



Executive
18th June 2012

Report from the Directors of Adult Social Services and Children and Families

For Action

Wards affected:
ALL

Authority to Invite Tenders for a West London Alliance Home Support Framework Agreement.

1.0 Summary

- 1.1 The purpose of this report is to seek Executive authority to invite tenders for a Home Support Framework Agreement as required by Contract Standing Orders 88 and 89. Brent is proposing to act as the lead authority on behalf of the West London Alliance (WLA) and other participating local authorities and health partners..
- 1.2 In line with 1.1 above this report seeks Executive approval of the project timetable and selection criteria for the procurement exercise.
- 1.3 In addition this report provides background information regarding home support services across West London.

2.0 Recommendations

- 2.1 The Executive to give approval to the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.16 of the report.
- 2.2 The Executive to give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.

3.0 Background

- 3.1 In September 2010 a four year collaborative WLA home support framework agreement was created for WLA boroughs with Hammersmith and Fulham (H&F) acting as lead. Membership included Brent, Ealing, H&F, Harrow, Hillingdon and Hounslow.

- 3.2. The definition for home support in the H&F framework agreement specification is;
- 3.2.1 Help with essential personal and practical tasks that people are unable to manage safely for themselves, such as getting up or going to bed, getting washed or dressed, as well as help with shopping, laundry, etc. This has traditionally been called 'personal homecare'. It includes emergency support when people's natural carers are suddenly unavailable, plus short-term support that helps people to regain their independent living skills after a period of illness or incapacity i.e. reablement support.
 - 3.2.2 Skilled help for people who have very complex support needs, specifically people with advanced dementia or people with challenging behaviours, where support staff need to use specific structured approaches and interventions.
 - 3.2.3 Help that develops and/or sustains people's capacity to live independently in their property, for example to:
 - 3.2.3.1 Fulfil their responsibilities and rights as a tenant or home owner;
 - 3.2.3.2. Look after the structure and fabric of their home so that it is suitable and safe for them to live in.
 - 3.2.3.3. Understand information or access other support/services they may need
 - 3.2.3.4. Maintain or develop their connections with local people and community facilities
 - 3.2.3.5. Learn skills that help them look after their home and live independently.This has traditionally been called 'housing-related support'. All of 3.2.3 above as a combined package of support i.e. integrated home support
- 3.3. The procurement process commenced in June 2009 inviting expressions of interest from the market. The approach was to deliver efficiencies for boroughs and to manage the market by having a single price per provider under a framework agreement. The process concluded in June 2010, inviting 25 providers onto the home care lot and 12 providers onto the housing related support lot of the H&F framework agreement and secured very competitive prices.
- 3.4. Appendix A provides additional background information to the H&F framework agreement including areas of success and improvement and how the new procurement process will address identified areas of improvement. This includes capacity building, providers withdrawing from the framework agreement, management of the volume discount process and how mergers or acquisitions in the marketplace will be managed.
- 3.5. Since the formation of the H&F Framework Agreement the demand for homecare services has increased, the current average number of service

users receiving home support through the H&F Framework Agreement at any one time in Brent is 1,052. An additional 1,406 service users receive home care, in extra care sheltered housing, through a local non H&F Framework contract or from a small number of non H&F Framework specialist local suppliers. The increase has been caused by two main factors. Firstly, boroughs are promoting service user independence by supporting them in their own home through homecare provision instead of placing them in residential care. Secondly, the growing population of older people with increasingly complex needs who require our services pose a considerable challenge to authorities and the market. The market has been stimulated by this increase in demand with numerous new providers being formed and large management companies taking over smaller providers to increase market share. This increase in demand places more emphasis on the delivery of a procurement solution for home support.

