

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	CABINET
Report of:	Strategic Director for People
Date of Decision:	21 March 2017
SUBJECT:	SOCIAL CARE FRAMEWORK - COMMISSIONING STRATEGY AND PERMISSION TO CONSULT
Key Decision: Yes	Relevant Forward Plan Ref: 002351/2016
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member(s) or Relevant Executive Member for Local Services:	Councillor Paulette Hamilton – Health and Social Care Councillor Majid Mahmood – Value for Money & Efficiency Councillor Brigid Jones – Children’s Services
Relevant O&S Chairman:	Councillor John Cotton - Health, Wellbeing and the Environment Cllr Mohammed Aikhlaq – Corporate Resources and Governance Cllr Susan Barnett – School, Children & Families
Wards affected:	All

1. Purpose of report:
<p>1.1 To seek permission to consult with service users, carers, independent providers, the public, staff and other stakeholders on a range of proposals in relation to the commissioning of home support, supported living and residential care (with and without nursing). These services are further described in 5.2 and 5.3 below.</p> <p>1.2 To seek authority to extend the current Framework Agreement for the Provision of Care Homes with and without Nursing Services and/or Home Support Services for a further 6 months from 1 October 2017 to 31 March 2018 (“Framework Agreement for Adult Social Care”).</p> <p>1.3 To seek authority to extend the current Framework Agreement for the Provision of Specialist Home Support Services for Children and Young People with Disabilities for a further 6 months from 1 October 2017 to 31 March 2018 to align with the adults’ Framework Agreement (“Framework Agreement for Children’s Home Support”).</p>

2. Decision(s) recommended:
<p>That Cabinet approves:</p> <p>2.1 Commencement of consultation with service users, carers, independent providers, the public, staff and other stakeholders on a range of proposals related to social care services detailed in the Commissioning Strategy contained in Appendix 1.</p> <p>2.2 The extension of the current Framework Agreement for Adult Social Care and the Framework Agreement for Children’s Home Support until 31 March 2018 and notes the associated procurement timetable in 5.6 below for its replacement.</p> <p>2.3 The City Solicitor to negotiate, execute and complete all relevant legal documentation to give effect to the above recommendations in relation to the extensions requested in 1.2 and 1.3.</p>

Lead Contact Officer(s):	Alison Malik - Head of Service Commissioning Centre of Excellence, People Directorate
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3. Consultation

3.1 Internal

Officers from Legal & Democratic Services, Corporate Procurement Services, City Finance, Assessment and Support Planning and the Commissioning Centre of Excellence have been involved in the preparation of this Cabinet report.

Internal project governance has been established to ensure the proposals are aligned to the Council's priorities and to ensure the project timelines are robustly managed.

Work will continue with Officers from a range of services, to further develop these proposals, particularly in light of the volume and nature of consultation feedback anticipated.

3.2 External

The Council embarked on a series of early engagement sessions with independent providers in Summer 2016 and a range of proposals were put forward by the market for consideration by the Council. These proposals have subsequently been reviewed and have been instrumental in shaping the proposals contained within the Commissioning Strategy in **Appendix 1**.

A panel of citizen's also reviewed the outline proposals in Autumn 2016 and the feedback was used to shape the development of the Commissioning Strategy.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

4.1.1 This decision is consistent with the Council's overall objective of "a city of growth where every child, citizen and place matters". The commissioning of these services allows the Council to commission services for those assessed with an eligible need for care and support.

More specifically the proposals contained within the Commissioning Strategy and the further extension of the two Framework Agreements is consistent with the Council priorities as follows:

- **A great city to grow up in** – the proposals will ensure high quality care provision for under 18's with eligible care and support needs that receive home support services.
- **A great city to live in** – the proposals will ensure high quality provision of residential and nursing services for over 18's that have eligible care and support needs.
- **A great city to succeed in** - the proposals contained within the Commissioning Strategy are designed to ensure the care sector remains sustainable and will continue to provide local employment opportunities.
- **A great city to grow old in** – the proposal will ensure high quality provision of social care services to over 9,000 citizens with eligible care and support needs.

4.1.2 Compliance with the Birmingham Business Charter for Social Responsibility (BBC4SR) Including Living Wage Requirements

In recognition that employment is the route to independence and out of poverty, Birmingham City Council approved implementation of the Birmingham Care Wage in February 2016. The purpose of this was to ensure that care staff that are supporting the most vulnerable citizens in the City, are paid a fair wage for the work they do.

