

## **APPENDIX 3: PROCUREMENT STRATEGY REPORT**

### **1. OVERARCHING STRATEGY**

- 1.1 The Council under the Care Act 2014 has a range of duties in relation ensuring individuals are assessed to determine whether they have eligible social care needs and if they do have eligible care and support needs to ensure that they have access to the care and support they need.
- 1.2 The Council discharges its duties to meet care and support needs in a range of different ways including through the direct provision of care and support services as well as through commissioning care and support services from a range of different voluntary and independent providers.
- 1.3 The commissioning of care and support from external providers is done in a range of different ways including block contracting arrangements, 'spot purchasing' of individual care packages as well as facilitating users to take direct payments and self-manage their care and support arrangements.
- 1.4 This report focuses on the arrangements for the spot purchasing of Care Home and Supported Living Placements. This is the main way in which needs are met where services are not available under block contracting arrangements.
- 1.5 At present spot purchasing is done through a largely manual process of ringing around lists of care homes and supported living schemes to establish if vacancies exist. When vacancies exist individual negotiations on prices and arrangements are carried out to secure placements. This is a labour intensive approach and inherent in the process is scope for variations in practice, leading to variations in the cost and quality of spot placements.
- 1.6 In that context, the new and strengthened local authority duties under The Care Act 2014 in relation to 'market shaping' and market management, this report recommends that Cabinet approve entering into an Access Agreement to make use of the West London Alliance Dynamic Purchasing System for Care Home and Supported Living Placements.
- 1.7 **This recommendation will support the delivery of the following outcomes for the Council:**
  - Ensuring the council has access to a good range of quality assured care providers (by service type and category)
  - Providing users, family members and carers with a clear choice of approved providers from which they can consider their preferred option
  - Ensuring that the Council secures best 'market value' in terms of cost and quality of service.
  - The opportunity to implement a competitive electronic based process for running mini-competitions which is clear and transparent for both providers, the council, users and any wider scrutiny

- The opportunity to improve business processes for both the Council and providers by systematising the process for securing spot placements and thus removing the scope for variable practice and outcomes.
- 1.8 The approach will also support the Adult Social Care vision and priorities to ensure greater choice, improve the quality and experience of care and where possible secure services that are locally based or near to family or the users existing networks.
- 1.9 It should also be noted that the market for care home and supported living placements is increasingly challenging. The sustainability of current prices for care is subject to considerable current debate. There are increasing pressures on providers driven by inflation linked to workforce costs – new national minimum / living wage and expected increases in these towards 2020, pension reform and new 'care certificate' training requirements. The rising cost of nursing staff and nursing agency cover costs and for London wage pressures associated with London Living Wage are further pressures.
- 1.10 In light of these pressures and given the current manual and administratively time consuming approach to the purchasing of spot placements it is vital that the Council has clear and systematic ways in which to manage, in a transparent way, these pressures by modernising its approach. A Dynamic Purchasing System approach for the spot purchasing of placements is one way of addressing these issues.

## **2. FINANCIAL INFORMATION**

- 2.1 This report relates to Adult Social Care revenue budgets which are currently associated with the spot purchasing of care home and supported living placements.
- 2.2 Under the proposed DPS arrangement Adults Services will continue to manage placements within existing revenue budgets. Through the use of a DPS approach it is expected that greater consistency of placement costs will be achieved, business processes will be improved and that the transparency and ease with which activity can be tracked and reported on will improve.
- 2.3 It is also expected that the use of a DPS will help constrain inflationary pressures by providing greater transparency of activity, although is unlikely to deliver cashable savings. By way of illustration through systematising the approach through the DPS future management of annual uplifts will be transparent and informed by market conditions and will help move away from dealing with numerous individual requests which for 2016/17 ranged between 3%-17% and required detail individual case work on each and every one to resolve and reach agreement.
- 2.4 There are no capital implications linked to the proposed DPS solution or recommendation to Cabinet that Hammersmith and Fulham participate by way of entering into an Access Agreement with Ealing Council.

- 2.5 Based on 2015/16 activity it is expected that in the region of £20 million may be spent through the DPS as it replaces the existing manual system of brokering individual spot placements.

