officer(s)	Karen Sugars, Acting Divisional Director, Integrated Commissioning
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

Since January 2016, Integrated Commissioning within the Health, Adults and Community Directorate has been undertaking a wide range of procurement activity approved by the Mayor in Cabinet in January 2016, to address previous significant delays in procurement, gaps in contractual arrangements and out of date contracts. This work has remodelled some aspects of services ensuring that all services deliver the outcomes that service users and carers are seeking, provide best value and have been procured in a way that complies with the Council's Financial Regulations and procurement rules.

This has been a necessarily ambitious programme of work that condensed four years of procurement activity into two years. At the current time, 74% of the plan has either been delivered or procurements are underway. The profile of the procurement activity carried out includes:

- 44 contracts are in place which amounts to spend of £28,669,846
- 15 procurements are currently live covering spend of £12,139,701
- procurements will commence in 2018 totally spend of £719,466 (one of these procurements incorporates 5 current contracts)
- Every procurement has sought to achieve additional social value and this is delivering a range of local benefits. Examples include two apprenticeships offered in Extra Care Sheltered Housing; four apprenticeships for people aged 50+ in the Link Age Plus service and four work experience / pre-employment placements in the hostel sector per annum. In other contracts the social value is built into the requirements, for example the delivery of the Ethical Care Charter in home care.

- 19 contracts have been let to local providers
- 32 contracts have been let to the voluntary and community sector
- 4 providers are new to the borough

Alongside the delivery of the procurement plan a significant programme of work has been completed to ensure that the re-procurement has been carried out within a solid context of up to date commissioning strategies, an approach to ensure sustainability of the social care market and within the context of increasing integration with the NHS and other partners. This work has included:

- Co-production of new strategies and service specifications with service users and carers to address gaps and ensure that the focus of all services is on delivering outcomes to meet the needs of local people – new strategies for carers, people with a learning disability, autism, mental health and an Ageing Well (50+) strategy have all been developed and put in place
- A review of value for money and the development of the Medium Term Financial Plan leading to identification of opportunities to make efficiencies, modernise services and align with broader corporate initiatives such as Workpath
- Developing our approach to integrated commissioning with Health, including our plans for the Better Care Fund and Improved Better Care Fund
- Stabilising the residential care market in borough and our use of out of borough placements through renegotiation of fees in the context of a previous policy of 0% fee uplifts
- Recommissioning our entire domiciliary care portfolio including outsourcing Fides, a home care provider previously brought into the Council to prevent its failure in the care market
- Working with partners including Unison to implement the Ethical Care Charter within the new home care model
- Creating a new commissioning approach to hostel provision and remodelling this provision to enable improvements to hostel buildings and improved move-on pathways and outcomes for service users
- Implemented the new corporate Procurement Framework as part of the Best Value plan; drawing all contracts together into one Contracts Register and re-established the Directorate Procurement Board to oversee the Procurement Plan
- Negotiated market rents as part of the review of community/Council buildings project
- Creating greater consistency of approach to provider and market oversight and business intelligence to understand, manage and develop the market via a quality framework.

In accordance with the Cabinet decision in January 2016 relevant contracts were extended in order to allow time for this work to take place. This has resulted in the completion of the majority of the procurements outlined within the plan. Each procurement typically takes between 9-12 months and the phasing and timing was planned according to the work needed in relation to each service area. Additional time

has been needed to ensure a thorough approach to co-production and broader engagement with service users and carers. In some areas, complexities have arisen due to building or rent related issues, particular market conditions and other interdependent matters specific to certain services.

Within this context, a small number of contracts require further time to conclude the necessary work or require a specific decision by the Mayor in Cabinet. These are set out within the report. Note that one approval in relation to a public health contract is also included in this report.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Note the progress made in to put in place clear commissioning strategies, co-produced with local people and the delivery of extensive procurement of contracts as initiated by the Mayor in Cabinet in January 2016. This was to bring previous non-compliant arrangements in line with financial and procurement rules.
2. Delegate authority to the Corporate Director of Health, Adults and Community following consultation with the Corporate Director Governance and Monitoring Officer the decision to enter into all necessary agreements and undertake any other ancillary matter to give effect to the decisions referred to in Table A.
3. Authorise the decisions required in relation to the contracts and services listed in Table A of this report.

