

**AGENDA ITEM: 5**      Pages 1 – 11

Meeting	Cabinet Resources Committee
Date	19 July 2010
<b>Subject</b>	<b>Contract Award for Enablement (contract reference: 50259) and Home and Community Support (contract reference: 50254)</b>
Report of	Cabinet Member for Adults
Summary	This report proposes the award of two contracts. Firstly, the award of an Enablement contract to Housing 21 for a period of five years; and secondly, the award of a twelve-month framework contract for home and community support as part of a two-stage procurement process to re-shape the home care market to support the personalisation of social care. The report also makes two further proposals relating to a waiver of the contract procedure rules and a request for authority to delegated to the Director of Adult Social Services to proceed with the next stage of the procurement process.

Officer Contributors	Tom Pyne – Head of Supply Management (Adult Social Services)
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
For decision by	Cabinet Resources Committee
Function of	Executive
Reason for urgency / exemption from call-in	Not applicable

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## **1. RECOMMENDATIONS**

**1.1 That a twelve-month framework contract for Home and Community Support commencing 1 November 2010 be awarded to:**

- **Allied Healthcare;**
- **Amonet;Carewatch;**
- **Dynamic People;**
- **Enara;**
- **Goldsborough Home Care;**
- **London Care;**
- **Personnel and Care Bank;**
- **Plan Personnel;**
- **Umbrella; and**
- **Westminster.**

**1.2 That a five-year Enablement Contact commencing 1 September 2010 be awarded to Housing 21.**

**1.3 That the extensions to the existing contracts negotiated by the Director of Adult Social Services in pursuance of the delegated powers decision of 14 August 2008 be approved.**

**1.4 That the procurement approach for moving from 11 contracted providers to 3 contracted providers for Home and Community Support from November 2011, through a process outlined in section 9 of the report be approved.**

**1.5 That a waiver be granted for the requirements for turnover levels related to the contract value on the basis of the reasons described in paragraphs 2.4.1 and 2.4.2 of the accompanying exempt report.**

**1.6 That the Director of Adult Social Services be authorised to amend the hourly contribution payable by service users under its Fairer Charging Policy for Home and Community Support services from £14.27 to £13.84 from 1 November 2010 to reflect the new cost of service provision.**

## **2. RELEVANT PREVIOUS DECISIONS**

2.1 The Interim Head of Community Care on 1 June 2004, in consultation with the Cabinet Member for Social Care, awarded by delegated powers by tender five-year contracts for the provision of home care.

2.2 The Cabinet Member for Community Services on 14 August 2008 under delegated powers (DPR 606) approved the extension of the home care contracts to September 2010.

2.3 Pension Fund Committee, 17 March 2010 (Decision item 6) – agreed in principle, to the admission of organisations awarded the home and community support into the Council's Pension Fund in relation to any Council Pension Fund members transferring into that organisation under TUPE arrangements.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

3.1 Better services with less money – The new contracts for Enablement and Home and Community Support will help promote independence for adults with assessed personal care and support needs in the Borough.

The proposed Enablement contract specifically focuses promotion of independence through the provision of a short term intensive intervention which prevents dependency on ongoing services where possible. The services being procured will operate generically providing cross-cutting and person-centred support to all customer groups taking account of all disabilities and needs.

- 3.2 Sharing opportunities and sharing responsibilities – The new contract framework has been developed to support the implementation of the Choice and Independence vision for Adult Social Services, establishing a market place which will be able to respond to people self-directing their social care through a personal budget. The new model implemented over a five year period will allow for increasing use of personal budgets and an anticipated decrease in the number of direct referrals from the Council to contracted agencies.

