

# Cabinet Background documents



**8. Increasing Housing Supply (Pages 3 - 12)**

Officer: Shifa Mustafa  
Key decision: yes

**11. Investing in our Borough (Pages 13 - 36)**

Officer: Jacqueline Harris Baker  
Key decision: no

JACQUELINE HARRIS BAKER  
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## 1. Introduction

### 1.1 Purpose of Equality Analysis

The council has an important role in creating a fair society through the services we provide, the people we employ and the money we spend. Equality is integral to everything the council does. We are committed to making Croydon a stronger, fairer borough where no community or individual is held back.

Undertaking an Equality Analysis helps to determine whether a proposed change will have a positive, negative, or no impact on groups that share a protected characteristic. Conclusions drawn from Equality Analyses helps us to better understand the needs of all our communities, enable us to target services and budgets more effectively and also helps us to comply with the Equality Act 2010.

An equality analysis must be completed as early as possible during the planning stages of any proposed change to ensure information gained from the process is incorporated in any decisions made.

In practice, the term '**proposed change**' broadly covers the following:-

- Policies, strategies and plans;
- Projects and programmes;
- Commissioning (including re-commissioning and de-commissioning);
- Service review;
- Budget allocation/analysis;
- Staff restructures (including outsourcing);
- Business transformation programmes;
- Organisational change programmes;
- Processes (for example thresholds, eligibility, entitlements, and access criteria.

## 2. Proposed change

Directorate	Place
Title of proposed change	Purchase of Additional Social Housing
Name of Officer carrying out Equality Analysis	Steve Wingrave

## 2.1 Purpose of proposed change (see 1.1 above for examples of proposed changes)

The Council is proposing to purchase a number of new build properties from Brick by Brick to increase the supply of social housing. These will be held in the HRA and let at social housing rents so that they are affordable to a greater range of households and offer more secure and better quality homes than offered through alternative private sector accommodation

## 3. Impact of the proposed change

**Important Note:** It is necessary to determine how each of the protected groups could be impacted by the proposed change. If there is insufficient information or evidence to reach a decision you will need to gather appropriate quantitative and qualitative information from a range of sources e.g. Croydon Observatory a useful source of information such as Borough Strategies and Plans, Borough and Ward Profiles, Joint Strategic Health Needs Assessments <http://www.croydonobservatory.org/> Other sources include performance monitoring reports, complaints, survey data, audit reports, inspection reports, national research and feedback gained through engagement with service users, voluntary and community organisations and contractors.

### 3.1 Additional information needed to determine impact of proposed change

**Table 1 – Additional information needed to determine impact of proposed change**

If you need to undertake further research and data gathering to help determine the likely impact of the proposed change, outline the information needed in this table.		
Additional information needed	Information source	Date for completion
Offer better space and layouts for individuals and especially families. The purchases will also look to purchase up to 10% of properties that are, or readily capable for adaption for people with disabilities.	Planning and Building Control	February 2020

For guidance and support with consultation and engagement visit <https://intranet.croydon.gov.uk/working-croydon/communications/consultation-and-engagement/starting-engagement-or-consultation>

### 3.2 Deciding whether the potential impact is positive or negative

**Table 2 – Positive/Negative impact**

For each protected characteristic group show whether the impact of the proposed change on service users and/or staff is positive or negative by briefly outlining the nature of the impact in the appropriate column. . If it is decided that analysis is not relevant to some groups, this should be recorded and explained. In all circumstances you should list the source of the evidence used to make this judgement where possible.

Protected characteristic group(s)	Positive impact	Negative impact	Source of evidence
Age	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes	None	Planning application and Building Control would have taken into account impact on all groups
Disability	The aspiration is to acquire 10% of properties that are either adapted for or are readily adaptable for people with disabilities	None	Building Regulations
Gender	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		As above.
Gender Reassignment	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		As above.
Marriage or Civil Partnership	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		As above.
Religion or belief	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		As above.

Race	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		<b>As above.</b>
Sexual Orientation	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		<b>As above.</b>
Pregnancy or Maternity	These purchases will provide better homes for families. They will provide permanent accommodation for individuals and families and offer more secure and better quality homes		<b>As above.</b>
<p><b>Important note:</b> You must act to eliminate any potential negative impact which, if it occurred would breach the Equality Act 2010. In some situations this could mean abandoning your proposed change as you may not be able to take action to mitigate all negative impacts.</p> <p>When you act to reduce any negative impact or maximise any positive impact, you must ensure that this does not create a negative impact on service users and/or staff belonging to groups that share protected characteristics.</p>			

### 3.3 Impact scores

#### Example

If we are going to reduce parking provision in a particular location, officers will need to assess the equality impact as follows;

1. Determine the Likelihood of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the likelihood of impact score is 2 (likely to impact)
2. Determine the Severity of impact. You can do this by using the key in table 5 as a guide, for the purpose of this example, the Severity of impact score is also 2 (likely to impact )
3. Calculate the equality impact score using table 4 below and the formula **Likelihood x Severity** and record it in table 5, for the purpose of this example  
- **Likelihood (2) x Severity (2) = 4**

