

**BIRMINGHAM CITY COUNCIL**

**PUBLIC**

<b>Report to:</b>	<b>CABINET</b>
<b>Report of:</b>	<b>Interim Director of Adult Social Care and Health</b>
<b>Date of Decision:</b>	<b>12 December 2017</b>
<b>SUBJECT:</b>	<b>ADULT SOCIAL CARE COMMISSIONING STRATEGY</b>
<b>Key Decision: Yes</b>	<b>Relevant Forward Plan Ref: 004083/2017</b>
<b>If not in the Forward Plan: (please "X" box)</b>	<b>Chief Executive approved</b> <input type="checkbox"/> <b>O&amp;S Chair approved</b> <input type="checkbox"/>
<b>Relevant Cabinet Member(s) or Relevant Executive Member:</b>	<b>Councillor Paulette Hamilton - Health and Social Care Councillor Majid Mahmood – Commercialism, Commissioning and Contract Management Councillor Carl Rice - Children, Families and Schools</b>
<b>Relevant O&amp;S Chair:</b>	<b>Councillor John Cotton - Health, Wellbeing and the Environment Cllr Mohammed Aikhlaq - Corporate Resources and Governance Cllr Susan Barnett – Schools, Children and Families</b>
<b>Wards affected:</b>	<b>All</b>

**1. Purpose of report:**

- 1.1 To report back to Cabinet on the outcome of the approved consultation on the Draft Adult Social Care Commissioning Strategy. All consultation responses received are available for viewing in Group Offices prior to the Cabinet meeting and also prior to the meeting for public viewing.
- 1.2 To seek approval for the final Adult Social Care Commissioning Strategy contained in **Appendix 1**.
- 1.3 To seek approval to implement a revised Birmingham Care Wage from 1 April 2018, to require providers to match the National Living Wage for employees under 25 years old.
- 1.4 For Cabinet to authorise the commencement of procurement activity to establish and operate a contract with approved providers of home support (children's and adults), supported living and residential care (with and without nursing) services and to delegate authority to the Interim Corporate Director of Adult Social Care and Health in consultation with the Interim Chief Financial Officer (or their delegate) and the City Solicitor (or their delegate) to appoint the successful providers to the contract.

- 1.5 For Cabinet to authorise the commencement of procurement activity to implement an IT system to allow efficient and effective operation of the contract for commissioned social care services and to delegate authority to the Interim Corporate Director of Adult Social Care and Health in consultation with the Interim Chief Financial Officer (or their delegate) and the City Solicitor (or their delegate) to appoint the successful provider/s and enter into the necessary contracts. The costs of which are not to exceed £500k per annum.
- 1.6 Authorises the Interim Corporate Director for Adult Social Care and Health in consultation with the Corporate Director for Procurement to make the necessary arrangements for Birmingham Children's Trust to call off from the contract for home support for disabled children and young people as required and to use any IT system procured under 1.5 above.
- 1.7 To delegate authority to the Interim Corporate Director of Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care to agree a revised fee structure for care providers delivering residential care (with and without nursing) for 18 – 64 year olds, the costs of which will not exceed those set out in section 4.2 below.

## **2. Decision(s) recommended:**

That the Cabinet is recommended to:

- 2.1 Note the outcome of the consultation as contained within **Appendix 2**.
- 2.2 Approve the final Adult Social Care Commissioning Strategy in **Appendix 1**.
- 2.3 Approve implementation of the revised Birmingham Care Wage from 1 April 2018, to require providers to match the National Living Wage for employees under 25 years old..
- 2.4 Approve commencement of procurement activity to establish a contract with approved providers of home support (children's and adults), supported living and residential care (with and without nursing) services and to delegate authority to the Interim Corporate Director of Adult Social Care and Health in consultation with the Interim Chief Financial Officer (or their delegate) and the City Solicitor (or their delegate) to appoint the successful providers to the contract. subject to confirmation of resources as part of the approval of the budget and financial plan.
- 2.5 Approve the commencement of procurement activity to implement an IT system to enable efficient and effective operation of the contract and to delegate authority to the Interim Corporate Director of Adult Social Care and Health in consultation with the Interim Chief Financial Officer (or their delegate) and the City Solicitor (or their delegate) to appoint the successful provider. The costs of which are not to exceed £500k per annum.
- 2.6 Approve the arrangements for Birmingham Children's Trust to call off from the home support contract for services to disabled children and young people as required and to make use of any associated IT systems.
- 2.7 Approve the Interim Corporate Director of Adult Social Care and Health in consultation with the Cabinet Member for Health and Social Care to agree a revised fee structure for care providers delivering residential care (with and without nursing) for 18 – 64 year olds, the costs of which will not exceed those set out in section 4.2 below..