1. REASONS FOR THE DECISIONS

- 1.1 A considerable programme of procurement activity has been undertaken since January 2016 and this report provides an overview of that work and the resulting contracts and benefits.
- 1.2 A small number of decisions by the Mayor in Cabinet are required in order to complete the programme of procurement activity and these are set out within the report. This ensure compliance with financial and procurement rules whilst allowing the remaining work to be completed.

2. ALTERNATIVE OPTIONS

- 2.1 It was essential that the programme of procurement set out within the January 2016 Cabinet paper was progressed given the previous delays in re-procuring services, gaps in contractual arrangements and out of date contracts.

- 2.2 It is essential that this programme is concluded and 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.
- 2.3 The report seeks the delegation of authority to the Corporate Director Health, Adults and Community 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.

3. DETAILS OF REPORT

- 3.1 Since January 2016, Integrated Commissioning within the Health, Adults and Community Directorate has been undertaking a wide range of procurement activity approved by the Mayor in Cabinet in January 2016, to address previous significant delays in procurement, gaps in contractual arrangements and out of date contracts. This work has remodelled some aspects of services ensuring that all services deliver the outcomes that service users and carers are seeking, provide best value and have been procured in a way that complies with the Council's Financial Regulations and procurement rules.
- 3.2 This has been a necessarily ambitious programme of work that condensed four years of procurement activity into two years. At the current time, 74% of the plan has either been delivered or procurements are underway. The profile of the procurement activity carried out includes:
- 44 contracts are in place which amounts to spend of £28,669,846
 - 15 procurements are currently live covering spend of £12,139,701
 - 5 procurements will commence in 2018 totalling spend of £719,466 (one of these procurements incorporates 5 current contracts)
 - 2 procurements are not due until 2019
 - 2 contracts on the original schedule have not been retendered, in one case due to a provider exiting the market and in the other due to the changes implemented through the hostels commissioning plan
 - The remaining contracts relate to sheltered housing and these have been subject to a further review and will be presented to Cabinet in March 2018
 - Every procurement has sought to achieve additional social value and this is delivering a range of local benefits. Examples include two apprenticeships offered in Extra Care Sheltered Housing; four apprenticeships for people aged 50+ in the Link Age Plus service and four work experience / pre-employment placements in the hostel sector per annum. In other contracts the social value is built into the requirements, for example the delivery of the Ethical Care Charter in home care.
 - 19 contracts have been let to local providers

- 32 contracts have been let to the voluntary and community sector
- 2 providers are new to the borough

3.3 Alongside the delivery of the procurement plan a significant programme of work has been completed to ensure that the re-procurement has been carried out within a solid context of up to date commissioning strategies, an approach to ensure sustainability of the social care market and within the context of increasing integration with the NHS and other partners. This work has included:

- Co-production of new strategies and service specifications with service users and carers to address gaps and ensure that the focus of all services is on delivering outcomes to meet the needs of local people – new strategies for carers, people with a learning disability, autism, mental health and an Ageing Well (50+) strategy have all been developed and put in place
- A review of value for money and the development of the Medium Term Financial Plan leading to identification of opportunities to make efficiencies, modernise services and align with broader corporate initiatives such as Workpath
- Developing our approach to integrated commissioning with Health, including our plans for the Better Care Fund and Improved Better Care Fund
- Stabilising the residential care market in borough and our use of out of borough placements through renegotiation of fees in the context of a previous policy of 0% fee uplifts
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- Working with partners including Unison to implement the Ethical Care Charter within the new home care model
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- Negotiated market rents as part of the review of community/Council buildings project
- Creating greater consistency of approach to provider and market oversight and business intelligence to understand, manage and develop the market via a quality framework.