Table 4 – Equality Impact Score

Severity of Impact	3	3	6	9
	2	2	4	6
	1	1	2	3
		1	2	3
	Likelihood of Impact			

#### Key

Risk Index	Risk Magnitude
6 – 9	High
3 – 5	Medium
1 – 3	Low

# Equality Analysis

Table 5 – Impact scores

Column 1  PROTECTED GROUP	Column 2  LIKELIHOOD OF IMPACT SCORE  Use the key below to <b>score</b> the <b>likelihood</b> of the proposed change impacting each of the protected groups, by inserting either 1, 2, or 3 against each protected group.  <b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b>	Column 3  SEVERITY OF IMPACT SCORE  Use the key below to <b>score</b> the <b>severity</b> of impact of the proposed change on each of the protected groups, by inserting either 1, 2, or 3 against each protected group.  <b>1 = Unlikely to impact</b> <b>2 = Likely to impact</b> <b>3 = Certain to impact</b>	Column 4  EQUALITY IMPACT SCORE  Calculate the <b>equality impact score</b> for each protected group by multiplying scores in column 2 by scores in column 3. Enter the results below against each protected group.  <b>Equality impact score = likelihood of impact score x severity of impact score.</b>
Age	2	2	4
Disability	2	2	4
Gender	1	1	1
Gender reassignment	1	1	1
Marriage / Civil Partnership	1	1	1
Race	1	1	1
Religion or belief	1	1	1
Sexual Orientation	1	1	1
Pregnancy or Maternity	1	1	1



## 4. Statutory duties

### 4.1 Public Sector Duties

Tick the relevant box(es) to indicate whether the proposed change will adversely impact the Council's ability to meet any of the Public Sector Duties in the Equality Act 2010 set out below.

Advancing equality of opportunity between people who belong to protected groups ☐

Eliminating unlawful discrimination, harassment and victimisation ☐

Fostering good relations between people who belong to protected characteristic groups ☐

**Important note:** If the proposed change adversely impacts the Council's ability to meet any of the Public Sector Duties set out above, mitigating actions must be outlined in the Action Plan in section 5 below.

## 5. Action Plan to mitigate negative impacts of proposed change

**Table 5 – Action Plan to mitigate negative impacts**

Complete this table to show any negative impacts identified for service users and/or staff from protected groups, and planned actions mitigate them.

Protected characteristic	Negative impact	Mitigating action(s)	Action owner	Date for completion
Disability	No Negative Impact			
Race	No Negative Impact			
Sex (gender)	No Negative Impact			
Gender reassignment	No Negative Impact			
Sexual orientation	No Negative Impact			
Age	No Negative Impact			
Religion or belief	No Negative Impact			
Pregnancy or maternity	No Negative Impact			

## Equality Analysis

Marriage/civil partnership	No Negative Impact			
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### 6. Decision on the proposed change

Based on the information outlined in this Equality Analysis enter <b>X</b> in column 3 ( <b>Conclusion</b> ) alongside the relevant statement to show your conclusion.				
Decision	Definition			Conclusion - Mark 'X' below
No major change	Our analysis demonstrates that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review. <b>If you reach this conclusion, state your reasons and briefly outline the evidence used to support your decision.</b>			x
Adjust the proposed change	We will take steps to lessen the impact of the proposed change should it adversely impact the Council's ability to meet any of the Public Sector Duties set out under section 4 above, remove barriers or better promote equality. We are going to take action to ensure these opportunities are realised. <b>If you reach this conclusion, you must outline the actions you will take in Action Plan in section 5 of the Equality Analysis form</b>			
Continue the proposed change	We will adopt or continue with the change, despite potential for adverse impact or opportunities to lessen the impact of discrimination, harassment or victimisation and better advance equality and foster good relations between groups through the change. However, we are not planning to implement them as we are satisfied that our project will not lead to unlawful discrimination and there are justifiable reasons to continue as planned. <b>If you reach this conclusion, you should clearly set out the justifications for doing this and it must be in line with the duty to have due regard and how you reached this decision.</b>			
Stop or amend the proposed change	Our change would have adverse effects on one or more protected groups that are not justified and cannot be mitigated. Our proposed change must be stopped or amended.			
Will this decision be considered at a scheduled meeting? e.g. Contracts and Commissioning Board (CCB) / Cabinet <b>Yes.</b>		Meeting title: Cabinet Date: <b>13 July 2020</b>		

### 7. Sign-Off

Officers that must approve this decision	
Equality lead	<b>Name:</b> Yvonne Okiyo <b>Date:</b> 01/07/2020 <b>Position:</b> Equalities Manager
Director	<b>Name:</b> Ozay Ali <b>Date:</b> 01/07/2020 <b>Position:</b> Director of Housing and Social Investment