- 3.6. Officers agreed that a framework agreement is advantageous because it offers a structured legal framework to contract over a 4 year period. This provides stability to the successful providers enabling officers to work with them to build capacity within the market. A framework agreement does not provide guaranteed minimum values to successful providers unlike cost and volume contracts. The move from this procurement approach reflects national trends in reduced demand for traditional home care services (such as the increase in direct payments and personal budgets).
- 3.7. A framework agreement generally has one borough acting as the 'lead' authority, and awarding the overarching contractual arrangement for the framework agreement on behalf of the other participating boroughs and partners. WLA boroughs were asked to volunteer to lead the creation of a new framework agreement. Brent Adult Social Service Department has not previously led a WLA procurement processes and has therefore volunteered. All other participating boroughs and partners will use the framework agreement through an access agreement.
- 3.8. Officers recognised that the new framework agreement would need to be available prior to the expiry of the H&F framework agreement to allow for a transition period between the two arrangements. Furthermore, Brent and all other WLA boroughs have local contractual arrangements outside the H&F framework agreement which are due to expire by October 2014. All boroughs have a strategic commissioning intention to purchase more or all of their homecare via the new framework agreement if possible. It is possible that some providers, currently in local contractual arrangements, may be unsuccessful in being selected and therefore not be invited onto the new framework agreement. All boroughs individually would consider options and feasibility of transferring work from unsuccessful providers to successful ones, and this would need to be closely monitored and managed to minimise disruption to service users during the transition period. Officers therefore present an indicative procurement timetable in paragraph 3.15 below to establish a framework agreement on the 1st February 2014 which will give a 7

month transition period before the H&F framework agreement expires on the 30th September 2014.

- 3.9. Officers across the WLA support the formation of a framework agreement for provision of home support services covering the following areas:
- 3.9.1 Personal care and home support services for adults in the community.
 - 3.9.2. Extra care and supported housing domiciliary care.
 - 3.9.3. Reablement services and therapeutic approaches.
 - 3.9.4. Children's services including transition services.
 - 3.9.5. Community nursing and integrated health and social care home based care.
 - 3.9.6. Housing Related Support, generic services.

The H&F framework agreement did not include all the above service areas, such as Children's services. Officers believe there is synergy between the home support adults and children receive, especially during transition and therefore wish to increase the service provision of the new framework agreement to include such services. It is therefore proposed to procure separate lots for all of the above categories under the framework agreement.

- 3.10. The WLA (now including Barnet), the Tri-borough members and a number of other London boroughs have expressed an interest in joining the framework agreement. Officers are currently confirming their involvement. Furthermore Officers are keen to work with health partners and discussion are taking place to establish how this can be delivered. All participating boroughs and partners will be finalised prior to publishing an expression of interest for the procurement.
- 3.11 The future estimated value of call-off contracts over the 4 year duration under the framework is potentially up to; £271.2m for home support and extra care for the WLA boroughs, if housing related support services are called-off there would be an additional £222m, if the health partners of the WLA call-off the additional could be up to £6m, and if additional boroughs join then the potential additional call-off per borough over 4 years could be £49.6m. Further information regarding proposed spend is detailed in paragraph 3.16. If there was full take up of housing related support, this spend would be greater but the WLA is currently establishing a separate framework agreement for housing related support services. However it was considered useful to have a housing related support lot for this framework to open the market to alternative or new providers. It should be noted however, that a framework agreement will have no confirmed service levels or spend guarantee and this will give service delivery teams across borough departments flexibility to manage budgets according to need.
- 3.12. Appendix B presents information regarding the population demographics across London, including the population density, the location of over 65 year olds and the transport links available. An area of improvement referred to in paragraph 3.4 above is capacity. The issue of capacity building in areas with limited or no transport links must be focused on and officers will require

providers to demonstrate their mobility, capacity building and recruitment plans.

- 3.13. Officers recognise that the H&F framework agreement secured very competitive prices. The new framework agreement may not deliver cashable savings. This will be monitored during the procurement process and boroughs will be kept aware of any potential price increases.
- 3.14. Prior to the procurement process commencing, officers intend to carry out market research in the form of a provider day. Officers envisage inviting existing and potential WLA (and other participating boroughs and partners) providers to participate in the event that will include areas such as; capacity building and managing mobility of the workforce. In addition officers recognise there are smaller providers in the market who may not have completed a procurement process previously and therefore this event will include a tender ready workshop providing general guidance on tendering for public sector services.
- 3.15. In November 2011 the Equalities and Human Rights Commission published the report 'Close to Home' containing the findings of an inquiry which sought to establish whether the human rights of older people in receipt of home care are fully promoted and protected. In particular, the Commission was concerned with investigating breaches to the prohibition against inhuman or degrading treatment and to the right to respect for private and family life. Their concern is that there is a mismatch between the state's duty to assess and arrange care, which is covered by the Human Rights Act (HRA) and the actual provision of home care by third parties, the vast majority of which isn't covered by the HRA. The report makes the recommendations for a number of agencies including local authorities, the CQC, the government and providers. The following are the recommendations made for local authorities and providers:
 - 3.15.1 The incorporation of human rights requirements throughout the procurement and commissioning of homecare.
 - 3.15.2 Policies and practice should support the delivery of care by a sufficiently skilled, supported and trained workforce.
 - 3.15.3. The incorporation of HRA obligations into local authorities contracts with providers.
 - 3.15.4. Commissioning practice needs to balance allocation of resources against homecare needs that must be met, to ensure contracted providers can pay at least the National Minimum Wage to care workers.