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### **3. Consultation**

#### **3.1 Internal**

- 3.1.1 Officers from Legal & Governance Department , Corporate Procurement Services, City Finance, Assessment and Support Planning, the Commissioning Centre of Excellence, Birmingham Children's Trust, Service Birmingham and both Corporate and Directorate Information, Technology and Digital Services have been involved in the preparation of this Cabinet report. Trade Union representatives and staff have also been made aware of the proposals through the consultation process and regular Directorate Trade Union meetings.
- 3.1.2 Internal project governance has been in place to involve a range of internal stakeholders to ensure the proposals are aligned to the Council's priorities and the Adult Social Care and Health Vision and Strategy. This work will continue as implementation plans are refined. Where appropriate this will include partners and care providers.

#### **3.2 External**

- 3.2.1 Between 5 April 2017 and 4 July 2017 the Council carried out both internal and external consultation on the Draft Commissioning Strategy for Adult Social Care as approved by Cabinet in March 2017. Service users, family carers, care providers, staff, the wider public, health partners, neighbouring authorities, regulatory bodies and other key stakeholders were encouraged to share their views through a number of different channels. This included completing questionnaires, online surveys, attending consultation meetings or getting in touch by email or telephone.
- 3.2.2 Across all the methods of consultation there were 497 responses, 238 of which were responses to the consultation questionnaire. Of the 238 questionnaire responses:
- 56% of responses were from service users/previous service users, 22% from family members and/or carers and 15% from care providers and the remainder were members of the public, partners or chose not to answer.
  - 50% of respondents were aged between 45 and 64 and 22% were aged 65 or more years.
  - 50% of respondents stated they had some form of disability of which the most recorded was learning or understanding.
  - 50% of respondents were female and 40% male.
  - 47% of respondents stated Christianity was their religion, whilst 23% stated they had no religion.

- 15% of respondents did not want to state their sexuality and 64% were heterosexual.

A full analysis of the completed questionnaires and other comments received are detailed in **Appendix 2**.

3.2.3 Below is a summary of the responses received from the consultation questionnaire:

- 78% of respondents to the survey were supportive overall of the Council's proposal to assess the quality of all care providers, which includes a quality rating system based on an annual inspection; provider self-assessment; and the integration of customer feedback.
- 75% of respondents to the survey were supportive overall of the proposal to move towards only using good quality providers (rated as Gold, Silver or Bronze) and for the Council to set clear quality standards for care and support.
- 76% of respondents to the survey were in agreement with the Council's aspiration for all care providers to be required to pay all their staff at least £8.45/hour (the Living Wage Foundation's current rate which reflects the cost of living).
- There were mixed views about the Council's proposal to move to a fixed fee and of the proposed fees themselves, with 31% of survey respondents in support overall and 23% opposing overall.
- 25% of survey respondents opposed the Council's proposal to agree a fixed fee for care packages with the care market, including a single fixed fee for 'accommodation' related costs.
- 22% of survey respondents were opposed to the proposed approach to citizens being able to choose their care provider and how these choices may require a financial contribution from families (also known as a top-up).
- There were mixed views of the proposal to reduce the number of home support providers and the way this was proposed to be implemented, with 22% of survey respondents opposing this proposal and 32% supporting overall.

3.2.4 In addition to these summarised results, the following represent the main themes and issues recorded as comments within the consultation questionnaire:

- Quality was seen as the most important factor across all the proposals.
- The Council are currently providing a good service without a framework.
- Quality checks and monitoring are important for future services and to ensure quality.
- Service users will be able to make informed decisions.
- Transparency and clear ratings are crucial.
- Customer feedback is key to quality and effective services.
- It is important to only use good quality rated providers.
- Some service users felt that their needs were currently met and were happy with their current provider. Other service users felt the framework would ensure they would get the best possible care.
- One size does not fit all as service user needs are all different and often complex.
- It was felt that the fixed fees and costs proposed were too low and concerns were raised about the impact this could have on future provision of services.

- Although there was general support for the proposals this was on the condition that more consideration and development was given, in particular working with others in partnership.
- There were concerns around the proposals meeting legislation and its outcomes such as the Care Act 2014.
- There were also many concerns raised in respect of equalities which were raised for the majority of proposals.

3.2.5 In addition to the questionnaire responses recorded there were 30 consultation events held across the city with providers (214) and service users (38). The purpose was to complement and supplement the questionnaire and provide an environment where people could ask any questions and have informed discussions. The full analysis is contained within **Appendix 2**, however key themes identified from these events included comments about:

- Fees being too low.
- The need to reflect the complexity of care.
- That the proposals should be applied to all care packages.
- That more information on the proposals was needed and better communication from the Council.
- Concerns about the use of Direct Payments where providers are unsuccessful.
- Positive feedback in relation to implementing quality standards but concerns about duplication with the Care Quality Commission.
- Concerns that some providers would end up leaving the care market.

