

# Birmingham City Council

## Report to Cabinet

12 December 2023



**Subject:** REGULATED ADULT SOCIAL CARE COMMISSIONING STRATEGY – HOME SUPPORT AND QUICK DISCHARGE SERVICES

**Report of:** Professor Graeme Betts, CBE  
Strategic Director of Adult Social Care

**Relevant Cabinet Member:** Cllr Mariam Khan - Health and Social Care

**Relevant O & S Chair(s):** Cllr Mick Brown - Health and Social Care

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010717/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential: N/A		

## 1 Executive Summary

- 1.1 This report sets out a revised Commissioning Strategy for the Regulated Adult Social Care Sector to ensure that the Council's statutory duties to meet care and support needs and to have a diverse range/quality of services available for citizens under the Care Act 2014 can be met. This includes meeting of care and support needs for disabled children and young people.

## 2 Recommendations

That the Cabinet is recommended to:

- 2.1 Approve an extension to the current Framework Agreement for Home Support Services and the Framework Agreement for Quick Discharge Services until no later than 7 October 2024.
- 2.2 Approve the Regulated Adult Social Care Commissioning Strategy Home Support and Quick Discharge Service 2024+ in **Appendix 1**.
- 2.3 Approve the Procurement Strategy for Home Support and Quick Discharge Services in **Appendix 2**.
- 2.4 Approves the establishment of a Flexible Contracting Arrangement (a DPS-type arrangement under the Light Touch Regime) for the provision of Home Support Services for Adults' and Children and Quick Discharge Services.
- 2.5 Delegates to the Assistant Director Procurement (or their delegate) in conjunction with the Strategic Director, Adult Social Care to appoint, as and when required, new suppliers onto the Flexible Contracting Arrangements where they meet the selection criteria.
- 2.6 To delegate the award of call off contracts under the Flexible Contracting Arrangements to the Directorate of Adult Social Care, the Director of Commissioning and the Head of Commissioning (Regulated Care).
- 2.7 Notes that the outcome of all call-offs from the Flexible Contracting Arrangement will be reported to the Assistant Director Procurement (or their delegate) and the Strategic Director, Adult Social Care, Interim Finance and Section 151 Officer (or their delegate) and the City Solicitor & Monitoring Officer (or their delegate).
- 2.8 Approve for Birmingham Children's Trust to call off from the Flexible Contracting Arrangement for home support services to meet the needs of disabled children and young people as required and to make use of any associated IT systems.
- 2.9 Approve for the NHS to call off from the Flexible Contracting Arrangement for home support services and quick discharge services to meet the needs of adults as required and to make use of any associated IT systems.
- 2.10 Authorises the City Solicitor (or their delegate) to execute and complete all necessary legal documents to give effect to the above recommendations.
- 2.11 To delegate any modifications to the electronic system or contracts, to the Directorate of Adult Social Care, the Director of Commissioning and the Head of Commissioning (Regulated Care), including the annual setting of fees in line with the Commissioning Strategy and the Council's revenue budget and Medium-Term Financial Plan.

