



Cabinet
15 August 2016

**Report from the Strategic Director
Community Wellbeing**

For Action

Wards Affected:
[ALL]

**Approval to Access the West London Alliance Care Home
and Supported Living Dynamic Purchasing System**

Not for publication

Appendix 2 to this report is not for publication as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information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)"

1. Summary

- 1.1. In February 2016 Cabinet granted approval for Brent Adult Social Care to participate in a collaborative procurement with the West London Alliance (WLA) for the establishment of a dynamic purchasing system for the provision of supported living, residential and nursing care home placements. The procurement was led by the London Borough of Ealing and Cabinet gave approval for the use of Ealing's contract standing orders and financial regulations as per Contract Standing Order 85.
- 1.2. In July 2016, the London Borough of Ealing Cabinet granted approval for the Director of Adults Services to appoint suppliers onto the West London Alliance (WLA) Care Home and Supported Living Dynamic Purchasing System (DPS) throughout the 4-year term in accordance with its rules and selection criteria.
- 1.3. In accordance with Contract Standing Order 88, this report requests Cabinet approval for the Strategic Director Community Wellbeing to enter into an Access Agreement with the London Borough of Ealing to use the

DPS for the provision of supported living, residential and nursing care home placements.

2. Recommendations

- 2.1. Cabinet note that the DPS is a West London Alliance procurement initiative with Ealing Council acting as the contracting body on behalf of the London Boroughs of Brent, Barnet, Hillingdon, Hounslow, Hammersmith & Fulham, City of Westminster, and Royal Borough of Kensington & Chelsea.
- 2.2. Cabinet note that the Cabinet of Ealing Council has delegated authority to their Director of Adults Services to appoint suppliers onto the DPS throughout the 4-year term commencing on 1st September 2016 in accordance with the rules and section criteria.
- 2.3. Cabinet approve that the Strategic Director Community Wellbeing may enter into an Access Agreement with the London Borough of Ealing to use the DPS.
- 2.4. Cabinet approve the use of the DPS for the procurement of contracts for the provision of supported living, residential and nursing care home placements throughout its term with the procurement of such contracts being exempt from the normal requirement of Brent Council's Contract Standing Order and Financial Regulations for good operational and/or financial reasons in accordance with the Contract Standing Order 84(a).
- 2.5. Cabinet delegate authority to the Strategic Director Community Wellbeing to award High Value Contracts procured through the DPS if they have a contract value of less than £1,000,000 for the reasons detailed in paragraph 4.8.

3. Background

- 3.1. Each month, Brent Adult Social Care are responsible for finding suitable care with accommodation for around 30 vulnerable people as part of the statutory responsibilities described in the Care Act 2014. This will usually involve the person moving to a care home or a supported living environment.
- 3.2. The requirement is shared across all first tier local authorities, and in 2012 the West London Alliance (WLA) boroughs established an approved list for older people care home providers, giving boroughs access to a large number of care home providers at agreed fee levels for a 4-year term.
- 3.3. To replace this procurement vehicle, the more flexible option of the electronic dynamic purchasing system (DPS) was chosen by the WLA members. The key advantage is that new suppliers are free to join the

DPS at any time, giving boroughs access to new accommodation options across the lifecycle of the DPS. There is no limit on the number of suppliers that may join.

- 3.4. To further support the boroughs in sourcing suitable accommodation with care, the WLA members agreed to broaden the scope of the DPS from older people services to all adult client groups, and from care homes to include supported living accommodation (Table 1).
- 3.5. The DPS will be used in two ways. Firstly, to source individual placement options that meet the needs and preferences of individual people on an 'as required' basis using the call-off arrangements described in the specification. Secondly, to deliver volume-based contracts to meet strategic priorities using the mini-competition process.