Officers are working to ensure the next framework agreement is compliant with the above recommendations.

3.16 Pre-Tender Considerations

In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	Provision of a range of Home Support and Community Services as detailed in paragraph 3.9 to all client groups across the WLA boroughs, and other participating boroughs and health partners
(ii)	The future estimated value of the framework agreement	<p>The WLA boroughs being included are Barnet, Brent, Ealing, Harrow, Hillingdon and Hounslow with an approximate annual spend of £60m on adult home support services, £1.8m on children's home support services and £6m on extra care - therefore a combined estimated value for these elements of the framework agreement over 4 years of £271.2m.</p> <p>It is officer's intention to procure a housing related support lot within the framework. The estimated annual spend across the 6 WLA boroughs for housing related support is £55.5m but for reasons detailed in paragraph 3.11, officers do not expect a significant proportion of the spend to be purchased through the new home support framework agreement.</p> <p>If additional boroughs wish to access the framework agreement, the potential value will increase by approximately £8-£10M per borough per annum for home support and extra care services, plus a potential of £9.25m per borough per annum for housing related support.</p> <p>If health bodies wish to access the framework agreement then the estimated value will increase by £1.5m per body per annum.</p>
(iii)	The contract term (Framework Agreement term)	4 years
(iv)	The tender procedure to be adopted.	A two stage restricted tender process will be adopted in accordance with the Council's Standing Orders.

		As Social Care transactions are 'Part B Services', under the Public Contract Regulations 2006 ("the Regulations"); the Regulations apply only in part to the tender namely, adoption of a technical specification and forwarding a Contract Award notice etc.	
(v)	The procurement timetable	Indicative dates are: <ul style="list-style-type: none"> • Adverts placed • Expressions of interest (Pre-Qualification Questionnaire) returned • Shortlist drawn up in accordance with pre-determined minimum standards as to financial standing and technical competence • Invite to tender • Deadline for tender submissions • Panel evaluation • Report recommending Contract award circulated internally for comment • Executive approval • Framework Agreement start date 	19.10.12 6.12.12 15.3.13 3.05.13 13.06.13 13.08.13 16.09.13 (pending meeting on this date) 21.10.13 (pending meeting on this date) 1.02.14
(vi)	The evaluation criteria and process	<u>Stage 1: pre-qualification stage</u> Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines by a pre-qualification questionnaire (PQQ).	

		<p>The pre-qualification will test the capacity and capability of potential bidders as well as potential bidder eligibility to take part in the Procurement. This will include the following:</p> <ul style="list-style-type: none"> • Subcontracting/consortia arrangements • Professional conduct • Economic and financial standing • Insurance • Resources • Health and safety • Quality assurance • Equality • Environmental • Sustainability • Carbon policy • Business continuity • Previous experience and references • Child Protection and Safeguarding Adults policies <p>The outcome of this stage will be a list of pre-qualified bidders for the Procurement and a short-list of bidders to be invited to tender.</p> <p><u>Stage 2: Invitation to Tender (ITT)</u> For those that are selected by Stage 1 there will follow an Invitation to Tender (ITT) stage.</p> <p>Tenders will be evaluated on the basis of the most economically advantageous tender in order to award providers onto the framework agreement using the following criteria.</p> <p>1. Quality Quality will consist of 40% of the evaluation weightings. The quality assessment will be evaluated using a range of criteria. It is expected that providers must score at least 60% of the quality scoring to be eligible for award onto the contract.</p> <p>The quality assessment will be evaluated using the following criteria:</p> <ul style="list-style-type: none"> • Meeting the needs of the individual and customer focus, • Approach to safeguarding, performance and safe environment,
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		<ul style="list-style-type: none"> • Approach to staff recruitment, retention and training, • Mobility and capacity building, • Business Continuity Planning, • Information systems and it's use for monitoring service provision, • Approach to partnership working with the Council and others. <p>The relative weighting given to each individual evaluation criteria will be stated in the tender documentation.</p> <p>2. Price Price will consist of 60% of the evaluation weightings.</p>
(vii)	Any business risks associated with entering the contract	No specific business risks are considered to be associated with agreeing the recommendations in this report.
(viii)	The Council's Best Value duties	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications	Please see section 7 below.
(x)	The relevant financial, legal and other considerations	Please see sections 4, 5 and 6.