#### **4. RISK MANAGEMENT ISSUES**

##### **Business failure and financial risks**

- 4.1 The social care providers market operates within relatively narrow margins and the home care sub-sector is particularly tight, following many years of strong control of annual uplifts by local authorities accompanied by application of minimum wage and working time directives which particularly affect this sector. The home care market is beginning to experience a number of acquisitions and mergers as some organisations decide to gain market share in order to strengthen economies of scale and consolidate in a market that is becoming more complex, at a time where local authorities are beginning to hold a lower level of purchasing power as a result of people arranging their own care through personal budgets. The following plans and considerations should mitigate the aforementioned risks:
- 4.2 The procurement approach for home and community support take account of the uncertainty for social care providers arising from the personalisation agenda. By approaching the market for a five year strategy but with a pilot first year, the Council has sought to enter into a partnership with the home care provider market to test the new model of support set out in this contract (a move away from time and task based commissioning to outcomes based approaches), prepare for personalised service delivery working in partnership with the Council and other key stakeholders. The Council will use this year-long period to assess in depth the potential capability of each organisation in service delivery and to assess how each organisation would be able to meet the service outcomes detailed in the service specification. By the end of year 1, the Council will select 3 lead providers to cover one of 3 geographical areas from this list for a contract of 4 years, for the delivery of a Home and Community Support service. This provision is a flexible personal care support service for people with disabilities and high support needs in their own home. All Council commissioned business related to these three geographical areas will be directed to the lead provider with the lead provider having the ability to sub-contract to other home care providers who meet the Council's specification for home and community support.
- 4.3 The period of the twelve month framework contract is an opportunity for 11 providers of home and community support to work closely with Adult Social Services in the delivery and operation of this specification for home and community support. The procurement process followed and to be continued though the next twelve months.

The establishment of an eleven contractor framework with and the reduction to three contractors for November 2011 allows the Council time to advise the market on the direction and its social care commissioning intentions along with further time for the market to continue to consolidate before the Council develops a stronger contractual partnering arrangement with three contractors.

- 4.4 Tenderers have undergone numerous financial checks carried out by the Council's Corporate Finance Team and the eleven proposed contractors for home and community support will be part of a one year framework agreement which will be closely monitored by Adult Social Services. The Framework arrangement means that the Council has control over the level of business placed with any individual contractor and the number of contractors for a year from 1 November 2011, thus allowing the Council to minimise any impact of potential business failure.

#### **Operational transition risks**

- 4.5 There is a risk that the Council's service users will be adversely affected by the transition to new contract arrangements. The following plans and considerations should mitigate this risk:
- 4.6 Adult Social Services has a Transitions Plan to ensure the safe and streamlined management of transition on behalf of current services users during the implementation phase of this new model. The Transitions Plan has successfully managed transition issues to date, including the transfer, where safe and appropriate, of a number of service users who were receiving care from incumbent contractors that failed to proceed beyond the Expression of Interest stage of the tender. Transition is being used to create opportunities to maximise use of personal budgets in accordance with the wishes of service users and an individual assessment of risk.
- 4.7 The procurement process has been managed over a period that has allowed sufficient communication, publicity and involvement of the customer in order to support the establishment of the new contractual arrangements. Operational leads have been and continue to be involved and committed to the procurement project at all levels, with consistent messages being passed on to operational teams. Furthermore, client reviews are dovetailing with the stages of the procurement and transition process.

### **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The services being procured will operate inclusively for all care groups covering all postcodes in the Borough. The ability to sub-contract has been built into the contract model for home and community support to facilitate response to any niche areas of demand which may relate to, for example, language or diagnosis which is unable to be covered within the main contract.
- 5.2 The Council's Procurement Equalities policy has been followed in the management of the tender process, including evaluation of tenderers' equalities and diversity policies concerning employment practice and service delivery. The contract for the new services will include explicit requirements fully covering the Council's duties under equalities legislation.

## 6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability).

6.1 The 2010/11 Budget for expenditure on Homecare is £13.556m. Against this budget, spend is incurred as follows:

- A block contract for 3,000 hours per week is delivered by Housing 21. This is charged at £28.11 per hour. This contract commenced in 2002 following the cessation of the Council's in-house homecare service. The Council's homecare staff were transferred under TUPE arrangements to Housing 21, of which 93 continued to be employed on this contract. Housing 21 currently delivers the enablement service component of homecare provision as well as home care for people with ongoing needs.
- Spot homecare contracts with 15 contractors provide the bulk of the homecare provision delivering on average 12,500 hours per week. A single hourly rate of £13.22 per hour applies across these providers. However, the hourly rate increases where visit times are less than one hour and differential rates apply for out of hours working. This increases the unit cost of this provision to £14.27 per hour.
- Specialist homecare provision, especially in relation to clients with mental health needs and learning disabilities, accounts for around 850 hours per week and is delivered by various providers. The average unit cost of this provision is £15.67 per hour.