4. Access Agreement to award contracts through the DPS

- 4.1. The initial procurement process is now complete. The Cabinet of Ealing Council has delegated authority to the Director of Adults Services to appoint suppliers to the DPS across its 4-year lifecycle following an application and quality assurance process that assesses their knowledge, experience and expertise in delivering services.
- 4.2. The first 63 organisations appointed to the DPS are named in Appendix 1. They have nominated a total of 328 separate accommodation locations across all client groups and accommodation types. Contracting arrangements with individual suppliers can commence from 1 September 2016.
- 4.3. Brent Adult Social Care has the opportunity to access the DPS and therefore the accommodation options listed through the signing of an Access Agreement, through which Ealing will permit Brent to make use of the procurement vehicle with its established contractual arrangements for using call-off arrangements for identifying individual placement options, and mini-competitions for volume contract arrangements.
- 4.4. The DPS has four main categories and eleven customer-focused sub-categories as follows:

Client Sub-Category	Category 1 Care Home Placements (Priced)	Category 2 Care Home Placements (Non- priced)	Category 3 CQC Regulated Supported Living Placements (Non- priced)	Category 4 Non-CQC Regulated Supported Living Placements (Non- priced)
Older People (55	✓		✓	✓

plus)				
Dementia (18 plus)	✓			
End of Life Care (18 plus)	✓			
Physical Disabilities		✓	✓	✓
Learning Disabilities		✓	✓	✓
Autism		✓	✓	✓
Mental Health (including Forensic History)		✓	✓	✓
Sensory Impairment (including DeafBlind)		✓	✓	✓
Korsakoff Syndrome		✓	✓	✓
Brain Injury / Neurological Conditions		✓	✓	✓
HIV / AIDS		✓	✓	✓

Table 1: DPS Categories

- 4.5. Using the DPS to identify suitable placements for individuals or to undertake a mini-competition for volume contracts is a two-stage process. The first stage is now live, with suppliers able to join the DPS through its application and quality assurance process. This stage will remain open throughout the lifecycle of the DPS. The second stage will open on 1 September 2016 and remain open throughout the lifecycle of the DPS.
- 4.6. The second stage is initiated when the need for suitable accommodation is identified either for an individual person using the call-off arrangement process, or to establish a new volume-based contract using the mini-competition process. Officers will be trained in the new procedures prior to 1 September 2016.
- 4.7. A key requirement in sourcing suitable accommodation for people with care needs is to take account of individual choice as described in the Care Act 2014. This can be challenging when suppliers are not well-known. Access to the DPS will allow officers to source the right accommodation in a time efficient manner, with the second stage procedures ensuing equal opportunity for SME and local businesses to be made aware of each call-off or mini-competition within their area of expertise.
- 4.8. The delegated authority to award contracts up to £1,000,000 by the Strategic Director Community Wellbeing will allow for services to be rapidly mobilised in line with the principles of the DPS where procurement timescales are much shorter than traditional procedures.

5. Meeting local needs

- 5.1. A key advantage of the DPS is that new providers can apply to join at any time. Officers are developing marketing tools to encourage and support local suppliers to participate. This will ensure that the needs of Brent residents can continue to be met, while supporting efficiency through streamlined business processes developed as part of the procurement project.
- 5.2. The DPS will also provide an effective vehicle for undertaking mini-competitions when volume purchasing of care home or supported living placements are required. Officers will develop service specifications that meet strategic priorities and local timescales, and advertise the opportunities to an audience of suppliers who have met pre-qualifying selection criteria.
- 5.3. The quality monitoring and performance management of suppliers will be retained by Brent. Officers will continue to implement the existing quality assurance policy that prevents making new placements to facilities that are unable to demonstrate achievement of minimum standards.

6. Financial Implications

- 6.1. Ealing Council led the procurement of the DPS on behalf of the West London Alliance participating boroughs. Each borough contributed approximately £11,000 as a one off cost to the legal, procurement, and data analysis costs of establishing the DPS.
- 6.2. Category 1 (Care Home Placements) is established with fixed fee ranges based upon analysis of existing placement costs and financial modelling of sustainable rates for different geographical locations. The initial fee ranges are outlined in Appendix 2. These rates will be reviewed annually to ensure they remain sustainable alongside increases to the national living wage and other direct costs. The fixed ranges are possible due to the large number of placements made to Category 1 facilities and the ability to generate a 'standard' fee. In joining the DPS, suppliers agreed to offer placements within the fee range.
- 6.3. The other three categories have no fixed fee range due to the wider variation in customer needs to be supported. As is current practice, the fee for each placement will be negotiated based upon the identified needs of the individual. The advantage of the DPS is that officers have access to a wider range of suppliers which will support market competition.
- 6.4. The DPS allows entry from all 8 participating borough areas and out of area suppliers. This precludes requiring suppliers to confirm that they pay all staff the London Living Wage although Brent may ask this to be applied as and when it calls off or procures its own contracts.

