

For General Release

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| REPORT TO: | Cabinet: 8 July 2019 |
| SUBJECT: | Adult and Young People Social Care Dynamic Purchasing Systems (DPS) Procurement Strategy |
| LEAD OFFICER/S: | Guy Van Dichele, Executive Director of Health, Well Being and Adults Julia Pitt Director of Gateway Sarah Warman Director of Commissioning and Procurement |
| CABINET MEMBER/S: | Councillor Jane Avis, Cabinet Member for Families, Health, and Social Care Councillor Alison Butler, Cabinet Member for Homes and Gateway Services Councillor Simon Hall, Cabinet Member for Finance and Resources |
| WARDS: | All |
| <p>CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:</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>Promoting Independence and Enablement: 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>Partnership: Work in partnership with the NHS to provide good quality health services to Croydon’s population.</p> <p>Children and Young People: Ensure that children and young people in Croydon are safe, healthy and happy.</p> <p>Locality Matters: Develop services that are place based and integrated within their local community and tailored to local needs.</p> | |

FINANCIAL IMPACT:

The Council budgets sit within the Adults Social Care, Childrens and Gateway services.

The total value of establishing Dynamic Purchasing Systems (DPS1, DPS 2, DPS 3.) for Croydon Council (Adults Social Care Budget, Young People and Gateway Services Budgets) is currently up to £85,000,000 per annum.

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

The proposal is to establish the three DPS's to a maximum total value of £150,000,000 pa to provide flexibility and allow significant headroom for the Council and partners to procure from the DPS's.

KEY DECISION REFERENCE NO: N/A

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS**Cabinet is requested:**

- 1.1 To approve the overall procurement strategy detailed in this report for the establishment of three Dynamic Purchasing Systems (DPS 1, DPS 2, and DPS 3), for the commissioning and procurement of Croydon's Adult and Young People's Social Care services for Council residents at a total maximum annual value (to Croydon) of up to £105,000,000 for a initial period of five (5) years, with the ability to extend for up to a further five (5) years.
- 1.2 To note that access to the three Dynamic Purchasing Systems will be made available for the Council's health partners including the Croydon One Alliance, the Clinical Commissioning Group, and SLaM which has been estimated to increase the total maximum value of the DPS's to up to £1,500,000,000 over the full 10 year period.
- 1.3 To note that the Director of Commissioning and Procurement has approved to waive the standard evaluation criteria ratio under Regulation 21 to 60% Quality and 40% Cost in accordance with Regulation 18 of the Councils Tenders and Contracts Regulations, for the reasons set out in paragraph 3.9 of this report.

2. EXECUTIVE SUMMARY

- 2.1 The Council adopted a new Corporate Plan in October 2018. This plan sets out the Council's promises to residents, business and partners over the next four years. In order to deliver the Corporate Plan, the Council is seeking to radically change the way services are delivered, with a strong focus on prevention, enablement and locality based working. This approach will be outcome focused and evidence-led, recognising that services need to differentiate to respond to the differing needs across the borough.
- 2.2 The Council currently spends in excess of £85m every year in financial support to the Adult Social Care and Supported Living Services. This funding includes Day Care, Domiciliary Care, Nursing Care Homes, Residential Care Homes, Respite Care, Supported Living and Supported Housing.
- 2.3 The Council has confirmed its commitment to continuing this funding and increasing the investment over the next four years from April 2020.
- 2.4 The Council proposes to establish a number of Dynamic Purchasing Systems (three at this stage) to enable a quick route to the market for the commissioning and procurement of the health and social care services for Croydon residents as described in the report.
- 2.5 It is proposed that the Council allows access to these DPS's to our health partners in Croydon including the Croydon One Alliance, the CCG, and SLaM.
- 2.6 The content of this report has been endorsed by the Contracts and Commissioning Board.

| CCB Approval Date | CCB ref. number |
|--------------------------|------------------------|
| 25/06/2019 | CCB1498/19-20 |

3. DETAIL

- 3.1 The Adults, Health and Integration team along with the One Croydon Alliance, with support from the ASC board have started the process to create a number of Dynamic Purchasing Systems as an approved method for the Single Health and Social Care Micro-commissioning and Call-off for a range of health and social care services. This will be supported by the eMarket place system, (purchased separately not using the Council's ETendering Portal). This will create a single micro commissioning and call off process and end to end service that is centred around a DPS and able to process all of health, social care for Adults and Young People services and part of Gateway's commissioning needs as well as being able to handle bespoke procurement call offs.