6.2 A restricted, two-stage open procurement process was undertaken, beginning in February 2010 for two contracts – short term enablement homecare and home and community support services. Advertisements were placed in the trade press; the national press; on the supply2gov website ([www.supply2.gov.uk](http://www.supply2.gov.uk)); [www.communitybarnet.org.uk](http://www.communitybarnet.org.uk) and on the Council's website ([www.barnet.gov.uk](http://www.barnet.gov.uk)). Details of the tender process are set out in paragraphs 9.9 – 9.17 of this report. The procurement process was led by the Head of Supply Management, Adult Social Services with advice from the Head of Corporate Procurement, with Weightmans solicitors providing specialist legal advice procured through the legal services framework contract.

6.3 The proposed arrangements are to deliver the homecare services through two types of contract; Enablement and Home and Community Support, with the contracts let to avoid the need to use separate specialist provisions for specific care groups. The tenderers for both types of contracts were asked to submit a new annotated hourly rate which incorporated time bandings, part visit times and specialist provision.

6.4 The new Home and Community Support Service is proposed to be delivered by eleven providers through a framework contract with no guaranteed hours. These eleven providers would reduce to three lead providers from year two of the contract as set out in paragraphs 9.18 – 9.21 of this report. A decision regarding lead providers would be taken during 2011/12. The providers' rates range from £12.18 and £15.01 per hour, translating into an average projected hourly rate of £13.84 per hour and an annual cost of £10.548m. For two of the providers this would equate to a fee reduction where they have an existing contract at existing rates.

6.5 It should be noted that as part of the selection of the three lead providers to operate from year two of the contract, prospective lead providers will be required to submit revised rates as part of their bid.

Given that the lead providers could reasonably expect significantly larger volumes of business than they would as one of the eleven providers in the first year, and that they would be assured of four further years business under the contract, it is expected that average rates tendered would be lower than those average rates already tendered by the current eleven providers. Any saving generated by reduced rates would contribute to the Directorate's savings targets in future years. Should there be an increase in prices resulting from the move to lead providers, then a paper will be brought to CRC outlining the position.

- 6.6 The Enablement Service is a vital component of Adult Social Services' delivery of cash savings (£884,000 savings target in 2009/10) through promoting individuals' independence through the reducing dependency on long term care provision. This is to be delivered through a single 1,200 hour block contract over a fixed term of 5 years. This contract is proposed to be awarded to Housing 21 at an annotated hourly rate of £18.76 per hour. This translates into an annual cost of £1.171m.
- 6.7 At the point of tendering, it was not possible to know how many former Council staff who are currently employed with the block provider, Housing 21, would be transferred under TUPE arrangements to new providers. As a result, providers were asked to tender excluding the additional costs associated with TUPE of former Council staff, and the prices stated in 6.2 and 6.4 above reflect this. It was proposed that the contracts would contain provision for providers to claim back the additional costs incurred relating to TUPE. This would be done through an open book process by comparing the costs of former Council staff with other staff employed in the same role, with the Council reimbursing the provider the difference between the costs of the former Council staff and cost of those staff employed by the provider not employed under Council terms and conditions. Analysis of recent Housing 21 payroll and pension information indicates that the additional cost resulting from TUPE is £0.571m per annum. However, it is expected that this additional cost will reduce over time, although it is not possible to specify the trajectory of this reduction.
- 6.8 Under TUPE regulations, any new provider to which employees are transferred must provide equivalent pension provision to those employees. To enable this to occur, the Council's Pension Fund Committee agreed in principle on 17 March 2010 to admit new providers into the membership of the Council's Pension Fund in respect of any transferring former Council employees with current scheme membership. Details of any employee transfer arrangements under TUPE will be determined prior to commencement of the contracts.
- 6.9 An additional cost resulting from any transfer of former Council staff under TUPE is the cost to the provider of arranging a bond with the Council's Pension Fund to cover its payment obligations to the Fund. As it was not possible to know how many former Council staff that the current block provider, Housing 21, would be transferred under TUPE arrangements to new providers, it was not possible to know the size of any Bond that individual providers would require. As a result, it is proposed that the Council would reimburse the provider the cost of providing such a Bond. It is estimated that cost of this would be £0.025m per annum.
- 6.10 The new contracts will impact onto client contributions. The reduction in unit costs will require a reduction in the hourly contribution made by clients (£14.27) under the Fairer Charging Policy from the current rate of £14.27 to the new unit cost of £13.84 from the commencement date of the new Home and Community Support contract. It is estimated that this reduction would reduce net contributions by £0.012m per annum.