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<b>REPORT TO:</b>	<b>Cabinet Member for Families, Health, and Social Care</b>
<b>SUBJECT:</b>	<b>Contract Award Adult Social Care – Care and Support in the Home Dynamic Purchasing Systems (DPS 1 Lots 1, 2 &amp; 3)</b>
<b>LEAD OFFICERS:</b>	<b>Guy Van Dichele, Executive Director of Health, Well Being and Adults Sarah Warman Director of Commissioning and Procurement</b>
<b>CABINET MEMBER:</b>	<b>Councillor Janet Campbell, Cabinet Member for Families, Health, and Social Care Councillor Simon Hall, Cabinet Member for Finance and Resources</b>
<b>WARDS:</b>	<b>All</b>
<p><b>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</b></p> <p>This approach supports the following corporate priorities for the next 4 years as set out in the Corporate Plan 2018-2022:</p> <p><b>Promoting Independence and Enablement:</b> To help people live long, healthy and independent lives with access to effective health services and care services. and, to help families be resilient and able to maximise their life chances and independence</p> <p><b>Partnership:</b> Work in partnership with the NHS to provide <b>good quality health</b> services to Croydon's population.</p> <p><b>Children and Young People:</b> Ensure that children and young people in Croydon are safe, healthy and happy.</p> <p><b>Locality Matters:</b> Develop services that are place based and integrated within their local community and tailored to local needs.</p>	
<p><b>FINANCIAL IMPACT</b></p> <p>Lots from Dynamic Purchasing Systems (DPS) 1, to be introduced in over the next six months sits in the council department Health Wellbeing and Adults. The total value of the services included in DPS1, is currently £25,683,000 per annum, against a 20/21 Budget of £23,302,000.</p> <p>1.1 From 2020/21 onwards, there is an expectation that pressure on this budget will continue to be managed, through a combination of better contract monitoring and control of expenditure, and where required finding alternative savings. The council budget for 2020/21 has been finalised and anticipated spending pressure on areas in scope has been flagged. The current Covid-19 pandemic has increased the demand for home care with more patients being discharged with care needs. The longer term impact on home care demand is not clear and will be reviewed regularly. Currently, during this Covid-19</p>	

emergency period, NHS funding for the hospital is picking up the initial costs of care before being reviewed.

Covid-19 will also impact the ability to deliver alternative savings to mitigate any spending pressures.

Additionally, the Council's health partners have access to other public and private funds to commission and procure services from the DPS. It is anticipated that these organisations will contribute financially to our management of the DPS. This will significantly increase the total spend on potential contracts being procured from the DPS.

The proposal is to establish DPS 1 to provide flexibility and allow significant headroom for the Council and partners to procure from the DPS over the DPS duration of up to ten years. Most services commissioned to the DPS will be subject to mini-competition to ensure value for money.

**FORWARD PLAN KEY DECISION REFERENCE NO.: 1920FHSC**

The decision may be implemented from 1300 hours on the 6th working day after the decision is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

The Leader of the Council has delegated to the Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources the power to make the decisions set out in the recommendations below:

**1 RECOMMENDATIONS**

The Nominated Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources is recommended by the Contracts and Commissioning Board to approve the following:

- 1.1 The establishment of, and initial appointment of suppliers to, DPS 1 Lots 1/2/3 (Care and Support in the Home and Active Lives) of the Adult and Young People Social Care DPS for a period of five years with an extension option for five subsequent periods each of one year. This is based on the contract terms issued as part of inviting tenders, such suppliers being those listed in the Part B report against their respective Lot(s), who have satisfied specified selection criteria;
- 1.2 Delegation of the award of contracts and placements called off under DPS 1 to be approved in accordance with the Council's Scheme of Financial Delegations and notified to Cabinet in accordance with paragraph 2.4 of this Part A report.
- 1.3 Delegation of the future appointment of providers to DPS 1 to be approved by the Executive Director of Health, Well Being and Adults in accordance with paragraph 2.4 of this Part A report

## **2 SUMMARY**

- 2.1 The procurement strategy for the establishment of three Dynamic Purchasing Systems ('DPS') for Health and Social Care (subsequently referred to as Adult and Young People Social Care) for the initial period of five (5) years with options to extend for five subsequent periods each of one year with a total estimated annual value of up to £150,000,000.00 was approved by Cabinet on 8th July 2019 (CCB Ref: CCB1498/19-20).
- 2.2 Pursuant to a recommendation of Cabinet on 19 December 2019, the Leader delegated to the Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources the authority to approve the appointment of suppliers to, and award of contracts and placements called off from, the DPSs.
- 2.3 Pursuant to such delegation the Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources has previously approved the initial appointment of suppliers for the establishment of the Health and Social Care Services DPS for DPS 3 Independent Living & Supported Housing – Lot 2 (key decision notice 4919FHSC – 27 January 2020) and Lot 1 (key decision notice 0202 FHSC). The scheme of delegation for the award of placements and call offs from the said DPS was also approved. The DPS 3 Lot 2 Report detailed the processes relating to the setting up the Health and Social Care Dynamic Purchasing Systems, selection of appointees to the DPS and scheme of delegation for call offs. Part A of that Lot 2 Report is attached as a background document to this report.
- 2.4 The purpose of this report is to:
- a) agree the establishment and initial appointment of suppliers to Lots 1, 2 or and/or 3 of DPS 1 (Care and Support in the Home and Active Lives) with the providers listed in Part B meeting the minimum requirement for becoming an approved provider within their respective Lots(s) for health and social care services following the same process as that set out in the DPS 3 Lot 2 Report;
  - b) agree that the award of contracts and placements for DPS 1 shall be undertaken and approved in the same manner as described in the DPS 3 Lot 2 Report.
  - c) agree that approval of future appointments of providers to DPS 1 shall be delegated to the Executive Director of Health, Well Being and Adults in consultation with the Cabinet Member for Families, Health, and Social Care and the Cabinet Member for Finance and Resources. Such appointments shall be based on the same selection criteria and contract terms as applicable to the appointment of initial providers.
- Reporting of future appointments approved in accordance with this delegation as well as call offs shall be notified in accordance with the DPS 3 Lot 2 report.
- 2.5 There were 110 SQ Submissions received for DPS 1 for all the Lots and Service Categories. (Note: some providers applied for more than one Lot and service category).

