

**ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)**

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<b>Subject</b>	<b>Home and Community Support – Contract Award</b>
<b>Cabinet Member</b>	Cabinet Member for Adults
<b>Date of Decision</b>	20 March 2014
<b>Date of decision comes into effect</b>	10 April 2014 (Publication Date: 3 April 2014)

<b>Summary</b>	This report seeks authorisation to award a contract for the provision of Home and Community Support.
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<b>Officer Contributors</b>	Enid Coleman, Category Manager, Adults and Communities
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<b>Status (public or exempt)</b>	Public
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<b>Wards affected</b>	All
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<b>Enclosures</b>	None
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<b>Reason for exemption from call-in (if appropriate)</b>	
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<b>Key decision</b>	Yes
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## **1. RELEVANT PREVIOUS DECISIONS**

- 1.1 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.
- 1.2 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.
- 1.3 Cabinet Resources Committee, 19 July 2010, Item 5 (Report of Cabinet Member for Adults - Contract Award for Enablement and Home and Community Support).
- 1.4 Cabinet Resources Committee, 7 November 2012 (Decision item 7) - approved contract procurement activity for the 2013/14 financial year.
- 1.5 Cabinet Resources Committee, 4 November 2013 (Decision item 14) approved contract procurement activity for the 2014/15 financial year.

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

- 2.1 The recommended decision is intended to ensure compliance with the Council’s Contract Procedure Rules and therefore supports the Corporate Plan commitment to the Council’s business being well run, efficient and transparent.
- 2.2 The service provision is for a flexible personal care support service for people with disabilities and high support needs in their own home. This service meets the aims of Adult Social Care to promote choice, well-being and employment, and to enable people to manage their conditions and live as independently as possible.
- 2.3 The planned and on-going commissioning and procurement activity related to these contracts contribute to the priorities of the Council’s Corporate Plan 2013/14-2015/16 by promoting “a healthy, active, independent and informed over 55 population in the borough so that Barnet is a place that encourages and supports residents to age well”.
- 2.4 Barnet’s Health and Wellbeing Strategy 2012-15 aims to reduce health inequalities by focusing on how more people can “keep well” and “keep independent”. These contracts allow Barnet residents to remain in their homes and maintain independence.

### **3. RISK MANAGEMENT ISSUES**

3.1 The award of two new contracts will provide continuity of care for residents as a result of the termination of one of the lead framework providers that is commissioned to provide home and community support primarily in the northern locality of the borough. It was not possible to complete a competitive procurement exercise due to the timescales involved for this work. However, a due diligence exercise was conducted to award contracts to two homecare providers.

#### **3.2 Quality and financial risks**

3.2.1 The due diligence exercise has sought to ensure that any new providers have the capacity to manage the mobilisation of transfer from the existing provider to the new providers. The most recent Care Quality Commission inspection reports have also contributed to demonstrating quality.

3.2.2 All providers awarded contracts have undergone a financial check by the Council's Corporate Finance Team and will be closely monitored under the new contracts.

#### **3.3 Operational transition risks**

3.3.1 There is a risk that service users will be adversely affected by the transition from one provider to another. Adults and Communities have developed a comprehensive project plan which includes the mobilisation of the new providers and transfer timescales. With the new contract in place, Adults and Communities will work closely with the new providers to transfer service users within an eight week period, extending to twelve weeks if required.

3.3.2 The mobilisation and transfer to the new providers will strive to transfer service users along with their existing care worker to provide a continuity of care. There is a duty on the outgoing employer to supply information about the transferring of employees to the incoming employer. A Transfer of Undertakings (TUPE) with the outgoing and incoming employer has been built into the project plan timescales.

3.3.3 During the mobilisation phase, a dedicated social care reviewing team will be reviewing all service users who receive a service from the exiting provider in which care is managed by the Council.

3.3.4 Service users who choose to remain with the provider will be offered a direct payment. Service users who receive all their care from one of the three sub-contracted providers can continue with the existing provider either by care being managed by the Council or by a direct payment, whichever is more appropriate.