3.16 The Executive is asked to approve these proposals as set out in the recommendations and in accordance with Standing Order 89.

4.0 Financial Implications

The framework agreement will have no set agreed service levels or spend guarantee attached to it, which will allow for smaller micro organisations and the voluntary sector to take part in the tender exercise within each borough. This approach will also allow each borough to manage budgets accordingly.

The estimate value attached to this framework agreement is as per the below table.

Description	Estimated Value
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Adult's Home Support	£60.0m
Children's Home Support	£1.8m
Extra Care	£6.0m
Total per annum	£67.8m
Additional avenues which could be included:	
Housing Support	£55.5m
Health (per body)	£1.5m
Other local authorities – potential of 3	£37.2m
Total additional avenues per annum	£94.2m
Overarching total per annum	£162.0m
Total estimated value over 4 years	£648.0m

5.0 Legal Implications

- 5.1 The estimated value of the framework agreement over its lifetime is in excess of £500,000 and therefore the procurement and award of the framework agreement is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value Contracts.
- 5.2 As the framework agreement is for the provision of home support services, it falls within Part B of Schedule 3 of the Public Contracts Regulations 2006 (the "EU Regulations"). The estimated value of the Framework over its lifetime is in excess of the EU threshold for services contracts. As a result, the EU Regulations apply only in part to the tender namely, the inclusion of a technical specification and advertising the award. A restricted tendering procedure is to be used to procure the Framework.
- 5.3 Under the Council's Standing Orders, as the framework agreement is classed as a High Value Contract, approval of the Executive is required for authority to tender. Approval of the Executive is also required by Contracts Standing Orders for the award of such framework agreement and once the tendering process is undertaken, Officers will report back to the Executive explaining the process undertaken in tendering the framework agreement and recommending award.
- 5.4 The procurement of the framework agreement is a collaborative procurement with other WLA authorities. Standing Order 85 details that any collaborative procurement should comply with the Council's Standing Orders and Financial Regulations. As it is proposed that Brent will lead the procurement, it is intended to use Brent's own Standing Orders and Financial Regulations for the procurement of the Framework.
- 5.5 In procuring the framework agreement, Brent Council will act as a central purchasing body under the EU Regulations. As detailed in paragraph 3.7, once the framework agreement is let, it is proposed that other public bodies will be able to access the framework agreement through signing an access agreement

with Brent Council. In advertising the framework agreement, Brent Council will need to be specific as to the description of public bodies or categories of public bodies able to access the framework agreement.

- 5.6 The local authority has a duty under s2 Chronically Sick and Disabled Persons Act 1970, in conjunction with s29 National Assistance Act 1948 and Part III Children Act 1989, to 'make arrangements' for the provision of home care services to persons ordinarily resident in their area where they are satisfied that it is necessary to meet their needs. There is wide discretion within the legislative framework on what 'making arrangements' means but the Local Government Ombudsman [complaint no: 95/A4140] has ruled that a local authority must *"be sure that is of suitable quality, meets the needs of the client, and offers value for money. It must be fair in its purchasing, not favouring one supplier against another for reasons unconnected with the quality of the service on offer."*

