

PROCUREMENT STRATEGY (P2170)

PROCUREMENT STRATEGY FOR THE PROVISION OF HOME SUPPORT AND QUICK DISCHARGE SERVICES P2170

1 Background

1.1 Background and Service Requirements

1.1.1 The Council has a range of statutory duties and powers to assess the unmet eligible needs of citizens for care and support and commission a range of services that meet these needs. Home Support services are provided for children and young people with disabilities and for adults who are unable to live independently in their own home. The requirements and outcomes are set out in the accompanying Cabinet Report 'Regulated Adult Social Care Commissioning Strategy – Home Support and Quick Discharge Services'.

1.1.2 There are 2 distinct services based on the service users' requirements:

- A) Home Support Services provided in 5 geographical areas for children, young people and adults with disabilities.
- B) Quick Discharge Service (QDS) provided citywide for adults.

1.2 Market Analysis

The home support market is a fluid and competitive supply market with providers entering and exiting the market on a regular basis, largely due to low barriers to entry. There is a more than sufficient number of providers operating in Birmingham and the immediate surrounding area (within 2 miles of the Birmingham Council Tax boundary); supply currently outstrips demand for these services. The local home support market is long established and composed of large, medium and small organisations.

A sustainability assessment of the market indicates sufficient, diverse, quality services able to meet diverse needs of people in Birmingham. However, there are identified risks linked to the sector's dependence on labour, its vulnerability to current tight labour market conditions and high wage inflation. The Council has in part mitigated these risks by using government grants to increase fees and applies an established annual fee increase methodology. The current model provides choice for service users and allows the Council to discharge its duties and manage risk within the markets. It is essential that the Council continues to commission and contract with a range of providers and retain flexibility in the procurement model.

The Council aims to commission services from high quality providers. There are sufficient home support providers in the local area which are rated 'Good' or 'Outstanding' with the Care Quality Commission (CQC). The Council will therefore make award of contracts conditional on a Registered Location having a CQC 'Good' or 'Outstanding' rating and having a being within 2 miles of the Birmingham Council Tax boundary. There are 177 (as at November 2023) providers meeting this criteria which is sufficient.

1.3 Strategic Procurement Approach

The following options were considered for both the Home Support and the Quick Discharge Services:

- Option 1 - Do nothing. This has been discounted because it is a statutory requirement to meet unmet eligible care and support needs under the Care Act 2014 and the Children Act 1989.
- 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.
- 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, no long term extensions are possible under the Public Contracts Regulations 2015 and this option has therefore been discounted.
- 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.
- 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.
- 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.
- 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.

- Option 8 - Tender the services under the Light Touch Regime (LTR) similar to a Dynamic Purchasing System (DPS) to establish a Flexible Contracting Arrangement (FCA) which allows providers to apply and be added subject to set criteria. There is no commitment to spend at this stage; spend is committed at the award of the micro-tendering stage for the individual care package.

Option 8 is the recommended option as it provides sufficient flexibility in the market throughout the duration allowing the Council to ensure that appropriate and sufficient provision is available at all times. Similar to a DPS, the FCA framework will be operated via an electronic portal with maximum automation.

1.4 Procurement Approach

1.4.1 Duration, Value and Advertising Route

The Flexible Contract Arrangement (FCA) will be 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 the potential value for the Birmingham Childrens Trust and Health 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).

The opportunity will be advertised via Find a Tender, www.finditinbirmingham.com and Contracts Finder.

The duration of the call off contracts will be based on the individual requirements – citizens care may remain commissioned under these arrangements until such time as the call-off ends and provision will be made for this within the associated contract terms.