As this is a reduction, no consultation would be required with clients. As a result, it is proposed in Recommendation 1.5 that Adult Social Services amends the hourly contribution payable by service users under its Fairer Charing Policy for Home & Community Support services from £14.27 to £13.84 to reflect the new cost of service provision.

- 6.11 The additional costs outlined in the above paragraphs indicate that a saving of £1.253m should be made on the new contract, as illustrated in the table below.

**Table – Impact of Home & Community Support / Enablement Contracts**

	£000
<b>2010/11 Budget</b>	<b>13,556</b>
<b>Estimated Costs of New Contract</b>	
Enablement Contract	1,171
Home & Community Support Contract	10,548
Reimbursed TUPE Costs	571
Reimbursed Pension Fund Bond Costs	25
Loss of income	(12)
<b>Estimate New Contract Cost</b>	<b>12,303</b>
<b>Estimated Saving on Contract</b>	<b>1,253</b>

## 7. LEGAL ISSUES

- 7.1 For the purposes of European procurement rules, the Enablement and Home and Community Support Services falls within Category B of Schedule 3 to the Public Contracts Regulations 2006. Procurements of Category B services do not have to follow the full European procurement regime. However, as indicated at paragraph 6.2 above, a competitive process was carried out using the European 'open procedure' and this will have ensured compliance with the, relevant, Treaty principles.

## 8. CONSTITUTIONAL POWERS

- 8.1 The Council's constitution, Part 3, Responsibility for Functions, paragraph 3.6 states the functions of the Cabinet Resources Committee.

## 9. BACKGROUND INFORMATION

- 9.1 Adult Social Services currently provides personal care support services through a range of homecare contracts and through the allocation of direct payments, enabling people to self-direct their care and support arrangements, to nearly 2000 service users in total at any one time. The proportion of people receiving direct payments has steadily increased in line with local and national targets since 2004 when the last homecare contracts were awarded. The services to be commissioned are for people with critical and substantial need in the area of personal care and are provided to enable them to remain living in their own home.

- 9.2 Since March 2009 Adult Social Services has been developing a Short-Term Enablement Homecare service through its largest provider, Housing 21. Enablement is provided following a community care assessment and now forms part of the assessment pathway. Enablement allows for a flexible period of up to six weeks for an individual to receive an intensive service which 'does with' rather than 'does for' the service user within a Support Plan which has goals designed specifically to enable an individual to reach a greater level of independence. Reflecting national experience, this provision shows promising results, with over 40% of people no longer needing a care or support service after a Short-Term Enablement Homecare service. This approach has built in the opportunity for as many people as possible who have personal care and support needs to maximise their self care levels which may have declined following a period of ill health, an increase in frailty or possibly as a result of a having a long term condition or due to other circumstances. The medium term financial strategy for Adult Social Services includes significant savings to be achieved in 2010/11 through the roll out of a comprehensive enablement approach.
- 9.3 The Short-Term Enablement Homecare Service was tendered alongside Home and Community Support for a contract of 5 years to be awarded to a single provider. Built into the specification is the provision for a developmental approach to integration with any future healthcare provider of intermediate care as required by the commissioners to support the achievement of the LAA target NI 125. The value of the contract has been based on modelling of expected number of service users (both new and existing) who will go through the enablement care pathway prior to agreeing their personal budget allocation over the duration of the contract.
- 9.4 The Enablement and Home and Community Support contracts have been tendered jointly and are operationally linked in order to help the Council deliver a complete home care pathway that operates efficiently and provides a seamless service to its recipients. The proposed contractor for Enablement will not only work in partnership with the Council but will be expected to work in close collaboration with Home and Community Support contractors in order to ensure that the transition of service users from enablement provision to ongoing home and community support is well managed and built around the needs and aspirations of the service user.
- Approach to the Market and Procurement Model**
- 9.5 Adult Social Services has been engaging the local care market over the last 2 years about its vision for choice and independence and specifically about how the model for the delivery of domiciliary care could be transformed to deliver personalisation. A number of events have been held alongside regular forums for existing contracted providers. The specification was consulted upon widely and included the significant change of moving away from a rigid time and task model.
- 9.6 Adults Social Services went out to tender to engage providers who were able to demonstrate that they were capable of providing flexible, good quality personal care and support for service users in their own home who have received an enablement intervention and who may require an ongoing service. The approach needed to meet the needs of the number of people who are already receiving an ongoing service and take account of the increasing numbers of people who are self directing their care and support arrangements. The new specification reflected the key priorities for Barnet Adult Social Services to:
- Promote choice, well-being and empowerment;
  - Enable people to manage their conditions and live as independently as possible; and
  - Respond to people with high level need.