3.2.6 The consultation feedback has been used to influence the final Commissioning Strategy for Adult Social Care contained in **Appendix 1** as follows:

- The Council is now proposing to implement the new fixed fees for home support (all ages), supported living (all ages), residential care (with and without nursing) for over 65's to all care packages that are in place on 1 April 2018 and all new care packages from this date. Based on the Council's current care records and payment data, this will provide an increase to 75% of home support packages and 85% of residential care (with and without nursing) services. Of course this also means that some care packages will reduce in price. However this approach provides the ability for all parties to plan, resolves historic pricing issues, means a fair and equitable price to providers and removes the potential for under-bidding. Further information in relation to the risks and alternatives to this option are considered in section 5.2 below.
- The Council is proposing to temporarily pause implementation of a fixed fee for residential care (with and without nursing) for 18 – 64's (including those jointly funded such as Section 117 placements) to allow further dialogue with care providers. A minimum fee will be set in the short term to ensure sustainability, meaning that fees for approximately 230 care packages will be increased. Until such time as this further dialogue takes place, the Council is proposing to operate an interim 'open book' process for new packages which asks providers to submit a breakdown of their costs. The Council will commence a process of social work reviews (expected to commence by April 2018) that are focussed on recovery and independence and to ensure the Council is able to link the needs of service users to the price the Council is paying for care and support. All other elements of the contract will be implemented to ensure clear contractual arrangements for all parties and to support improvement in the quality of care.
- As a result of significant feedback, particularly from care providers, the Council is no longer proposing to link the fees paid to care providers, to their quality rating. The

Council agrees that the process for allocating care packages to providers, based on their quality rating – will provide sufficient incentive for care providers to improve the quality of their service.

- The Council will be extending the scope of care providers who will be able to participate in pilots relating to Individual Service Funds and the use of assistive technology in the delivery of care. This will now allow both Gold and Silver rated care providers to participate in the pilots. The outcome of these pilots will then influence how any further implementation should be rolled out.
- The Council received significant feedback about the proposed fees and has reviewed these. The proposed fees and the associated cost implications are contained in section 4.2 below.
- Whilst respondents to the consultation were supportive of the Council's ongoing commitment to narrowing the wage gap within the social care sector and requiring care provider to pay the Living Wage Foundation pay rate, there was little support for this being paid for via further increases to Council Tax. This has been reconsidered and this report seeks permission to reshape implementation of the Birmingham Care Wage from 1 April 2018, to align wages of those under 25 in the social care sector to a rate equivalent with the National Living Wage. For employees over 25, the Birmingham Care Wage and the National Living Wage will continue to be aligned (from 1 April 2018 this will be £7.83/hour).
- The Council is no longer proposing to restrict home support (all ages) providers to those with a registered office within the Birmingham Council Tax Boundary. The home support contract will allow any care provider to join, subject to satisfying the necessary contract entry criteria as set out in the Commissioning Strategy for Adult Social Care.

#### **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.
- 4.1.2 More specifically the proposals contained within the Commissioning Strategy are 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; ensure under 25's are encouraged to join the care sector workforce and remain; and will help develop the skills of young people to maintain careers within the care sector.
  - **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; and see care providers demonstrating through their social value action plans, how they will be supporting local communities.

- **A great city to succeed in** - the proposals will; ensure the care sector remains sustainable and will continue to provide local employment opportunities; recognise the Council's continued commitment to closing the wage gap; see further investment in the care sector to support local jobs, skills and retention; and support the continued commissioning of smaller care providers to support the local economy and communities.
- **A great city to grow old in** – the proposal will ensure high quality provision of social care services to over 13,500 citizens with eligible care and support needs; set clear quality standards for care; and set out incentives for care providers to drive up the quality of their services.

All care providers will be required to sign up to the Council's Business Charter for Social Responsibility and comply the Council's published Social Value Policy and Living Wage Policy. For the avoidance of doubt, this currently excludes the need to pay the Birmingham Living Wage/Living Wage Foundation rate.

4.1.3 The Commissioning Strategy for Adult Social Care aligns closely to the eight key outcomes of the Vision and Strategy for Adult Social Care and Health approved by Cabinet in October 2017 as follows:

- **Information, advice and guidance** – by providing easy to use information about the quality of services and support informed choice.
- **Personalised support** – by having specifications and a quality framework that focus on delivery of personalised care and support.
- **Community Assets** – commissioning of services at a local level and working with care providers to develop their services to add social value.
- **Prevention and early intervention** – a quality rating system that rewards those services that are working hard to support the independence of service users and those that are adding social value to the wider community in offering prevention and early intervention services.
- **Partnership working** – working closely with NHS colleagues on the joint quality rating of providers and sharing market intelligence with regional commissioners, regulators and partners. Developing relationships with key care providers in the market and those representing the care market.
- **Making safeguarding personal** – working to support the development of high quality services that reflect the safeguarding thresholds across children's and adults, reduce the risks of neglect to service users and improve sharing of intelligence with partners to safeguard vulnerable citizens.
- **Co-production** – use of customer feedback in the ongoing monitoring and quality rating of providers.
- **Use of resource** – transparent approach to pricing, including open book accounting to ensure value for money. Setting fee levels that ensure sustainability of the care market.

