



Cabinet
21 September 2015

Report from the Strategic Director, Adults

For Action

Wards Affected:
ALL

Authority procure a Dynamic Purchasing System (DPS) For Accommodation Plus Services

1.0 Summary

- 1.1 In accordance with the Council's Contract Standing Orders 88 and 89, authority is sought to invite requests to participate for a Dynamic Purchasing System (DPS) for Accommodation Plus Services. The system will support the Council to proactively engage with the Care and Housing market to ensure that the council can commission Accommodation Plus services effectively and work more closely with local providers to develop Accommodation Plus provision in Brent to support the delivery of the New Accommodation Independent Living (NAIL) project. .

2.0 Recommendations

- 2.1 That Cabinet approve inviting requests to participate in a Dynamic Purchasing System for Accommodation Plus Services on the basis of the pre-tender considerations set out in paragraph 3.13 of this report.
- 2.2 That Cabinet approve officers evaluating requests to participate referred to in 2.1 on the basis of the selection criteria referred to in paragraph 3.13 of the report.
- 2.3 That the Cabinet delegate authority to the Strategic Director of Adult Social Care following establishment of the Dynamic Purchasing System for Accommodation Plus Services, to appoint new service providers onto the said Dynamic Purchasing System where they request to participate and meet the selection criteria referred to in paragraph 3.13 of the report.

- 2.4 That Cabinet approve inviting tenders under the Dynamic Purchasing System for Accommodation Plus Services on the basis of the pre-tender considerations set out in paragraph 3.13 of this report.
- 2.5 That Cabinet approve officers evaluating invitations to tender referred to in 2.4 on the basis of the selection criteria referred to in paragraph 3.13 of the report.
- 2.6 That the Cabinet delegate authority to the Strategic Director of Adult Social Care to award High Value Contracts procured through the Dynamic Purchasing System for Accommodation Plus Services if they have a contract value of less than £500,000.

3.0 Detail

NAIL Overview

- 3.1 The NAIL (New Accommodation for Independent Living) project is a One Council Programme set to deliver by March 2018 529 new units of accommodation plus for people who are assessed as having social care needs that can no longer be met in their own home. The accommodation based care and support services will be created with sufficient on-site care and support to enable individuals who would otherwise need to be placed in a care home setting to be supported in independent accommodation in the community.
- 3.2 The NAIL Programme has two overarching aims; to maximise the choice, control and independence of people and to realise cost savings to the Adult Social Care budget of £7.2 million. This will be achieved by ASC being responsible for meeting the cost of people's care and support needs only, as accommodation costs are met through housing benefit, whereas in a care home environment ASC are responsible for meeting both the person's accommodation costs as well as their care and support costs.

Dynamic Purchasing Systems

- 3.3 A Dynamic Purchasing System (DPS) is a procurement mechanism for the tendering of contracts for works, services and goods commonly available in the market. As a procurement tool, it has many similarities to an electronic framework agreement, but with a key difference that new suppliers can join at any time.
- 3.4 A DPS procurement is a two-stage process. First, in the initial setup stage, all suppliers who meet the selection criteria are admitted to the DPS. An authority may not impose a limit on the number of suppliers that may join a DPS.

- 3.5 Individual contracts are then awarded during the second stage. In this stage, the authority invites all suppliers on the DPS (or the relevant category within the DPS) to bid for specified contracts and pieces of work.
- 3.6 The advantages to the NAIL programme of procuring accommodation, care and support services through a DPS as opposed to the alternative procurement routes available are;
- (i) Once established a DPS would be a much more efficient use of time and resource in securing accommodation and procuring care and support services.
 - (ii) The potential swiftness with which care and support services could be procured would allow for more responsive commissioning; affording us the opportunity to bring available properties offered to NAIL within a shorter timescales.
 - (iii) The ability for suppliers to join the DPS after the initial setup stage affords new providers the opportunity to enter the market place in Brent and for more established providers with transferable expertise to join the DPS, enhancing the market place and the mix of service available locally.