- 3.2 The proposed Dynamic Purchasing Systems will replace the Integrated Framework Agreement (IFA) that commenced in 2014/15 and will expire at the end of March 2020. As a Framework Agreement, the IFA had a maximum life of 4 years (although this has been extended to 5 years). Many of the current services procured through the IFA will be in future be procured from a DPS. However, the IFA was not particularly effective for residential and nursing homes where services were commissioned outside of the framework through spot purchases. The DPS approach offers a solution to these issues.
- 3.3 Each DPS will be used to procure between £1,000,000,000 to £1,500,000,000 worth of Adults and Young People care services over the next 10 years. These services will include Domiciliary Care, Residential Care, Nursing Care, Day Care Services, Independent Living, Supported Housing, Floating Support, etc. [Details are set out in paragraph 3.8].
- 3.4 The initial term of the DPS's is for five (5) years (April 2020 – March 2025), with the option to extend up to a further five (5) years (on an annual basis up to a maximum of ten (10) years), based on need and value for money achieved through the DPS model. In accordance with the Public Contracts Regulations 2015 ("PCR 2015"), there is no time limit on the duration of a DPS. The DPS model allows for flexibility in respect of both supplier and price refresh and this timescale has been accepted as appropriate for the needs of the relevant procurement teams.
- 3.5 These services requirements come under the Light Touch regime of the Public Contract Regulations 2015 and we are proposing to follow the restricted procedure of a two stage process . The OJEU advert is proposed to be published to the market by the end of July 2019.

3.6 **Safeguarding**

The Corporate Plan promotes an emphasis and focus on safeguarding the most vulnerable Croydon residents.

Safeguarding will be a key issue in the provision of these services. The service users are some of the most vulnerable residents living in the borough. All providers will be required to satisfy the Council that their staff are DBS checked. This will be tested at SSQ stage and where applicable at the tender stage as well.

Where a serious safeguarding issue or concern is raised, the provider may be suspended from the relevant DPS. Where there is a serious breach, the contract may be terminated. The Council's new Terms and Conditions of Contracts are currently being amended and will cover this.

- 3.7 As a LLW borough, all applicable contracts will include the requirement to pay the London Living Wage. Living Wage will apply to contracts in other parts of the country.
- 3.8 The following DPS structure is proposed:

Table 1

| DPS Ref. | Title | Lots |
|----------|--|---|
| DPS 1: | Domiciliary Care and Active Lives | Lot 1: Domiciliary Care Lot 2: Active Lives and Day Care Lot 3: Outreach Services |
| DPS 2: | Residential Homes | Lot 1: Residential Care Homes Lot 2: Nursing Homes Lot 3: Private Hospitals Lot 4: Respite Care |
| DPS 3: | Independent Living and Supported Housing | Lot 1: Supported Living Lot 2: Supported People Housing Lot 3: Young People Support Services Lot 4: Floating Support |

- 3.9 **Award Criteria:** The majority of service users receiving services via the DPS are the most vulnerable people in the community, including the elderly and frail; children and young people at risk; people with physical and learning disabilities, people with mental health and challenging behaviour; the homeless and people with special needs. The safeguarding issues and their health and safety is of paramount importance. To provide assurance to service users, their families and carers about the quality of the services purchased through the DPS, we have sought a waiver under Regulation 18 of the Tenders and Contracts Regulations from the Director of Commissioning & Procurement, in accordance with Regulation 21 and Regulation 17 of the Tenders and Contracts Regulations to change the evaluation criteria to **60% quality** and **40% price**. A weighting that indicated that quality was rated less than price would result in a lack of confidence in commissioning and procuring the services.
- 3.10 Each DPS involves a 2 Stage process;

Stage 1: Applicants who wish to join the DPS will need to complete a standard Selection Questionnaire (SQ) which will cover the selection and exclusion criteria. An SQ will be developed for each DPS and this will be relevant and proportionate to the services required under each DPS and Lot.