6.0 Diversity Implications

- 6.1 Section 149 Equality Act 2010 requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a "protected characteristic" and those who do not share that protected characteristic. Failure to have due regard to this duty can render any decision unlawful. Recently there have been a number of high profile challenges against local authority decision making for failing to take into account what impact decisions on how to carry out their functions may have on those from protected characteristics.
- 6.2 The Executive have been asked to provide authority to invite tenders for the procurement a West London Alliance Home Support Framework Agreement. The proposal, if approved, is to review the current arrangements and, wherever possible, make improvements. Whilst it is accepted that the s149 duty will arise at the point that arrangements are to be put in place, the project team officers have screened the initial proposals in this report and believe that there are no adverse diversity implications as the Framework will simply replace the existing provision of contracted home care services in Participating Boroughs.
- 6.3 Further work will be carried out on the EIA as the detailed specification is completed and once there is greater clarity as to the agencies that will be involved in the procurement agreement to ensure that the duties set out in s149 Equalities Act 2010 are addressed. In addition to ensure there is no negative impact the contract with an external provider will include:
- 6.3.1 Protection and enhancement of service and targeted provision for protected groups
 - 6.3.2 Quarterly contract monitoring and annual reviews for review requirements for protected groups
 - 6.3.3 Annual user survey through the contract to identify the attitudes of protected groups and how they use the services.

7.0 Staffing/Accommodation Implications

- 7.1 Home support services provided to Brent service users are currently provided by external contractors and there are no implications for Council staff arising from tendering the requirement.
- 7.2 There may be TUPE implications arising from the award of the Contract. The assumption is that TUPE may apply to those staff providing a service that will be included in the tender process. Such staff may transfer to a new employer under TUPE as a result of the proposed tendering process. Appropriate consultation with current employers will commence as soon as possible.

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Appendix A: Background Information – The H&F Framework Agreement

A.1. Areas of success

The current spend on the H&F Framework Agreement is approximately £60M per annum. This procurement has delivered approximately £4.4M cashable savings across the boroughs to date. The savings were delivered by;

A.1.1. Transferring local contracts onto the framework were those providers were invited onto the framework securing the reduced cost at the tendered price,

A.1.2. Using the volume discounts to reduce prices further; or ,

A.1.3. Negotiating with other contracts based on this framework.

Non-cashable savings are also being delivered for boroughs and providers, which include a shared monitoring work and information forum. This ensures a level playing field across West London and prevents providers having multiple inspections from neighbouring boroughs each week.

In addition the framework agreement terms and conditions did not permit any inflationary increases during the 4 years of the agreement; however a price review was incorporated at the second anniversary of the agreement where prices can be considered. The result of this review is pending until this time.

Providers successfully invited onto the H&F framework agreement have the potential to receive work from all WLA boroughs without having to complete another tender process. The total number of hours procured from the agreement across the 6 Boroughs is over 70, 000 hours of home care per week. The providers have supported having a single rate regardless of the borough that is procuring.

A.2. Areas for improvement

There have been some areas for improvement identified for the next framework agreement from the operational experiences from the existing Framework. These include capacity, providers withdrawing, the management of the volume discount process and the impact of mergers and acquisitions of providers within the framework.

The statistics for the first 18 months of the agreement have shown that the WLA framework providers have provided the majority of the home support services procured by the WLA. However providers have not increased their capacity for new work as expected. There is a general lack of capacity for good quality home care services; this has been shown in the WLA framework by the slower than expected expansion of the more competitively priced providers.

Boroughs have been offering providers new work, ranging from small one off packages through to greater volume packages, however only a few providers have been able to accept an increase in volumes by recruiting and expanding capacity. The capacity issue will be addressed in the procurement of the new framework agreement, and officers intend to give providers more information (some examples given in appendix 2) regarding the levels of demand, including purchasing patterns, population information and density and transport links. The selection criteria, will also explore providers ability to demonstrate mobility and capacity building in delivering new services across boroughs. This will include robust implementation requirements supported by closer monitoring of the progress.

Four of the providers on the framework are focussed on delivering services for client groups other than older people. The framework has seen a reduction in demand for procuring services for those service users with some service users choosing to take up personal budgets and/or direct payments. As a result some providers have decided to withdraw from the framework. This will be addressed in the procurement of the new framework agreement by the introduction of more specialist lots covering all service user groups.

