

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Cabinet

**DATE:** 21st November 2022

**SUBJECT:** Re-procurement of Adult Social Care Domiciliary Care Contracts (Tranche 2)

**PORTFOLIO:** Cllr Natasa Pantelic, Social Care and Public Health

**CHIEF OFFICER:** *Marc Gadsby, Executive Director People (Adults)*

**CONTACT OFFICER:** *Jane Senior – Associate Director People Strategy and Commissioning*  
*Suzanne Binns - Group Manager Purchasing*

**WARD(S):** ALL

**KEY DECISION:** YES

**EXEMPT:** Part Exempt – Appendices 1 – 4 are exempt as they contain the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: “Information relating to the financial or business affairs of any particular person (including the authority holding that information)”

**DECISION SUBJECT TO CALL IN:** YES

### **Annex 1 – Equalities Impact Assessment**

**Exempt Appendix 1 – List of Successful Bidders for Tranche 2**

**Exempt Appendix 2 - List of Bidding providers for Tranche 2 (including 2 Tranche 1 providers who previously did not bid)**

**Exempt Appendix 3 – Successful New bidders for Tranche 2**

**Exempt Appendix 4 – Successful Providers– Quality and Price**

### **1 Summary and Recommendations**

1.1 This report seeks approval to award contracts to 12 suppliers of domiciliary care which have been tendered by competitive process via the Council's Adult Social Care Dynamic Purchasing System. This will ensure a sufficiency of supply once this tranche of existing contracts expires in December 2022.

### **Recommendations:**

Cabinet is recommended to:

1. Agree to the award of contracts to 12 suppliers for the provision of domiciliary care. This will be to suppliers 3,4,5,7,8,9,12,13, 14,16,18, and 21. Full details are contained at Exempt Appendix 1 the following suppliers:
2. Agree to the issuing of contract extensions and variations to existing tranche 2 suppliers, who did not bid for a new contract for a six month period until 21 May 2023. This will enable suppliers to continue to work with up to 177 service users, but not to take on new referrals, whilst alternatives arrangements are put in place.
3. Agree to the re-tendering of tranche 3 contracts for domiciliary care and related unregulated support services, when contracts expire in 2023. This will be using the same process as for tranche 1 and tranche 2 contracts and will include support services contracts as a separate lot.
4. Delegate authority to the Executive Director for People (Adults) in consultation with the Lead Member for Public Health and Social Care to enter into the tranche 2 contracts, and retender the tranche 3 contracts for domiciliary care.

**Reason:**

To ensure a sufficiency of supply of domiciliary care in the local area, which has been secured through competition.

**Commissioner Review**

*Commissioners have reviewed this report.*

## 2 Report

### Introductory paragraph

- 2.1 In March 2022, Cabinet approved the re-tendering of two tranches of domiciliary care contracts. The first tranche of contracts was re-tendered and a contract award report presented to Cabinet in June 2022. This report sets out the results of the tendering and evaluation process for the second tranche of contracts and recommends contract award to 12 suppliers. It also recommends issuing contract extensions and variations to existing tranche 2 suppliers to ensure continuity of service for existing service users.
- 2.2 The provision of good quality domiciliary care enables individuals with assessed care and support needs to remain living at home, thus promoting independence and reducing the need for more expensive residential care.
- 2.3 Domiciliary care providers play an essential role within the health and social care system, not only by delivering care to those who are assessed as requiring it, but also by enabling timely discharge from hospital, freeing up hospital bedspaces and facilitating moves back home. Local authorities are required, under s5 of the Care Act 2014, to ensure a diverse and sustainable market to meet eligible assessed care needs including care at home for those who require it. This includes the provision of directly commissioned care as well as provision for those in receipt of Direct Payments and self-funders.

- 2.4 The provision of domiciliary care meets the following Council priorities and objectives:

**Slough Health and Wellbeing Strategy**

Priority Two- Integration – Increasing the proportion of people living independently at home, and decreasing the number of people living in care homes.

**Slough Corporate Plan**

- An environment that helps residents live more independent, healthier and safer lives

Domiciliary care enables individuals with assessed care and support needs to remain living at home, thus promoting independence and reducing the need for more expensive residential care

- A council that lives within our means, balances the budget and delivers best value for taxpayers and service users

The provision of domiciliary care prevents the need for take up of more expensive residential care. This supports the Council to balance the budget and deliver best value.

**Options considered**

- 2.5 In the report to Cabinet in March 2022, a number of options were considered regarding the re-tendering of contracts for domiciliary care:

<b>Option</b>	<b>Pros</b>	<b>Cons</b>
<p><b>Option 1</b></p> <p>Do not re-tender contracts which are due to expire.</p>	<p>This would reduce resource pressure placed upon teams engaged in procurement activity.</p>	<p>Not tendering for contracts which are due to expire will leave a limited number of contracted suppliers available to deliver services.</p> <p>Individuals receiving a service would need to transfer to another provider if they wished to continue receiving a commissioned service.</p> <p>It is unlikely that in-contract suppliers would be able to expand capacity to meet demand. This might lead to purchasing activity which is not compliant in order to respond to demand and urgent system pressures, including supporting discharge from hospital.</p>