The Council has heavily influenced national policy by pushing the Living Wage agenda and ensuring that all care staff are paid the Birmingham Care Wage - regardless of their age. The National Living Wage was introduced for over 25's from 1 April 2016, with the National Minimum Wage remaining in effect for under 25's.

Birmingham City Council remains committed to the Living Wage and closing the wage gap in social care and other services. From 1 April 2017, the National Living Wage will rise to £7.50, which aligns to the current Birmingham Care Wage, implemented from 1 April 2016. Given the change in national policy and the alignment of rates, the challenging budget position of the Council and the price pressures faced by care providers, further consideration needs to be given as to how these commitments are implemented from 2018/2019 and beyond. It is therefore proposed that the consultation detailed in **Appendix 2**, will consider wage increases as part of the Council's overall pricing structure from 1 April 2018 onwards.

During the period of the extension of the two Framework Agreements, providers will continue to be asked to voluntarily sign up to the Birmingham Business Charter for Social Responsibility.

4.2 Financial Implications

The People Directorate will continue to model the financial implications of all potential options arising from the Commissioning Strategy. Detailed financial implications will be provided when specific proposals and recommendations are available following the outcome of the consultation process.

It is estimated that if the Council continues with a dynamic pricing model for the services in 5.2 – 5.3, the cost of care (excluding anticipated increases in demand for services) will rise by £16.5m over the coming four years. It is therefore essential that the Council works closely with the market to ensure affordable, high quality services can be provided in future.

The proposal to move to a fixed fee approach will allow;

- the Council to plan and project the cost of social care, which represented 41% of the Council's net expenditure in 2016/17;
- provide greater certainty to care providers, allowing them to improve their business planning and investment in quality;
- the Council to be transparent about the prices it will pay for social care and provide a level playing field for providers; and
- the Council to reward outstanding quality of care and provide incentives to raise the overall quality of services.

The directorate will need to ensure that the proposed range of fixed fees - which will form the basis of consultation - are contained within the resources available within the 2018/19 Budget and beyond. Initial financial modelling has confirmed this to be the case, but will need to be updated to include feedback from consultation and will be reported in full to Cabinet in September 2017. This will include the financial impact of any further implementation of the Birmingham Care Wage from 1 April 2018.

Based on current projections it is estimated that £73.4m will be committed during the

extension of the current frameworks i.e. between 1 October 2017 - 31 March 2018. These costs will be funded from the existing Third Party Payments approved budget.

The estimated additional costs associated with the undertaking of the consultation itself are assumed to be no more than £25k. The consultation exercise costs will be met within existing budgets in 2017/18.

4.3 Legal Implications

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.

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.

4.3.1 Pre-Procurement Duty under the Public Service (Social Value) Act 2012

Providers will continue to be invited to voluntarily sign up to the Birmingham Business Charter for Social Responsibility. A key element of the Commissioning Strategy is to make explicit how the provision of social care services will improve the economic, social and environmental well-being of Birmingham.

4.4 Public Sector Equality Duty

An initial Equality Assessment has been completed and will be revised and updated as the proposals are further developed in response to the consultation. This Equality Analysis is contained within **Appendix 3**.

The Equality Assessment has considered the options contained in the Commissioning Strategy and currently identifies that the proposals would have the most significant impact on those with the following protected characteristics; age; disability; gender; race; and religion or belief. These will be the focus of the Equality Analysis as it develops throughout the consultation period and in developing the final Commissioning Strategy due to be presented to Cabinet in September 2017.

5. **Relevant background/chronology of key events:**

5.1 Service Background

The Council has a range of statutory duties and powers to assess the needs of citizens for care and support and commission a range of services that meet these needs as detailed in 4.3. The Council currently commissions a wide range of care and support services through two Framework Agreements:

1. Framework Agreement for Adult Social Care; and
2. Framework Agreement for Children's Home Support

However this report focuses on;

- extending the current Framework Agreements; and
- the future approach to commissioning of; home support services for adults' and children; supported living; and residential care (with and without nursing) for all adults' with eligible care and support needs.

These services are described in more detail below.

5.2 Home Support (adults' and children's) and Supported Living

Home support services for adults' and children provide care in the citizen's home and can include help with the following:

- personal care including washing and dressing;
- housekeeping or cleaning;
- cooking and preparing meals;
- taking medications or health care needs; and
- companionship or activity based support.

Any references within this report and associated documentation to 'supported living' relate to the Care Quality Commission's definition which means "schemes that provide personal care to people as part of the support that they need to live in their own homes. The personal care is provided under separate contractual arrangements to those for the person's housing. The accommodation is often shared, but can be single household. Supported living providers that do not provide the regulated activity 'personal care' are not required by law to register with CQC".