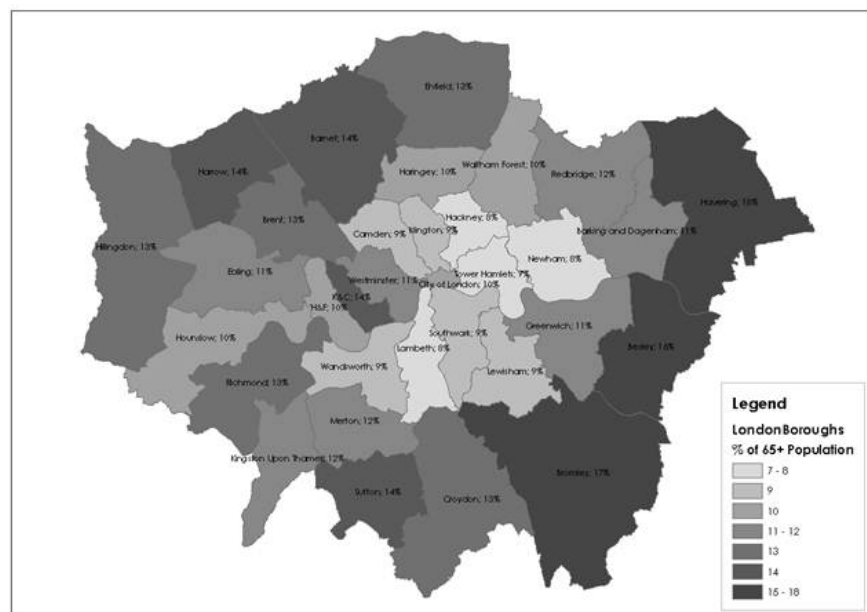
The volume discount process will be improved during the new procurement by ensuring quality management information is available in a timely manner to secure volume discounts.

Finally some providers on the framework have been taken over resulting in a changing ownership. This has resulted in service disruption, predominantly during the early stages of the takeover. The new framework arrangement will improve our current contract management by ensuring officers are aware of any difficulties and plans for such changes before they happen. In addition, the selection criteria will require providers to demonstrate business continuity, thus enabling officers to evaluate their ability to plan for any change.

Appendix B: Demographic Information

LONDON DEMOGRAPHICS

Over 65 Population

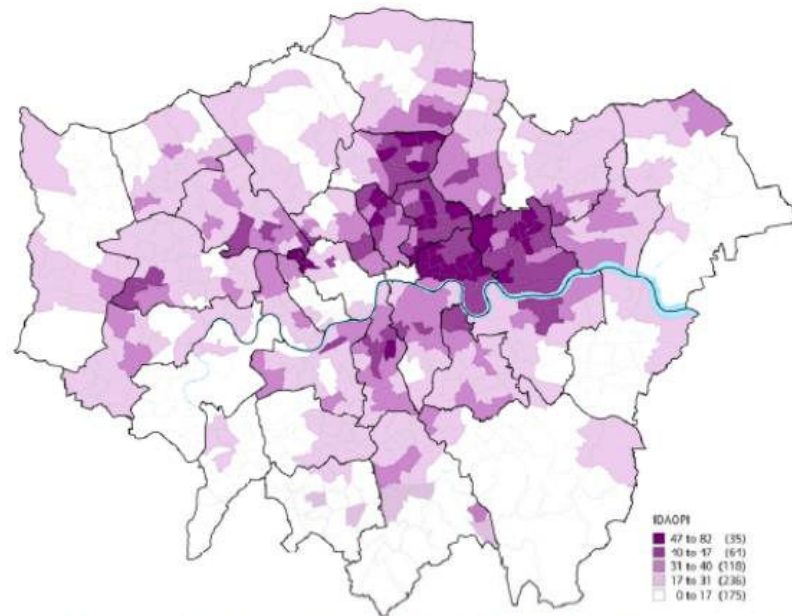


Outer London boroughs have higher proportions of over 65's.