<p><b>Option 2</b></p> <p>Retender contracts via the Adult Social Care Dynamic Purchasing System.</p> <p><b>Recommended</b></p>	<p>Maintains sufficiency and diversity of supply.</p> <p>Supply secured through competitive processes in order to meet best value requirements.</p> <p>Allows for further competition to take place when securing individual packages of care.</p> <p>Allows providers flexibility to deliver to a higher or lower number of people depending upon workforce availability.</p>	<p>Economic pressures placed upon providers are likely to have an impact upon the market and potentially upon the price secured at the present time.</p>
<p><b>Option 3</b></p> <p>Retender using a different method eg block contracts</p>	<p>Providers have surety of income and can plan their businesses more effectively.</p> <p>Simple payment schedule is less resource intensive for Council staff.</p>	<p>Might not be able to deliver contracted hours due to workforce pressures.</p> <p>If service demand fluctuates below block level, the Council pays for undelivered hours. Therefore, not cost effective.</p>
<p><b>Option 4</b></p> <p>Retender both tranches at the same time.</p>	<p>This would reduce resource required by managing one procurement rather than two.</p>	<p>Contracts have different end dates and there is no scope to extend contracts terminating earlier.</p> <p>Current arrangements help spread the risk and ensure that competition is undertaken under different market conditions. This has been beneficial for securing good quality provision at affordable rates.</p> <p>The market is undergoing a period of uncertainty including those relating to inflationary pressures– and the timing is not optimum for retendering the first tranche of contracts.</p> <p>Retendering the second tranche of contracts – when further information concerning Adult Social Care Reforms is</p>

		released and the Fair Cost of Care Exercise is undertaken – might provide greater certainty for suppliers interested in investing more business in Slough.
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- 2.6 Option 2 was considered to be the most suitable option at the time for ensuring a diverse and sustainable market to meet eligible care needs, whilst taking account of market fluctuations and wider economic conditions.

## Background

- 2.7 Domiciliary Care plays an essential role within the health and social care system. Care workers provide care and support to individuals with assessed needs within their own homes, to enable them to stay independent for longer. Care and support activities can include administration of medication, helping people with transfers (for example from bed to chair), helping with washing, dressing and toileting and other forms of personal care. Domiciliary care providers enable people to return home after a hospital stay, thus ensuring that hospital discharge takes place on time and that individuals do not need to stay in hospital longer than necessary.
- 2.8 The referral process is managed by allocating packages of care to the lowest priced supplier who has availability across all tranches of contracted supply and can meet the individual service user's needs.
- 2.9 The Council currently pays providers on a per minute basis for actual delivery of care up to the commissioned visit duration. It is normal for payments to be around 85% of the cost of commissioned hours. Where any additional time has been required on individual visits, due to an emergency situation or a temporary fluctuation in need, these are then checked before being authorised for billing. The council saves around £1m over the year by paying on a per minute basis.
- 2.10 All care workers employed by suppliers are paid at or above the National Living Wage and all care workers are paid travel time.
- 2.11 The report to March Cabinet 2022 concerning the re-procurement of domiciliary care sets out that the current commissioning strategy has been to periodically undertake procurements via the Adult Social Care Dynamic Purchasing System (DPS). This has meant that the Council has been able to maintain a sufficiency and diversity of supply, secured at competitive prices. This approach has also meant that the Council has been able to manage market risks - such as maintaining access to alternative suppliers where a provider has failed. The Council has also been able to contract with a number of market entrants (at a lower price) as well as more established providers, thus ensuring competitiveness in the local market. Periodic refresh of contracted suppliers not only attracts new entrants to the market, but also means that there are phased contract end dates which spreads the risks associated with supply failure upon re-procurement.
- 2.12 The report provided information that during the previous 12 month rolling period, 1471 packages of domiciliary care for people had been commissioned across all providers at an approximate cost of £6.8M, equating to approximately £17.91 per hour.

<b>Contract Expiry Date</b>	<b>Total packages of care</b>	<b>Weighted Average Hourly Price</b>	<b>Total annual expenditure</b>
<b>July 2022</b>	642	£18.21	£3.5m
<b>December 2022</b>	386	£18.06	£1.6m
<b>Beyond 2022</b>	443	£17.21	£1.7m
<b>Totals</b>	<b>1471</b>	<b>£17.91</b>	<b>£6.8m</b>

- 2.13 The annual costs contained with the table above concerning Tranche 1, 2 and 3 contracts, were considered to provide an indication of the potential annual expenditure going forward. Information was also provided concerning market conditions which could influence the prices secured. Although other factors concerning the Council's approach to awarding inflationary uplifts, government support in the form of Workforce Recruitment and Retention grants for providers, and the Adult Social Care Reforms were also considered as being potentially mitigating factors in the prices that could be secured.