Fig 1. DPS 3 returns

<b>Lots</b>	<b>Service Categories</b>	<b>Bidders</b>
<b>Lot 1</b>	<b>Care and Support in the Home</b>	<b>92</b>
	1. Prime	75
	2. Secondary	78
	3. Extra Care	69
<b>Lot 2</b>	<b>Active Lives</b>	<b>15</b>
<b>Lot 3</b>	<b>Outreach Services</b>	<b>21</b>

- 2.6 The outcome of this quality and price evaluation process for DPS 1 has resulted in 31 approved providers

Fig 2. DPS 1 all approved providers

<b>Lots</b>	<b>Care in the Home and Active Lives</b>	<b>Approved Bidders</b>
<b>Lot 1</b>	<b>Care in the Home (Domiciliary Care):</b>	
	Prime Providers	9
	Secondary Providers	14
	Extra Care	13
<b>Lot 2</b>	<b>Active Lives</b>	<b>8</b>
<b>Lot 3</b>	<b>Outreach Services</b>	<b>9</b>

- 2.7 The content of this report has been endorsed by the Contracts and Commissioning Board.

<b>CCB Approval Date</b>	<b>CCB ref. number</b>
11/06/2020	CCB1583/20-21

### 3 CONSULTATION

- 3.1 Home Care is a behind closed door service so consultation and engagement is vital. The Home Care Commissioners are working closely with Croydon Adult Social Services User Panel (CASSUP) to consult with home care users. An annual survey for all home care users is being prepared to be released in the summer. Social workers will regularly feedback on quality of services and plans are in place to develop 'an active quality score'.

### 4 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 The Council currently spends in excess of £25.5m on DPS 1 every year in financial support to the Adult Social Care and Supported Living Services against a budget of £23.3m. Expenditure will be procured through DPS 1 via mini competition and individual call-offs.
- 4.2 Based on previous years, there is expected to be a financial pressure on this activity in 2020/21. Overspends in 2020/21 will be managed in year through identifying savings, of which some have been agreed during the 2020/21 Budget Setting process. Following the establishment of the DPS for Health



and Social Care, from 2020/21 onwards, there is an expectation that this pressure will continue to be managed through a combination of better contract monitoring and control of expenditure, and where required finding alternative savings.

- 4.3 The council budget for 2020/21 has been finalised and anticipated spending pressure on areas in scope has been flagged. The current Covid-19 pandemic has increased the demand for home care with more patients being discharged with care needs. The longer term impact on home care demand is not clear and will be reviewed regularly. Currently, during this Covid-19 emergency period, NHS funding for the hospital is picking up the initial costs of care before being reviewed.
- 4.4 COVID-19 will also impact the ability to deliver alternative savings to mitigate any spending pressures.
- 4.5 Fig. 8 highlights the budget areas calling-off the DPS 1 and the spend is from Health, Wellbeing and Adults budgets.

**Fig. 8 Actual Adults Social Care Spend against by DPS 1 Lots in 2019/20:**

<b>DPS1</b>	<b>Council Expenditure 2019/20 £'000</b>	<b>Council Budget 2020/2021 £'000</b>
Lot 1: Domiciliary Care	24,584	22,134
Lot 2: Active Lives and Day Care	1,069	1,052
Lot 3: Outreach Services	30	116
<b>TOTAL</b>	<b>25,683</b>	<b>23,302</b>

#### **The effect of the decision**

- 4.6 **Competition on price** - The DPS's are an effective procurement system to call-off significant volumes of care. Currently spot purchase is used frequently across these service areas where, aside from regulatory reports and some monitoring, there is insufficient information on the quality of the services. All services through the DPS will have passed a quality threshold. Furthermore provider costs will be built into the DPS rather than providers naming their price. The use of mini-competition allows for further submissions on quality and revised pricing.
- 4.7 **Medium Term Financial Strategy** – Notwithstanding the price competition outlined above enabling service commissioned to be value for money, the DPS's support the revised Medium Term Financial Strategy through ensuring sufficient capacity of supported living, supported housing and home care to help people be as independent as possible in their own homes. The spend on residential care should reduce with Extra Care and supported living seen as more independence maintaining options.