### **3. OPTIONS APPRAISAL AND RISK ASSESSMENT**

- 3.1 Adults' Services in Hammersmith and Fulham and more broadly across the WLA region have experienced an increased use in spot provision due to a sustained lack of block contracted capacity across in the region. This coupled with growing demand for faster and earlier discharge from hospital has placed pressure on brokerage teams to secure placements at affordable rates within a reasonable proximity to the borough.
- 3.2 While spot providers used by Adult Services are subject to some checks to ensure quality, capacity and compliance with minimum regulatory standards spot providers are not bound by the standardised price and contractual arrangements typical of other block arrangements or more standardised terms that a framework contract or DPS could provide.
- 3.3 With little scope to expand in borough provision this pattern of spot purchasing out of borough is expected to continue and it is therefore important that a more structured and strategic approach is adopted to manages these pressures and to shape and influence the market in line with duties set out in the Care Act 2014.
- 3.4 In that context Hammersmith and Fulham has for a number of years collaborated with other boroughs as part of the WLA Adults Programme (The London Boroughs of Brent, Ealing, Harrow, Hillingdon, Hounslow, and Barnet) Previously this collaborative programme relating to Care Homes has worked on sharing placement activity information to inform setting guide price ceilings for care home placements. Though helpful, this approach still left it for individual boroughs to negotiate placements on a case by case basis which based on recent analysis has led to a continued variation in prices paid and quality of service secured.
- 3.5 In light of this the WLA group of authorities have worked together to develop new arrangements that respond to new duties under the Care Act 2014 and that would address historic and future challenges such as ensuring greater consistency of quality and cost.
- 3.6 Doing nothing was considered however this was ruled out as this would simply continue the existing arrangements and the associated issues of limited control over cost and quality and ability to increase capacity and build a diverse and sustainable local care market.

- 3.7 Framework and block contracts were considered but did not offer a suitable vehicle for the contracting of social care services as neither model once set allows new care providers to join and access the schemes for the lifetime of that contract. Restricting access to new entrants creates a risk that over time there would be an increase in the level of spot purchasing undertaken by the Council outside of a block or framework arrangement. As such all the associated issues of limited control over cost and quality or indeed ability to increase capacity and build a diverse and sustainable local care market that exist at present would incrementally return.
- 3.8 In the above context the council could risk failing in its statutory duty to meet a persons' eligible social care needs if necessary care and support services are not in place to meet those needs.
- 3.9 The often urgent nature of Adults' Services requires that services need to be actioned at short-notice e.g. to avoid a hospital admission or on a patients discharge from hospital or as a result of an emergency or crisis occurring; events that require Adults Services to build capacity within the marketplace that can respond to and deliver quality care services in a timely fashion. Hence, the need to ensure that effective competitive models are available to the Council, such as the development and new dynamic purchasing systems.
- 3.10 A DPS approach was considered to be the most appropriate mechanism for managing the legal and market management risks faced by the Council and other WLA boroughs and the DPS method was proposed as the preferred model.
- 3.11 Ealing Council as the lead WLA authority took forward the work (with oversight and input from other WLA boroughs) to develop and put in place a DPS arrangement and with this now in place this report and associated strategy recommends that Cabinet approve entering into an Access Agreement which will allow the Council to fully participate and make use of the WLA DPS arrangement.

#### **4. THE MARKET**

- 4.1 London ADASS commissioned a number of pieces of work to support authorities in their market management duties. This included pan London benchmarking analysis of residential and home care markets using a common dataset of anonymised client data which was then analysed with reference to other publicly available data.
- 4.2 A number of key themes emerged from the pan London analysis which inform the recommended approach. These are as follows:
- Overall the pan London analysis suggests that individually authorities acting alone have very limited leverage on the market.
  - Younger adults and Older Adults are quite distinct markets in terms of nature and shape.

- On average London commissions 47% of available beds but this ranges from just 17% to 78%
- Independent providers run around 42% of homes but consolidation in the market is more limited than might be expected with the largest national providers (50+ homes) running just 19% of the homes in the pan London market.
- The London market appears to segment into some distinct sub regions where activity and cost data reveal differences. These areas are broadly a north and south of the river difference and a distinction between inner north and outer north and similarly inner south and outer south.
- Quite wide price variation across London with no 'usual price'
- Deliberate commissioning strategies do appear to have an influence on achieving relative value for money – data showed some authorities paying higher prices than others for their host placements.