NAIL Procurement Plan

- 3.7 The NAIL DPS will be setup with five lots of commonly purchased services which encompass the full range of delivery models required to deliver the NAIL Programme:
- Lot 1: Providers, who provide the land, build and manage the property, and deliver the care and/or support services (possibly as different arms of a single organisation or as a consortium/partnership for example).
- Lot 2: Providers, who provide the land, build and manage the property only.
- Lot 3: Providers who provide the land, and build the property only.
- Lot 4: Providers who provide care and/or support services only.
- Lot 5: Providers who provide housing related support services only.
- 3.8 Within each Lot four client groups will be identified to ensure that providers are able to focus on their areas of specialism (elements);
- Older People - from age 50+, including dementia, frailty, mental ill health, learning disability.
 - Learning Disabilities – from 18+, including dual diagnosis with mental health, challenging behaviour, PMLD, physical disabilities.

- Mental Health – from 18+, including dual diagnosis with learning disabilities, substance misuse, Korsakoff's syndrome, forensic history.
- Physical Disabilities – from 18+, may include family accommodation, bariatric needs, acquired brain injury.

Some call-offs will require multiple specialisms for services where clients present with multiple and overlapping needs, e.g. Older People with Korsakoff's Syndrome. In this case, providers from any relevant element will be able to join the tender process.

3.9 Establishing the DPS in this way will have the additional benefit of allowing the Lots and Elements described above to be used for the commissioning of other services by Adult Social Care.

3.10 26% of required units (139 of the target 529) have been delivered or will be delivered in 2015/16. Therefore, it is proposed the DPS will be used to deliver the remaining 390 units required to meet the overarching NAIL target. A preliminary breakdown of the remaining units required where the DPS would be utilised is detailed in the table below.

Client Group	Estimated Total Number of Units Required	Estimated Number of Units per Scheme	Estimated Number of Schemes	Total 2+1+1 Contract Value	Estimated Number of Schemes With an Award Value Below £500k
Learning Disability	145	8	18	£7,900,000	11
Physical Disability	75	10 to 11	7	£6,600,000	2
Older People	150	20 to 30	6	£9,000,000	2
Mental Health	20	4	5	£1,310,000	5
Totals	390			£24,810,000	20

3.11 As the table illustrates, It is estimated that a further 36 schemes will be developed to meet the full NAIL target of 529 units of accommodation plus, with contract values (over a 2+1+1 year contract period) of between £65,500 and £5,000,000. 20 of these schemes have an estimated value below £500,000.

- 3.12 To ensure that new units are delivered within the required timescales, it is requested that Cabinet delegate authority to the Director of Adult Social Care to award care and support contracts for the estimated 20 schemes where the total contract value is less than £500,000. A retrospective 12 monthly report will then be submitted to Cabinet along with the annually refreshed ASC Market Position Statement, updating them on contracts awarded through the delegated approach for that period. Approval to award contracts above £500,000 will be sought through standard Cabinet procedures. The report will also list any new providers that have been appointed to the DPS during the same period, and will provide Cabinet with the opportunity to revise reporting and delegations.
- 3.13 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet.

Ref.	Requirement	Response
(i)	The nature of the service.	Dynamic Purchasing System for Accommodation Plus Services.
(ii)	The estimated value.	<p>£24,810,000 across 3 Lots as follows:</p> <p>Lot 1: £11,000,000 Lot 4: £11,000,000 Lot 5: £4,810,000</p> <p>There is no financial commitment arising from Lots 2 and 3. Nominations agreements will be put in place.</p>
(iii)	The contract term.	4 years
(iv)	The tender procedure to be adopted.	Restricted OJEU
(v)	The procurement timetable.	Indicative dates are:
		Adverts placed 12 th October 2015
		Expressions of interest returned 12 th November 2015
		Shortlist drawn up in accordance with the Council's approved criteria 1 st December 2015
		Report recommending DPS establishment and appointments circulated internally for comment 29 th December 2016