#### **London Living Wage**

- 4.8 London Living Wage is also a requirement for services provided within Croydon and this is included in the tender rates where appropriate. Tenderers

have to take this into account when submitting prices on the DPS for all services tendered for. The successful Providers are also obliged to provide management information to assist the Council with monitoring the impact of the LLW.

- 4.9 LLW will be applied to all prime providers of home care services for new individual contracts called off from the DPS. The cost implications are up to £1 million per year as new service users' home care is called off via the DPS for the two years of the DPS starting in April. Commissioning and Procurement will be exploring incentives with providers and methods of managing demand through independence enhancing care to reduce the implications of expected higher hourly rates.
- 4.10 National Living Wage, as set by the Living Wage Foundation will be applied to services outside London. It is unlikely services will be used from outside the borough with day opportunities the only possible exception. All other Lots will be delivered inside the borough.

**Other Risks**

- 4.11 **Not committed spend** - Spend through the DPS is not committed spend as the commitment only applies to the quantities required for each call off or mini competition. This means that if the budget were to increase or decrease in the future, the required volumes could easily change year on year to reflect this. The focus will be on prevention and re-ablement to help service users live more independently thereby reducing the dependency on more expensive and traditional methods of providing care (spend in DPS 2). Monitoring of spend via the DPS's will be robust with a six monthly report to CCB and more frequent reporting the Executive Director Health, Wellbeing and Adults.
- 4.12 **Commissioning outside DPS** - There is a risk that all partners of the integrated procurement hub do not purchase services via the DPS. This will be mitigated by engaging with the partner local authorities to gain their buy-in to the specifications and awarding methodology.
- 4.13 **Staff resources** – Setting up three DPS's is a resource intensive process. The bid evaluation to ensure only quality providers join the DPS has and will place a heavy demand on council staff time. Longer term staff implications of managing any new applications to join the DPS's and the continual brokerage and contract management functions will be managed within the newly restructured Adults, Health and Integration team in Commissioning and Procurement.

**Options**

- 4.14 Options were considered as part of the RP1 Make or Buy report agreed by CCB in 2018. Using the DPS enables more frequent refreshing of the bidder base and prices, to better match the dynamics in the supplier market and gain the continual value improvements.

**Future savings/efficiencies**

- 4.15 It is not anticipated that the DPS's collectively will make savings as there will be cost pressure on existing services joining the DPS that do not currently stipulate LLW. As vulnerable residents' needs will become more complex, the DPS will seek to ensure a variety of independence maintaining/enhancing options through DPS 1. The DPS will provide a flexible solution through mini-competition to the commissioning and procurement of services that can be managed to contain expenditure within approved budgets.
- 4.16 The current Covid-19 pandemic has increased the demand for home care with more patients being discharged with care needs. The longer term impact on home care demand is not clear and will be reviewed regularly. Currently Covid-19 funding from the hospital is picking up the initial costs of care before being reviewed.

Approved by: Ian Geary and Josephine Lyseight, Head of Finance, on behalf of the Director of Finance, Investment & Risk.

**5 LEGAL CONSIDERATIONS**

- 6.1 The Director of Law and Governance comments that the legal considerations are as set out in this report.

Approved by Sonia Likhari on behalf of Sean Murphy, Director of Law and Governance.

**6 HUMAN RESOURCES IMPACT**

- 6.1 There are no direct Human Resources implications arising from this report for Croydon Council employees. Nonetheless, this procurement strategy could result in service provision changes, as services are called off from the DPS's and new contracts are award, which may invoke the effects of TUPE (Transfer of Undertakings (Protection of Employment) 2006 Legislation, amended 2014). The application of TUPE will be determined by the incumbent and the new service providers, for which the Council is the client. On that basis, the role of the Council would usually extend no further than facilitating the process.

- 6.2 Paying LLW rates will be a contractual requirement of the DPS approach.

Approved by: Debbie Calliste, Head of HR for Health, Wellbeing and Adults, on behalf of the Director of HR

**7 EQUALITIES IMPACT**

- 7.1 An Equalities Analysis has been completed by the e-market place implementation team to ascertain any potential impact on protected groups in

relation to the creation of DPS to supply services. This was approved by CCB in 2018.

- 7.2 The services positively promotes equalities across all groups with protected characteristics. The provision of personal care services promotes independence, improves quality of life.

Approved by: Yvonne Okiyo, Equalities Manager

## **8 ENVIRONMENTAL IMPACT**

- 8.1 There are no adverse environmental impacts to the report.

## **9 CRIME AND DISORDER REDUCTION IMPACT**

- 9.1 There are no adverse implications for crime and disorder arising from this report. There are however, positive implications by supporting homeless people and people with mental health problems, drug and alcohol abuse, etc.