5.3 Adults' Residential Care (with and without nursing)

Adult residential care is provided for those citizens who are over 18 and unable to live independently in their own home. Residential care is usually separated into two categories:

1. Homes registered to provide personal care – these homes are able to provide personal care services similar to those provided by home support, but are delivered in a permanent care home setting.
2. Homes registered to provide nursing care – these homes are able to provide personal care services but also have registered nurses to provide care for medical conditions or disabilities. Some nursing homes may also specialise in providing care for certain disabilities or conditions such as dementia.

The Framework Agreement for Adult Social Care is not currently used to commission residential services (with and without nursing) for adults aged 18 - 64. However, permission is being sought to consult upon a Commissioning Strategy that would see the commissioning of social care services for adults' aged 18 - 64, move from the current spot purchase arrangements into a new Framework Agreement from 1 April 2018.

The proposal is to extend the current Framework Agreements until the new contract is in place. The Council will not implement the Cabinet decision made on 27 July 2015 in relation to the use of a Framework Agreement for residential care for adults' aged 18 – 64 until the necessary consultation is concluded and analysed and a further report is presented to Cabinet for further consideration.

5.4 Review of current commissioning practice

Since summer 2016, the Council has been reviewing current commissioning practice in relation to the services described in 5.2 and 5.3 above. This has included early engagement with the independent provider market, as well as a range of internal and external stakeholders, to review both the original business case for the introduction of a framework approach and also best practice in the field of commissioning social care.

The review identified the following intended benefits from the original business case for

the Framework Agreement for Adult Social Care and the associated impact of the current contracts and systems. Whilst important, the Framework Agreement for Children's Home Support currently places a small number of children each year and as such the business case and associated benefits were not captured in the same way. The following table and analysis therefore applies only to the Framework Agreement for Adult Social Care and compares the current position, with that a year prior to introduction of a framework approach and the associated IT systems:

Indicator	Home Support	Residential (with and without nursing)
Market growth since 2012	109%	-7.7%
Change in client base since 2012	+21.6%	-9.4%
No. of new providers/month since 2012	3	7
Current no. of providers with an active CQC registration	125	232
Current % clients placed with 'good' rated provider	72%	50%
% of providers with a 'good' quality rating in 2013/14	52%	31%
% of providers with a 'good' quality rating in 2016/17	72%	56%
Current % requirements fully tendered to the whole market	85%	16%
Current % winning offers from 'good' rated providers	78%	38%
Current % requirements cancelled due to lack of offers	8%	33%

Table 1: Analysis of key performance measures since introduction of the framework

a) Ensure an open and transparent supply chain so that businesses can grow and new ones can start up locally

Whilst the market has grown for home support providers, there has been a reduction in residential (with and without nursing) providers, which broadly reflects changes in demand for services. Using a framework approach has allowed these changes in demand to be managed and has allowed new providers to enter the market.

However, Birmingham City Council has almost 1,000 registered providers on the Framework Agreement for Adult Social Care, albeit only 357 have an active CQC registration and are based within the Birmingham boundary. Given the overall quality of care provision, this volume of providers is challenging for the Council to robustly and consistently manage with a reduced workforce.

b) Assure quality through the 'quality rating' process used to shortlist providers and the contract management process

The quality rating system – including the publication of quality ratings - introduced as part of the framework, has resulted in an increase in the overall quality of provision in both sectors of the adult social care market.

Overall quality standards are lower in residential (with and without nursing) services and this is reflected in the proportion of packages where the winning offer was from 'good' rated providers. However, the system does allow citizens and other stakeholders to gain a clear picture of the quality of services to support citizen choice.

c) Achievement of cashable savings

The Framework Agreement for Adult Social Care and associated micro procurement IT

system implementation has delivered net savings to the Council of £6.631m over the last four years. However, whilst the use of dynamic pricing has reduced the cost of home support services, comparator data with 15 other cities across the UK, shows the Council currently pays the highest price on average for nursing care, and third highest for residential care. Furthermore, the lack of engagement with the framework approach and associated IT systems by the residential (with and without nursing) market, has resulted in a loss of potential savings of approximately £1.9m over the last four years.