- 6.5. It is anticipated that the value of the DPS across participating WLA members for the 4 year contract duration will be £114m. Signing of the Access Agreement does not commit the Council to any spend.
- 6.6. If officers are unable to find a suitable placement for an individual through the DPS, then spot purchase contracting will take place. It is anticipated that access to a wider pool of suppliers through the DPS will lead to a reduction in the level of spot purchase contracting.

Budget

- 6.7. The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 shall be referred to the Cabinet for approval. However as stated within the recommendation it is proposed that the Strategic Director Community Wellbeing be granted delegated authority to award contracts if they are less than £1,000,00.
- 6.8. Adult Social Care will seek to manage the cost of residential, nursing and supported living placements within the allocated annual revenue budgets for the duration of the DPS.
- 6.9. Placement spend is monitored as part of the councils budget monitoring process and associated costs with this contract will form part of this monitoring from the contracts inception.

7. Legal Implications

- 7.1. Contracts for provision of residential care, nursing home and supported living placements fall within Schedule 3 of the Public Contracts Regulations 2015 ('PCR 2015'). In procuring such services, where they are above the EU threshold for services (currently 750,000 Euros (£589,148)), contracting authorities are required to publish a contract notice or PIN as a call for competition in the OJEU in the usual way and a contract award notice once the contract has been awarded. A restricted procurement procedure must be used for the procurement of a DPS.
- 7.2. Following Brent Cabinet approval on 20th January 2016, the DPS has been established through a collaborative procurement exercise undertaken on behalf of Brent Council and the other WLA Members by the London Borough of Ealing in accordance with the requirements of the EU procurement regulations and their own Contract Standing Orders and following external counsel's advice.
- 7.3. Contract Standing Order 84(a) provides that contracts shall be procured in accordance with all relevant domestic and European legislation and unless for good operational and/or financial reasons the Cabinet agrees otherwise, with Contract Standing Orders and the council's Financial

Regulations. For the reasons set out in the body of the report, Officers consider that there are good operational and/or financial reasons to use the DPS to procure contracts for the provision of supported living, residential and nursing care home placements rather than the Council's usual Contract Standing Orders.

- 7.4. In order to access the DPS, Brent Council is required to sign an access agreement with Ealing Council. This agreement will set out the basis on which Brent Council will use the DPS, including provision as to how Brent Council will identify suitable placements for individuals under the DPS or undertake mini-competitions for volume contracts.
- 7.5. Many of the contracts that the council will procure under the DPA will be classed as Low or Medium Value Contracts under the council's Contract Standing Orders and the Strategic Director Community Wellbeing has delegated powers under Part 4 of the Constitution to approve the award of such contracts. A number of contracts to be procured are likely to be valued over £500,000 and thus classified as High Value Contract under Contract Standing Orders. High Value Contracts ordinarily require approval from Cabinet for the award of such contracts. For the reasons detailed in paragraph 4.8, delegated authority is sought to permit the Strategic Director Community Wellbeing to award High Value Contracts procured through the DPS if they have a contract value of less than £1,000,000.
- 7.6. Under section 5 of the Care Act 2014, local authorities are under a general duty to promote the effective operation of a market in services for meeting care and support needs with a view to ensuring that those in its area have access to a variety of high quality providers to choose from. Provision of the DPS will facilitate the Council to meet this duty by purchasing care under a legal framework which ensures effective monitoring of the financial sustainability of Provider's and the quality of the service they are providing.

8. Diversity Implications

- 8.1. An Equality Assessment screening was undertaken as part of the preparation for participating in the joint procurement process, and was included in the previous report to Cabinet. No negative diversity implications were identified.
- 8.2. Through the Access Agreement, some of Brent's most vulnerable residents will have access to a wider range of service providers able to meet their particular needs and preferences. Adult Social Care will be able to offer greater choice to better support our diverse population.

9. Staffing & Accommodation Implications

- 9.1. This service is currently provided by external contractors and there are no implications for Council staff arising from the establishment of the DPS

10. Public Service (Social Value) Act 2012

- 10.1. The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (the “Act”) to consider how the services being procured might improve the economic, social and environmental wellbeing of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation.
- 10.2. Current service users and their families state that remaining close to friends and family is an important consideration when choosing the right care home. The DPS is open to all providers who meet the minimum requirements, with freedom to join at any time. This supports the sustainability of a diverse local market, and maximises the opportunity for SME organisations to gain access to a significant income stream.

11. Background Papers

- 11.1. None

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