### **3 Background**

- 3.1 The Council has a range of statutory duties and powers under the Care Act 2014 to assess the needs of citizens for care and support and commission a range of services that meet these needs. The Council currently commissions a range of regulated care and support services under a number of Commissioning Strategies approved by Cabinet.
- 3.2 The Council commissions a range of care and support on behalf of almost 13,000 service users with eligible needs each year and the Council currently contracts with over 1100 independent care providers to deliver these statutory services, both within and outside of Birmingham. This includes home support and quick discharge services for both adults and children and young people with a disability.
- 3.3 Birmingham Children's Trust currently commission home support services for children with an assessed care need, under the Council's Framework Agreement for Home Support 2019 and it is proposed that this arrangement will continue under the new Flexible Contracting Arrangement from 2024 onwards.
- 3.4 The following services are currently within scope of the Commissioning Strategy for Regulated Adult Social Care 2024+ - Home Support and Quick Discharge Services and which are the subject of this decision/report:
1. Home Support Services (adults and children) - current contract runs from 8 April 2019 – to 7 April 2024
  2. Quick Discharge Service (adults) – current contract runs from 3 June 2019 to 2 June 2024
- 3.5 Home support services provide personal care to adults' and children in their own home and can include help with the following:
- washing and dressing;
  - housekeeping or cleaning;
  - cooking and preparing meals;
  - taking medications or health care needs; and
  - companionship or activity based support.
- 3.6 The Quick Discharge Service also provides home support/personal care in the citizens own home but is commissioned by the Council on behalf of our wider health and care system, to provide short term, rapid home care for those medically fit for discharge from hospital.
- 3.7 The services outlined in 3.5-3.6 are currently regulated by the Care Quality Commission (CQC) under the Health and Social Care Act 2008 and associated Regulations. This level of regulation provides quality assurance to the Council and providers. All providers to be onboarded to the Flexible Contracting

Arrangements within scope of this report will be required to be registered with the CQC and to maintain these registrations.

- 3.8 In 2017, the Council embarked on a significant change to the way regulated adult social care services were commissioned. This approach was consulted on widely with citizens, providers and partners and the final Commissioning Strategy was approved by Cabinet in December 2017.
- 3.9 Since this time, the Council, providers and partners have worked closely to mobilise the services and embed the necessary changes in the market. Furthermore, as widely publicised nationally, the sector has been significantly affected by the Covid-19 Pandemic.
- 3.10 The 2017 Commissioning Strategy has largely served the Council, partners, providers and citizens well. The following summarises some of the key outputs and outcomes from the 2017 Commissioning Strategy:
- An average of 75% of citizens are now supported by either Gold or Silver quality rated care providers across the commissioned regulated adult social care market. However, for home support services specifically, 82.9% of citizens are now supported by a Gold or Silver rated provider (equivalent to CQC Outstanding or Good).
  - Council Officers have worked with over 30 Inadequate rated regulated adult social care providers since May 2018 to either improve or decommission their services safely.
  - Moving to a geographic model of commissioning home support to reduce travel time/costs, reduce missed and late calls and to improve the quality of care our citizens receive. This has resulted in average travel time in 2023 of only 1.5 miles per care call, against a target of a maximum of 2 miles of travel.
  - The Council has invested over £70m in the regulated adult social care sector as a whole in annual fee increases since 2018, including increasing around 75% of home support packages at the start of the new contracts in 2019.
  - Developed and implemented four cost of care exercises (some were paused due to the Pandemic) to review fees and help set the Council's regulated adult social care budget.
  - Improved relationships between providers and commissioners, with regular opportunities for dialogue and a named commissioner for every care provider.
  - The geographic approach to commissioning has improved relationships amongst providers, allowed linkages with other local provision/support and ensured commissioners are closely aligned to local social work teams.

- All packages of care are now allocated based on the quality rating of the provider, rather than focussing on the cost of care.
  - There has been an increase in citizen satisfaction and use of citizen feedback in our commissioning processes.
  - We have implemented a new IT solution which has saved the Council over £400k per annum and has improved the speed and efficiency of identifying care providers for citizens.
  - All contracted regulated adult social care providers are now required to pay the Birmingham Care Wage for under 23's – encouraging young people to enter the care sector in Birmingham.
- 3.11 The current contracts in scope (as per 3.4) have been extended and there are no further opportunities for extension under the regulated procurement process followed in 2019. However, as set out in **Appendix 3**, recommissioning services before April 2024 is unrealistic and a short extension up until 7 October 2024 at the latest, is requested. This will allow time for the process to be carefully managed and implemented, including dealing with any legal challenges and ensuring services are mobilised effectively.
- 3.12 Given; the benefits of the current arrangement; the recent impact of the Pandemic on the sector; and ongoing cost and staffing pressures in a highly regulated market, a light touch refresh of the 2017 Commissioning Strategy has taken place. The focus of this has been to build on the success of the current strategy and bring the content up to date, with an ongoing focus on quality.
- 3.13 The Commissioning Strategy for Regulated Adult Social Care 2024+ for Home Support and Quick Discharge Services in **Appendix 1** outlines our ongoing approach to the commissioning of these services and provides a framework for the future commissioning that will support us to achieve our key aims to:
1. Improve outcomes
  2. Improve quality; and
  3. Improve resilience and sustainability of the wider health and social care system.
- 3.14 The benefits of the Commissioning Strategy for Regulated Adult Social Care 2024+ for Home Support and Quick Discharge Services are detailed below:
- Aim 1: To improve outcomes.**
- 3.15 The Council will continue to commission high quality services to ensure better outcomes for service users.
- 3.16 The quality rating system will ensure informed choice can be made, giving service users and their family's choice and control over the services they receive.