- 9.7 The simultaneous tendering of these two services allowed the Council to present the services to the market and potential bidders as critically linked services. This was presented at a formal “Meet the Buyer” event during the Expression of Interest Stage of the tender process that enabled the Council to present the importance and interdependence of the two contracts. The Council, through a service-user advisory group were also able to work on the two contract specifications and their interdependence, viewed from an end user perspective.
- 9.8 The proposed new contracts result from a procurement process that delivers a balance of risk, quality and efficiencies.

Risk – The new contracts promote enablement and independence for service users. The proposed new contracts support the Council’s move to empower recipients of social care to become less dependent on traditional models of care and support, within a risk managed environment.

Quality – The Council has managed a procurement process that will ensure high quality provision of both Enablement and Home and Community Support services. The thorough process followed for both short-listing and evaluation of tenders, backed with other verification methods has enabled the Council to propose the establishment of a range of providers that will represent a balance of those that will be new to Barnet and some that have worked well with the Council and for service users over many years.

Efficiencies – The proposed contracts will deliver efficiencies for the Council in the following ways; Firstly, through the continued commitment to the Enablement model of care as described in 9.2 and secondly through the tendered prices and resulting savings described in section 6 of this report. Finally, the new contracts will help deliver back office savings when the number of contractors for Home and Community Support reduces to three, due to an anticipated reduction in transaction and contract management costs. All contractors will be required to install and use the Council’s selected electronic call monitoring system to record visits and use the data to invoice the Council to reflect payment on actual hours delivered rather than commissioned hours. The Council will work in partnership with contractors to agree the medium and long term future of electronic call monitoring.

### **Procurement Process**

- 9.9 For both Home and Community Support and Enablement, a restricted tender process has been followed, involving a two-stage procedure for invitation of expressions of interest with the submission of a Prequalification Questionnaire (PQQ) and for subsequent invitation of tenders from a shortlist of organisations.
- 9.10 Expressions of Interest in tendering to operate the services were invited on 8 February 2010, advertised through national media, the Barnet website, *Supply4Gov* and *Competefor*. A “meet the buyer” event held on 24 February 2010 was attended by key providers in the home care and enablement market.
- 9.11 The first stage of the procurement process, the submission of completed Pre-qualification Questionnaires, had 43 organisations responding by the deadline on 19 March 2010. Following evaluation of the Questionnaires, 21 organisations were invited to the tender stage in April 2010, and tender submissions from 16 organisations were received by the deadline on 19 May 2010.