The SQ will test the provider's suitability to become part of the relevant DPS, by responding to the questions in the Technical and Professional section where suppliers provide evidence of their experience knowledge, skills, expertise and qualification to provide the relevant services and work with the various cohorts of service users.

The technical and professional ability will be bespoke to each DPS and each Lot. Applicants will need to provide references of similar contracts for services provided to other local authorities or health organisations. Additionally, questions will include information about accreditation such as CQC registrations, Safeguarding, Social Value, etc..

Providers who pass the selection and exclusion criteria will be admitted to the DPS for the relevant Lots for the Council to commission services from as part of Stage 2.

Each DPS will remain open for the term of the DPS. Suppliers will be able to join at any time by submitting a completed SQ.

Stage 2: Invitation to Tender (ITT): This stage is the 'micro commissioning call off' or mini competition stage according to the specific requirements of the service.

3.11 **Micro Commissioning and Mini Competition Call Off Process:**

When the Council needs to commission and procure a service, an invite will be sent to all admitted/approved providers on the relevant DPS and Lot. This will include details of the mini-competition process. The award criteria to be used for the award of individual contracts will be set out in the original contract notice. These criteria will be formulated more precisely for each specific contract and will be set out in the invitation to tender for the specific contract.

All providers will be requested to complete a detailed method statement (see the example shown in paragraph 3.13 below) and pricing schedule against the new detailed specification for the specific services required.

Providers will be invited to submit their tender on the tender portal by the closing date indicated at least 10 days from the date on which the invitation to tender is sent. All tenders received will be opened and evaluated by the Tender Evaluation Team which will consist of the specific commissioners, contract and procurement officers and the Category Manager.

3.12 **Tender Evaluation Process**

The evaluation criteria will be Quality 60% and Price 40% for the reasons set out in paragraph 3.9.

The quality evaluation consists of the comparison of bidder responses against the SQ and the specific method statements issues at the mini competition stage.

3.13 **QUALITY:** Indicative method statements used::

| Aspect of Quality | Weighting of |
|---|---------------------|
| Management Structure | 15% |
| Service Delivery Model (Staffing Levels) | 18% |
| Contract and Performance management | 15% |
| Training and Staff qualifications | 10% |
| CQC and Safeguarding | 10% |
| Provider Concerns | 10% |
| Business Continuity and Disaster Recovery | 5% |
| Living Wage (LLW where appropriate) | 5% |
| Social Value | 10% |
| PSP (if relevant and appropriate) | 2% |
| Total | 100% |

3.14 Each supplier method statement will be scored by individual members of the tender evaluation panel, consisting of the relevant Commissioning Operations Manager, Clinical Lead and Procurement Team Leader from each service area. Each method statement will be evaluated in accordance with the published ITT criteria.

3.15 **INDICATIVE TIMETABLE:**

The proposal is to phase the implementation of the three Dynamic Purchasing Systems due to size of the overall project and to spread the amount of additional intensive work required in setting up a new procurement approach.

The following is an indicative timetable for carrying out the implementation of Dynamic Purchasing Systems:

| Activity | Start Date (Phase 1) DPS 3 | Start Date (Phase 2) DPS 1 | Start Date (Phase 3) DPS 2 |
|---|---|---|---|
| Market engagement and consultation | 14/05/2019 | 17/06/2019 | 24/06/2019 |
| CCB | 13/06/2019 8/07/2019 | | |
| Cabinet | | | |
| Specification and Procurement Documents finalised | 15/07/2019 | 15/10/19 | 15/01/20 |
| Publish OJEU Notices | 30/07/19 | 30/10/19 | 30/01/20 |
| STAGE 1: SSQ's available | 01/08/19 | 01/11/19 | 01/02/20 |
| Initial Response deadline | 30/08/19 | 30/11/19 | 30/02/20 |
| Key Decision Notice | 14/08/19 | | |
| CCB | | | |
| Cabinet Approval (RP3) | | | |
| | | 15/08/19 | |
| | | 16/09/19 | |

| | | | |
|---|-----------------|-----------------|-----------------|
| DPS - Go Live Dates: | 01/10/19 | 01/01/19 | 01/04/20 |
| STAGE 2: Issue tenders – call off process begins | 01/10/19 | 01/01/20 | 01/04/20 |