1.4.2 Sourcing Strategy

1.4.2.1 The FCA will be awarded as follows:

Lot Ref	Lot Name	Minimum No. of Providers Required per Lot
Lot 1	Home Support Services North Birmingham and Optional QDS Plus	25 including 5 Childrens
Lot 2	Home Support Services West Birmingham and Optional QDS Plus	22 including 5 Childrens
Lot 3	Home Support Services East Birmingham and Optional QDS Plus	22 including 5 Childrens
Lot 4	Home Support Services South Central Birmingham and Optional QDS Plus	22 including 5 Childrens
Lot 5	Home Support Services South West Birmingham and Optional QDS Plus	22 including 5 Childrens
Lot Ref	Lot Name	Maximum No. of Providers
Lot 6	Home Support Services - Quick Discharge Service (Citywide)	1

In the unlikely event of the minimum number of providers not being achieved during the initial procurement process the FCA will be reopened as soon as is practicably possible to address the shortfall; **this may involve expanding the geographical area in which providers will be considered as eligible to apply.**

The 'Optional QDS Plus' allows providers to express an interest in delivering a Quick Discharge Service when demand exceeds capacity for the Lot 6 Home Support Services - Quick Discharge Service (Citywide). The expression of interest will not determine whether a provider is successful in being awarded to the FCA, however only providers awarded to the FCA will be able to apply for the Optional QDS Plus.

Lots 1-5 – Sourcing Strategy

The minimum number of providers as set out in the above table, ensures sufficient capacity within the FCA based on current demand information. There is no set maximum number of providers as this will be managed in the following ways:

1. The entry criteria of CQC Rated Good or Outstanding - this will ensure a minimum standard of 'Good' care provision for our vulnerable citizens at no additional cost to the Council; and
2. Only providers with a CQC registered office within 2 miles of the Birmingham Council Tax boundary will be admitted to the FCA. A detailed list of eligible providers will be published as part of the procurement exercise, as well as a detailed map showing the 2 mile boundary. The rationale for this locality restriction provides for the following:
 - i. It ensures sufficient provider capacity including capacity for the winter or other pressures, e.g. Children's Home Support
 - ii. Provision is within a reasonable distance (2 miles) to reduce late, missed or short calls.
 - iii. Supports the aspiration of keeping staff travel to a reasonable level, supporting Net Zero compliance and reducing environmental impacts.
 - iv. Quality assurance requirements can be met efficiently as in-person quality site visits are local.
 - v. The geographical areas, especially those near the Birmingham boundary, have sufficient local provision.
 - vi. It is the most efficient way to ensure local delivery as no provider will be more than 2 miles outside of the Birmingham Council Tax boundary and is easily identifiable and verified.
 - vii. There will be minimal impact on existing provision as the majority of existing providers meet this requirement.
3. Providers are limited to 2 Lots; this achieves the following:
 - i. Encourages providers to apply for their local areas; this is linked to the fee structure that assumes a maximum of 2 miles of travel per call and environmental requirements to minimise the impact of the service.
 - ii. A realistic capacity for each area by deterring providers from applying for more areas than they have the capacity for or intention to deliver in.

There may be a requirement during the lifetime of the FCA to increase the maximum number of Lots that can be applied for from 2 to 3. This decision would be at the discretion of commissioners.

Market intelligence is that there are 273 (as at October 2023) providers who meet the conditions of 1 & 2 above.

The allocation of providers to the Lots will be based on the following criteria:

1. Meet the pass / fail requirements
2. Provider states the 2 Lots they are applying for

Lot 6 Quick Discharge Service (QDS) – Sourcing Strategy

A single provider will be awarded to the Lot based on the following rationale:

- 1 A single point of contact for referrals is the most efficient way to deliver this service.
- 2 Aggregation of demand across the city to gain economies of scale and reduce back-office support costs to the Council.
- 3 A single large high-quality provider that is experienced in large scale QDS provision with associated processes and systems in place
- 4 Gain supplier commitment due to the value of the contract, ensuring responsive and quality provision.
- 5 The QDS Plus provision within Lots 1-5 ensures additional capacity within the wider market to support at peak times of demand or if there are short term provider capacity issues
- 6 The Lot can be reopened if required; this will be at the discretion of the commissioner.

1.4.3 Procurement Route

The requirements will be tendered using a Flexible Contracting Arrangement framework via the “restricted” procurement route which is standard for a DPS type of procurement. The procurement of these services will be subject to the Light Touch Regime of the Public Procurement. This allows the Council to design a procurement solution that can respond to fluctuations in demand over the duration of the arrangement and provide quality provision with sufficient choice for service users. The arrangement provides the same for the Birmingham Children Trust and Health partners and at the same time allows for local contract management by the respective organisation.