- 3.17 The ongoing approach to pricing will continue to stabilise the care sector and ensure it remains sustainable and offer value for money for the Council. Fees paid by the Council will keep pace with a number of significant cost pressures in the market - as allowed for by the Council's budgetary position – in line with our statutory duties to the market under the Care Act 2014. This will ensure better continuity of care for service users and allows providers to invest in the quality of their services.
- 3.18 The Council has set out clear quality standards that all care providers are expected to meet. This will set a benchmark against which service users can assess the quality of services they are receiving.
- 3.19 The inclusion of service user, family and carer feedback about the quality of services received will mean that this information is used to inform future commissioning decisions for other services users, again giving choice and control to service users.

**Aim 2: To improve the quality.**

- 3.20 The framework will continue to provide an incentive to care providers to improve the quality of their services and also to be clear about how this should be achieved.
- 3.21 There will be a transparent quality rating system to inform service user choice but also to share with other commissioners and to inform decision-making across the health and social care system locally and regionally.
- 3.22 The Integrated Quality Assurance Framework will continue to provide a clear focus on quality, aligning resources and outcomes across health and social care. This will include a range of support for the sector to help them to deliver the best possible service.
- 3.23 Clear quality standards and tools will allow robust contract management.
- 3.24 The integration of customer feedback will drive up the quality of services, based on real service user experiences.
- 3.25 The quality rating system will increase the accountability of providers to both the Council and service users.

**Aim 3: To improve the resilience and sustainability of our health and social care system.**

- 3.26 The Council will continue to contract with a range of providers which will improve the resilience of the market.
- 3.27 The Council's fixed fee will:
- Allow Birmingham City Council to plan both financially but also in terms of the types and volumes of services needed in future.
  - Enable care providers to plan and invest in the quality of their service, as they will know how much they can expect to be paid by the Council.

- Be transparent and fair.
  - Keep pace with significant price pressures in the care market to ensure sustainability in future - within the constraints of the Council's revenue budget and in line with our duties under the Care Act 2014.
- 3.28 The Council will continue to work with our partners to develop an ongoing programme of support to the sector – including improving clinical support, supporting recruitment and retention, a package of targeted support to improve services and a wide-ranging training offer.
- 3.29 We will support young people entering the care sector through ongoing implementation of the Birmingham Care Wage.
- 3.30 All of the proposals will ensure the market is developed and reshaped to enable it to be transformed as we prepare for further integration across our health and social care system and for wider Social Care Reform and other legislative or policy changes.
- 3.31 The Adults Directorate has a bespoke IT solution (the CareMatch Portal) that is in use to operate the contracts for the services in scope of this report. Using this system allows successful providers to be passported directly through to our micro-procurement module. This system is then used to manage call-offs from the contract in the forms of individual packages of care for citizens. These call-offs are to meet the Council's statutory duty to meet care and support needs under the Care Act and the system allows new provision to be offered to citizens. Work has been completed to stress-test the systems and ensure a smooth transfer of data to meet statutory duties when the new contract commences.