Source: ONS Mid Year Estimates

LONDON DEMOGRAPHICS

Income Deprivation Effecting Older People Index



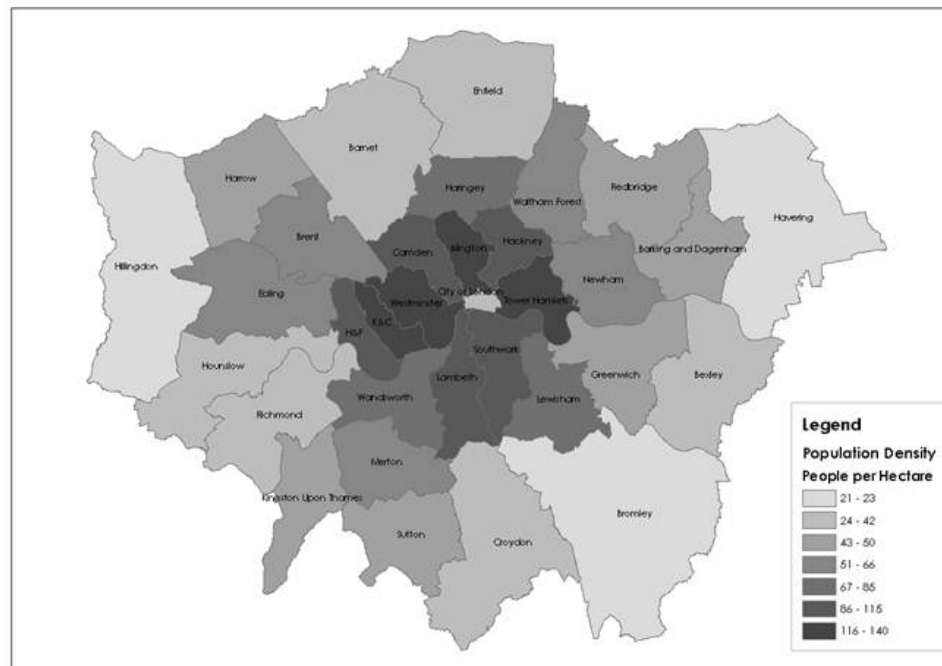
Income deprivation amongst older people shows a different picture.

Source: GLA Calculations based on the Department for Communities and Local Government, Indices of Deprivation 2010

Source: GLA calculations based on the DCLG, Indices of Deprivation 2010

LONDON DEMOGRAPHICS

Density



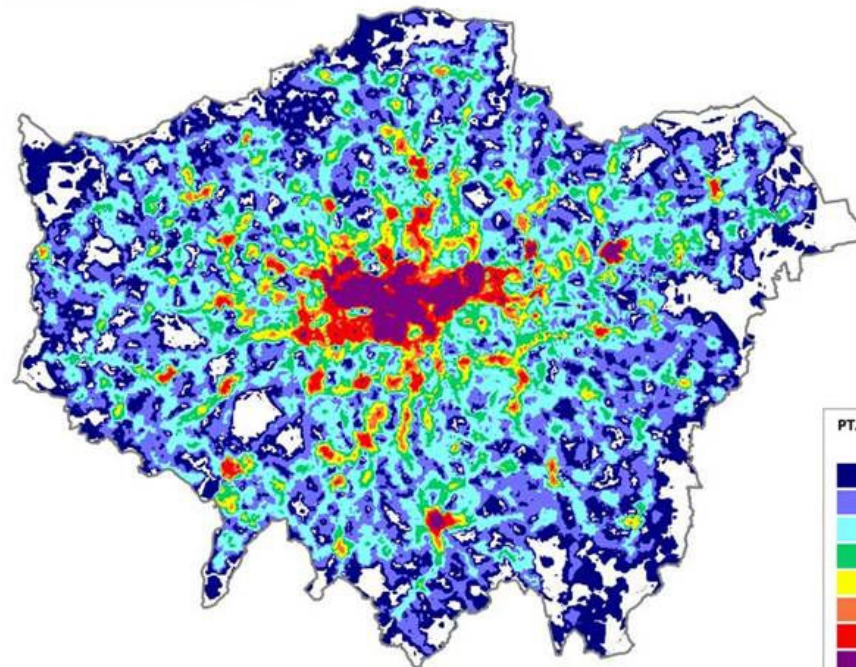
Population density varies greatly in London.

Source: CIPFA Stats

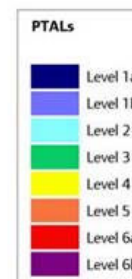
LONDON DEMOGRAPHICS

Access to Public Transport

Access to public transport



Comparing Density with Access to Public Transport information shows some of the problems homecare providers may have to deal with.



Source: Transport for London

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Diagram: GLA, The London Plan - consolidated with alterations since 2004 (2008)
www.london.gov.uk/thelondonplan

Source: TFL