## **10 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 10.1 DPS 1 offers an end to end process for commissioning and award of a range of independence enhancing/supporting services for adults. This will be the vehicle for commissioning home care, extra care and day opportunities for the next five year. It offers a simple call-off route for providers. The procurement carried out has been compliant with the approved procurement strategy, the Council's Tenders and Contracts Regulations and the Procurement Contracts Regulations 2015.

## **11 OPTIONS CONSIDERED AND REJECTED**

- 11.1 An Options Appraisal was considered as part of the RP1 (Make or Buy) report, which has been agreed by CCB. The establishment of DPS 1 - 3 ensures that the Council and other authorities within the Integrated Procurement Hub are getting the best possible value for money in relation to the purchase of personal care services. Procuring outside of the DPS would not enable the Council and the Integrated Procurement Hub to achieve the savings detailed within this paper.
- 11.2 The establishment of a Framework similar to the previous IFA. A framework is considered in this case to be too restrictive as the maximum term is limited to 4 years maximum. New suppliers cannot be added to the framework of approved suppliers unless the framework is refreshed.

- 11.3 Without a DPS or Framework, the Council would have to advertise and tender all services every time a new service is required. The process is very inefficient and time consuming, requiring extra staff.
- 11.4 Spot purchasing services as and when required – this approach is considered to be non-compliant with the Council's financial regulations and EU Procurement legislation.

## **12 DATA PROTECTION IMPLICATIONS**

### **12.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

#### **YES**

The first (current) stage of the establishment of the DPS's for Adults and Social Care services does not involve the processing of personal data about service users. However, all providers have been asked to confirm that they comply with current GDPR legislation as well as providing their data protection policies and procedures. This has been evaluated for all providers (as a pass/fail question in the Selection Questionnaire).

In the second call off stage any Approved Providers who are awarded a contract or placement, will process some personal data on behalf the residents and the Council namely identity data, some financial data and health and care data.

### **12.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

#### **IN PROGRESS**

A Data Protection Impact Assessment is being undertaken for the second call off stage. Additionally as part of contract mobilisation further work will be undertaken on the Assessment with the approved providers who are awarded contracts from the DPS who will process and or hold some data on behalf of the Council and residents. For example, the Council in some cases the Council will need to create a three-way data sharing agreement with the preferred provider and Croydon CCG.

Approved by: Guy Van Dichele, Executive Director of Health, Wellbeing and Adults

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#### **CONTACT OFFICER:**

<b>Name:</b>	John Smith
<b>Post title:</b>	Strategic Category Manager C&P for Adults, Health & Integration
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**BACKGROUND DOCUMENTS:**      None

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## Summary Report & Recommendations

### 1. Details

Project title:	PPE Procurement for COVID-19
Name and role of report author:	Matthew Devan –Strategic Procurement Manager
Directorate and Service Area:	Commissioning and Procurement - Commissioning and Procurement (Corporate)
Executive Director: Director/Head of Service:	Jaqueline Harris-Baker/ Sarah Warman/ Bianca Byrne
Statutory Service (Yes or No):	No
Procurement Stage (RP2 or RP3):	Regulation 19 Notification Report
Key Decision (Yes or No - if Yes, include ref and if using General Exemption):	No

### 2. Summary

#### Summary of Project

Since the outbreak of COVID-19 the Council has been required to procure large amounts of PPE to protect front line Council workers, and latterly on behalf of social care providers such as residential and nursing care homes who have struggled to maintain their own supply chains. The required PPE includes gloves, aprons, gowns, face masks, eye protection, hand sanitiser and hand wash. The Council has been required to act at pace to procure this PPE in what has become a very volatile market.

The sourcing of PPE has been undertaken centrally via the Commissioning and Procurement Division to enable the Council to benefit from bulk purchasing and ensure a coordinated approach is taken. The emerging PPE requirement required immediate action to procure PPE from a variety of sources and suppliers, compounded by the challenge in obtaining PPE due to the huge surge in global demand for PPE as COVID-19 has spread around the globe. The Council has been competing with both other public bodies and private sector organisations for a limited supply.

Due to the emergency nature of this requirement and limited amount of PPE available, there was no opportunity to go out via a formal procurement route and instead informal arrangements were made from a variety of suppliers that were able to source PPE at short notice. The lack of supply led to a number of difficulties in procuring PPE including existing suppliers having no stock, inflated prices, long lead times, requirements for up-front payment, risks of new suppliers and substandard products.

Nonetheless, to ensure the Council obtained the correct PPE in a timely manner at the best possible prices the following principles were adhered to:

- Use of existing suppliers where possible;
- Benchmarking of market prices to ensure we are paying the appropriate amount;
- Buy in bulk where this offers economies of scale;
- Where forced to buy from new suppliers/ pay up front check company history and product certification before ordering;

As the market has changed some prices have increased further (notably disposable gloves). Where this has happened sign off has been sought from the Director of Commissioning and Procurement, prior to making the purchase.