3.16 Contract and Performance Management

Service contracts commissioned through the DPS, will be contract managed in line with the the terms and conditions and the agreed Key Performance Indications within the contract. Performance mononitoring activities to ensure providers meet these requirements, will be undertaken in line with Commissioning and Procurement’s Contract Management Framework. The table below sets out an overview of the contract management activities, to be undertaken proportionate to the value of each contract.

Feedback from performance monitoring will be used to inform Tier 1 reporting across the organisation. Information received will also inform market oversight and feed into future contracting and commissioning activies.

A robust and proportionate approach to monitoring will be applied.

3.17 DPS Management

In addition to the contract management of the service contracts, the DPS’s will need to be managed constantly as it will be open to new applications throughout the life of the DPS. This will include managing the evaluation SQ’s submitted by new suppliers, carrying out regular quality checks on admiited suppliers to ensure that their registrations and accreditations are kept up to date (i.e. CQC registrations, H&S, etc.), publishing contract award notices quarterly and other checks for financial crdability, safeguarding issues, etc. This may include the exemption of admitted suppliers where breaches in certification or poor performance are evidenced.

Qualification Checks

- Annual checks and surveys will also be carried out on the criteria used in the original SQ, especially concerning any safeguarding issues or concerns.
- Annual Financial Checks will be sought to check the credit risk of the supplier organisations.

4. CONSULTATION

4.1 **Suppliers:** Several Supplier Engagement Events have taken place on the Dynamic Purchasing System and individual events for each DPS have recently taken place. These events have been very well attended and existing and new suppliers are proposing to sign up to the new DPS process.

DPS 1 – over 100 suppliers attended.

DPS 2 – over 90 suppliers attended
 DPS 3 – over 160 suppliers attended

- 4.2 **VCSE:** The procurement opportunity will be open to VCSE groups to work as a direct suppliers and with main suppliers as a partner or sub- contractor.
- 4.3 **Partners:** Prospective partners from across Croydon Council and One Croydon Alliance have been involved and consulted. The partners will have open access to the new DPS's and will be able to commission services. The partners include the Croydon One Alliance, the CCG, and SLaM.
- 4.4 **Stakeholders:** Service Users have been consulted over the last 12 months by commissioning and brokerage teams.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Revenue and Capital consequences of report recommendations

The total budget for DPS 1 – 3 will be from the Adults Social Care Services, Childrens services and Gateway Services within the Council.

Revenue and Capital consequences of report recommendations

| | Current year 2019/20 £'000 | Medium Term Financial Strategy – 3 year forecast | | |
|--------------------------------|----------------------------------|---|------------------|------------------|
| | | 2020/21 £'000 | 2021/22 £'000 | 2022/23 £'000 |
| Revenue Budget available | 73,342 | 73,342 | 73,342 | 73,342 |
| Expenditure | 73,342 | 73,342 | 73,342 | 73,342 |
| Income | | | | |
| Effect of decision from report | | | | |
| Expenditure | 84,571 | 84,571 | 84,571 | 84,571 |
| Income | | | | |
| Remaining budget | <u>-11,229</u> | <u>-11,229</u> | <u>-11,229</u> | <u>-11,229</u> |

5.1.1 There are high levels of overspend in this area which will need to be addressed through the medium term financial strategy. However it is well recognised that Adult social care is under extreme pressure and it is hoped that some of the issues will be addressed in the forthcoming Green Paper.

5.2 The effect of the decision

5.2.1 DPS 1 - 3

Council impact

The total current Council expenditure in 2018/19 on services that will be incorporated into DPS 1-3 totals **£85,000,000** per annum. The following table gives an indication of current spend against the proposed DPS Lots.

