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<b>Meeting</b>	Cabinet Resources Committee
<b>Date</b>	25 February 2013
<b>Subject</b>	<b>Framework Agreement for the Provision of Supported Living Services for Vulnerable Adults</b>
<b>Report of</b>	Cabinet Member for Adults
<b>Summary</b>	<p>This report seeks authorisation to appoint 30 organisations to a Framework Agreement for the provision of Supported Living Services to Vulnerable Adults and describes how the Council will ensure a safe and smooth transitions from existing arrangements to full implementation of the Framework Agreement.</p> <p>An initial contract term of 2 years is proposed, with option to extend for a further 2 years at the Council's discretion.</p>

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Officer Contributors	Caroline Byrt - Interim Assistant Director Supply Management and Resources, Adult Social Care and Health Claire Sloan - Interim Senior Category Manager, Adult Social Care
Status (public or exempt)	Public
Wards affected	All
Key Decision	Yes
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. RECOMMENDATION**

- 1.1 That the Committee approve the appointment of 30 organisations to a new Framework Agreement for Supported Living Services and that the Framework commences on the 1<sup>st</sup> April 2013 and continues until the 31<sup>st</sup> March 2015, with an option to extend it by a further two years at the Council's discretion. The contract value is estimated at £15.1 million over the initial two years term. Over 4 years, it is estimated at £30.2 million over the four year extended term.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Cabinet Resources Committee, 20<sup>th</sup> June 2012, Decision Item 12 – approved the procurement of Supported Living Services via the Contract Procurement Plan for the 2012/13 financial year.
- 2.2 Cabinet Resources Committee, 7<sup>th</sup> November 2011, Decision Item 10 – approved a waiver of the Contract Procedure Rules to regularise contacts with service providers including for Adult Supported Living & Housing Related Support.

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

- 3.1 The Framework Agreement for the provision of Supported Living Services for Vulnerable Adults supports the of London Borough of Barnet's 2012-13 Corporate Plan objectives of "Better services with less money" and the objectives set out in the 2012-13 Adult Social Care and Health Directorate Plan, as it promotes independent living, postpones or reduces the need for the dependency on more expensive residential care.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The Framework approach was considered the best option to maximise scope to include providers with legacy placements, subject to agreement of prices.
- 4.2 The Framework approach minimises the risk of disrupting service users by changing their service provider, as their tenancies may be maintained with organisations not linked to the service provision.
- 4.3 Where providers have not tendered or have been unsuccessful with their bids, the Transition Project Team which is to be set up will ensure that a managed and safe transition takes place for service users and families to a new service provider. Ensuring effective communication and engagement with service users and stakeholders.
- 4.4 The Framework Service Specification includes outcomes and performance targets which measure and:
- Maintain and positively promote personal independence
  - Safeguards privacy and safety
  - Offers genuine choice and control and
  - Meets social, cultural and individual needs.

Service Providers are required to promote and deliver high quality, flexible and person-centred Supported Living Services that meet these objectives and outcomes.

- 4.5 The Framework approach provides a simple pricing model which includes 5 rates (refer to the table in 6.3), removing ambiguity and potential errors in provider invoicing and client charging.

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

- 5.1 Pursuant to section 149 of the Equality Act, 2010, the Council has a public sector duty to have due regard to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between those with a protected characteristic and those without; promoting good relations between those with a protected characteristic and those without. The relevant, 'protected characteristics' are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination. Private contractors providing public services on behalf of the council must also comply with this duty.
- 5.2 The Framework Agreement complies with the requirements of the 2010 Equalities Act. The Quality and Purchasing Team will ensure that providers appointed to the Framework are complying with their equalities duties by monitoring the level of complaints and carrying out inspection visits to the Supported Living Schemes.
- 5.3 Where reasonably practicable, the Council will award Contracts under this Agreement on a 'meets requirements' basis, that is to say on the basis that a Framework Provider already provides Services to Customers at the premises in question at the time of contract award.

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

- 6.1 The estimated saving associated with this Framework over the initial two year term is £600,000 (3.8%), based on a spend of £7.85 million for 2011/12. The estimated saving will be achieved by using the Framework benchmarked rates. Changing from a weekly cost to an hourly rate and using the Care Funding Calculator brings added benefit to the delivery of savings. The cost of this service is met from and can be contained within the Adult Social Care and Health budgets.
- 6.2 As part of the pre-tender preparation a market appraisal to analyse provider costs has been carried out in conjunction with Valuing Care Ltd<sup>1</sup>, to determine the value for money benchmarked rates across the sector.

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<sup>1</sup> Valuing Care provide a range of financial commissioning, negotiation and data services that bring transparency, and identify value for money for commissioned care services. Since 2005 the company has worked with over 91 Local Authorities and NHS trusts to establish value for money.