### **The Procurement Process**

- 2.14 A Procurement Officer from the Commercial Team was consulted on the procurement process and published the requisite notifications. The procurement was undertaken in accordance with the Public Contracts Regulations 2015.
- 2.15 Expressions of Interest from providers were sought using a Find a Tender Prior Information Notice (PIN) issued on the 5<sup>th</sup> July 2022 through the SE Shared Services Portal. This informed providers of the opportunity for Tranche 2 contracts being let through the ASC DPS, and invited providers not already registered on the DPS to make their applications. Applications to the DPS were assessed, and successful organisations were admitted onto the existing DPS and provided with instructions on how to locate the Mini-competition opportunity.
- 2.16 In following-up from lessons learned from Tranche 1 tenders, a Market Engagement event was held on the 14<sup>th</sup> July 2022. Providers were able to ask questions about the mini-competition. They were also provided with guidance on how to apply for inclusion on the DPS via the SE Shared Portal and information on the methodology to maximise their scoring at the bidding stage. This included making sure to read the documents fully, check that answers have addressed all of the points required in Method Statement submissions, and to not to leave submissions to the last minute in case of technical issues. The notes and presentation were circulated with the mini-competition documentation
- 2.17 All organisations currently on, and also those successful in joining the relevant DPS Lots were invited to participate in the mini-competition. This included all existing suppliers of domiciliary care.
- 2.18 The mini competition was also advertised on Find a Tender through the SE Shared Services Portal on the 9<sup>th</sup> August 2022 with a deadline for submissions of the 7<sup>th</sup> September 2022.
- 2.19 At Tender, bidders were required to submit a Method Statement and Pricing Schedule with regard to the services tendered, alongside their required declarations and other contractual documentation returns.

- 2.20 22 expressions of Interest (EOI) were received, 1 organisation failed to submit a completed return and 21 organisations submitted complete returns by the deadline. ***Those returns have been evaluated.***
- 2.21 Of the 21 bidding organisations, 20 are established CQC registered providers, 1 organisation is without current CQC Registration Status, but was not successful at mini-competition. 1 organisation is an existing supplier from the Tranche 2 cohort (of which there are 3 in total),.
- 2.22 In the report to Cabinet in June 2022, Cabinet was informed that in the Tranche 1 bidding round, 4 existing suppliers whose contracts were nearing expiry had not bid for contracts due to a number of reasons contained within the report. 2 of the suppliers have now bid and been successful in the second mini-competition round. Of the 2 tranche 1 providers who did not bid for tranche 2 contracts, work will be undertaken to undertake reviews and arrange alternative provision for the 28 service users in receipt of their care. This could include transferring to another provider, taking on a direct payment or the arrangement of an individual service fund.

### **Quality Evaluation**

- 2.23 The specification and contract terms were amended during 2021 in preparation for a previous procurement round. A number of co-production meetings were held with representatives from social work teams, health colleagues and the co-production network. Feedback ensured that the following areas were incorporated into method statements which were evaluated during the procurement process:
- Meeting the needs of the individual
  - Safety and safeguarding – including operating safely during covid.
  - Quality assurance
  - Approaches to staff recruitment, retention and training.
  - Pricing and capacity building.
  - Business Continuity Planning.
  - Information systems and their use for monitoring service provision.
  - Approach to partnership working with the Council and others.
- 2.24 Bidders were required to complete 19 questions within the submitted Method Statement in relation to the quality of the service. Bidders were informed in the guidance issued of the weightings that would be applied to each question.
- 2.25 On evaluation, bidders were required to score a minimum of 45.5 points out of a possible 65 for the generic Home Support Services Lot 1 Method Statement and 14 points out of a possible 20 for the COVID19 Response Service Lot 2 Method Statement. Failure to meet the thresholds resulted in no progression to an award of contract. Lot 2 bidders were required to meet the minimum threshold in both Lot 1 and Lot 2 scoring for the award of contract.

- 2.26 An evaluation panel comprising 3 officers from the People Strategy and Commissioning Team, the Adult Social Care Social Work Operational Team, and the Market Management Team undertook independent scoring and a moderation meeting was held and facilitated by the Group Manager - Purchasing. Economic Standing Status assessments were undertaken by the Finance Team.

## **Evaluation Outcome**

- 2.27 Quality Method Statement Scores ranged from 36.7 to 50.6 across the 21 complete submissions.
- 2.28 A total of 12 bidders of the 21 scored at or above the minimum Quality threshold of 45.5.
- 2.29 1 of the bidders also passed the minimum quality threshold for delivery of the domiciliary care COVID19 response service.
- 2.30 The outcome of the tender evaluation is set out at Exempt Appendix 1. A full list of bidding organisations is set out at Exempt Appendix 2. The price and the Care Quality Commission (CQC) rating for new tranche 2 providers is set out at Appendix 3. The price and CQC Quality Rating for all providers (new Tranche 1, new Tranche 2 and existing Tranche 3 providers) is set out at Exempt Appendix 4.

## **Lessons Learned**

- 2.31 In the report to Cabinet in June 2022, Cabinet was informed that in the Tranche 1 bidding round, 4 existing suppliers whose contracts were nearing expiry had not bid for contracts due to a number of reasons. This included:
- Inability to properly navigate the SE Shared Services Portal
  - Not keeping contact details up to date and therefore missing notifications
  - Not being clear about process

In order to respond to the lessons learnt, a number of actions were implemented for the tranche 2 re-procurement. This included:

- Directly contacting all existing suppliers with contracts nearing expiry to notify them of the tranche 2 re-procurement exercise.
- Directing suppliers to a number of training videos hosted on the South East Shared Portal – providing information on how to navigate the process.
- Holding a market engagement event with a Q and A session around the process, with a distribution of the presentations given by officers.