3.3 In accordance with the Cabinet decision in January 2016 relevant contracts were extended in order to allow time for this work to take place. This has resulted in the completion of the majority of the procurements outlined within the plan. Each procurement typically takes between 9-12 months and the phasing and timing was planned according to the work needed in relation to

each service are. Additional time has been needed to ensure a thorough approach to co-production and broader engagement with service users and carers. In some areas, complexities have arisen due to building or rent related issues, particular market conditions and other interdependent matters specific to certain services.

3.4 Within this context, a small number of contracts require further time to conclude the necessary work or require a specific decision by the Mayor in Cabinet. These are set out below.

3.5 Direct Payment Support Service

3.5.1 This service provides support to Adult Social Care service users who opt to receive a Direct Payment and arrange their own care and support. It is a critical service in enabling people to be independent and have maximum choice and control over their care.

3.5.2 A previous tender for this service was abandoned and there are a number of complexities which have hindered concluding the work to agree a new approach to re-procurement. This includes a recently expressed interest from the Clinical Commissioning Group (CCG) in procuring a joint service, the sustainability of the current provider as a local User Led Organisation, rent/lease/building issues in relation to the current premises and incumbent provider and the need for a robust co-production approach to recommissioning which is equitable for all providers who may seek to bid for the service.

3.5.3 A new commissioning approach has now been agreed and this requires a further year to implement. The Mayor in Cabinet is asked to approve the arrangements to enable this procurement to take place.

3.6 Services for Older People

3.6.1 Tower Hamlets Ageing Well Strategy was approved at Cabinet in May 2017. This wide-ranging portfolio of activity to support adults 50+ to 'age well' covers some of the most complex and sizable procurements. There is recognition of the need to modernise care and support options for people as they age to meet the diverse needs and wishes of older people and to make them more cost effective. There are significant challenges relating to market sustainability in this area.

3.6.2 A review and remodelling of day support, co-produced with those who will use this service is a key part of the strategy. The procurement approach has taken some time to develop due to significant lease and rent issues for existing services (note that the Mayor in Cabinet recently agreed to the resolution of longstanding lease and rent issues relating to Sonali Gardens), the need to look at what other local authorities are doing in this area and key gaps in personnel during the latter months of 2017. A new approach has now been developed. Two previous contracts for day support for older people have ended and have been operating on a spot purchase basis (The Sundial Centre

& Sonali Gardens). In order to give greater contractual oversight prior to the procurement exercise, a direct award is being sought.

3.8 The Information, Advice and Advocacy Service

3.8.1 The Information, Advice and Advocacy Service meets the statutory information advice and advocacy needs of those adults who need care and support and who live in the borough.

3.8.2 A review of our Information, Advice and Advocacy contract has been underway during 2017 however the development of the new model and specification has taken longer than anticipated. Additional time has been needed to consider how this service will fit with a new customer access approach within the Council more broadly and with plans across the NHS to streamline points of access and how information and advice is provided.

3.8.3 The term of the original contract is 3 years +1 year +1 year and in total this runs until 31/07/2018, however the Mayor in Cabinet under the previous administration agreed the initial 3 year term and required further Mayor in Cabinet approval to further extend the contract. A one year extension was sought and approved by the Mayor in Cabinet in January 2016 however the final additional one year extension now requires approval. It is anticipated that additional time will be required to conclude the work and this is also requested.

3.9 Link Age Plus – Revised Contractual Value

3.9.1 The retendering of the Link Age Plus contract was included in the Contracts Forward Plan – Quarter 2 (2016/17) report considered by the Mayor in Cabinet on 26 July 2016. The contract value reported to Cabinet in this report was £600,000 per annum, with a total term value of £3,000,000.