Ref.	Requirement	Response	
		Cabinet approval for establishment of DPS and appointments to it	8 th February 2016
		Cabinet call in period of 5 days (mandatory unless excluded by the Cabinet)	13 February 2016
		Establishment of DPS and appointments to it	14 February 2016
(vi)	The evaluation criteria and process.	<ul style="list-style-type: none"> ▪ At selection (pre-qualification stage) shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines namely the pre qualification questionnaire and thereby meeting the Council's financial standing orders, technical capacity and technical expertise requirements. There will also be a requirement for the bidders to certify an ability to deliver Social Value benefits as required in the Contract Specification. ▪ At the tender evaluation stage for contracts procured under the DPS, the panel will evaluate bids on the grounds of the Most Economically Advantageous (Price and Quality) offer. The evaluation weightings for each Lot 1 will range by 60% to 70% for Cost and 40% to 30% for Quality. The specific criteria for award under each lot is detailed below: <p>Lot 1:</p> <ul style="list-style-type: none"> ▪ How the provider will work in partnership with the Council and others to 'customise' the design and layout of a building ▪ How the provider will apply its skills and experience to deliver on time developments with appropriate building standards ▪ How the building will be used to maximise independence. ▪ How the Service will be operated to achieve delivery of outcomes. ▪ How the Service will be operated to lead 	

Ref.	Requirement	Response
		<p>to improved personal independence.</p> <ul style="list-style-type: none"> ▪ How policies and procedures regarding equality and human rights will be applied. ▪ Proposals with regard to Staffing (skills, qualifications and experience and structure) in order to meet the needs of the service users. ▪ How the Safeguarding policy will be implemented. ▪ How Social Value will be delivered. <p>Lot 2:</p> <ul style="list-style-type: none"> ▪ How the provider will in partnership with the Council and potential clients to 'customise' the design and layout of a building ▪ How the provider will apply its skills and experience to deliver on time developments with appropriate building standards ▪ How the building will be used to maximise independence. ▪ How the Service will be operated to achieve delivery of outcomes. ▪ How policies and procedures regarding equality and human rights will be applied. ▪ How the Service will be operated to lead to improved personal independence. ▪ Proposals with regard to Staffing (skills, qualifications and experience and structure) in order to meet the needs of the service users. ▪ How Social Value will be delivered. <p>Lot 3:</p> <ul style="list-style-type: none"> ▪ How the provider will in partnership with the Council and potential clients to 'customise' the design and layout of a building ▪ How the provider will apply its skills and experience to deliver on time developments with appropriate building standards

Ref.	Requirement	Response
		<ul style="list-style-type: none"> ▪ How the building will be used to maximise independence. ▪ How Social Value will be delivered. ▪ How the property will be made affordable and accessible to Brent residents. ▪ How Social Value will be delivered. <p>Lot 4:</p> <ul style="list-style-type: none"> ▪ How the Service will be operated to achieve delivery of outcomes. ▪ How policies and procedures regarding equality and human rights will be applied. ▪ How the Service will be operated to lead to improved personal independence. ▪ Proposals with regard to Staffing (skills, qualifications and experience and structure) in order to meet the needs of the service users. ▪ How Social Value will be delivered. ▪ How experience in delivering similar services will be applied to the Service. ▪ How out of hours services will be delivered. ▪ How the Safeguarding policy will be implemented. ▪ How Social Value will be delivered. <p>Lot 5:</p> <ul style="list-style-type: none"> ▪ How experience in delivering similar services will be applied to the Service ▪ How the Service will be operated to achieve delivery of outcomes. ▪ How the Service will be operated to lead to improved personal independence. ▪ Proposals with regard to Staffing (skills, qualifications and experience and structure) in order to meet the needs of the service users. ▪ How Social Value will be delivered.
(vii)	Any business risks associated with entering the contract.	No specific business risks associated with the proposed DPS or contracts let under it have been identified.
(viii)	The Council's Best Value duties.	The evaluation criteria will be based on a model where cost and quality are distributed to ensure that