3.3.5 New care packages will also be commissioned from the new providers.

#### **4. EQUALITIES AND DIVERSITY ISSUES**

- 4.1 The Equality Act 2010 places a duty on public authorities to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation.
- 4.2 The services being procured will operate inclusively for all care groups covering primarily the North Locality of the Borough as this is the location which is most affected by the termination of the contract.
- 4.3 The recommended contracts require providers to have a high standard of equitable behaviours. This includes compliance with Equal Opportunities Legislation, operating an equal opportunities policy, observing Codes of Practice issued by the Commission for Equality and Human Rights, and giving appropriate consideration to each customer's race, nationality, cultural or ethnic background, marital status, age, gender, religion, sexual orientation and disabilities.

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

- 5.1 The 2013/14 and 2014/15 budgets for total expenditure on Homecare are £9.21m and £8.88m respectively. The existing provision currently delivers approximately 1,100 weekly hours and a further 600 weekly hours is delivered between the three sub-contractors. There are 200 service users affected by the termination of the contract, of which 60 receive care from one of the three subcontractors.
- 5.2 Entering into contracts with the new providers will have no impact on client contributions as there is unlikely to be any reduction in unit costs paid by the Council as outlined in the Fairer Charging Policy for Home & Community Support.
- 5.3 This is a Part B service and due to the nature of the requirement, would normally require a competitive tender exercise to be undertaken. However, a due diligence process has been undertaken involving three providers, which also included a review of their existing pricing model to achieve value for money within the short timescales leading to the contract termination.
- 5.4 The Council will enter into spot contracts with the three subcontractors to ensure continuity of care for those service users wishing to remain with the providers in which direct payments are deemed not to be appropriate.
- 5.5 The services being 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. The aim of the service is to promote choice, well-being and employment, and to enable people to manage their conditions and live as independently as possible.

## **6. LEGAL ISSUES**

- 6.1 Adults and Communities sought legal advice on the contract termination, due diligence, sub-contractor relationship as well as the issuing of a revised service specification and contract terms and conditions. This provides assurances and mitigates risk of legal challenge regarding contract termination and award of contract to the new providers.
- 6.2 The due diligence exercise originally approached three providers in which all had existing contracts approved through the Council.
- 6.3 The proposed contracts will be in a standard form approved by the Council's Legal Services.

## **7. CONSTITUTIONAL POWERS**

- 7.1 Council Constitution, Contract Procedure Rules sets out authorisation and acceptance thresholds and procurement methods for Contracts.
- 7.2 Council's Constitution, Contract Procedure Rules Section 9, allows for a single tender action or commitment to take place with approval in advance by the Commercial and Customer Services Director.
- 7.3 Contract Procedure Rules, Appendix 1 – Table A sets out acceptance thresholds for procurements. The services being commissioned are likely to exceed £500,000 in value, so a Cabinet Member DPR is required to authorise the procurement.

## **8. BACKGROUND INFORMATION**

- 8.1 The decision to award two contracts is the result of terminating one of the three framework providers contract. The decision to terminate has followed extensive work with the provider to improve performance management and service delivery.
- 8.2 Between September – December 2013, the Council issued three default notices. From the beginning of December 2013 the Council have worked towards a plan which included the need to put in additional London Borough of Barnet workers 7 days per week (to ensure the safety of service users), the pre-selection of new providers, developing a project plan including the social care review of service users and mobilisation.
- 8.3 The extra provision will run concurrently with the remaining two framework providers until 2015. Further work will be undertaken in 2014/15 to review the current service provision and to map out future requirements for new contracts in 2015.

**9. LIST OF BACKGROUND PAPERS**

9.1 None.

**10. DECISION OF THE CABINET MEMBER(S)**

**I authorise the following action:**

10.1 To issue a 20 month contract (March 2014 - October 2015) for Home and Community Support to the following providers to commence immediately:

- Allied Healthcare
- Hartwig Care

**Signed**



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**Date**

20<sup>th</sup> March 2014