



Cabinet
18 July 2022

**Report from the Strategic Director
Community Wellbeing**

**Authority to Invite Tenders for an Adult Social Care
Homecare Framework**

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer:	<p>Claudia Brown, Operational Director Adult Social Care 020 8937 2322 claudia,brown@brent.gov.uk</p> <p>Andrew Davies, Head of Commissioning, Contracting and Market Management 020 8937 1609 andrew.davies@brent.gov.uk</p>

1. Summary

- 1.1 This report is seeking Cabinet approval to re-tender a homecare framework for Adult Social Care, as required by Contract Standing Orders 88 and 89.
- 1.2 Cabinet will recall that Brent tendered for new homecare services in late 2019, but because of the Covid 19 pandemic, implementation of our patch based approach to homecare was delayed and did not start until April 2021. Implementation has been phased over ten months, and the initial implementation of each of Brent's 13 patches has been completed.
- 1.3 The contract award to the homecare framework (Lot 20 as it was known) tendered at the same time as the main contracts, was not made. Proposals to re-tender the framework are set out in this report.

2. Recommendations

2.1 That Cabinet –

- (i) Approve inviting tenders for a homecare framework for services for adults with disabilities on the basis of the pre-tender considerations set out in paragraph 3.22 to the report.
- (ii) Approve Officers evaluating the tenders referred to in 2.1(i) above on the basis of the evaluation criteria set out in paragraph 3.22 to the report
- (iii) Approve the contractual period for homecare framework as two years, with an option to extend for periods of up to a further two years.
- (iv) Agree that funding is made available to pay homecare workers under the homecare framework at the London Living Wage from year 1 of the contract.
- (v) Delegate authority to award the homecare framework to the Strategic Director, Community Wellbeing in consultation with the Lead Member for Adult Social Care.

3. Background

3.1 In November 2019 Cabinet approved a new model for homecare in Brent, and gave officers consent to tender homecare services based on that model. The main features of the homecare model were -

- Implementation of a patch based model for the delivery of services for Older People and Physical Disabilities. Each patch would have a lead provider required to deliver at least 80% of all of the hours in the patch. The remaining hours would be delivered by providers from a homecare framework, allowing smaller providers who did not have the capacity to deliver the required volume of hours in any patch to also continue to deliver work for Brent. This will also provide a degree of market assurance and allows the council to retain enough providers to cover any market failure issues.
- For 'specialist' care groups, where there were smaller number of service users to split the borough into 13 patches, two patches were implemented. For children with disabilities services two patches cover the borough, with four lead providers (two in each patch). For learning disabilities and mental health services, there are two patches, with two lead providers for each service type (one lead provider in each patch).
- The council committed to paying an hourly rate that allows workers to be paid at LLW. This was implemented from the start of the new contracts for all new packages, and the current homecare rate is £20 per hour.

3.2 As set out above, although this was the contract model that was tendered, the homecare framework element was not awarded at the same time as the main contracts. As a result, Brent has continued to spot purchase homecare

packages from non-contracted providers to make up for the shortfall in capacity that cannot be delivered by the lead providers.