## 4.2 Financial Implications

- 4.2.1 Based on current spend and expected increases in demand it is estimated that £337m will be spent on adult social care by Birmingham City Council in 2017/2018, which comprises 41% of the Council's overall net budget. However, this is in the context of the Council having reduced its adult social care net spending by over 15% since 2011.

A further £17.7m of savings are required in 2017/18, rising to £23.2m in 2020/21. Many of these savings plans are very challenging and there are very limited opportunities for alternative plans, however the Council continues to monitor and manage spend rigorously and identify further contingency plans.

It is estimated that £170m will be spent through the proposed contracts which are the subject of this report annually, funded from the Adult Social Care and Children's Home Support budgets.

If the Council continues with a dynamic pricing model, the cost of care (excluding anticipated increases in demand for services) could rise by at least £20m over the coming three years and there will be no mechanism for the Council to contain this rising cost. It is therefore essential that the Council works closely with the market to ensure affordable, high quality services can be provided in future.

- 4.2.2 The Council's Long Term Financial Plan includes provision for inflationary pressures and for paying increases attributable to the Living Wage as set out in Table 1 below. There is recognition that inflation provision may be the subject of further consultation as part of the budget setting process for 2018/19 and beyond. The proposals in this report are therefore subject to the funding being available in line with the table below.

**Table 1 – Funding available**

<b>Funding</b>	<b>18/19 £m</b>	<b>19/20 £m</b>	<b>20/21 £m</b>
Indicative Inflation Provision - care contracts	5.7	11.6	16.4
Living Wage Provision	6.5	9.3	9.3
<b>Total available</b>	<b>£12.2m</b>	<b>£20.9m</b>	<b>£25.7m</b>

The cost of home support for children and young people with a disability is funded from within the existing Children's Services revenue budget. The budget for this service is currently £0.5m.

- 4.2.3 The Council proposed a range of fixed fees during consultation and set out a range of comparator and benchmarking data. Significant feedback was received that the proposed rates were too low as detailed in **Appendix 2**. To ensure sufficient supply of commissioned social care services, the Council has revisited the proposed fees (including reviewing a range of price comparator data) and the Council is proposing fees from 1 April 2018 as set out in Table 2:



**Table 2 – Proposed Fees from 1 April 2018**

	<b>Proposed Fees from 2017 Consultation</b>	<b>Revised Fees from 1 April 2018</b>
<b>Home Support – all ages*</b>	£13.42/hour *	£14.00/hour *
<b>Supported Living – all ages</b>	£12.67/hour	£14.00/hour
<b>Residential care (without nursing) – over 65's</b>	£450.00/week	£500.00/week
<b>Residential care (with nursing) – over 65's</b>	£501.00/week #	£575.00/week #
<b>Residential care (without nursing) – under 65's</b>	6 bands ranging from £485.90 - £1,436.15	Minimum fee of £500/week^, further engagement on a fee structure and an interim open book arrangement for new placements.
<b>Residential care (with nursing) – under 65's</b>	6 bands ranging from £485.90 - £1,436.15	Minimum fee of £575/week^, further engagement on a fee structure and an interim open book arrangement for new placements.

\* an additional fee is applicable for the hospital Quick Discharge Service and Dual Sensory Loss home support services.

# fees for residential care (with nursing) listed above exclude any relevant NHS Funded Nursing Care, should the necessary criteria be met.

^ this minimum fee of £500/week (without nursing) and £575/week (with nursing) will be increased in line with the methodology set out within the Commissioning Strategy on an annual basis.

4.2.4 The amounts in Table 3 below show the cost of implementing these proposed fees and include:

- assumed levels of increase in the National Living Wage. The new National Living Wage rate for April 2018 onwards, was announced in the Autumn Statement and the cost implications of this on Table 1, Table 2 and Table 3 have been reconsidered accordingly.
- assumed inflation including an annual price increase in line with the principals contained in the Commissioning Strategy in **Appendix 1**.
- Setting a minimum residential (without nursing) fee of £500/week for under 65 providers and a residential (with nursing) fee of £575/week for under 65 providers..
- implementation of a reshaped approach to the Birmingham Care Wage, focussing on young people under 25 years old.