Two of the four tranche 1 providers who did not bid for tranche 1 contracts also failed to bid for tranche 2 contracts. This is due to market matters and business decisions. Alternative arrangements for 28 service users currently receiving services from non-bidding organisations will need to be put in place once the contract extensions for these providers expire.

Two out of three existing tranche 2 providers, delivering services to 180 service users, also failed to bid for new contracts. This is due to difficulties in following the process, but different to those identified within the tranche 1 process. Further information will



be obtained and lessons learnt will be captured in time for the tranche 3 re-procurement in 2023. It is recommended that contract extensions for these tranche 2 suppliers will be implemented to enable alternative arrangements for service users to be made

## **Market Conditions**

- 2.32 There have been significant changes to the local market conditions since approval was given by Cabinet to proceed with the tender.
- 2.33 The inflation rate for October 2022 stands at 10% and inflation is anticipated to increase further in the year ahead.
- 2.34 It has also been announced that there are further increases in the cost of fuel.
- 2.35 Providers are reporting increased issues in their ability to recruit and retain staffing, due to competitive rates of pay in other local labour market sectors due to the decreased movement of labour from Europe.
- 2.36 Market conditions have had a combined impact upon the fee rates submitted by successful tenderers. Further details containing fee rates are contained at Exempt Appendix 3 and Exempt Appendix 4.

## **Managing Cost Pressures and Sufficiency of Service**

- 2.37 In order to ensure sufficiency of supply, it is recommended that the 12 organisations scoring over the relevant quality threshold are progressed through to contract award based upon Economic Standing checks. Start-up suppliers will be required to submit assurance statements, cashflow and profit and loss forecasts, and/or other evidence of sufficient resources to mobilise the contracts before awards are made.
- 2.38 In order to manage associated cost pressures, the Council's processes for assigning domiciliary care orders to suppliers is:
- 1) All suppliers in contract will be ranked in accordance with their tendered costs. This ranking will include all current suppliers and those successful at this tender and any future tender
  - 2) Work will be assigned to the lowest cost supplier for any given order subject to:
    - a. The supplier having the necessary capability to perform the work
    - b. The supplier having the necessary capacity (*i.e.* available competent staff and equipment for the required task) to perform the work at the required times
  - 3) Should that supplier not be able to take on the work, this will then pass to the next lowest cost supplier who has the capability and capacity to perform the work.

## Preparation for the Next Stage

- 2.39 Further to approval of the recommendations by Cabinet, the People Strategy and Commissioning Teams will work with the successful bidders to deliver the implementation plan set out at 2.40 below.

### 2.40 Implementation Plan

Implementation Plan	Date
Pre-award Economic Standing checks completed	16/11/2022
	25/11/2022
Pre-contract mobilisation and demobilisation plan development with providers- ensure TUP(E) due diligence is undertaken between outgoing and incoming providers, where applicable.	
Demobilisation of existing contracts with Tranche 2 suppliers who did not bid in this Tender and do not bid in the next tranche or are unsuccessful in the next tranche.	25/11/2022- 01/06/2023
Review of service users regarding options to receive a Direct Payment/Managed Account Service/Individual Service Fund, or transfer to an alternative provider.	25/11/2022- 01/06/2023
Monitor staff recruitment and induction in new suppliers and plan transfers of service users and referral dates.	25/11/2022
Contingency - Bring forward contract start dates with new suppliers if there are capacity issues in our current supplier list due to transfer of service users from outgoing contractors before 2 <sup>nd</sup> December 2022.	25/11/2022
Meetings with new providers to agree contract monitoring QA systems, performance workbooks and engagement forums with providers	25/11/2022
	25/11/2022- 01/02/2022
Monitor mobilisation plan implementation.	01/02/2022
Contract Go-Live Dates by 2 <sup>nd</sup> December 2022 or subsequent agreed date	02/12/2022

### Contract monitoring

- 2.41 Performance workbooks will be agreed with providers and contract monitoring and contract management meetings will be scheduled.
- 2.42 The quality of provision will be monitored through the Quality Assurance team and reported to the Care Governance Board.
- 2.43 We know from our annual surveys, that service users view the following areas as being important:

- Staff arriving on time
- Staff staying for the whole time of their visit time
- Having the same care staff Training of staff
- Carer to Service User Matching
- Recruitment and retention
- Meet language and cultural needs of Slough's diverse community

2.44 Additionally we also need the agencies to :

- Work in partnership to improve services
- Have robust quality checking systems
- Implement safe working practice

2.45 Co-production members discussed and added the following items:

- Improved recruitment and speed of access to a person who speaks the same language as the service user
- Treating people with dignity and respect, communicating with the person and getting to know their preferences and likes, their spiritual/religious needs as well as their physical needs.
- Taking care to ensure a suitable environment – e.g. put the radio on their favourite channel.
- Trustworthy.
- Matching care workers to the service user.
- Treating care staff well. Obtaining and reacting to their feedback. Help them to make a complaint or suggest an improvement in the service and act upon it.

As well as email, telephone calls and face to face visits, the co-production network members suggested:

- Surveys should include face to face meetings with care staff as well – perhaps introduction of a provider care staff forum.
- Carers survey as well to gather the views of relatives etc.