- 3.3 The homecare framework will supplement the patch based model that has been implemented. These homecare packages, by way of a call off from the homecare framework, will be offered to the providers appointed to the framework when lead providers on the main homecare contract have capacity issues or are unable to accept the homecare packages due to complexity. This should appeal to smaller providers who perhaps were not able to bid to be a lead provider, or were concerned about expanding to the extent needed to become a lead provider. The framework is open to providers to bid, irrespective of the size of the company or the number of homecare hours they have the capacity to deliver. It is expected that 20% of homecare packages in Brent will be delivered via the homecare framework, accounting for around 4,000 hours of care per week, with a contract value of approximately £4m per year.
- 3.4 The framework was not awarded originally due to a number of concerns that came to light during the tender process. The impact of the Covid-19 pandemic has led to a greater recognition that local providers are critical to the Brent homecare market. The council has needed the support of our local providers to ensure service delivery continued through the pandemic. Brent has largely been able to meet homecare requirements through the waves of the Covid-19 pandemic, thanks to the efforts of local providers. The council has a commitment to support local business, and that needs to be reflected in this tender exercise.
- 3.5 Officers are also now of the view that there should be more providers appointed to the framework than was originally planned in the 2019/20 tender. The original proposal was for 10 additional providers to be appointed. Appointing a limited number of providers would help with quality management, as more time could be spent with each provider overseeing quality issues. The trade off was that there was potentially less capacity in the market, as providers would be limited in the number of packages they could manage.
- 3.6 This time, officers recommend there is more flexibility to appoint all providers to the framework that meet the quality standards expected from the tender, to leave open the possibility of appointing more providers than 10 originally anticipated and to give local providers the best chance possible to qualify for the framework. Officers are of the view that additional homecare providers will enable the council to manage any increases in demand moving forward and help manage capacity in the market. The impact of Covid 19 has changed thinking in this regard, and having access to more providers will help deal with the challenges the sector is facing as the pandemic has demonstrated.
- 3.7 From a quality perspective, appointing more than 10 providers to be framework should be manageable as long as the number is not excessive. There are 11 lead providers in ASC already – if an additional 15 providers are allocated to the framework, this would give each Provider Relationship Officer a portfolio of 6 or 7 providers to manage, compared to around 15 that they have at the moment.

- 3.8 In common with many local authorities, the council has funded capacity building work with local businesses that has been carried out by the Procurement Service, with a focus on bid writing, social value and preparing for tenders such as the homecare and reablement contracts. Four capacity building workshops took place in May and June of 2021. These workshops were repeated in April and May 2022, with 50 providers taking part in total. The workshops covered the following topics -
- Engaging with Adult Social Care Procurement – with tender work packages
 - Introduction to Bid Writing – Foundation
 - Improve Your Bid Response – Advanced
 - Circular Economy & Developing Key Partnerships
- 3.9 Each participant in the workshops completed an Online Bid Capability Assessment Questionnaire, which generated a personalised report which included a gap analysis and recommendations on getting their organisation ready to bid
- 3.10 As well as attendance at the workshops, a further 20 Brent based businesses have received 1:1 support from Branduin Business Support on bidding for tenders, comprising of two separate sessions with each company, for an hour at a time. This support was bespoke to each organisation to help them prepare for tenders. Branduin has also offered telephone and email support to providers ahead of these tender opportunities going live, to give local companies additional assistance in preparing for tender processes. It is hoped that this work will assist in ensuring that the council receives good quality bids from both locally based and also national homecare providers for the proposed procurement.
- 3.11 There have also been two specific market warming events held with providers to prepare for the tender. The first was held on 27th April, and over 90 providers attended this virtual meeting. The second was held on 8th June, with over 100 providers attend an in-person event. The market warming events combined the information and plans for both the homecare and reablement tenders, and were an opportunity to brief providers on the process and expectations from their bids.
- 3.12 In addition, the homecare forum meets on a monthly basis where providers have been kept updated on the plans for the tender in recent months. Our engagement with providers has been thorough and helped improve their understanding of the tender process ahead of this starting later in the summer. Officers have also taken on board provider feedback about the specification and implementation, which will be reflected in the tender.
- 3.13 In line with the lead contractors, providers appointed to the framework accepting care packages let via the framework, will be paid at a rate that will enable them to pay care workers the London Living Wage as a minimum. The London Living Wage is currently £11.05 an hour, and the homecare rate on this framework will start at £20 an hour. Providers will also be expected to work

within the principles of the Unison Care Charter. The tender will not have an element of price competition, as this is fixed. All bids will be evaluated based on quality criteria alone.

- 3.14 It is also important that the homecare framework is future proofed against poor performance, providers that score an Inadequate CQC rating, or providers that are not active on the framework. For that reason there will be an annual review of the framework, which will give the potential to appoint new providers, based on passing relevant entry criteria, and removing poor performing providers from the framework. In doing this the council will give local providers further opportunities to join the framework during the four years it will run for, even if they aren't successful with the initial tender.
- 3.15 Implementation of the framework will also reinforce the council's commitment to paying care workers that deliver services for Brent the London Living Wage as a minimum. That will be a contractual requirement for successful providers, along with minimising the use of zero-hours contracts and working to the standards set out in the Unison Ethical Care Charter. As well as wanting to deliver high quality care for service users, this contract demonstrates the council's commitment to valuing the essential work of care workers in the borough.