- 4.2.5 As part of the Council's agreed Vision and Strategy for Adult Social Care, there is a need to reconsider the approach to the placement and commissioning of residential services (with and without nursing) for under 65's to refocus our approach on recovery and independence.

Any further implications for pricing changes for these services will be contained within the total funding available in Table 1 and any pressures arising from this will be contained within the approved budgets for the directorate. Therefore the amounts shown in Table 3 do not currently include specific provision for the implementation of pricing arrangements for residential care (with and without nursing) for under 65's (with the exception of the minimum fee described in 4.2.3 above). The Council will further engage this sector of the care market in determining an agreed approach to fees and as an interim arrangement will use an open book approach for new placements..

The amounts in Table 1 and Table 3 don't include financial provision or costs associated with demographic changes which impact on the volume of services users who are supported with their eligible care and support needs by the Council.

**Table 3 – Financial implications**

<b>Description</b>	<b>18/19 £m</b>	<b>19/20 £m</b>	<b>20/21 £m</b>
Services for over 65's	10.6	15.0	19.7
Minimum fee for services for under 65's	0.9	1.1	1.3
Replacement IT system	0.5	0.5	0.5
<b>Total Required</b>	<b>12.0</b>	<b>16.6</b>	<b>21.5</b>

The balance of funding contained within Table 1 is expected to cover the proposals for residential (with and without nursing) care providers supporting 18 – 64 year olds.

The cost of home support for children and young people with a disability is funded from within the existing Children's Services revenue budget.

- 4.2.6 The proposals contained within the Commissioning Strategy for Adult Social Care have assumed that the Council will revise the Birmingham Care Wage to align to the National Living Wage (£7.83/hour from 1 April 2018) and focus this on matching of this for under 25's through the Council's fee structure and contracts. With 9.4% of the social care workforce in Birmingham under 25 and the most likely to be paid at the National Minimum Wage, it is important we support these young people to join and remain within the care sector. Furthermore, with 22% of the social care workforce aged over 55 and demand for adult social care services expected to rise, there will be a need to find an ever-increasing workforce. By working to make social care career pathways attractive; working with local employers and education establishments; and ensuring they receive greater pay than other National Minimum Wage jobs, we could secure jobs for some of the youngest in the workforce.

To ensure we can continue to attract young people into the sector, care must be a more attractive prospect than the alternatives and reshaping the focus of the Birmingham Care Wage could support this agenda.

The costs of implementing this proposal are contained within Table 3 above and the funding available is detailed in Table 1.

- 4.2.7 The Council will require an information technology system to ensure efficient operation of the contractual arrangements and to ensure that the Council can promptly identify care providers, allocate care packages and enable care providers to start delivering care as quickly as possible. The Council has a duty under the Care Act 2014 to meet services users' eligible care and support needs and the procurement of a system will allow the Council to do so as efficiently as possible.

The Council has developed a detailed set of system requirements that will allow operation of the contractual approach contained within the Commissioning Strategy. Market testing has commenced to identify potential IT providers that may be able to meet the Council's requirements and to enable potential costs to be considered.

Information gathered to date through the market testing suggests the maximum cost would be £500k per annum (including any Service Birmingham costs). The costs of this are included within Table 3 above.

The purpose of seeking permission to commence formal procurement activity is to secure a solution that meets the Council's requirements and to ensure the Council secures value for money.

#### 4.3 Legal Implications

- 4.3.1 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.
- 4.3.2 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.
- 4.3.3 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.

#### 4.4 Public Sector Equality Duty

- 4.4.1 An Equality Impact Assessment has been carried out to identify the impact of the proposed changes. Details of the full Equality Assessment can be found in **Appendix 3**. 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.

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

### 5.1 Current challenges within adult social care

- 5.1.1 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.
- 5.1.2 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.
- 5.1.3 The Council currently commissions care and support on behalf of almost 13,500 service users with eligible needs each year, including over 6 million hours of home support each year and over 7,000 placements in care homes. The Council currently contracts with over 750 independent care providers to deliver these statutory services, both within and outside of Birmingham. The 430 care providers currently operating within Birmingham employ around 35,000 people, providing vital jobs and services at a local level.
- 5.1.4 Current performance of these services means that there is a 30% chance of some of the most vulnerable citizens in our society receiving care that is rated by the Council and/or the regulator as 'requiring improvement' or below. With care providers exiting the market at around six per month, there are further risks to the quality and continuity of care, that need to be addressed. The most significant of these risks are detailed in 5.2 below.
- 5.1.5 The challenges facing the Council and the wider health and social care sector have never been greater:
- **Demand for services is growing** – within the West Midlands the population of over 65's is expected to increase by 19% by 2025, with the number of 85 year olds expected to double by 2035. An estimated 10,000 adults suffer dementia. The prevalence of children and young people with Special Educational Needs (SEN) and disabilities is increasing. The rates of those with an SEN Statement of Education Health and Care Plan in Birmingham, is 3.2% higher than the national average.
  - **Affordability and sustainability** – employee related expenses make up the majority of care provider costs. With changes in national insurance, pension contributions, introduction of the National Living Wage, apprenticeship levies and other employee-related costs, the care sector is under significant pressure. The Council has been unable to afford annual price increases for care providers supporting under 65's since 2008 and for those supporting over 65's since 2013 (with the exception of implementation of the Birmingham Care Wage in 2016).
  - **Recruitment and Retention** - is a major cost for providers and reduced staff turnover has been an influencing factor in organisations obtaining favourable ratings from the Care Quality Commission. Turnover in the