#### **4 Options considered and Recommended Proposal**

- 4.1 There are a number of elements to the proposal, so the number of alternative options are considerable. However, for the purposes of this report, these have been summarised based on the key considerations of the contractual nature of the relationship with care providers.
- 4.2 There are broadly seven alternative contractual options to the proposed arrangements proposed in the Commissioning Strategy in **Appendix 1**:
- 4.3 **Option 1** - Do nothing. This has been discounted because current arrangements come to an end in 2024, although a short extension is requested. The future approach to commissioning of these essential services requires planning, development and ongoing investment as described above and to do nothing in the long term would put the Council at significant risk of destabilising the care market and being unable to meet statutory duties under the Care Act 2014 and the Children Act 1989.
- 4.4 **Option 2** - Use a collaborative framework agreement. This option was discounted as there are no collaborative framework agreements in place that meet the Council's requirements.

- 4.5 **Option 3** – to extend the contract period for existing contracts – The Council let and advertised these contracts for a maximum period of 5 years – subject to satisfactory performance. This period has now elapsed, and although a short extension is proposed as set out in 3.11, no long term extensions are possible under the Public Contracts Regulations 2015 and this option has therefore been discounted.
- 4.6 **Option 4** – Tender for a Framework Agreement. This option was discounted as it would close the market for the duration and result in a further procurement exercise if the provision became insufficient at any point.
- 4.7 **Option 5** – Use a select list of providers and spot purchase individual packages of care and support - This option has been discounted for the same reasons as Option 1.
- 4.8 **Option 6** – Move to block contracted provision - Although the Council does still have a very small number of block-contracted providers (who offer the Council surety of supply in providing care home placements), the Council has already reduced its reliance on block contracted provision, including internal Council operated provision. This has allowed us to provide choice for citizens (as required under the Care Act 2014) as well as to facilitate competition and to meet changes in demand for regulated adult social care services over time. This option has therefore been discounted.
- 4.9 **Option 7** - extend the scope of a new flexible contract with providers to cover other commissioned services such as NHS commissioned services. This option has been considered at length as we move towards a more integrated commissioning approach between the Council and the NHS. However it was agreed in July 2023 that the joint commissioning of these services would not be possible at this time and that our joint commissioning efforts would focus on jointly managing the provider market at a strategic level.

## **5 Consultation**

- 5.1 The 2017 Commissioning Strategy was widely consulted upon in 2017. As there are minimal changes to the Commissioning Strategy for Regulated Adult Social Care 2024+ for Home Support and Quick Discharge Services and based on legal advice, further consultation was not required. However, engagement activity was undertaken with care providers, partners, citizens and colleagues across the Adult Social Care Directorate during October 2023. The outcome from these engagement events has been carefully considered and used to develop and adapt the Commissioning Strategy (**Appendix 1**) and Procurement Strategy (**Appendix 2**) and will be further considered as associated contracts are drafted.