4.3 Acting jointly, including sub-regionally, to manage the market was identified as a way of providing the greatest scope to influence fees, access and availability of beds. Boroughs acting individually appear to have very limited influence on the care home market.

4.4 Furthermore taking account of the evidence that suggested deliberate commissioning strategies could influence the widely varying pricing patterns observed across London the establishment of a Dynamic Purchasing System for residential care, nursing home placements and supported living placements was considered as a viable option to respond to and manage these issues.

4.5 At a local level the analysis clearly highlighted significant supply challenges and the following is a summary of the notable features of the care home market and placement patterns for Hammersmith and Fulham.

- The supply of care home beds is comparatively low and although there are 4 large homes providing just under 400 beds this is still the 4<sup>th</sup> lowest in London.
- Although the age profile is younger and proportion of older people is low compared to other London boroughs, (over 65 age group is 2<sup>nd</sup> smallest in London), as a percentage of the older peoples population the supply of beds is still the 7<sup>th</sup> lowest in London
- While commissioning activity levels are low for residential - the lowest in London, by contrast Hammersmith and Fulham commission the highest level of nursing placements in London.
- Taken together (nursing and residential) the activity levels are just above average, 11<sup>th</sup> highest in London
- As a proportion of all beds available 'in borough' Hammersmith and Fulham buy a level of beds comparable to the London average
- Self-funders are around average - 44% compared to 41% the London average

- There is a very small supply of younger adult care homes, the 3<sup>rd</sup> smallest in London though this is in part due to the proportion of supply of supported housing/living for younger adults.
- Hammersmith and Fulham do however commission almost 60% more placements than the London average for younger adults.
- This higher level of activity is primarily down to the level of Learning Disability placements and it should be noted that average LD placement cost are the 6<sup>th</sup> highest in London.
- Only 29% of placements are made in borough, and the out of borough placements are quite dispersed in terms of schemes/providers with 92 placements across 61 individual schemes with no more than 4 placements in any one scheme. There is however a fairly large number of placements made within Ealing.
- The profile of suppliers providing out of borough placements is worth noting most being with locally focused SMEs (local to the out of borough locations) as opposed to national/regional providers.

## 5. CONTRACT PACKAGE, LENGTH AND SPECIFICATION

- 5.1 Dynamic Purchasing Systems (DPS) are procedures available for the contracts of works, services and goods available from the marketplace. They have similar aspects to a framework agreement, but, subject to key criteria being met, allow an unlimited number of suppliers to join the scheme at any time, and are completely electronic processes.
- 5.2 The WLA DPS requires providers to register onto the DPS in order to be considered for the provision of care home or supported living placements or homecare services. In order to register, providers are required to go through an application and assurance process to assess their knowledge, experience and expertise in delivering services. These assessments focused on key areas such as quality, safeguarding, staffing and management, and customer choice and control to name among other things.
- 5.3 The DPS is made up of the following main categories and customer based sub categories.

<b>Category 1</b> Care Home Placements (Priced)	<ul style="list-style-type: none"> <li>• Older People (55 plus)</li> <li>• Dementia (18 plus)</li> <li>• End of Life Care (18 plus)</li> </ul>
<b>Category 2</b> Care Home Placements (Non-priced)	<ul style="list-style-type: none"> <li>• Physical Disabilities</li> <li>• Learning Disabilities</li> <li>• Autism</li> <li>• Mental Health (including Forensic History)</li> <li>• Sensory Impairment (Including Deaf / Blind)</li> <li>• Korsakoffs Syndrome</li> <li>• Brain Injury / Neurological Conditions</li> </ul>