### **3. Implications of the Recommendation**

#### **3.1 Financial implications**

3.1.1 Although the current 2022/23 budget for Domiciliary Care in Localities is £4.046m, with a forecast outturn of £6.603m, the directorate's budgets are being realigned to better reflect where the activity occurs. Overall, the adults directorate is reporting a balanced position for the financial year. The tranche 2 contracts will continue to be funded from existing budgets, forming part of the council's overall adult social care and support offer to eligible citizens, with activity underpinning the expenditure regularly monitored to ensure delivery within budgets.

- 3.1.2 In order to ensure continuity of supply, and management of cost pressures, existing tranche 2 suppliers will be provided with an additional 6-month term of contract to continue to supply services to service users allocated to them during their existing contract period. This provision will be set at the price at the end of the existing term. No new service user allocations will be made to them during this term, until or unless they have applied and been successful at a future mini competition.
- 3.1.3 This period will allow for service user reviews to identify, where appropriate, service transfers to other Care providers, from existing tranche 2 suppliers that did not bid or were unsuccessful in any subsequent mini competition to which they applied, or are excessively priced. Where a service user wishes to remain with their current provider or take up the offer of a Personal Budget via a Direct Payment / Managed Account / Individual Service Fund Account to have choice and control over how their care and support needs are met.
- 3.1.4 As a demand led provision, Domiciliary Care expenditure will need to be monitored very closely to ensure sustainability within the wider Care and support budget envelope. The Adult transformation project initiatives to diverting demand at front door and ensuring competitive “target price” for care provisions should mitigate against any adverse budgetary effects.

## 3.2 Legal implications

3.2.1 The Care Act 2014 requires the local authority to meet identified eligible needs as assessed under s9 of the Care Act, and to meet that need with appropriate provision. Where this is identified as domiciliary care, then there is a duty placed upon the Council to make that provision.

3.2.2 The Care Act statutory guidance states that 'high quality, personalised Care and Support can only be achieved where there is a vibrant, responsive market of services available'.

3.2.3 Under section 5 of the Care Act, the local authority has a duty to shape and maintain an efficient and effective market of services for meeting care and support needs in the local area

3.2.4 The duty applies in relation to services that the Local Authority commissions directly, but also to other non-commissioned services in its area (including those used by self-funders), universal services and services provided by partners (such as health or charitable services) that together create the marketplace.

3.2.5 The market that is shaped should ensure that any person requiring Care and Support/Support services:

1. Has a variety of providers supplying a variety of services to choose from;
2. Has a variety of high quality services to choose from; and
3. Has sufficient information to make an informed decision about how to meet the needs in question.

3.2.6 In order to fulfil its duty to promote diversity and quality in service provision the Local Authority must ensure it has effective strategies to shape the marketplace and commission the right services.

- 3.2.7 Use of a properly established Dynamic Purchasing System (DPS) to procure Domiciliary Care Contracts is a compliant procurement approach in accordance with both the Council's Contract Procedure Rules and the Public Contracts Regulations 2015.
- 3.2.8 The DPS must be operated as a completely electronic process and must be open, throughout the period of validity of the DPS, to any economic operator that satisfies the selection criteria
- 3.2.9 To procure under a DPS, the council must follow the rules of the restricted procedure, which means that any economic operator can submit a request to participate in response to the call for competition by providing the information for qualitative selection requested by the council. The minimum time limit for receipt of requests to participate, where a prior information notice (PIN) is used as a means of calling for competition, is 30 days from the date on which the PIN is sent to the UK e-notification service - *Find a Tender*.
- 3.2.10 The council must offer unrestricted and full direct access free of charge to the procurement documents, by means of the internet, on an ongoing basis from the date on which the PIN is sent. This requirement can be satisfied by providing a link to a procurement portal (such as Intend SE Portal) where potential candidates can access the documents.
- 3.2.11 The council must finalise their evaluation of requests to participate in the DPS, in accordance with the applicable selection criteria, within ten working days following their receipt, and must simultaneously and in writing invite the economic operators which have expressed their interest to confirm their continuing interest, and invite the selected candidates to submit their tenders.
- 3.2.12 The minimum time limit for receipt of tenders must be at least ten days from the date on which the invitation to tender is sent. However, the council may set the time limit for the receipt of tenders by mutual agreement between the council and all selected candidates, provided that all selected candidates have the same time to prepare and submit their tenders.
- 3.2.13 Where the council awards a contract under a DPS, there is no compulsory standstill period.
- 3.2.14 The council must either send a contract award notice within 30 days after the award of each contract based on the DPS or group such notices on a quarterly basis and send the grouped notices within 30 days of the end of each quarter.
- 3.2.15 HB Public Law can advise as required on the DPS procedural requirements and contract awards and conclusion.
- 3.2.16 Legal advice was sought in order to provide the 4 existing suppliers of the 6 suppliers within tranche 1 who did not bid for new contracts with a contract extension or new term of contract to allow them to continue to provide services to their current clients for a period of up to 6 months from the 17th July 2022. This will allow time for the assessments to be undertaken and for stability over the Christmas period to be achieved when the second tranche providers' contracts terminate in December 2022. 2 of the remaining 4 existing Tranche 1 suppliers did not bid in the second mini-competition and would appear to be reducing their level of Slough

service users. 2 of the 4 existing suppliers from Tranche 2 did not bid and due to the volume of service users within these services it is intended to implement the same approach and extend their contracts by a period of six months. (Further information and options considered are shown at s 2.41 above.) HB Public Law will provide advice on the contract extensions or new short-term contracts as required.