## 6 Risk Management

- 6.1 Due to the scale of this procurement both in relation to the number of services users impacted and also the Council's expenditure on these services, the potential risks do need to be considered. However, the light touch review of the Commissioning Strategy should have mitigated the majority of these i.e. the approach is largely the same as the current arrangements.
- 6.2 The most significant risk to the implementation of the Commissioning Strategy for Regulated Adult Social Care 2024+ for Home Support and Quick Discharge Services is if providers chose not to sign up to the new contract, resulting in insufficient supply to meet demand. However, given that the Council has carefully considered eligibility and entry criteria for providers, we know there are potentially up to 177 eligible care providers as at November 2023. Furthermore, the Commissioning Strategy sets out the learning and associated changes made from the previous fixed Framework Agreement and allows opportunities for the Council to reopen the Flexible Contracting Arrangement to new applicants, should the number of providers fall below the minimum threshold. Given the minimal amount of change and the large number of existing providers, Commissioners are confident that enough providers will sign up to the new arrangements.
- 6.3 There are currently 15 home support providers contracted under the Framework Agreement for Home Support 2019 who will no longer be eligible to apply for the new contracts as their CQC registered location does not fall within 2 miles of the Birmingham Council Tax boundary. Of these 15, two are rated as Requires Improvement and one has not yet been inspected by CQC – please see 6.4 for details. For any existing providers who are unable to apply, do not apply or are unsuccessful, there are clear Transition Arrangements set out in **Appendix 1** to ensure continuity of care for citizens and stability for providers.
- 6.4 There are currently 14 existing home support providers contracted under the Framework Agreement who have a rating of Requires Improvement (3 of whom also are more than 2 miles outside of the Birmingham Council Tax boundary and are included in 6.3). These provider locations will not be able to apply to join the new Flexible Contracting Arrangement and are currently supporting 593 citizens. However, these providers are not currently providing the quality of care we would want for our citizens, and we know there are other providers available that could potentially provide better quality of care. The clear Transition Arrangements set out in **Appendix 1** will ensure citizens are given information and advice to make an informed choice about whether to remain with their existing provider under a Direct Payment or to ask the Council to commission a new contracted provider with a better-quality rating.
- 6.5 Engagement feedback identified a small number of providers who were dissatisfied with the proposals to only commission providers with a set geographic boundary and that are rated Good or Outstanding. A clear rationale is set out in the Commissioning Strategy for both the quality requirements and

the need for locally delivered services and are in line with the Council's Social Value Policy and Birmingham Business Charter 4 Social Responsibility. The rationale and engagement will help to minimise the risk of challenge. However, ultimately the Council is able to set out its commercial arrangements with providers, as long as they are legally compliant. In particular under the Public Contract Regulations – Light Touch Regime, the Council can design its own procedure provided that it; complies with the principles of equal treatment and transparency; carries out the procedure in conformity with information included in the notice (except in specified circumstances); and sets time limits that are reasonable and proportionate. The approach contained in **Appendix 1** is compliant with these requirements.

- 6.6 Should a new Quick Discharge Service provider be successful, a robust mobilisation plan will need to be agreed between the current provider, the new provider and with our partners in the NHS. Any such plan will take account of the importance of this service to support the wider Integrated Care System and in particular to support timely discharge from hospital for citizens. Any risks arising from this will be carefully managed through the existing Intermediate Care Board, which includes a range of partners.

## **7 Compliance Issues:**

### **7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

- 7.2 The Council has set out a bold and challenging agenda to ensure Birmingham is a city in which every citizen can live a healthy enjoyable life, which is contained in our Corporate Plan 2022/2026. This sets out our ambition to have a city where every citizen, at every stage of their life, in all communities can make healthy choices that are affordable, sustainable, and desirable to support them to achieve their potential for a happy, healthy life.

- 7.3 The aim of adult social care in delivering the Council's ambition is to protect and empower the most vulnerable citizens. This means supporting vulnerable people to maximise their independence, health and wellbeing, whilst ensuring that publicly funded care and support provides value for money for Birmingham citizens and is provided only when it is really needed.

- 7.4 The Council's Housing Strategy 2023-2028 was launched in January 2023 and makes specific reference to the importance of housing and health, including the close working relationship required between Adult Social Care and City Housing to ensure residents can access and sustain the right home for them. Interventions that support this approach make our vision more achievable-enabling residents to live in the right home, in the right place at the right time.

- 7.5 These aspirations for the people of Birmingham have been translated into the Commissioning Strategy for Regulated Adult Social Care 2024+ for Home Support and Quick Discharge Services that will ensure citizens that need it, will

have access to responsive, high quality home care that offers value for money and is sustainable.