1.4.4 Scope and Specification

This framework is primarily for the Council and Birmingham Childrens Trust (BCT) and will also be available for Health partners to use.

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 wide range of regulated care and support services under the 2017 and 2023 Commissioning Strategies approved by Cabinet.

The Birmingham Childrens Trust also has a range of duties and powers under the Care Act 2014, and the Children Act 1989 Part III: Local Authority support for children and families (Children in Need). A child is deemed as “in need” if they are disabled or unlikely to achieve a reasonable standard of health or development unless services are provided. The local authority, via the Birmingham Childrens Trust, has a duty to provide or facilitate others to provide services for children in need.

Home Support services provide personal care to adults and children in their own home and can include help with the following:

- Personal care including washing and dressing;
- Housekeeping or cleaning;
- Cooking and preparing meals;
- Assistance with taking medications or health care needs;
- Companionship or activity based support.

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.

1.4.5 Tender Structure (Including Evaluation and Selection Criteria)

1.4.5.1 Evaluation and Selection Criteria

The quality / price balances below were established having due regard for the corporate document 'Evaluating Tenders' which considers the complexity of the services to be provided and the Fee Structure. The tender documents will include bespoke terms and conditions developed by commissioners with Legal Services Commercial Team.

1.4.5.2 The evaluation of tenders will be assessed as detailed below:

The assessment will be divided into the following stages:

Stage 1 – Selection Stage

Stage 2 – Invitation To Tender (micro tendering process for care packages)

Criteria	Evaluation
STAGE ONE – Selection Stage	
Company Information	Pass / Fail
Financial Information (including Insurance)	Pass / Fail
Health and Safety	Pass / Fail
Compliance with Equalities	Pass / Fail
Grounds for Mandatory Exclusion	Pass / Fail
Grounds for Discretionary Exclusion	Pass / Fail
Modern Slavery Act 2015	Pass / Fail
Third Party Data Protection Requirements	Pass / Fail
Cyber Security Requirements	Pass / Fail
Commitment to Social Value Requirements	Pass / Fail
Declaration	Pass / Fail
Lot 1-5 Selection	N/A
Lot 6 Quality Assessment	Scored

Tenderers will be required to pass all sections of Stage 1 and will be allocated to the appropriate Lot on the FCA as set out in section 1.4.2.1 and can bid for contracts at Stage 2.

After the initial set up of the Flexible Contracting Arrangements (FCA) the system will be reopened where the minimum number of providers is no longer met or is insufficient. The Council will decide whether to open for single or multiple Lots based on the requirement.

Lots 1-5 STAGE 2

Following the initial award, providers who have been successfully awarded to the FCA will be invited to bid for individual service packages via a further competition exercise as detailed in the micro tendering process.

Quality (100%)

Individual call off orders (individual care packages) under the Flexible Contracting Arrangements will be advertised via a micro tendering process (currently via the Council's CareMatch Portal) to relevant categories of providers, based upon the service user's care requirements, and then awarded to a provider based upon a quality determination. The provider quality determination - Provider Quality Rating - will be made in accordance with a Quality Assurance Framework as set out in the Tender and contract documents.

Micro Tendering Process

The micro tendering process will facilitate short-listing and selection of a provider based on the following:

1. A long list of potential Providers from the Flexible Contracting Arrangement, who can meet the needs of the Service User, will be generated. This will be based upon: Provider categories, geographic location and service type.
2. The top 'ranked' provider(s) will be identified and the score will be based upon the Provider's Quality Rating in accordance with the Integrated Quality Assurance Framework.
3. The Provider chosen to deliver Services to the Service User will have confirmed that they are able to meet the Service User's needs, preferences and requirements as described in the Support Plan.
4. If there is a tie between providers with an identical Provider Quality Rating, then providers shall be ranked based upon customer feedback data gathered through the social work review process.