sector within the West Midlands for non-senior care roles was 36.3% in 2015/2016. With high levels of staff turnover, continuity and quality of care can be challenging for care providers to deliver. In addition to this, with increasing demands for services, it is likely the social care sector will need an additional 25,000 jobs across the region by 2025. However, higher rates of pay do not guarantee that care workers will stay in their roles, with only 3% of care staff citing pay as being the reason for leaving their employment. Furthermore whilst care workers express dissatisfaction with pay and poor pay has been identified as a disincentive to employment in the sector, there are many factors influencing decisions about employment including investment in staff development; working conditions, a positive culture where staff are valued; and career structures.

- **Skills levels** – 48% of the social care workforce are believed to hold relevant social care qualifications, with 43% of the workforce holding a Level 2 qualification or above. However only 9% of the workforce have completed the compulsory Care Certificate since 2015 and the majority of care staff reporting the majority of training had been received in moving and handling (74%), safeguarding policies/processes (71%) and health and safety (66%). With no set qualification for Registered Managers or Responsible Individuals, there is clearly more that can be done to develop the skill levels of the social care workforce and to use this as a tool to improve retention and also the quality of service.
- **Young and Aging workforce** – 9.4% of the social care workforce in Birmingham are under 25 and are most likely to be paid at the National Minimum Wage. With 22% of the workforce aged over 55, we need to take action to encourage young people to enter the social care workforce and remain.
- The **resources** previously available have been significantly reduced making the use of available resources more important than ever. Based on current spend and expected increases in demand it is estimated that £337m will be spent on adult social care by Birmingham City Council in 2017/2018, which comprises 41% of the Council's overall net budget. However, this is in the context of the Council having reduced its adult social care net spending by over 15% since 2011. It is estimated that £170m will be spent through the proposed contracts which are the subject of this report annually, funded from the Adult Social Care and Children's Home Support budgets.

5.1.6 The rising demand, rising cost, reducing resources and generally unacceptable levels of quality of care provision, means the Council needs to take action.

5.1.7 The Commissioning Strategy in **Appendix 1** outlines our approach to the commissioning of social care to address the issues identified above 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.

5.1.8 The Council received a range of feedback from the consultation and the final Commissioning Strategy for Adult Social Care in **Appendix 1** sets out the revised proposals for the commissioning of the following services:

- Home support – for children and young people with a disability; and adults of all ages
- Residential care (without nursing) – for adults of all ages
- Residential care (with nursing) – for adults of all ages
- Supported Living – for adults of all ages

5.1.9 These are collectively described as “commissioned social care services” throughout this report and the Commissioning Strategy. Any references within this report and associated documentation to these services, includes home support services for children and young people with a disability.

5.1.10 The key aspects of the Commissioning Strategy that will deliver the three aims include:

- No longer contracting with ‘Inadequate’ care providers.
- Commissioning a new flexible contract to meet the Council’s statutory duties.
- Developing clear entry criteria to mitigate against quality and financial risks and secure the best possible provision at the outset.
- Commissioning services at a local level wherever possible.
- Moving to a fixed fee approach for all services, with the exception of residential care (with and without nursing) for under 65’s which requires further development as outlined in section 4.2 above.
- An annual price increase (annual increases will not be applied for residential care (with and without nursing) for under 65’s until such time as a review has confirmed the link between the needs of the service user and the price paid).
- Setting of core quality standards that will be robustly monitored.
- A quality rating system that includes customer feedback, a self-assessment from the care provider, the Care Quality Commission rating and the result of a local annual inspection.
- A clear support offer to employees entering and remaining in the care workforce and designed to improve skills across the sector.
- Care packages being allocated to the highest quality rated provider.
- Efficient and effective Information Technology solutions.

5.1.11 The Commissioning Strategy for Adult Social Care has been developed to carefully address these issues; to ensure the approach drives up the quality of care provision; offers an affordable solution; sees investment being delivered in local employment; which in turn drives up the quality of services.