## **7.6 Legal Implications**

- 7.6.1 Under Section 8 of the Care Act 2014, a local authority can discharge its duty to meet assessed eligible need for care and support under sections 18 to 20 of the Act, by providing care and support at home or in the community or goods or facilities and the local authority can provide these by arranging for them to be provided by another person or body other than the local authority.
- 7.6.2 The Commissioning Strategy further supports the Council's statutory duties under Section 5 of the Care Act 2014 to shape and maintain an efficient and effective market of services for meeting care and support needs. The market that is shaped should ensure that any person requiring care and support; has a variety of providers supplying a variety of services to choose from; has a variety of high-quality services to choose from; and has sufficient information to make an informed decision about how to meet their needs.
- 7.6.3 The Council is enabled, by Section 111 of the Local Government Act 1972, to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. The Council therefore has a general power to enter into contracts for the discharge of any of its functions.
- 7.6.4 The Children Act 1989 and subsequent statutory guidance and regulations place a duty on local authorities to provide services for children in need and to safeguard and promote the welfare of children within their area.

## **7.7 Financial Implications**

- 7.7.1 There is no additional funding required from the Council to support the extension of the Framework Agreement for Home Support Services or the Framework Agreement for Quick Discharge Services. The planned expenditure through these contracts up until 31 March 2024 forms part of the Adult Social Care revenue budget and ongoing expenditure was presented to the S151 Spend Control Board on Friday 22nd September 2023. Blanket approval was granted at the meeting under reference ASC1 (Packages of Care) and ASC 9 (Home Care to support hospital discharge). Please see 7.7.10 below in relation to S151 Spend Control from 1 April 2024 onwards.
- 7.7.2 The Flexible Contracting Arrangement (FCA) will be established for a period of 5 years, with the option to extend for up to two years. Based upon a potential annual value of £159m, the potential total value is £1.115bn for 7 years and includes possible values for the Birmingham Childrens Trust and NHS partners. However, the Council estimates spend under these arrangements to be £64m for home support services and £15m for quick discharge services in 2024/2025 (in accordance with the Council's current forecast spend).

- 7.7.3 However, all spend is subject to changes in demand, inflation, and application of relevant Grants for future years and will need to be managed in line with the Council's available budget.
- 7.7.4 Quick Discharge Services are currently funded from a combination of Adult Social Care budgets and the Better Care Fund. These figures are subject to changes in demand, inflation, and application of relevant Grants for future years and will need to be managed in line with the Council's available budget.
- 7.7.5 Birmingham Children's Trust are estimated to spend around £2m on home support services in 2024/2025.
- 7.7.6 The Council has already moved to a fixed fee to allow for better financial planning and certainty for care providers and the Council alike. However, like the majority of Local Authorities, the Council is unfortunately not funded to meet the full cost of care. Care providers usually balance this with funding from other sources such as private clients and from the NHS.
- 7.7.7 However, we know the proposed fees provide value for money for the Council as they are validated annually through a cost of care exercise, the most recent of which was conducted in August – September 2023. Initial analysis shows that median cost of home support services in Birmingham is £21.83/hour compared with our current fee of £17.79/hour. However, the Council's Cabinet (17 October 2023 – Allocation of MS&IF, MS&IFW and ASCDF) agreed the use of a series of Grants to increase these rates.
- 7.7.8 There are robust financial savings plans across the Adult Social Care Directorate and these are largely focussed on reducing and delaying the demand for services and supporting independence, choice and control. The contracts that are in scope of this decision, provide maximum flexibility to meet these changes in demand.
- 7.7.9 The contracts which will result from this decision for Home Support and Quick Discharge Services do not commit the Council to any specific funding or volumes of work – these commitments are only created once call-off to the Flexible Contracting Arrangement are made. In this case, these call-offs will be in the form of packages of care for individual citizens with unmet assessed eligible care and support needs (under the Care Act 2014).
- 7.7.10 The current S151 Spend Controls are only confirmed until 31 March 2024. Any expenditure under the extended Framework Agreement for Home Support Services or the Framework Agreement for Quick Discharge Services and any expenditure under the proposed new Home Support or Quick Discharge Services Flexible Contracting Arrangement - resulting from this Cabinet decision - will not take place until after this date. Any such expenditure will therefore be in line with the Council's approved budget for 2024/25 and beyond.
- 7.7.11 The Council's current Medium Term Financial Plan includes provision for inflationary pressures (including paying increases attributable to the National

Living Wage) and for managing increases in demand for adult social care services. However, any changes to this financial provision, will be made in accordance with the Council's approved budget for 2024/25 and beyond.