3.2.17 In accordance with regulation 59 of the PCR 2015, these suppliers have “self-certified” their compliance with the selection requirements, and confirmed that none of the grounds for exclusion apply, to retain admittance to the DPS. They have confirmed that already submitted documents are still applicable, or have provided new documents as preceding ones have expired, or circumstances have changed.

### 3.3 Risk management implications

3.3.1 The recommended option decision will ensure the sufficiency of supply when the existing contracts terminate on 1<sup>st</sup> December 2022 for tranche 2. The table below sets out the risks associated with the proposed course of action and the mitigating actions.

Risk	Assessment of Risk	Mitigation	Residual Risk
Mobilisation will not take place on time.	Medium	Use other current suppliers for supply. Transfer existing service users with expiring contractors to current suppliers or offer Direct Payment, Managed Accounts or Individual Service Fund Accounts to remain with their current provider.  Extend the contracts with outgoing suppliers for a period of 6 months from the contract expiry date to allow demobilisation over a longer period of time.	Low
Quality of new providers will not be satisfactory.	Low	Scoring of quality at Tender evaluation required a minimum threshold of 45.5 out of a possible 65 points.	Low
Care staff will not be adequately paid as providers seek to offer competitive prices.	Medium	Tenderers were requested to submit a breakdown of their fee rates including staff wage costs and explain how their pricing ensures sustainability.	Low
Service users may be	Medium	TUP(E) will apply in most circumstances for the	Medium/Low

required to have a change of care worker.		transfer of care packages between agencies. However, a Direct Payment, Managed Accounts or Individual Service Fund Accounts to remain with their current provider.	
Risk of challenge to the procurement process	Low	In accordance with regulation 59 of the PCR 2015, these suppliers have “self-certified” their compliance with the selection requirements, and confirmed that none of the grounds for exclusion apply, to retain admittance to the DPS. They have confirmed that already submitted documents are still applicable, or have provided new documents as preceding ones have expired, or circumstances have changed.	Low

### 3.4 Environmental implications

3.4.1 During the procurement process suppliers were requested to provide a copy of their environmental impact assessment and impact management measures.

3.4.2 The table below provides examples of environmental impact measures that affect home care services:

<b>Environmental Impact</b>	<b>Management Measures</b>
Carbon emissions from staff travelling to work and between service user households.	Staff recruitment centred on local residents thus reducing travel to work carbon emission footprint. Promotion or provision of bicycles for staff travel. Promotion of walking routes for rosters. Promotion of car sharing. Promotion of electric powered cars.
Hazardous Waste management	Promotion and support of service user recycling of household waste packaging. Infection control policies and procedures. Staff trained in infection control and incontinence waste storage and disposal. Use of incontinence waste removal service.

Office and equipment waste management	Use of confidential paper shredding and recycling service. Use of recycled ink cartridges for printers. Recycle electronic equipment with ethical supplier. Reduce paper usage by using electronic alternative methods for communication e.g. electronic rostering and care delivery records.
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### 3.5 Equality implications

- 3.5.1 In March 2022 an Initial Equalities Impact Assessment was provided see Annex 1.
- 3.5.2 Engagement with the Co-production network has been undertaken and as identified in paragraph 1.6 above further engagement with providers was required regarding carer to service user matching, recruitment and retention, meeting language and cultural needs of Slough's diverse community, and improved recruitment and speed of access to a person who speaks the same language as the service user.
- 3.5.3 Bidders were required to set out how they will recruit and retain staff to meet the needs of Slough's diverse community in their submitted proposals. Proposals were scored taking into account the requirements and equality implications.
- 3.5.4 Some suppliers are now licenced to recruit people from overseas which may assist in the recruitment of staff with specific language and cultural knowledge.
- 3.5.5 Engagement with our current suppliers has resulted in increased availability for Punjabi speakers and male carers.
- 3.5.6 The supply will be monitored throughout the lifetime of the contracts and any shortfalls addressed through engagement with our suppliers. The contracts call for suppliers to work in partnership with the council to improve the quality of supply throughout the duration of the contract.
- 3.5.7 Specific workshops, and forums will be held to engage with providers and the co-production network throughout the lifetime of the contracts to improve the quality of person-centred care.

### 3.6 Procurement implications

The following table sets out the options that were considered in relation to the procurement route and strategy at Cabinet in March 2022.

The following table sets out the options that have been considered in relation to the procurement route and strategy for the local home care services supply in Slough.