- 9.12 Evaluation of tenders was completed 3 June 2010 and a paper recommending contract award was presented to a Departmental Project Board on 16 June 2010 and Adult Social Services Senior Management Team on 25 June 2010.
- 9.13 The views and recommendations of service users were taken into account during the procurement project and tender process. A service user advisory group was created in 2009 in order to help shape the specification and to prepare its members for participation in the tender process.
- 9.14 Tenders were evaluated against the following allocated weighting:
- 30% against cost – assessed against submitted prices; and
  - 70% against quality – assessed against method statements (45%) and performance at a presentation to the tender evaluation panel (25%).
- 9.15 A six-member assessment panel was drawn from the project group and individually evaluated the tender submissions, applying detailed criteria to mark each tenderer's method statements. Following the initial assessment of the tenders, each of the organisations were interviewed during May 2010 in order to resolve issues identified in the submissions and to enable tenderers to demonstrate their understanding and approach to the models specified for both Home and Community Support and Enablement. Service-User representatives formed part of the panel for the Enablement tender presentations as the service user advisory group had previously agreed that it would be difficult to manage the high volume of presentations for the Home and Community Support contract.
- 9.16 The Council carried out a number of additional activities listed below in order to validate the tender submissions for both contacts. The additional activities were:
- Financial strength and credit reference checks
  - References from other Local Authorities; and
  - Site visits to validate tender submissions and in particular method statements.
- 9.17 Following the meetings of the Tender Evaluation Panel to evaluate bids and receive presentations from shortlisted bidders and taking into consideration site validation visits, a formal post tender moderation process was followed to in order to ensure a clear, balanced and justifiable procurement decision could be reached. An example of the moderation process followed were incidences where formal post tender on site verification visits contradicted through testing, any content of bidder method statements. Where contradictions were discovered, formal minuted meetings took place between tender evaluation panel officers to review the contradictions and moderate the appropriate elements of the original tender scores.

**Next Steps to reduce to 3 Home Care and Community Support Contractors from November 2011**

- 9.18 During the remainder of 2010 and into 2011 the Council will manage the next stage of the procurement process in relation to the contracts for Home and Community Support by carrying out a mini-selection process from amongst the proposed eleven contractors with the aim to reduce to three lead contractors. Tender documentation at Expression of Interest stage and Invitation to Tender stage made this process clear to enable the Council to manage the process over the two stages to avoid the requirement to go back out to the wider market.
- 9.19 The Lead Provider contracts will commence 1 November 2011 and run for a fixed term of 4 years. The selection process for Lead Providers will be a mini-competition within the framework agreement.

Only those providers who have been awarded a one year contract for Home and Community Support through the full tendering process will be eligible to apply for a Lead Provider contract. It is assumed that providers who apply for Lead Provider status already meet key criteria and evaluation will therefore focus on tests in relation to capacity, quality, added value and innovation and submission of prices against volume differentials.

9.20 From November 2010, contractors wishing to apply for the role of Lead Provider from post November 2011, will be asked to demonstrate their ability to build capacity for new ways of working which will deliver a set of key service outcomes and will be measured through a set of milestones and results which are set out in service specification. These include operating an efficient and responsive service, promote ongoing review of the service and maintain continuous improvements, and making high quality and timely reports to the commissioners on recommendations for new ways of working. They will need to demonstrate the strategic capacity to work in partnership with the Council to achieve efficiency through innovation and effective partnerships with others in the market. The lead providers will pilot the use of Individual Service Funds to be spent as agreed between the provider and service user or their advocate/ representative as part of the Choice and Independence programme and this forms one of the milestones for lead providers.

9.21 The Lead Providers will be awarded one of three geographical areas which will form part of the contract and will be awarded all Council Business from the commencement of the first year of the four year contract term. The geographical areas are shown in the table below.

<b>(North)</b>		<b>(West)</b>		<b>(South)</b>	
EN4	<i>Cockfosters</i>	HA7	<i>Stanmore</i>	N2	<i>East Finchley</i>
EN5	<i>Barnet</i>	HA8	<i>Edgware</i>	N3	<i>Finchley</i>
N10	<i>Muswell Hill</i>	NW4	<i>Hendon</i>	N6	<i>Highgate</i>
N11	<i>New Southgate</i>	NW7	<i>Mill Hill</i>	NW2	<i>Cricklewood</i>
N12	<i>North Finchley</i>	NW9	<i>The Hyde</i>	NW3	<i>Hampstead</i>
N14	<i>Southgate</i>			NW11	<i>Golders Green</i>
N20	<i>Whetstone</i>				
WD6	<i>Borehamwood</i>				

9.22 The approval of the lead providers following completion of the selection reported to a future meeting of the Cabinet Resources Committee.

## 10. LIST OF BACKGROUND PAPERS

10.1 None.

Legal – PD  
CFO – CA/RM