7.7.12 The Council will continue make best use of any relevant Grants available to the sector.

7.7.13 As set out in the Commissioning Strategy 2024+ in **Appendix 1**, there are some specific fee-increase arrangements under the proposed Flexible Contracting Arrangements as follows:

- The Council will apply any relevant inflationary fee increase for 2024/2025 from 1 April 2024 for all providers contracted under the 2019 home support contracts. This is to reflect that any increase in the National Living Wage will take effect from 1 April 2024. For providers onboarded as part of a reopening of the Flexible Contracting Arrangement, existing home support packages will be uplifted from the date of onboarding.
- There will be no fee increase for existing packages of care commissioned prior to the start of the new Flexible Contracting Arrangement for Quick Discharge Services. This is because these are short term packages of care and to amend fee rates part way through what might only be a 7 day – 6 week service will not be possible. However, packages of care commissioned under the new arrangement will be at any new rate agreed by the Council.

7.7.14 To ensure we can continue to attract young people into the sector, care must be a more attractive prospect than the alternatives. The Commissioning Strategy for Regulated Adult Social Care 2023 will therefore continue to require all contracted Birmingham care providers to pay Birmingham Care Wage to align to the National Living Wage (confirmed at £10.42/hour from 1 April 2023 and expected to at least £11/hour from April 2024) and focus this on matching of this for under 23's through the Council's fee structure and contracts.

## **7.8 Procurement Implications**

7.8.1 There is no further delegated provision to extend the current contract, as the original extensions have already been utilised. The Framework Agreement for Home Support commenced on 8 April 2019 and the Framework Agreement for Quick Discharge Services commenced on 3 June 2019. Subsequent delegated extensions have brought the contract end dates 7 April 2024 and 2 June 2024 respectively.

7.8.2 Regulation 72. (1) of the Public Contract Regulations provides that "Contracts and framework agreements may be modified without a new procurement procedure...in any of the following cases...(b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor... (ii)

would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract.”

- 7.8.3 Although the current Framework Agreement’s for Home Support and Quick Discharge Services don’t specifically commit the Council to a value or volume of work, it is estimated the Council will spend £28m between April 2024 – October 2024 on Home Support services and £4m between June and October 2024 i.e. during the extension periods.
- 7.8.4 This circumstance complies with Regulation 72(1)(b)(ii) as the costs of the extension do not exceed the 50% tolerance.
- 7.8.5 In accordance with the Council’s new Procurement and Contract Governance Rules, the Waiver Procedure guidelines have been followed. This has enabled the recommendation for the extension of this contract to be brought to Cabinet. The Waiver Form is included at **Appendix 3**.
- 7.8.6 In parallel with the proposal to extend current contract arrangements for up to 6 months to 7 October 2023, consideration has been given to ensuring continuity of delivery of current services to vulnerable citizens.
- 7.8.7 The indicative implementation plan for the commissioning and procurement in 7.8 below to demonstrate that this can be completed in the proposed extension period.
- 7.8.8 The services in scope of this report will be tendered using the “restricted” procurement route under the Light Touch Regime of the Public Contracts Regulations 2015 (Regulations 74 to 77).
- 7.8.9 As set out in 6.5 above, under the Public Contract Regulations – Light Touch Regime, the Council can design its own procedure provided that it; complies with the principles of equal treatment and transparency; carries out the procedure in conformity with information included in the notice (except in specified circumstances); and sets time limits that are reasonable and proportionate. The approach contained in Appendix 1 is compliant with these requirements.
- 7.8.10 Under the Light Touch Regime, we have developed a Flexible Contracting Arrangement that is similar to a Dynamic Purchasing System, but has been adapted to allow the Council to meet citizen care needs quickly and efficiently.
- 7.8.11 The Procurement Strategy for Home Support for Adults and Children and Quick Discharge Services is contained in **Appendix 2**. This strategy has been developed to build upon the approach taken during the previous tender/s and associated lessons learnt.
- 7.8.12 An indicative timetable has been developed in conjunction with Corporate Procurement Services in line with the request for a six-month contract extension.