5.1.12 The benefits of the Commissioning Strategy for Adult Social Care are detailed below:

**Aim 1: To improve outcomes for those with health, care and support needs**

- The Council will commission high quality services to ensure better outcomes for service users.
- 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.
- The use of a geographic model for the commissioning of home support, will reduce the number of missed or late home care calls which will contribute positively to the health and well-being of service users and their families/carers.
- The approach to pricing will stabilise the care sector and ensure it remains sustainable, with prices paid by BCC for care, keeping pace with a number of significant cost pressures in the market. This will ensure better continuity of care for service users and allows providers to invest in the quality of their services
- 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.
- 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 of commissioned health and care services**

- The framework will provide an incentive to care providers to improve the quality of their services and also to be clear on how this should be achieved.
- 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.
- The quality rating proposals were the most important aspect of the proposals from the consultation and will ensure better outcomes for service users.
- A key pillar of the proposals will be to work with the care sector to improve retention of staff and to develop skill levels. Evidence suggests these are

significant factors in improving the quality of services.

- Smaller businesses will be encouraged to be part of the mix of care providers.
- Clear quality standards and tools will allow robust contract management.
- The integration of customer feedback will drive up the quality of services, based on real service user experiences.
- 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**

- The Council will continue to contract with smaller providers which will improve the resilience of the market.
- The proposed 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, fair and reward good quality services.
  - Keep pace with significant price pressures in the care market to ensure sustainability in future.
- This proposal provides a investment to the care market of over £25m over the next three years, allowing investment and for the Council to work with care providers to tackle poor quality and inequality of price
- The Council will put in place a package of support that will help providers to reduce staff turnover and encourage people to join/remain in the care sector
- The Council will put in place (in partnership with care providers and other commissioners) career pathways that make care a long term prospect
- We will support young people entering the care sector.

All of the proposals will ensure the market is developed and reshaped to enable it to be transformed for the Self-Regulation Phase outlined in the Strategy from 2021.

## **5.2 Risks**

- 5.2.1 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.



The most significant risk to the implementation of the Commissioning Strategy is if providers chose not to sign up to the new contract resulting in insufficient supply to meet growing demand.

To mitigate against this risk, the Council has reviewed the new fee levels in light of consultation feedback and as detailed in 4.2 above. Based on the consultation feedback and benchmarking of price data, the Council believes these new fees will; provide the ability for all parties to plan their investment; resolves historic pricing issues over time in a safe and transparent manner; provides for a fair and equitable price to all providers over time; and provides essential investment to the social care sector of over £25m over the next three years. A strong communication plan will ensure providers are clear about the consequences of not joining the new contract and to emphasise the positive aspects of the Council's offer to the market.

Based on the proposed fees in Table 2 above, 75% of home support and 85% of residential (with and without nursing) care packages will be increased, therefore offsetting the majority of those packages that will be reduced. For those providers that are unsuccessful in joining the contract, we will work closely with service users and care providers to ensure a safe transfer of care. Current contracts do allow for placements to continue on their previous terms and conditions which will allow dialogue with effected service users and families.

A specific risk identified for the provision of home support to disabled children and young people is that the proposed fixed fee is below the current average price paid for these services. Only a small number of home support providers currently offer services to disabled children, notably 50% of current care packages are delivered by two care providers. There could be significant capacity issues if these providers chose not to join the contract. This will be mitigated by supporting good quality providers to extend their services to the children's care market, subject to them being aware of the differences in safeguarding arrangements for children.

For providers of residential care (with and without nursing) for 18 – 64 year olds, once the needs of the service user have been established, an appropriate fee will be paid to the care provider. This will give all parties time to prepare for the change and to engage further on the proposed approach to establishing pricing for these services.

Care providers supporting over 65's and providing Supported Living services will be in receipt of an annual fee increase for the next three years - for the first time in five years. For care providers supporting 18 – 64's in residential care (with and without nursing), the annual increase will apply once reviews of service users have taken place, again for the first time in almost 10 years. This demonstrates the Council's commitment to market stability and resilience. The requirement for open book accounting will increase our understanding of the costs of care and allow fees to be reviewed if necessary throughout the life of the contract.

As the highest quality rated providers will be allocated work as a priority, they are unlikely to hold vacancies for long and with a fixed fee approach they will be able to develop longer term business and financial planning, investing in the quality of their services.

The Council is currently a large provider of residential care within the market and also holds a number of strategic block contracts. Further mitigation will also

include maximising the use of these contracts to ensure they are used to support the overall management of placements and the market. A market shaping approach is also under development which will ensure the Council engages early with new provision and works with these providers at an early stage to discuss commissioning arrangements and intentions.