Up until 5<sup>th</sup> May 2020 £382,332 of cost has been committed. Not all this cost has been incurred yet as stock deliveries are arranged up until June. In addition the Council is expected to incur a further £15,000 of cost in stock, in order to have enough PPE to supply to our staff until the end of October. The supply to date has been provided by 17 different suppliers as follows:

Supplier	Amount
Drive Devilbiss	£228,000
Wealdon Rehab	£39,600
Fortuna Group	£39,300
Stockdale Martin Ltd	£17,572
MDS Healthcare Limited	£12,558
Arco	£11,500
Greenham Ltd	£9,977
GMC Corshill	£8,173
John Preston & Co	£3,360
Ethical Stationery	£2,760
MI Supplies	£2,609
Janitorial Express	£1,516
Right Ideas	£1,494
Rowland Bros t/a Fibrous	£1,125
The Glove Club	£983
Felgains	£900
Robinson Healthcare	£511
Delivernet	£395
<b>Total</b>	<b>£382,332</b>

#### Social Care Providers

In addition to supplying PPE for Council staff, the Council has also provided assistance for social care providers. This assistance has come in the form of providing emergency PPE for social care providers where requested. The PPE for these providers has been obtained from emergency provisions supplied by the government and through emergency help from St George's hospital.

#### West London Alliance Pan London Procurement

The West London Alliance (WLA) is now leading on a pan London procurement route as a central source of PPE for London Councils. WLA, through the London borough of Ealing, have been to their Cabinet setting out that they are relying on Regulation 32 of the Public Contract Regulations allowing procurement for reasons of extreme urgency.

The Council has entered into a Memorandum of Agreement (MOA) under which it is seeking to place a large order with the WLA for stock for the next 6 week period. This order would be for both the Council and social care providers. This extends the offer for social care providers from an emergency supply to offering to supply all required PPE on a chargeable basis. The Council order includes 300,000 additional masks for council staff, to distribute to staff commuting into work over the next 6 months. The social care providers' PPE would be initially paid for by the Council and then recharged to the social care providers. The cost of this order is estimated at approximately £694,516 of which £324,950 is for the Council and £369,566 is for the social care providers.

#### Cost Breakdown

##### Description of Cost

Council cost incurred to date	£382,332
Estimated Council cost for WLA order	£324,950
Estimated extra Council orders up until 31 October	£15,000
<b>Council sub Total</b>	<b>£722,282</b>
Estimated Social Care Provider cost of WLA order*	£369,566

<b>Total estimated cost until 31 October</b>	<b>£1,091,848</b>
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\*Rechargeable to Social Care Providers

### Length of PPE Requirement

It is unclear at present how long the requirement for PPE will continue. As set out above this has been costed until the end of October 2020. Depending on any continuing risk of COVID-19 the Council may not be required to purchase PPE all the way through until October 2020. The purchasing up until October is anticipated to be primarily through the WLA.

### Reason for Urgency

PPE has and continues to be urgently required to reduce the risk of damage to persons for front line Council staff (and social care providers' staff). These staff are exposed to risk of catching COVID-19 which could result in illness and even death. A practical way of mitigating this risk is by supplying disposable PPE to reduce the risk of infection. The sudden onset and unprecedented scale of the COVID 19 pandemic means the Council could not have reasonably been expected to foresee this requirement and has been unable to procure in the normal way.

As such the urgent requirement for PPE meets the requirements of Regulation 19.3 Tenders and Contracts Regulations (TCR):

**19.3** For Disasters and Emergencies where there is a clear need to provide a service or product immediately in the instance of a sudden unforeseen crisis or the immediate risk is to health, life, property or environment, compliance when these regulations may not be feasible. Any Director may place an order for supplies, services or works as the circumstances require after seeking approval from the chair of CCB, clearly stating the immediate procurements required. If that is not feasible for example due to outside of normal working hours then immediately after when reasonably feasible. A report of contracts awarded and any future procurements required will require approval by the Chair of CCB and if applicable Cabinet at the next available meeting after the event.

In terms of the Public Procurement Regulations 2015 (PCR), The Covid-19 outbreak is deemed to be an emergency as confirmed by the Cabinet Office Procurement Policy Note - Responding to COVID-19 March 2020 Information Note PPN 01/20 which sets out information and associated guidance on the public procurement regulations and responding to the current coronavirus, COVID-19, outbreak. The procurement of supplies without undertaking a competitive process is considered justified pursuant to Regulation 32 (2)(c) of the PCR which permits contracting authorities to procure goods, services and works under extreme urgency.

### Options Considered

The following options are set out below; with option 1 the recommended option:

Option	Pros	Cons
Direct award of PPE contracts based on an ad-hoc approach where stock is available.	Achieves quickest route for PPE to be obtained ensuring Council staff access PPE in time.  Ensures the Council can react quickly to a changing landscape to secure PPE stock as when it becomes available.  Permitted to direct award due to extreme urgency (regulation 32(2)(c); as set out in PPN 01/20.	Could be deemed not to comply with national and Council regulations leading to possible procurement challenge.  May not obtain best value for money compared to competitive tender.
Procure PPE through OJEU compliant tender process	Ensure compliance with OJEU and Council procurement policy.	Even using an accelerated procedure the time taken to procure would have led to a delay in supplying PPE leading to increased risk on front line staff.  Lack of flexibility to obtain stock in a rapidly changing marketplace.