	<ul style="list-style-type: none"> <li>• HIV / AIDs</li> </ul>
<b>Category 3</b> CQC Regulated Supported Living Placements (Non-priced)	<ul style="list-style-type: none"> <li>• Older People (55 plus)</li> <li>• Physical Disabilities</li> <li>• Learning Disabilities</li> <li>• Autism</li> <li>• Mental Health (including Forensic History)</li> <li>• Korsakoffs Syndrome</li> <li>• Sensory Impairment (including Deaf / Blind)</li> <li>• Brain Injury / Neurological Conditions</li> <li>• HIV / AIDs</li> </ul>
<b>Category 4</b> Non-CQC Regulated Supported Living Placements (Non-priced)	<ul style="list-style-type: none"> <li>• Older People (55 plus)</li> <li>• Physical Disabilities</li> <li>• Learning Disabilities</li> <li>• Autism</li> <li>• Mental Health (including Forensic History)</li> <li>• Korsakoffs Syndrome</li> <li>• Sensory Impairment (including Deaf / Blind)</li> <li>• Brain Injury / Neurological Conditions</li> <li>• HIV / AIDs</li> </ul>

- 5.4 WLA Boroughs who choose to enter into an Access Agreement to fully participate in the DPS will call-off from the DPS using a nominated online referral / ebrokerage system.
- 5.5 Once providers are registered on the DPS, services can then be called off e.g. in the following way:
- Social work referrals detailing a persons' care and support requirements are tasked to the Contracts, Placements or Brokerage Team
  - A service request is sent to all matching providers registered on the DPS system via a secure e-brokerage portal or similar electronic system
  - Providers view the secure request, and are given an allotted time period in which to respond, confirming that they can meet the persons' needs along with submitting a price for care – it is important to note that the price will not be considered until an acceptable response to meeting the persons' care needs has been met.
  - Providers will not be able to see submissions or prices submitted by other providers.
  - Services will be awarded to providers who successfully meet the published selection criteria and demonstrate (via this competitive process) that they are able to meet a person's care and support needs and provide quality services at a competitive market price.

## **6. LOCAL ECONOMIC VALUE AND COMMUNITY BENEFITS**

- 6.1 As highlighted in the market analysis around 70% of spot placements are made out of borough. This report therefore largely focuses on systematising the approach to spot purchasing in out of borough geographies.
- 6.2 It should however be noted that given Hammersmith and Fulham's pattern of spot purchasing is with smaller SME, albeit in other geographies, the use of a DPS which is open to new entrants throughout its four-year duration supports the Councils commitment and duties under the Care Act 2014 to ensure there is a diverse and sustainable market that include SMEs.

## **7. OTHER STRATEGIC POLICY OBJECTIVES**

- 7.1 The proposal to make use of the WLA DPS by entering into an Access Agreement support the delivery of Adult Social Care strategic priorities. The DPS approach will help promote choice for users, families and carers when a care home or supported living placement is needed.
- 7.2 The DPS approach through the introduction of clear service specifications and service contract requirements will contribute to the health and well-being of users living in care homes, nursing homes and supported living schemes by placing a clear focus on service quality and experience of receiving care and support in these settings.

## **8. STAKEHOLDER CONSULTATION**

- 8.1 Provider stakeholders have been engaged through regular events including those organised by LCAS (London Care and Support Forum) which support Adult Social Care with its provider and market engagement.
- 8.2 Ealing as lead authority for establishing the WLA DPS arrangement has continually engaged with all WLA boroughs through the programme and project structure involving senior officers from Adult Social care, brokerage, care management who have also engaged with and sought the view of procurement, finance and other relevant departments.
- 8.3 Direct engagement with individual suppliers has been undertaken along with stakeholder colleagues within the NHS – local and NW London CCGs.
- 8.4 There will be ongoing engagement with stakeholders to ensure gaps in service provision are identified and that this can be utilised to inform ongoing provider engagement to stimulate further potential suppliers to participate in the WLA DPS given that it will remain open to new entrants throughout its four-year duration.