Actual Adults Social Care Spend against by DPS Lots in 2018/19:

| DPS and Lots: | Committed Council Expenditure 2018/19 £,000 | Partners Total Expenditure 2018/19 £,000 |
|----------------------------------|--|---|
| DPS 1 | | |
| Lot 1: Domiciliary Care | 20,648 | |
| Lot 2: Active Lives and Day Care | 1,957 | |
| Lot 3: Outreach Services | tbc | |
| DPS 2 | | |
| Lot 1: Residential Care | 34,898 | |
| Lot 2: Nursing Care | 12,973 | (CGC) |
| Lot 3: Private Hospitals | tbc | (CCG) |
| Lot 4: Respite Care | 201 | (CGC) |
| DPS 3 | | |
| Lot 1: Supported Living | 10,354 | |
| Lot 2: Supported Housing | 3,900 | |
| Lot 3: Young People | tbc | |
| Lot 4: Floating Support | 160 | |
| TOTAL | 84,731 | (CGC) |

5.2.2 Spend through a DPS

This paper is seeking permission to establish DPS 1; DPS 2 and DPS 3 specifically for Croydon Council, as the main purchasing authority.

However, the Council wishes to grant permission for our health partners to access the DPS's including the the Croydin One Alliance, the CGC, and SLAM. This will be financed separately. Participating organisations will need to sign an Access Agreement to use the DPS's.

Spend through a 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.

As a LLW borough, all applicable contracts will include the requirement to pay the London Living Wage. Living Wage will apply to contracts in other parts of the country.

5.3 Options

5.3.1 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.

5.4 Future savings/efficiencies

5.4.1 The majority of savings will be achieved by providing competition for supply of personal care services.

5.5 Risk Management

5.5.1 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.

5.5.2 The population in Croydon is projected to increase from 380,000 to 445,000 by 2031. Additionally vulnerable residents' needs will become more complex. This will place an additional financial burden on the Council. The DPS will provide a flexible solution to the commissioning and procurement of services that can be managed to contain expenditure within approved budgets.

5.5.3 Immediate Staff Resources (first 6 months): There will be a heavy demand on Council staff during the establishment of the three DPS's, especially in the following areas:

SQ - Evaluation Teams/Panels.

Finance - company credit checks

ITT - Tender Evaluation Teams

Brokerage Team

Procurement Staff – Portal Management

DPS Support to our health partners

This work will need to be prioritised and carried out by existing staff.

5.5.4 Longer Term Staff Implications for managing any new applications to join the DPS's; and the continual brokerage and contract management functions.

These resources will need to be met by the newly restructured Adults, Health and Integration team in Commissioning and Procurement. Vacancies will need to be filled asap.

5.5.5 Supporting partners with the DPS's will require additional resources which will need to be funded by the participating partners.

Approved by: Mirela Peters, Head of Finance, on behalf of the Director of Finance, Investment & Risk.

6. LEGAL CONSIDERATIONS

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

Approved by: Sean Murphy, Director of Law and Governance

7. HUMAN RESOURCES IMPACT

- 7.1 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.

Paying LLW rates where applicable will be a contractual requirement of the DPS approach. Living Wage will apply to contracts in other parts of the country.

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

8. EQUALITIES IMPACT

- 8.1 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.
- 8.2 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

9. ENVIRONMENTAL IMPACT

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

10. CRIME AND DISORDER REDUCTION IMPACT

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

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 Approve the procurement strategy detailed in this report for the establishment of a DPS at a maximum estimated value up to £1,500,000,000 for the Council for a period of five (5) years, plus up to a further five (5) year extension period (maximum term of ten (10) years).
- 11.2 The DPS offers an end to end process for commissioning and award of a range of services for adults and young people. Further details are included in the RP1 report.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 An Options Appraisal was considered as part of the RP1 (Make or Buy) report, which has been agreed by CCB.
- 12.2 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.
- 12.3 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.
- 12.4 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 in-efficient and time consuming, requiring extra staff.
- 12.5 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.

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BACKGROUND PAPERS: None