3.9.2 Subsequent to this, an opportunity was identified to combine a separate contract (for the Older Person's Reference Group - OPRG) into the Link Age plus contract in order to provide an improved offer to older people and to achieve a small saving (c£14,000). The intention to combine the two contracts was reported via the Tollgate process, with an increased contract 'ceiling' value of £650,000.

3.9.2 This represents a positive outcome, both in terms of the service provided to older people in the borough and in terms of value for money. Due to the combining of the two contracts, technically, the new contractual amount exceeds the amount authorised by the Mayor in Cabinet by £41,478 per annum, equating to £207,390 over the five year term of the contract. In order to ensure compliance with the Council's Financial Regulations it is necessary to seek authority for this additional expenditure.

3.10 Public Health – School Health Service

The current school health contract ends on 30th April 2018 and would benefit from alignment to the school year. It is proposed to start the new contract

from 1st August 2018 to enable the service to hit the ground running for the new academic year starting in September. In order to provide continuity of service for the whole of the final term 2017-18 it is necessary to extend the current service for a further three months from 1st May 2018 to 31st July 2018. The value of this extension requires approval by the Mayor in Cabinet.

3.11 Learning Disability Respite – Hotel in the Park

3.11.1 The co-produced Adults Learning Disability Strategy 2017-2020 was approved by the Mayor in Cabinet in September 2017 and sets out an ambitious set of priorities and objectives to deliver better outcomes for people with learning disability in Tower Hamlets. In need of significant review and redesign, this aspect of commissioning required a complete pause to go ‘back to basics’ to understand and analyse existing arrangements and spend, spot contracting and provider sustainability. The work is being taken forward jointly with the CCG and will deliver significant efficiencies. Recommissioning is now underway as reported via the Cabinet Contracts Forward Plan Quarter 4 2017/18 (30 January 2018).

3.11.2 Hotel in the Park is delivered by the Camden Society and is based in Victoria Park. This is the only respite service for adults with learning disability in the borough and is a scarce resource. Respite services outside of the borough are also currently utilised. There have been concerns around sustainability of respite provision. All services are currently spot purchased. Work to review respite provision and achieve improved local arrangements is underway. In order to give greater contractual oversight and security to Hotel in the Park, a direct award of a contract until 31/3/09 is recommended whilst this work is completed.

3.12 The Mayor in Cabinet is asked to approve the following decisions based on the issues outlined above:

Table A – For Approval by the Mayor in Cabinet

Ref	Contract	Supplier	Nature of decision	Value
1	Hotel in the Park Respite Service ESCW(AHWP) 4471	Camden Society	To rationalise current spot purchasing - Direct Award from Cabinet approval date until 31/03/2019	£430,000
2	Sonali Gardens Day Service AH 5016	St Hilda's	To rationalise current spot purchasing - Direct Award from Cabinet approval date to 31/03/2019	£ 519,414
3	Sundial Centre AH5016	Peabody Trust	To rationalise current spot purchasing - Direct Award from Cabinet approval date to 31/03/2019	£332,839
4	Direct Payment Support Service	Real DPO Ltd	To allow time to re-procure - Direct Award from Cabinet approval date to 31/3/2019	£333,600
5a	Information Advice and Advocacy Service ESCW (AHWP) 4183	Real DPO Ltd	To formalise contract extension provided for under current contract - Enter into the final 1 year extension of the existing contract up to 31/07/2018	£485,000
5b	Information Advice and Advocacy Service ESCW (AHWP) 4183	Real DPO Ltd	To provide additional time to re-procure - Direct Award from 01/08/2018 to 31/7/2019	£485,000
6	School Health Service Public Health	Compass Health and Wellbeing	To align the contract with school academic years - 3 months Direct Award from 1/05/2018 – 31/07/2018	£395,250
7	LinkAge + AHS 5112	Toynbee Hall Consortium	To revise the contractual value by £41,478 per annum	£207,390 over the five year term.