Due to the extreme emergency the only viable option is to direct award PPE contracts based on an ad-hoc approach where stock is available. This is because the overriding driver is to ensure that PPE is provided to front line staff in a timely way and this is the only option which achieves this aim.

### 3. Recommended Procurement Strategy during COVID-19

#### Recommendation:

1. The Chair of CCB and the nominated Cabinet Member for Finance & Resources in consultation with the Leader are requested to note:
  - 1.1 the contractual commitments for the urgent supply of PPE made pursuant to Regulation 19.3 Tenders and Contracts Regulations by the Council as described in this report;
  - 1.2 that further emergency orders, including those placed pursuant to the MOA described in this report, up to an aggregated value (in terms of supplies for the Council's own needs) of £722,282 will be notified in October.
2. The contracts and commissioning board is requested to endorse the above recommendations.

### 4. Financial Implications

Details	Internal Capital	Revenue	Period funding of	External		Period of funding
				Capital	Revenue	
Council cost up until 31 October 2020 – funded from Covid-19 grant		£722,282	2020-2021			
Social Care Providers cost through WLA		Net £0 - £369,566 cost to be reclaimed by the Council	2020-2021			

### 5. Actions

Action	Action owner			Date
Confirm order and pricing through pan London procurement	Matthew Warman	Devan/ Sarah		w/c/ 4 <sup>th</sup> May.
Recharge of costs to Social Care Providers from pan London procurement	Matthew Warman	Devan/ Sarah		w/c25th May (estimated depending on delivery dates)

### 6. Outcome and approval

Outcome	Date agreed	
Cllr Hall approved 11/05/2020	CCB (07/05/2020)	CCB1580/20-21
	Leader/Lead Member	

## **Appendix 1:**

### **A. Summary of regulations (PCR 2015)**

- Various options already exist:
  - direct award due to extreme urgency (Reg. 32(2)(c))
  - direct award due to absence of competition or protection of exclusive rights (Reg.32(2))
  - call off from an existing framework agreement or DPS
  - call for competition using a standard procedure with accelerated timescales – *further info below*
  - extending or modifying a contract during its term (72(1)(c)) – *further info below*
- Depending on specific nature of requirement there may also be the following options:
  - additional delivery of supplies from an existing supplier (Reg. 32(5))
  - additional similar works or services from an existing supplier (Reg. 32(9))
  - using the services of a subsidiary of another contracting authority (Reg. 12)
- **Using a standard procedure with accelerated timescales due to urgency**
  - can reduce minimum timescales if a state of urgency renders the standard timescales impracticable
  - for open procedure, timescales can be reduced to 15 days for receipt of tender plus min. 10 days for standstill
  - no express requirement for situation to be unforeseeable or not attributable, but should set out in OJEU notice a clear justification; e.g.:  
*“The COVID-19 outbreak has given rise to an urgent need for the supply of [description of what is being procured] because [explanation of urgency]. This does not give [name of contracting authority] sufficient time to comply with the standard [open procedure / restricted procedure / competitive procedure with negotiation] timescales for this procurement. [Contracting authority] considers this to be a state of urgency which it has duly substantiated. Accordingly, [contracting authority] is using the accelerated time limits permitted under the Public Contract Regulations 2015 (regulation [27(5) for the open procedure / 28(10) for the restricted procedure / 29(10) for the competitive procedure with negotiation]) in respect of this procurement”.*
- **Extending or modifying a contract during its term (Reg. 72(1)(c)):**
  - contracts can be modified without a new procurement procedure in any of the following cases, and where the conditions are met:
    - (c)(i) *the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen*
    - (c)(ii) *the modification does not alter the overall nature of the contract*
    - (c)(iii) *any increase in price does not exceed 50% of the value of the original contract or framework agreement*
  - Need to demonstrate specific reason relating to COVID-19 outbreak that decision was taken, e.g. staff are diverted by procuring urgent requirements to deal with COVID-19 consequences, or staff are off sick so cannot complete a new procurement exercise.
  - should publish the modification by way of an OJEU notice to say you have relied on regulation 72(1)(c)
  - multiple modifications are permissible but each one should not exceed 50% of the original contract value
- Other grounds under Reg 72 may also exist

### **B. Justification for Urgency (Part 5A article 1.7 of the Constitution)**

- Where the Executive Director or other Director preparing a report ... is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the decision making process set out above
- Applying the above to the COVID-19 situation, the urgency route should only be used for:
  - Services, supplies etc. relating to COVID-19 (e.g. PPE)
  - Contracts impacted by COVID-19 (e.g. supplier relief)
  - In the context of the current situation where there is unexpected and immense pressure on capacity and resources while the Council responds to the COVID-19 situation, to enable interim measures to be implemented e.g. roll on of required services which would otherwise have been re-procured.

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