6.3 The tender benchmarked rates are listed below:

Daytime hourly rate 7am – 10pm Monday to Sunday (including Public and Bank holidays) for organisations providing greater than 600 daytime hours per week to the London Borough of Barnet	£15.20
Daytime hourly rate 7am – 10pm Monday to Sunday (including Public and Bank holidays) for organisations providing less than 600 daytime hours per week to the London Borough of Barnet	£15.95
Sleeping Night per scheme - 10pm to 7am (9 hours) Monday to Sunday (including Public and Bank holidays)	£40.00
Waking Night per scheme - 10pm to 7am (9 hours) Monday to Sunday (including Public and Bank holidays)	£140.00
24 hour support packages hourly rate Monday to Sunday (including Public and Bank holidays)	£10.00

6.4 The Council has stated in the Tender that there is no guarantee to purchase supported living services from the organisations who are appointed to the framework agreement. This has alleviated the need to purchase guaranteed blocks of hours.

## 7. LEGAL ISSUES

7.1 The Framework Agreement was advertised and tendered through the Supply 4 London eTendering portal ([www.supply4london.com](http://www.supply4london.com)) as a Part B Service within the European Procurement Regulations.

7.2 As the Services are 'Part B' services (Schedule 3 to the Public Contracts Regulations 2006 (as amended)), the full European procurement regime does not apply. The Council must however, act transparently, fairly and in a non discriminatory manner. The tendering process, referred to above, has ensured that these criteria have been met.

7.3 A new contract award of the same or substantially similar services, even the appointment of a contractor to a Framework Agreement under which the Council will call off Services from the Contractor, is a service provision change to which The Transfer of Undertakings(Protection of Employment) Regulations ("TUPE") may apply. TUPE is likely to apply to those employees, of an existing service provider, who are assigned to the relevant organised grouping of resources or employees or whose principal purpose is the carrying out of the Services. However, if the employees of an existing service provider work across a number of different contracts (i.e. they do not spend all or most of their time on tasks relating to the Services) then TUPE is less likely to apply. The application of TUPE is an issue to be resolved between the incumbent service providers and the Contractors appointed under the Framework Agreement.

7.4 In order to remain compliant with European procurement rules, the duration of the Framework Agreement must not exceed four (4) years.

## 8 CONSTITUTIONAL POWERS

8.1 Council Constitution, Part 3, Responsibilities for Functions, Sections 3.5 and 3.6 detail the responsibilities of the Cabinet Resources Committee which includes approval of schemes not in performance management plans but not outside the Council's budget or

policy framework.

- 8.2 Council Constitution, Contract Procedure Rules (Section 5, Table 5-1) provides that Cabinet Members can accept contracts with a value over £500,000 where the tender represents value for money and is the best available option for the Council. Notwithstanding this, Section 3.5 of the Responsibilities for Functions provides that Cabinet Committees can discharge the executive functions that fall within their terms of reference, whether or not they are also delegated to Cabinet Members or officers.
- 8.3 Council Constitution, Contract Procedure Rules, Section 6.11 (Framework Agreements) requires that the Director of Commercial Services must be satisfied that procuring through a framework agreement represents the most economically advantageous solution for the supply of services and complies with relevant EU Rules and Regulation on the use of such agreements. The Director of Commercial Services has been consulted on the recommendation to contract via a Framework Agreement and has (taking into consideration the provisions set out in sections 6.11.1 to 6.11.16 of the Contract Procedure Rules) agreed to this approach.

## **9 BACKGROUND INFORMATION**

### **OVERVIEW OF SUPPORTED LIVING SERVICES**

- 9.1 The current Supported Living placements provide tenancy based accommodation in the region of 180 service users with a total annual cost of around £7.5m, mostly for adults with learning disabilities and younger adults with mental health problems.
- 9.1.1 The tenancy is funded through Housing Benefit and therefore social care funds do not pay for the accommodation costs, unlike residential care where the placement costs are aggregated.
- 9.1.2 An element of support/care is integral to this type of provision. This provision has reduced new referrals to residential care for younger adults. Over the last two years over 70 service users have been helped to move out of residential care, preferring to live in supported living schemes.
- 9.1.3 There are in the region of 40 schemes in the borough. Not all schemes have residents who originate from the borough but include those who may become 'ordinarily resident'<sup>2</sup> by virtue of their tenancy. The placing authority may seek to apply for the care costs to be paid by the host borough, creating a potential cost pressure. Equally the London Borough of Barnet (LBB) may seek to apply for out of borough placements costs to be paid by the host borough. Currently there are approximately 13 residents placed, by the Council, in supported living accommodation outside of the borough.
- 9.1.4 The current schemes commissioned by the Council result from a mixture of new developments and deregistered care homes set up over the last five to seven years.
- 9.1.5 There are a variety of models including some where the care and housing provider is one and the same; whilst there are others where there is a separate registered landlord and care operator. There are some schemes where there is a separate support contract funded through a separate Housing Related Support budget (formerly known as

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<sup>2</sup> To decide where a person is ordinarily resident for the purposes of the National Assistance Act 1948 and certain other legislation. It is applicable to local authorities with social services responsibilities and sets out how to identify where responsibility lies between authorities for the funding and/or provision of care for people aged 18 and over who are assessed as needing social care services.