Lots 6 STAGE 2

Following the initial award, the provider successfully awarded to Lot 6 will be directly allocated all referrals under the Quick Discharge Service initially. Should the provider be unable to meet these requirements (only in agreement with the Commissioner/Locality Operations Manager), the referrals will be made to providers registered to provide QDS Plus services. These call off arrangements will be carried out in accordance with those set out above for Lots 1 – 5.

Social Value (0%)

Social Value will not be used as an evaluation criteria as there is no guarantee of spend at this stage. Bidders will be required to commit at Stage 1 to provide a Social Value Action Plan (SVAP) when requested, making it a contractual requirement. Social Value Action Plans will be requested when the contract value threshold for a SVAP is achieved and will form part of the annual Quality Assurance process.

Price (0%)

Price will not be used as an evaluation criteria as a fixed pricing model for this tender will be used in line with the accompanying Cabinet report. Providers will have to confirm their

understanding and acceptance to the fixed pricing model during the pass/fail evaluation at Stage one.

1.4.6 Evaluation Team

The process for accepting providers onto the Flexible Contracting Arrangement system is set out as follows:

Lots 1-5 is on a pass/fail basis via a combination of automated and manual assessments which will be undertaken by a number of officers from Corporate Procurement Services, Adult Social Care, with representatives from Birmingham Children’s Trust, Health and Finance as required.

Lot 6 (QDS) is the same as Lots 1-5 with an additional quality assessment evaluation stage and ranking.

Feedback on unsuccessful applications is provided and must be issued at the time of award.

The evaluation of individual call-offs made under this agreement will be undertaken by Adult Social Care, Birmingham Children’s Trust and Health Commissioning Officers in line with the contract terms and published in line with necessary legal and governance requirements.

1.5 Indicative Implementation Plan

The implementation plan below has been produced to meet the overall deadline for the project.

Note; a high number of applications are anticipated therefore 5 weeks has been allocated for the evaluation period.

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
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1.6 Service Delivery Management

1.6.1 Contract Management

The FCA will be managed operationally by Adults Social Care and Corporate Procurement Services. The call-off contracts will be managed by the respective Adult Social Care, Birmingham Children's Trust and Health teams. The Head of Commissioning will work closely with both Directorate Finance and operational colleagues to manage the associated budget. The approach to contract management is set out within the Commissioning Strategy and will be further detailed within the associated contractual documents. The key elements of the contract management approach are;

- Completion of a quality assurance self-assessment (as directed by Commissioners) by the provider against key contractual obligations and elements of the specification.
- Completion of quality assurance/risk assessment by the Council, NHS or CQC.
- Quarterly collection of market intelligence information from all care providers.
- Regular analysis of customer feedback.
- Maintenance of a provider risk register to monitor complaints, safeguarding incidents, quality concerns, live credit alerts etc.
- Regular data sharing meetings with partners locally and regionally to ensure coordinated contract management of providers.
- A geographic commissioning presence to ensure better oversight of providers.
- Regular contract review meetings with providers with the largest market share
- Monitoring compliance with Social Value requirements including obtaining action plans at the Quality Assurance stage and monitoring as appropriate
- Monitoring of contract awards and quarterly publishing of contract award notices in line with the Public Contract Regulations (PCR) 2015.

1.6.2 Performance Measurement

The FCA is responsive to service requirements and there are no Service Level Agreements as it is on a service need basis. Information on volumes and spend will be available.

The individual contract monitoring is included in the Integrated Quality Assurance process which ensures best quality with choice.

1.7 Birmingham Business Charter for Social Responsibility (BBC4SR)

Compliance with the BBC4SR is a mandatory requirement that will form part of the conditions of these contracts. Providers will be required to submit a social value action plan as part of their annual Quality Assurance statement. The action plan will be implemented and monitored during the call off contract period.

The BBC4SR has however been used as a fundamental platform to build the geographic commissioning model, to ensure services are delivered locally, employ local people and support the local economy and environment.