Whilst overall savings have been achieved, since 1 April 2016, there has been a 10% increase in the hourly rate the Council pays for home support and an 8% increase in the average weekly fees paid for residential (with and without nursing) rates. This is despite the Council having uplifted fees for the majority of older adult's providers to enable them to pay the Birmingham Care Wage. Therefore, there are clearly other price pressures in the market that the Council currently has limited influence over.

d) Making back office savings and process efficiencies

The implementation of the framework and associated micro procurement IT system (Sproc.net) has not delivered the anticipated efficiencies in back office systems. Back office savings were predicated on a much greater range of service categories being added to the framework. Unfortunately due to a number of factors, it has not been possible to implement further categories and modules into Sproc.net and the capability of the system and potential savings have not been fully realised.

The lack of engagement from the residential (with and without nursing) market has resulted in a reduction in the proportion of requirements fully tendered and an increase in the proportion of requirements that have been cancelled due to a lack of offers. This has driven an increased reliance on making placements outside of the agreed framework and IT system, therefore increasing back office processing.

The implementation of Sproc.net was not far-reaching enough and a number of processes that could have been automated and/or streamlined, remain as predominantly manual processes, therefore reducing efficiency of the commissioning systems and processes.

e) Reduce the Council's exposure to risk

Whilst the framework and associated IT systems have the functionality to reduce risk, the full potential of credit alerts for providers, and the lack of automation and interfacing of IT systems, means that these benefits have not been realised. However, the increase in the number of providers has reduced the Council's previous reliance on a very small number of providers, particularly in the home support market.

f) Commission by outcomes and support the personalisation agenda

A key element of the process for assessing offers from providers for individual packages of care was to manually score against a set of outcomes. These outcomes will have been developed in dialogue between the social worker and the citizen. Whilst this does have the potential to ensure personalised services are commissioned, the subjective nature of the scoring process, the manual intensity of the scoring process, and the lack of high quality responses from the market, have made it difficult to demonstrate the added value of the outcomes focussed stage in the current procurement process.

g) Assist commissioners to meet duties under the Care Act 2014

The use of the Framework Agreement for Adult Social Care and associated IT systems has ensured a diverse local care market and provided a mechanism to deliver choice for citizens, as required by the Care Act 2014.

These findings, along with the national drivers for change included within both the Care Act 2014 and the NHS Shared Planning Guidance (and detailed in **Appendix 1**) have driven the need for the Council to redesign the future approach to commissioning of social care services, to ensure they remain fit for purpose.

5.5 Commissioning Strategy

Birmingham City Council has set out its vision for 2017+ which will see us working with partners to create a great city to grow old in and to help people become healthier. It has set out a challenging agenda to; reduce health inequalities; lead a real change in the mental wellbeing of all people in Birmingham; promote independence of all our citizens; and join up health and social care services so that citizens have the best possible experience of care, tailored to their needs.

The Council's vision therefore needs to translate into actions that will support people to continue to live independently and in their own home for as long as possible, to help all residents to access high quality and affordable social care, and to ensure that service users have choice and control of their own lives. However, there will always be some citizens who will need residential or nursing care or ask for the Council's support in planning and arranging their care – currently around 9,000 adults'.

The Commissioning Strategy in **Appendix 1** outlines our approach to the commissioning of adult social care to address the issues identified in 5.4 and provides a framework for the future commissioning of services 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.

Please note that whilst the Commissioning Strategy principally uses the term adult social care, there is of course recognition that the new contractual arrangements are intended to apply to home support services for children and young people with a disability. However, given this service is currently utilised by around 130 service users and in the main these are the same home support providers as those commissioned for adult social care, the more general term of adult social care has been used.

5.6 Timescales

The Council is committed to developing a vibrant, diverse and sustainable local health and social care market, which supports the achievement of better outcomes, increased independence and choice and control for adults'. It is therefore crucial that sufficient time is given to developing, planning and implementing the transformational change outlined within the Commissioning Strategy and to ensuring a wide ranging consultation that can shape and influence such changes.

Given the increase in demand for adult social care and the Council's financial position, along with pressures in the care market, a crucial part of this planning will be the cost implication of the proposal to move to a fixed price and the need to plan for future changes in demand and cost of adult social care. As detailed in 4.2 above, the People Directorate will provide a detailed financial assessment following the outcome of the consultation process and will ensure this is appropriately incorporated into the Council budget setting processes for 2018/2019. This will also include the financial impact of

any further implementation of the Birmingham Care Wage beyond 31 March 2018.