Tender Process – Homecare Framework

- 3.16 The contracts under the Homecare Framework will be for a period of 2 years with the option to extend for two successive periods of 1+1 year.
- 3.17 Advertisements will be placed in the Find a Tender and the London Tenders Portal on 25th July 2022. Officers understand from various market engagement events that providers in the home care sector are interested in the Homecare Framework.
- 3.18 Tenders will be sought by way of restricted tender process within the lot structure set out in the table in paragraph 3.22 below, based on specialist needs.
- 3.19 If approval is given to invite tenders, commissioners will intensively manage the contract award and work with winning providers and stakeholders to implement the Homecare Framework 2.
- 3.20 The Council currently use the Care place E-Brokerage system to advertise and award care packages to our lead providers. The system will be amended to support the awarding of packages for providers on the Framework. The functionality of Care Place means that it can be used to select a provider to deliver the care package based their ability to meet the needs of the client.
- 3.21 Brokerage Officers will be tasked with inputting the clients care requirements on the Care Place system which will have different weightings attached. The system will, then generate a score for the providers that is best suited to deliver

care. As part of this process price will not be a feature as costs are fixed and determined by Brent.

3.22 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet.

Homecare Framework

Ref.	Requirement	Response	
(i)	The nature of the services	Framework for Homecare to support ASC clients and those being discharged from Hospital	
(ii)	The estimated value.	Estimated £4m per Annum	
(iii)	The contract term.	Initial contract term two years with the option to extend for a further two years on a one plus one basis.	
(iv)	The tender procedure to be adopted.	Open tender process	
v)	The procurement timetable.	Indicative dates are:	
		Invite to tender	25/07/2022
		Deadline for tender submissions	16/09/2022
		Panel evaluation	19/09/2022-28/10/2022
		Contract decision	31/10/2022
		Report recommending Contract award circulated internally for comment	07/11/2022
		Cabinet approval	14/11/2022
		Alcatel standstill period of 10 calendar days – notification issued to all tenderers and additional debriefing of unsuccessful tenderers	14/11/2022 – 24/11/2022
		Contract Mobilisation	24/11/2022 – 01/02/2023

Ref.	Requirement	Response
		Contract start date 01/02/2023
(vi)	The evaluation criteria and process.	<ol style="list-style-type: none"> 1. At selection stage shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines by the use of a selection questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. 2. At tender evaluation stage, the panel will evaluate the tenders against the following criteria: 90% quality, and 10% Social Value, price for this contract will be fixed. The panel will evaluate the tenders against the following criteria : <ul style="list-style-type: none"> • Safeguarding • Support and Care planning including risk management • Working effectively with service users to achieve outcomes • Workforce proposals including staffing developments, satisfaction of workforce, staffing retentions and providing local employment opportunities
(vii)	Any business risks associated with entering the contract.	The following business risks are considered associated with entering into the proposed contract. Financial Services and Legal Services have been consulted concerning this contract and have identified the risks associated with entering into this contract set out Section 8.0
(viii)	The Council's Best Value duties.	The adoption of restricted will enable the council to achieve best value for money
(ix)	Consideration of Public Services (Social Value) Act 2012	See section below.
(x)	Any staffing implications, including TUPE and pensions.	See section below.
(xi)	The relevant financial, legal and other considerations.	See section below.
(xii)	Sustainability	

Ref.	Requirement	Response
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage / Given the nature of the contract it is not appropriate to include provision requiring payment of the London Living Wage.
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the contract.

4. Financial Implications

- 4.1 As mentioned above, providers appointed to the framework will be paid at a level to enable them to pay care workers London Living Wage levels at a minimum, which currently stands at £11.05 an hour.
- 4.2 The total cost of the framework at today's prices, including the extension option, is estimated to be £16m.
- 4.3 Whilst the uplift is fixed, the price is linked to increases in the London Living Wage and there is a risk that the final total contract cost will be in excess of this figure. For 2022/23, this has been factored into the budget and for future years further increases will need to be taken into consideration as part of the Medium Term Financial Strategy.