Ref.	Requirement	Response
		provider(s) are selected on best value. The tendering documentation will also specify how the agreements will be managed to ensure on-going delivery of the outcomes.
(ix)	Consideration of Public Services (Social Value) Act 2012	<p>The following Social Value assessments will be incorporated into the DPS qualification and tender evaluation processes:</p> <p>Qualification stage</p> <ul style="list-style-type: none"> Confirmation the bidder's environmental policy/approach has led to sustainable improvements. Confirmation the bidders environmental policy/approach has delivered waste and carbon reduction. Involvement of Small and Medium Enterprises (SME's), particularly within Brent. Adoption of ethical practices: these will include Safety and Hygiene, Working Hours and payment of LLW. <p>Tender stage</p> <ul style="list-style-type: none"> Confirmation that London Living Wage (and National Minimum Wage from 2016) will be paid. Number of additional jobs that will be created as part of the contract. Percentage of vacancies that will be targeted at unemployed in-borough people. Total anticipated spend with SME's (in and out of Brent). Percentage of vehicles that have Reduced Pollution Certificate and/or meet or exceed the requirements of the London Low Emissions Zone. Targets for reducing carbon and pollution waste. <p>The weightings for Social Value will hold at least 5% of the total quality score.</p>
(x)	Any staffing implications, including TUPE and pensions.	None
(xi)	The relevant	See sections 4.0 and 5.0 below.

Ref.	Requirement	Response
	financial, legal and other considerations.	

- 3.14 The Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Financial Implications

- 4.1 The estimated value of the contracts to be awarded through the DPS is £24.8m during the 4 year duration.
- 4.2 It is anticipated that the cost of these contracts will be funded from the existing Support Planning and Review service within the overall Adult Social Care budget. Costs are expected to be incurred from 2015/16 until approximately 2018/19 (as per the four year duration of the DPS).
- 4.3 This contract will be a priority commitment upon future year budget allocations. Sufficient budget will need to be aligned to contain the cost of these contracts.
- 4.4 As indicated in paragraph 3.10 the DPS is required to deliver a further 390 accommodation plus units. The contracts awarded through the DPS will deliver the required saving over the period of the DPS of £6.9m that has been attached to the NAIL programme.
- 4.5 The DPS and the proposed scheme of delegation for contract award should mitigate the risk of project slippage and subsequently the risk of savings not being delivered in the allotted timeframes.
- 4.6 As stated in section 3.13, it will be ensured that providers awarded a contract through the DPS will pay the LLW to all staff engaged in the delivery of the service. It will be ensured that providers added to the DPS meet this obligation.
- 4.7 However, should the LLW be increased during the lifetime of the DPS, this could increase the cost of any contracts awarded through the DPS. It is expected the council would be required to accommodate any increase in the contract price to meet the pressure of wage increases. Future financial implications relating to LLW will need to be considered through delegation to the Director of Adult Social Care and in future cabinet reports, as remaining compliant with LLW through contract award may create further, significant cost pressures on the ASC.
- 4.8 There is an expectation that purchasing services through the DPS, not only ensures the council meets its NAIL savings targets, but also provides the council an opportunity to seek further efficiencies in the delivery of new the

Accommodation Plus model; Services can be delivered through a number of different configurations, allowing officers to ensure models are developed with providers that reduce the cost of delivering the service where possible, for example by combining the care and support and Housing management provision in one service could create efficiencies. Broadly, it is envisaged having more flexibility in the way services can be procured affords officers the opportunity to ensure best value and cost effectiveness.