- 7.9 The proposed timeline is set out below and all efforts will be made to ensure the process is as timely as possible:

**Table 3: Indicative Procurement and Implementation timeline**

Activity	Earliest Possible Dates
Cabinet Approval (Strategy)	12 December 2023
<i>All dates beyond this point assume the requested 6-month extension is approved</i>	
Council Budget to Full Council	28 February 2024
ITT Issued	4 March 2024
Clarification Period (3 weeks)	4 March 2024 – 22 March 2024
ITQ Return (allowing 30 days)	3 April 2024
Evaluation Period (5 weeks)	4 April 2024 – 10 May 2024
Award Approval (3 weeks)	13 May 2024 – 3 June 2024
FCA Contract Award	10 June 2024
FCA Standstill Period (10 working days- 2 weeks)	10 June 2024 – 21 June 2024
FCA Award Letters Issued	26 June 2023
FCA Starts – Individual Contracts	1 July 2024
Contract Award Notices	Published Quarterly

## 7.10 Social Value

7.10.1 Social Value requirements will be included within the Council’s ongoing contract and quality management arrangements. Providers will be required to submit a Social Value action plan as part of their annual Provider Quality Assurance Statement and will receive support from Commissioners in developing and reviewing these. This will include providers telling the Council about the steps they are taking in relation to Environmental and Sustainability implications of their services through their Social Value action plans.

7.10.2 However, the Commissioning Strategy in **Appendix 1** also makes clear how the geographic commissioning model will support social value.

## 7.11 Public Sector Equality Duty

7.11.1 An Equality Impact Assessment has been carried out to identify the impact of the proposed changes. Details of the Equality Assessment can be found in **Appendix 4**. As the proposals will impact on all users of commissioned social care services, the assessment has not identified any groups that will be adversely affected. The proposals are designed to improve the outcomes, quality of services and continuity of service for all service users regardless of their protected characteristics.

## 7.12 Environmental and Sustainability Implications

7.12.1 All successful providers are required to be familiar with the Council’s aims for a Sustainable Birmingham and ensure that in its performance of the Service, it uses working methods, equipment, materials, and consumables which

minimise environmental impact. An Environmental & Sustainability Assessment is attached as **Appendix 5**.

7.12.2 Furthermore, the Commissioning Strategy in **Appendix 1** has given clear consideration to reducing the environmental impact of home care services, by reducing travel distances/time and working in smaller geographic areas of the city.

## **8 Appendices**

8.1 **Appendix 1** – Commissioning Strategy for Regulated Adult Social Care 2024+ Home Support and Quick Discharge Services

8.2 **Appendix 2** – Procurement Strategy for Home Support and Quick Discharge Services

8.3 **Appendix 3** – Waiver Form

8.4 **Appendix 4** – Equality Impact Assessment

8.5 **Appendix 5** – Environmental & Sustainability Assessment

## **9 Background Documents**

9.1 12 December 2017, Adult Social Care Commissioning Strategy (Forward Plan Ref: 004083/2017)

9.2 13 December 2022, Regulated Adult Social Care Commissioning Strategy – Care Homes, Supported Living and Home Support Sensory Loss 2023+

9.3 17 October 2023, Allocation of the Market Sustainability and Improvement Fund, Workforce Fund and Adult Social Care Discharge Fund