An indicative timetable has been developed in conjunction with Corporate Procurement Services to ensure an alternative contractual arrangement is embedded by 31 March 2018. Consultation and engagement activity will take place with providers and citizens who will be involved at all stages of the process. We will ensure that citizens' views are incorporated in all specifications and that the process is clear to all those effected. The proposed timetable is therefore as follows:

Date	Activity
21 March 2017	Cabinet – Permission to Consult
27 March 2017 – 26 June 2017	Consultation period – subject to Cabinet approval
19 September 2017	Cabinet – Authority to commence tendering and delegation of contract award
25 September 2017	OJEU notice issued and tender opened
10 November 2017	Tender closes and evaluation commences
11 November 2017 – mid January 2018	Evaluation
Mid January 2018 – February 2018	Contract award reporting/Delegated Procurement Reporting process
February 2018	Contract award notice
February 2018 – March 2018	Mobilisation including training
1 April 2018	Commencement of new contract

Based on the timetable above, an interim solution is therefore required to ensure that the adults' social care market is not destabilised and that the Council can continue to fulfil care packages for adults' (and children and young people with a disability requiring home support), that are of a fair quality and price. It is therefore proposed that the two Framework Agreements listed in 5.1 are extended until 31 March 2018.

Any further extension to the Sproc.net IT system (which currently expires on 30 September 2017) will be the subject of a separate report in due course.

5.7 Consultation

This report is requesting permission to consult on the Commissioning Strategy contained in **Appendix 1**. The consultation plan is summarised in **Appendix 2**, which will take place over a three month period, due to commence on 27 March 2017.

6. **Evaluation of alternative option(s):**

6.1 There are broadly four alternative contractual options to the arrangements proposed in the Commissioning Strategy in **Appendix 1**:

Option 1 - Do nothing. This has been discounted because current arrangements come to an end on 30 September 2017. The future approach to commissioning of these essential services requires planning and development as described in 5.6 and to do nothing would put the Council at significant risk of destabilising the care market and being unable to meet its statutory duties.

Option 2 - Revert to a select list of providers. This option has been discounted for the same reasons as Option 1.

Option 3 - Retain framework arrangements, but limit them, for example: to older adult services, or to home support. This option has been discounted as it would not address the consequences of the current arrangements and address the inefficiencies in systems and processes outlined in 5.4.

Option 4 - extend the scope of a new framework to cover the majority of other services such as day care, to include all age groups and/or include provisions for NHS services such as Continuing Health Care funded nursing care. This option has been considered, however, the Council is keen to increase the number of citizens who direct and control their own care through the use of mechanism such as Direct Payments. There is therefore limited benefit in incorporating all services, particularly those such as day services, into a future framework contract as this may undermine the Council's approach in this area.

The Council continues to work closely with NHS Commissioners to integrate services and processes at every opportunity and the Commissioning Strategy sets out two phases to the future commissioning of adult social care. The Self-Regulation and Integration Phase from 2021 makes clear the Council's intention to integrate services with health partners.

7. Reasons for Decision(s):

- 7.1 To approve the Commissioning Strategy contained in **Appendix 1** and to consult on the future approach to commissioning of adult social care services (and home support for children and young people with disabilities).
- 7.2 To enable the Strategic Director for People to continue to commission a framework of providers to deliver adults' social care services and home support for children and young people with disabilities under the existing Framework Agreements until 31 March 2018.

Signatures

Date

Cllr Paulette Hamilton
Cabinet Member for Health
and Social Care

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Cllr Majid Mahmood
Cabinet Member for Value for
Money & Efficiency

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Cllr Brigid Jones
Cabinet Member for Children's
Services

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Peter Hay
Strategic Director for People

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9 March 2017

List of Background Documents used to compile this Report:

1. Cabinet Report of 30 January 2012 - "To establish a framework of providers for home care and care homes (with and without nursing)".
2. Delegated Authority Report of 22 March 2012 – "C0074 Home Support Services and Care Homes (with and without nursing)".
3. Delegated Award Report of 5 December 2013 – "Framework Agreement Extension for Home Support and Bed Based Care (C0074)".
4. Cabinet Report of 20 October 2014 - "Micro-procurement software for People Directorate".
5. Cabinet Report of 20 April 2015 – "Introduction of a Framework Agreement for Younger Adults' care providers and the use of micro-procurement process to purchase care services for younger adults' (18-64 years)".
6. Cabinet Report of 16 February 2016 – "Framework Agreements Extension for Adults' Services and Children's Home Support (C0074)".
7. Cabinet Report of 21 March 2016 – "Living Wage Policy Review and Revision".

List of Appendices accompanying this Report (if any):

1. Appendix 1 – Commissioning Strategy
2. Appendix 2 – Consultation Plan
3. Appendix 3 – Equality Assessment

Report Version	V5.0	Dated	9 March 2017
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