5. Legal Implications

- 5.1 Local Authorities have a statutory duty under the Care Act 2014 and the Children Act 1989 to provide care and support for adults and their carers and for children and young carers respectively in their area. The duty may be met by the Local Authority by making arrangements for a person and/or body other than it to provide the said care and support.
- 5.2 The services to be procured under the Homecare framework are classed as Schedule 3 services under the Public Contracts Regulations 2015 ('the PCR'). Based on the value over its lifetime which is above the threshold for Schedule 3 services, the procurement is subject to the requirements of the PCR, in that the contract opportunities must be published on Find a Tender Service and Contract Finder, and a competitive procurement process must be undertaken before the framework and the contracts under it can be awarded. Officers have set out the process that will be followed in procuring the framework in paragraph 3.22 above.
- 5.3 Based on the estimated value of the Homecare framework to be procured, they are classed as High Value Contracts under the Council's Standing Orders and

Financial Regulations and Cabinet approval of the pre-tender considerations (Standing Order 89) and the inviting of tenders (Standing Order 88) is required.

- 5.4 Officers would generally report back to the Cabinet once the tendering process has been completed in accordance with Contract Standing Orders, to explain the process followed in tendering the contracts and recommending the tenderer that should be awarded the contract. However, Officers recommend that Cabinet delegate authority to award the Homecare framework to the Strategic Director, Community Wellbeing in consultation with the Lead Member for Adult Social Care on completion of the tendering process.
- 5.5 Consideration should be given as to whether the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE 2006) apply. TUPE applies where there is a 'relevant transfer' this can be; 1) a business transfer or, 2) service provision change (a change in the provider of a service). This is service provision change and is governed by TUPE 2006 Regs 3(1)(b)(iii) TUPE 2006. To satisfy the conditions of TUPE 2006 there must be immediately before the service provision change—an organised grouping of employees situated in Great Britain which has as its principal purpose the carrying out of the activities concerned on behalf of the client; the client intends that the activities will, following the service provision change, be carried out by the transferee other than in connection with a single specific event or task of short-term duration; and the activities concerned do not consist wholly or mainly of the supply of goods for the client's use.
- 5.6 Under frameworks there are no plans to transfer existing care packages. In light of the how the frameworks will operate in the future, with no organised grouping of staff carrying out the work, TUPE is unlikely to apply to this service provision change.

6. Equality Implications

- 6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 6.3 The very nature of homecare services means that they are targeted at, and are disproportionately accessed by, vulnerable adults and children who are also more likely experience multiple disadvantage due to their age, disabilities and health conditions. Equalities issues have been taken into account throughout the review of homecare in Brent and have been a key focus in the development of the new service model and service specification.
- 6.4 An Equalities Analysis has been completed. Where negative impacts have been identified these have been addressed within the service model and specification. Where positive impacts of the proposed model have been identified they have been enhanced where possible. An example of this is the focus placed on specialist providers to work with specific client groups, and the way the zones have been developed.
- 6.5 The proposed new service model will not remove services, but it will change the way services are delivered and will place greater emphasis on a personalised outcomes based approach.
- 6.6 The new service model is expected to deliver improved quality of service provision, improved service user experience, and establish more productive working relationships with providers. Impacts will be monitored throughout the implementation period and beyond via ongoing service user and provider engagement and the Quality Assurance Framework, the Outcomes Framework and Performance Management Framework that are included in the service specification and associated schedules.

7. Consultation with Ward Members and Stakeholders

- 7.1 This tender has borough wide implications, so specific consultation with ward councillors has not taken place.

8. Human Resources

- 8.1 The services are currently provided by external providers and there are no direct staffing implications for the council arising from the tender process. However, as part of the procurement process, employee liability information will be sought from current contractors and provided to the tenderers. The TUPE process and any issues that may arise from it will be managed during the mobilisation phase, which will be approximately four (4) months between contract award and commencement.

9. Public Services (Social Value) Act 2012

- 9.1 The council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how 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. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 The services under the proposed contract have as their primary aim the improvement of the social wellbeing of vulnerable groups in Brent. In procuring the services and in accordance with the council's Social Value Policy, 10% of the total evaluation criteria will be reserved for social value considerations

REPORT SIGN-OFF

Phil Porter

Strategic Director, Community Wellbeing