5.0 Legal Implications

- 5.1 A DPS is akin to an electronic framework agreement but unlike a framework agreement, it allows for new providers in the market to apply for admittance onto the DPS throughout the life of the system. The requirements as to the establishment and operation of the DPS are set out in Regulation 34 of the Public Contracts Regulations 2015 (PCR 2015). The PCR 2015 detail that a DPS is a completely electronic system which may be established to procure commonly used purchases generally available to the market. Officers have confirmed at paragraph 3.7 that Accommodation Plus services meet this requirement. As required under the PCR 2015, then intention is to use a restricted procedure for its procurement of the DPS.
- 5.2 The estimated value of proposed procurements under the DPS is £24,810,000 and as such, the DPS is itself deemed a High Value Contract under the Council's Contract Standing Orders and Financial Regulations and thus Cabinet approval is required to invite requests to participate in the DPS and evaluate them. Following the evaluation of the requests to participate in the DPS, Officers will report back to Cabinet to seek authority to establish the DPS and appoint the initial potential providers to the DPS in accordance with CSO 88(c)
- 5.3 In accordance with the Regulation 34 (15) of the PCR 2015, providers may throughout the entire term of the DPS request to participate in the system. Delegated authority is therefore sought for the Director of Adult Social Care to appoint new providers on to the DPS where they meet the selection criteria referred to in paragraph 3.13 of the report.
- 5.4 Once established, the intention is to invite tenders for a range of contracts under the DPS and as set out in section 3 of the report, this will include inviting tenders for a number of High Value Contracts. Cabinet approval is therefore also required to invite tenders for High Value Contracts under the DPS and for the evaluation of such contracts on the basis set out in paragraph 3.13.
- 5.5 Cabinet approval is required for the award of High Value Contracts, including those procured under a DPS. For the reasons detailed in paragraph 3.12, delegation to the Strategic Director of Adult Social Care of authority to award High Value Contracts procured through the DPS with a value of less than £500k is sought.

6.0 Diversity Implications

- 6.1 In view of the fact that this procurement represents a change to the model of service delivery it is necessary for the Cabinet, as decision-making body, to consider the equalities implications which are contained within the Equalities Impact Assessment in Appendix 1. Whilst the DPS offer more inclusive and responsive tendering bidders will still have to demonstrate that they are the best candidate to be awarded individual care and support contracts through participation in a mini-competition. As such there are negligible, if any equality impacts, positive or negative, from establishing a NAIL programme DPS.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None.

8.0 Background Papers

- 8.1 None

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Appendix 1

Equalities Impact Assessment

Appendix 1.1: Equalities considerations for the NAIL programme DPS

The New Accommodation for Independent Living (NAIL) programme is a One Council programme to develop 529 new units of independent accommodation with care and support by the end of March 2018. The care and support services for this accommodation will need to be procured and commissioned. The NAIL programme is looking to develop a Dynamic Purchasing System (DPS) for the most efficient, responsive and quality promoting procurement and commissioning of these services. A comprehensive Equality Impact Assessment was conducted for the NAIL programme at its inception, and this briefing note should be read in conjunction with that over-arching NAIL programme Equalities Impact Analysis.

Equalities Impact Assessment of developing a DPS.

A DPS is a procurement and commissioning methodology. It primarily differs from a framework arrangement in as much that potential tenderers can join a DPS at any time over its lifespan, not just at the start-up phase, as with a framework arrangement. While this introduces greater flexibility, more inclusive tendering and potentially more responsive tendering, all tenderers will still have to demonstrate that they are the best candidate to be awarded individual care and support contracts through participation in a mini-competition, much as they would have to under a framework agreement. As such there are negligible, if any equality impacts, positive or negative, from establishing a NAIL programme DPS.

The predicted equalities impact of the Nail Programme as a whole is laid out in the table below.

Protected Group	Impact
Age	Positive
Disability	Positive
Gender re-assignment	Unknown
Marriage and civil partnership	Positive
Pregnancy and maternity	Neutral
Race	Neutral
Religion or belief	Neutral
Sex	Positive
Sexual orientation	Unknown

Appendix 1.2: Full NAIL EIA (see attachment)