### **5.3 Timescales**

- 5.3.1 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.
- 5.3.2 An indicative timetable has been developed in conjunction with Corporate Procurement Services to ensure an alternative contractual arrangement is embedded by 1 April 2018. Communication activity will take place with providers and affected citizens at all appropriate stages of the procurement and implementation.

The proposed timeline is set out in Table 4 below:

**Table 4: Procurement and Implementation timeline**

<b>Timeline</b>	<b>Activity</b>
12 December 2017	Cabinet
20 December 2017	Commencement of tender
22 January 2018	Tender closes
23 January – 15 February 2018	Tender Evaluation
15 February – 7 March 2018	Delegated authority reporting
9 March 2018	Award letters issued
10 – 20 March 2018	Stand still period
21 March 2018	Final contract award and issue of contracts to commence
1 April 2018	Contract commences

- 5.3.3 The Council recently extended its IT system (Sproc.net) used to support the current contractual arrangements, until 30 September 2018. This will provide sufficient time for a replacement IT system to be procured. The intention is for procurement activity to commence from 20 December 2017 and for implementation of priority functionality to be complete by 30 September 2018.

### **5.4 Service Background**

- 5.4.1 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. 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

- 5.4.2 These services are described in more detail below. References to the age-group of service users is based on the Council's recording on its care records management system. This may relate to the age of a service user at the time of their original placement.

### **Home Support (all ages) and Supported Living (all ages)**

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".

### **5.4.3 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 current framework contract is not currently used to commission residential services (with and without nursing) for adults aged 18 - 64.

The current Framework Agreements have been extended until 31 March 2018.

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

- 6.1 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 and the potential costs..
- 6.2 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 31 March 2018. The future approach to commissioning of these essential services requires planning and development as described above and to do nothing would put the Council at significant risk of destabilising the care market and being unable to meet its statutory duties. This option exposes the Council to a market drive fee approach which may cost the Council more in the long term.

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

**Option 3 - Retain flexible contracting arrangements, but limit the scope of 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.

**Option 4 - extend the scope of a new flexible contract with providers to cover the majority of other commissioned services** such as day care, to include all age groups and/or include provisions for NHS services such as Continuing Health 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 contract as this may undermine the Council's approach in this area.

Commissioning arrangements with the NHS are also the subject of discussion under the Sustainability and Transformation Plan (STP). However, the Council continues to work closely with NHS Commissioners to integrate operational 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.

Birmingham Children's Trust have also considered the options relating to the commissioning of home support for children and young people with a disability and have expressed a preference to call off from the home support contract to be entered into by the Adult Social Care and Health Directorate. This will provide flexibility to pursue separate arrangements in future if required.

## **7. Reasons for Decision(s):**

- 7.1 To enable the Interim Corporate Director for Adult Social Care and Health to continue to commission providers to deliver adults' social care services and home support for children and young people with disabilities in line with statutory duties.
- 7.2 To reshape the approach to the commissioning of social care to enable better outcomes to be delivered for service users; to improve the quality of services and to stabilise the care market.

## Signatures

### Date

Councillor Paulette Hamilton  
Cabinet Member for Health and  
Social Care

.....

Councillor Majid Mahmood  
Cabinet Member for Commercialism,  
Commissioning & Contract Management

.....

Councillor Carl Rice  
Cabinet Member for Children,  
Families & Schools

.....

Graeme Betts  
Interim Corporate Director Adults  
Social Care & Health

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## List of Background Documents used to compile this Report:

Cabinet Report of 30 January 2012 - "To establish a framework of providers for home care and care homes (with and without nursing)".

Delegated Authority Report of 22 March 2012 – "C0074 Home Support Services and Care Homes (with and without nursing)".

Delegated Award Report of 5 December 2013 – "Framework Agreement Extension for Home Support and Bed Based Care (C0074)".

Cabinet Report of 20 October 2014 - "Micro-procurement software for People Directorate".  
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)".

Cabinet Report of 16 February 2016 – "Framework Agreements Extension for Adults' Services and Children's Home Support (C0074)".

Cabinet Report of 16 February 2016 – "Birmingham Care Wage Update".

Cabinet Report of 21 March 2016 – "Living Wage Policy Review and Revision".

Cabinet Report of 21 March 2017 – "Social Care Framework – Commissioning Strategy and Permission to Consult".

**List of Appendices accompanying this Report (if any):**

1. Commissioning Strategy for Adult Social Care
2. Consultation Analysis Report
3. Equality Assessment

**Report Version v6**

**Dated 06/12/17**

## Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

- 1 The Council must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
  - (a) tackle prejudice, and
  - (b) promote understanding.
- 5 The relevant protected characteristics are:
  - (a) marriage & civil partnership
  - (b) age
  - (c) disability
  - (d) gender reassignment
  - (e) pregnancy and maternity
  - (f) race
  - (g) religion or belief
  - (h) sex
  - (i) sexual orientation