<b>Procurement Strategic Approach</b>	<b>Consideration</b>	<b>Recommended</b>
Use of Suppliers engaged through mini-competition stage on the ASC Dynamic Purchasing System (DPS)	<p>The approach allows for regular refresh of the list of contracted suppliers at any time, as and when required, via advertisement of mini-competitions.</p> <p>New suppliers to the local market are engaged through application to join the DPS at any time with the knowledge that there will be opportunity to apply at mini-competition stage for supply contracts.</p>	<p>Yes.</p> <p>Offers time efficient and flexibility for refresh of suppliers for generic and specialist services.</p> <p>Maintains sufficiency of supply and new entrant competition in the market.</p>

Procurement Strategic Approach	Consideration	Recommended
	<p>Early engagement with suppliers successful on joining the DPS allows organisations to understand</p> <p>The DPS also allows a time efficient process for specific specialist services to be procured.</p>	
One or Sole Supplier	<p>Whilst in theory there may be opportunities for economies of scale, there are increased overheads for supporting larger services leading to increased fee levels. The local market becomes uncompetitive. The provider is unlikely to be able to compete with other providers for workforce – as other providers outcompete in terms of wage payments. There are no suppliers present in the local market who would be capable of performing the role of sole supplier. Local authorities are moving away from this model due to the experience with supplier failures.</p>	<p>No.</p> <p>High risk of supply failure and lack of sufficiency of supply.</p> <p>Removes new entrant supplier competition in the market.</p>
One Lead Supplier with subcontractors/consortia	<p>The home care market is highly competitive with individual providers competing for market share and for supply to other local authorities. The lead provider is unable to compete with the subcontractors for staffing and this leads to a service failure by the Lead supplier. Most often this requires further procurement to directly contract with alternative providers. Equally consortia arrangements are not sustainable due to the competing interests of the constituent parties.</p>	<p>No.</p> <p>High risk of supply failure and lack of sufficiency of supply.</p>
Small Number of Suppliers – each with	The referral and service demand patterns across the	No.

<b>Procurement Strategic Approach</b>	<b>Consideration</b>	<b>Recommended</b>
restricted geographical area of operation	borough is not conducive for geographical areas of operation. On consultation with providers they have indicated that this is an operational option which is likely to fail. Workforce retention issues and supplier failure is highly likely leading to supply failure and the need to re-procure.	High risk of supply failure and lack of sufficiency of supply.
Fixed Framework of larger number of providers	Experience within the borough has indicated that the number of viable providers reduces over the lifetime of the framework leading to shortage of supply. This results in the need to reopen the framework or purchase off framework. The length of time required for the procurement opportunity to be open is longer than alternative methods, lengthening the timescale for procurement and alternative supply. The opportunity for new more competitive suppliers to enter the framework is restricted and the likelihood of failed procurement exercise is heightened.	No. High risk of supply failure over time, with decreased ability to bring new entrants into the local market and maintain competition in the market.  Supplier failure leading to lack of sufficiency of supply.
Joint Procurement with other neighbouring local authorities/E Berkshire.	Neighbouring authorities have set their rates for current procurement of domiciliary care at a fixed hourly rate. Both areas have historically operated without using the DPS approach. One authority is now going to utilise a DPS approach after failure of a lead provider approach. Both areas have experienced sufficiency difficulties.	No.

### 3.7 Workforce implications

.3.7.1 There are no workforce implications for staffing structures within the Council.

### 3.8 Property implications

3.8.1 Not Applicable.

#### **4. Background Papers**

Item 4 Cabinet Report 21<sup>st</sup> March 2022 Re-procurement of Adult Social Care Domiciliary Care Contracts

Item 6 Cabinet Report 20<sup>th</sup> June 2022 Re-procurement of Adult Social Care Domiciliary Care Contracts

Annex 1 – Equalities Impact Assessment

<b>Directorate: People(Adults)</b>	
<b>Service: Commissioning</b>	
<b>Name of Officer/s completing assessment: Karen Hodsden</b>	
<b>Date of Assessment:31/01/2022</b>	
<b>Name of service/function or policy being assessed: Externally Commissioned Domiciliary Care</b>	
1.	<p>What are the aims, objectives, outcomes, purpose of the policy, service change, function that you are assessing?</p> <p>The provision of Domiciliary Care (DC) is a statutory requirement of the Council under the Care Act 2014. Domiciliary Care workers provide personal care (such as support with getting up, getting washed, eating and drinking), non-personal care (such as support with shopping, household cleaning and laundry) and specific healthcare activities such as end of life care. Domiciliary Care enabled individuals to continue to live independently in their own homes. This Equality Impact Assessment (EIA) will primarily assess possible effects on residents with protected characteristics. Additionally, this EIA assesses the possible effects of recommissioning of Domiciliary Care (DC) services for all users and carers who either receive support directly or indirectly. The recommissioning exercise will not see an interruption in service. There may be some changes in contracted providers, with new providers delivering services and some existing providers existing arrangements. Individuals who require a domiciliary care service will not have any disruption to services provided – although they may experience some degree of change if an existing provider is not successful in re-tendering for services or does not re-tender.</p>
2.	<p>Who implements or delivers the policy, service or function? State if this is undertaken by more than one team, service, and department including any external partners.</p> <p>Domiciliary Care providers deliver services in the borough. Commissioning arrangements are managed through the Council's People Strategy and Commissioning Team. Partnership arrangements are in place with social workers and the NHS.</p>
3.	<p>Who will be affected by this proposal? For example who are the external/internal customers, communities, partners, stakeholders, the workforce etc. Please consider all of the Protected Characteristics listed (more information is available in the background information). Bear in mind that people affected by the proposals may well have more than one protected characteristic.</p> <p>There are 10 protected characteristics:</p> <p>1. Age including younger and older people</p>