Supporting People).

9.1.6 The gradual development of supported living over time has meant that some service users with complex needs are in schemes with low levels of support, whilst some users with medium needs are in high cost schemes where costs are fixed. It has not been possible to completely disaggregate the costs for each individual due to the way the schemes are set up by the provider.

9.1.7 Night time rates were not explicit and service description of each scheme has been in some circumstances been unclear. The 'offer' therefore is not always matched as well as it could be to the tenant needs, resulting in higher costs as additional bespoke care can then be requested by the provider (as it is not included in the offer).

## **9.2 OVERVIEW OF NEW FRAMEWORK TENDER AND RATIONALE**

9.2.1 Prior to the current framework procurement, no formal tender process for the provision of supported living services for vulnerable adults had been previously undertaken by the Council. The approach to the market was constructed seeking to address the issues outlined in section 9.

9.2.2 The framework procurement provided an opportunity to develop a sound and compliant basis for service delivery at an agreed quality and price point. It provided the opportunity to attract new providers of supported living services on to the framework. Key principles of the procurement included:

- Ensuring both legacy and future supported living provision is compliant with Contract Procedure Rules
- Ensuring business processes are transparent for future commissioning and procurement exercises
- The ability to achieve future efficiencies
- Delivering services of the right quality and price
- Ensuring the supported living offer is transparent and clearly matched to service user needs through personal budgets
- Attracting new providers of supported living services and housing stock to the borough.

9.2.3 An options appraisal was carried out to determine the correct procurement model with which to approach the market place. The options appraisal was designed to identify the benefits and risks to future service delivery. It was agreed by the Adult Social Care and Health Senior Management Team to proceed to tender with the Framework Agreement procurement model as this offered a level of savings, market stability and addressed issues outlined in section 9.

## **9.3 TENDER EVALUATION**

9.3.1 The framework tender was advertised and evaluated using Supply 4 London (eTendering system).

9.3.2 Two Senior Category Managers from the Adult Social Care and Health, Supply Management Service conducted the evaluation. Moderation was overseen by the Deputy Head of Strategic Commissioning and Supply Management with reference to the Interim Assistant Director of Supply Management and Resources.

9.3.3 The evaluation criteria was 100% quality as the prices were set in the Open (1 stage) tender procedure. The Council's standard due diligence checks carried a weighted score of 63% with a pass or fail criteria for the financial checks and price acceptance section. The provider practice section weighted score was 37%.

#### 9.4 TENDER OUTCOME

9.4.1 Of the 32, one organisation (Organisation A) failed to pass the financial evaluation, whilst Organisation B submitted a non compliant bid.

9.4.2 Thirteen existing providers did not tender, these being mostly out of borough organisations that have a small number of service users to whom they provide services to.

9.4.3 The following 30 organisations were successful in the evaluation.

<b>Organisations</b>	<b>Score</b>
Creative Support	98.60%
Maison Moti Ltd	92.20%
Voyage Limited	92.10%
Mencap	90.70%
Dana Care	90.00%
Outlook Care	89.00%
Your Choice Barnet Ltd	88.70%
One Housing Group	87.80%
Care Management Group	87.40%
Lifeways Community Care	87.30%
Walsingham	87.20%
Richmond Fellowship	87.10%
Origin Housing	86.20%
Norwood	85.50%
Green Oak Living Solutions Ltd	84.70%
Metropolitan Support Trust	83.30%
Barnet Mencap	82.10%
Woodberry Housing NL Ltd	81.90%
Kisharon	81.90%
The Regard Partnership Ltd	81.60%
Liral Veget Training and Recruitment Limited	80.60%
Self Unlimited	80.40%
Langdon Community Ltd.	80.30%

Hillgreen Care & Support	79.20%
Shine Partnerships Ltd	79.00%
Angel Support Living Ltd	77.30%
Next Step Support Limited	76.20%
Dillon Care Start	75.60%
SGSL Limited	74.10%
Phoenix Community Care Ltd	71.90%

## **9.5 IMPLEMENTATION ARRANGEMENTS FOR THE FRAMEWORK**

- 9.5.1 Adult Social Care and Health are in the process of creating a Supported Living Transitions Plan to ensure the safe and streamlined management of transition of care and support for service users during the implementation stage of the Framework.
- 9.5.2 The Transitions Plan that will be delivered by the Project Team, will be to ensure the successful transitional management of the service, including looking at the various options, such as TUPE transfers and the provision of direct payments for a number of service users who are receiving care from providers which are not on the Framework but where service users wish to retain this provider.
- 9.5.3 Central to the remit of the Project Team will be to ensure that throughout the transitional period and the implementation of the Framework, the team ensures effective communication and engagement with service providers, service users and stakeholders maintaining service continuity.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 None.

<b>Cleared by Finance (Officer's initials)</b>	<b>JH/MC</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>SS</b>