3.13 Significant improvements have been made to the how the portfolio of contracts and workload is managed going forward in line with the broader work completed on our procurement approach across the Council:

- Contracts Register which feeds into the quarterly contracts register report to Cabinet – this provides transparency of all upcoming procurement and allows the Mayor in Cabinet to identify any procurements for which further information is required and/or the Mayor requires the decision to be made in Cabinet
- Clearer commissioning strategies, co-produced with service users and carers and which provide prioritisation and phasing and alignment to the medium term financial strategy
- Resourcing through integrated commissioning teams with specific responsibilities for delivery of the strategy outcomes and the associated procurement work
- Phased end dates to contracts to allow procurement work to be planned and managed over 3-5 years

- Longer contract terms (often three years with ability to extend for a further two) which reduces the need to repeat procurements very frequently unless there is an over-riding reason why to do so would be best value

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 The Chief Finance Officer notes the Adult Social Care procurement plan and the proposals for contractual agreements in this report. The contract spend will be funded through existing budget in the Health, Adults and Community directorate.

5. LEGAL COMMENTS

5.1 The Council has a suite of duties under Sections 1-7 of the Care Act 2014, including a duty to promote integration of care and support with health services and a duty under section 6 to co-operate generally with those it considers appropriate who are engaged in the Council's area relating to adults with needs for care and support. Section 4 requires the council to establish a service for advice and information. Further, there is a general duty to prevent needs for care and support from developing. The Care and Support Statutory Guidance, most recently updated in August 2017, details a person-centered approach.

5.2 Where an individual has been assessed as having eligible needs for care and support and a care plan has identified the services or support necessary to meet those needs, the Council must continue to meet those needs unless a reassessment indicates that their needs have changed. If the Council were to cease the provision of services without alternative provision in place, for example, whilst completing a new tender exercise, there is a very serious risk that those needs will not be met, leaving vulnerable adults at risk of harm, and the council exposed to legal challenge.

5.3 For this reason the Council must enter into various short term contracts to ensure continuity of services to prevent the risk of harm occurring whilst a full competitive exercise is being carried out. Also, the Council's Best Value duty under section 3 of the Local Government Act 1999 requires the Council to demonstrate that its purchases are economic, efficient and effective. This is usually demonstrated through a tender process and is required to rationalise the position in respect of a number of the "spot purchase" contracts shown in Table A. Again though, the existing arrangements will need to be maintained to provide the necessary time to carry out the tender without causing a break in service continuity.

5.4 However, the short term contracts term length is only that which is reasonably necessary to allow the Council to run the proper procurement process which demonstrates that the Council's purpose is not to distort competition.

5.5 In any event, the Council has a legal obligation to subject its purchases to competition in accordance with the Public Contracts Regulations 2015. However, the services detailed in this report are those which are referred to in

Schedule 3 of the regulations and therefore the tender procedure to be followed is less restrictive. The only requirement is that the Council follows a process which complies with its general treaty obligations of openness, non-discrimination and proportionality. However, the relevant adverts and award notices will have to be placed in the European Journal.

- 5.6 In respect of the short term contracts the Council still has the legal duty to achieve Best Value. However, where competition is absent the Council should undertake appropriate bench marking to ensure that the prices paid under the contracts are comparable with that which might be expected should competition have taken place.
- 5.7 The short term contracts should be on the same terms and conditions as the existing contracts which should ensure the maintenance of the level of quality.
- 5.8 When considering its approach to contracting, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). Officers are expected to continuously consider, at every stage, the way in which procurements conducted and contracts awarded satisfy the requirements of the public sector equality duty. This includes, where appropriate, completing an equality impact assessment which should be proportionate to the function in question and its potential impacts.

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 and social value 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 this report reflect the relevant markets today and represent the most economically advantageous prices.

7.2 Contracts are 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 Reports, Appendices and Background Documents

Linked Report

- Cabinet report of 5 January 2016 – Commissioning of Adult Social Care and Supported Housing Contracts

Appendices

None

Background Documents

None

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