1.8 Safeguarding

Home Support and Quick Discharge services involve the provision of personal care in citizens own homes. The potential risks in relation to safeguarding are therefore significant and appropriate measures have been taken with regards to the procurement and commissioning of safe care and support to vulnerable citizens, including:

- Use of CQC ratings in the procurement gives an independent, evidence-based approach to the quality and compliance of services, including providers approach to safeguarding and protecting citizens from neglect
- Similarly, only allowing Good or Outstanding providers to join the FCA, gives a strong level of assurance of their safeguarding practices.
- All providers joining the FCA will be required to meet the Council's safeguarding requirements which form an integral part of the contracts and must:
 - have a clearly stated policy commitment to work to established safeguarding systems across the City.
 - raise multi-agency alerts promptly in cases where abuse is suspected
 - have a clearly stated policy commitment to deliver on the 'Dignity and Respect' agenda
 - have a policy statement on the application of the Mental Capacity Act 2005 principles (where applicable)
 - have a policy statement on the application of the Deprivation of Liberty Safeguards (DoLS) (where applicable)
 - provide evidence of reflection and learning following incidents, including adopting preventative strategies wherever possible
 - comply with the Birmingham Safeguarding Adult's Board's Protocol and procedures for responding to concerns about a person in a position of trust.
 - comply with the requirements and principles of all Multi-agency policy & procedures for the protection of children or adults with care & support needs
 - nominate a safeguarding lead and a Mental Capacity and Deprivation of Liberty Lead to develop and oversee best practice in relation to adult safeguarding and the application of the principles of the Mental Capacity Act within the service.
 - promote a culture of awareness around safeguarding issues, dignity and respect, and Mental Capacity.
 - demonstrate commitment to training leading to informed and improved practice.

1.9 Information and Data Protection

- 1.9.1 The 3rd Party Data Protection and Cyber Security Requirements will be secured by requiring contracted providers to achieve the relevant standard required by the Data Security and Protection Toolkit (DSPT) for social care providers.
- 1.9.2 The Data Sharing Agreement will be agreed with Legal Services and included in the contract terms and conditions.
- 1.10 Pre-Procurement Duty under the Public Service (Social Value) Act 2012
The Social Value outcomes reflect the national social value themes, outcomes and measures and included in the Invitation To Tender therefore no further stakeholder consultation is required.

Social Value Rationale

<p>Providers will produce a Social Value Action Plan as part of the annual Quality Assurance programme in the contract management stage. Commissioners will be able to support providers in the development of this plan. Key elements will be seeking to utilise local community assets via the MatchMyProject Scheme, links with Neighbourhood Network Services and support in the Environmental and Sustainability assessment.</p> <p>Social Value will not be part of the evaluation process, please refer to the Social Value section of the strategy for more information</p>
<p>The majority of the market is made up of small and medium providers, many of which are local businesses with a smaller number of medium and large national providers operating in the area.</p> <p>Although mature in terms of service provision the market is immature in terms of social value. There are opportunities for the care homes to become community assets as there are a range of facilities including meeting rooms which could be used by local community groups subject to safeguarding requirements. Comm</p>
<p>Total Social Value Weighting: 0%</p>
<p>Qualitative / Quantitative split: Not applicable</p>
<p>Reasons for which themes are to be prioritised:</p>
<p>List the themes in order of priority (sub-weighting not applicable)</p>
<p>Priority Theme 1: Local Employment</p> <p>Commissioners want more local employment on these contracts. There are a number of measures in the social value action plan where commitments could be made and achieved. One measure will be removed due to the vulnerability of the client group.</p>
<p>Priority Theme 2: Partners in Communities</p> <p>Commissioners want initiatives supporting disabled and vulnerable adults to build stronger community networks; e.g. befriending schemes, digital inclusion clubs, provision of community assets; e.g. use of meeting room or other facilities. Providers will be encouraged to join the Council's MatchMyProject scheme. One measure meets this requirement; providers will be guided to this measure.</p>
<p>Priority Theme 3: Green and Sustainable</p> <p>Commissioners have developed an Environmental and Sustainability assessment which requires providers to reduce their adverse impacts on the environment.</p>