	<ol style="list-style-type: none"> <li>2. Disability</li> <li>3. Gender reassignment</li> <li>4. Pregnancy and maternity - No Impact</li> <li>5. Race including ethnic or national origins, colour or nationality</li> <li>6. Religion or belief including lack of belief</li> <li>7. Sex</li> <li>8. Sexual orientation</li> <li>9. Marriage/civil partnerships No Impact</li> <li>10. Carers protected by association</li> </ol> <p>Individuals in receipt of domiciliary care services may have one or more protected characteristics. It is a requirement that all providers delivering domiciliary care have appropriate equalities policies in place.</p> <p>All providers bidding for domiciliary care will be required to be registered / register with the Care Quality Commission. The Care Quality Commission standards set out that services must be able to meet specific cultural, language and spiritual/religious needs through personalisation of the care and support plan.</p>
4.	<p>What are any likely positive impacts for the group/s identified in (3) above? You may wish to refer to the Equalities Duties detailed in the background information.</p> <p>Domiciliary care enables individuals to live at home independently thus supporting participation in the community and a better quality of life.</p> <p>Domiciliary care also prevents the need for more expensive and sometimes less satisfactory residential care.</p> <p>Active market shaping in Slough means there are suppliers who have experience specific to the demographic of the borough. E.g. Culture and language, complex care needs, a specialist rapid response service is also available.</p> <p>The competitive procurement process will include evaluation of the proposed operational method statements in relation to meeting the needs of Slough's culturally diverse community and related service requirements such as language needs. There are specific challenges in identifying male carers and this will be identified in the ITT documentation.</p>

5.	<p>What are the likely negative impacts for the group/s identified in (3) above? If so then are any particular groups affected more than others and why?</p> <p>It will be important that any cultural requirements are addressed through the tendering process.</p>
6.	<p>Have the impacts identified in (4) and (5) above been assessed using up to date and reliable evidence and data? Please state evidence sources and conclusions drawn (e.g. survey results, customer complaints, monitoring data etc).</p> <p>In progress. However, previous work has been taken into account.</p>
7.	<p>Have you engaged or consulted with any identified groups or individuals if necessary and what were the results, e.g. have the staff forums/unions/ community groups been involved?</p> <p>In progress, forums and workshops are planned before the specification is completed. Slough's co-production network is engaged in the work.</p>
8.	<p>Have you considered the impact the policy might have on local community relations?</p> <p>Ensuring sufficient supply of appropriate domiciliary care which meets the assessed needs of the population will have a positive impact upon community relations.</p>
9.	<p>What plans do you have in place, or are developing, that will mitigate any likely identified negative impacts? For example what plans, if any, will be put in place to reduce the impact?</p> <p>Forums and workshops will identify any possible negative impacts and develop approaches for mitigating these.</p>
10.	<p>What plans do you have in place to monitor the impact of the proposals once they have been implemented? (The full impact of the decision may only be known after the proposals have been implemented). Please see action plan below.</p> <p>KPIs developed in partnership with community groups will be actively managed through contract management. These include service user protected characteristic profile monitoring, and reasons for unavailability of staffing/referral declination.</p>

<b>What course of action does this EIA suggest you take? More than one of the following may apply</b>	✓
<b>Outcome 1: No major change required.</b> The EIA has not identified any potential for discrimination or adverse impact and all opportunities to promote equality have been taken	✓
<b>Outcome 2: Adjust the policy</b> to remove barriers identified by the EIA or better promote equality. Are you satisfied that the proposed adjustments will remove the barriers identified? (Complete action plan).	
<b>Outcome 3: Continue the policy</b> despite potential for adverse impact or missed opportunities to promote equality identified. You will need to ensure that the EIA clearly sets out the justifications for continuing with it. You should consider whether there are sufficient plans to reduce the negative impact and/or plans to monitor the actual impact (see questions below). (Complete action plan).	
<b>Outcome 4: Stop and rethink</b> the policy when the EIA shows actual or potential unlawful discrimination. (Complete action plan).	

***Action Plan and Timetable for Implementation***

At this stage a timetabled Action Plan should be developed to address any concerns/issues related to equality in the existing or proposed policy/service or function. This plan will need to be integrated into the appropriate Service/Business Plan.

<b>Action</b>	<b>Target Groups</b>	<b>Lead Responsibility</b>	<b>Outcomes/Success Criteria</b>	<b>Monitoring &amp; Evaluation</b>	<b>Target Date</b>	<b>Progress to Date</b>
Initial consultation	User group	KH	Changes and challenges are mutually agreed and included in the specification.	Report following the workshop	March 2022	
Market shaping	Suppliers	KH	Changes and challenges are mutually agreed and included in the specification.	Report following the workshop	March 2022	

<b>Name:</b> <b>Signed:</b> .....(Person completing the EIA)
<b>Name:</b> ..... <b>Signed:</b> .....( Policy Lead if not same as above)
<b>Date:</b> .....