## **9. PROCUREMENT PROCEDURE**

- 9.1 Ealing Council as lead authority carried out the tender for the DPS in accordance with the PCRs 2015
- 9.2 The tender was advertised on the London Tender Portal following regulation that apply to the procurement of Dynamic Purchasing Systems.
- 9.3 Subject to Cabinet approval to enter into an Access Agreement to make use of the WLA DPS arrangement the Council will undertake call offs from the DPS in accordance with the PCR 2015. This will require that all providers on the DPS are invited to take part in the mini competition and that the contract shall be awarded to the tenderer that submitted the best tender on the basis of the award criteria set out in the invitation to tender.
- 9.4 The Light Touch Regime under the PCR 2015 which covers social and care services provides a number of flexibilities when awarding contracts including taking into account the following considerations:
- the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services;
  - the specific needs of different categories of users, including disadvantaged and vulnerable groups;
  - the involvement and empowerment of users; and
  - innovation
- 9.5 The call off rules have been devised taking into account these considerations to permit participating authorities to make call offs in amongst other things emergencies and to take into account the choice of service users

## **10. CONTRACT AWARD CRITERIA**

- 10.1 Acceptance onto the WLA DPS was based on providers meeting a range of minimum acceptance criteria including technical capability and financial standing along with a number of mandatory exclusion criteria for example those relating to fraud, bribery, corruption and non-payment of taxes.
- 10.2 WLA Boroughs calling-off from the DPS will undertake an evaluation to determine the final nominated Supplier on the basis of quality and price. The criteria used will be:
- a) Quality (60%) based best match in meeting assessed need
  - b) Price (40%) based on best price or quotation submitted
- 10.3 Where a customer exercises their statutory right and expresses a preference to choose their own Supplier and the nominated Supplier meets all statutory and regulatory requirements (which may include a third party top-up arrangement) then this will take precedence over the quality / price evaluation process.

- 10.4 Placement decisions will be recorded for audit purposes and submitting Suppliers notified of the final outcome following ratification by the responsible funding panel and / or budget holder.
- 10.5 Placement agreements will be issued to the successful Supplier detailing all agreed final arrangements and conditions.
- 10.6 With reference to section 5 for Category 1 placements price will be considered in line with the five Broad Market Areas (BMA) established and associated published price bands. Providers accepted onto the DPS were asked to sign up to these price bands when bidding for placements under mini competitions. (see Appendix 2 for further details). The 5 BMAs are as follows:
- a) Kensington & Chelsea, City of Westminster
  - b) Hammersmith & Fulham
  - c) Barnet
  - d) Ealing, Brent,
  - e) Hillingdon, Hounslow
- 10.7 With reference to section 5 which sets out the structure of the DPS, suppliers entered onto Categories 2, 3 and 4 will offer price quotations via the use of one of a pricing template as usual prices or banded prices are not typically in place for these placement types.
- 10.8 Suppliers joining the DPS will agree to:
- a) Provide Services at identified locations, 24/7, 365-days per year.
  - b) Undertake pre-admission assessments for planned placements within 72-hours of accepting a referral
  - c) Respond to emergency / urgent referrals made by the WLA Boroughs on a case by case basis. The response times required will range from 1hr - 24hrs and will be outlined in the request made by the referring WLA Borough. Emergency referrals will be in response to the actual or imminent breakdown of a person's care and support arrangements; whereas urgent referrals, for example, will typically relate to supporting a customer's prompt discharge from hospital.
  - d) Support the delivery of effective accessible 7-day Services, which may include Suppliers assessing and admitting customers during the evenings and at weekends.

## **11. PROJECT MANAGEMENT AND GOVERNANCE**

- 11.1 Ealing Council as lead authority for the WLA DPS has provided the management and day to day oversight of the project. In addition, the development of and sign off of the tender documentation has been overseen by the WLA programme board. This board is chaired by the Strategic Director of Adults in Brent in line with ASC Director agreement across all of the participating WLA boroughs.

- 11.2 Subject to Cabinet approval to enter into an Access Agreement with Ealing Council to make use of the WLA DPS arrangement, practical implementation of the new approach will be led within Adult Social Care commissioning and managed within existing resources and programme/project management structures.

## **12. INDICATIVE TIMETABLE**

- 12.1 Ealing Council as the lead authority for the DPS procurement sought approval from its Cabinet in November 2015 to proceed with the strategy to develop a DPS approach. The approach taken by Ealing Council made it possible for other WLA boroughs, subject to their own individual governance decisions, to participate in the WLA DPS by virtue of entering into an Access Agreement, once it was established.

- 12.2 Suppliers have applied to join the DPS (via the London Tenders Portal) in order to be considered for the provision of care home and / or supported living placements.

- 12.3 Details of the timeline followed is provided below

- November 2015 to May 2016 – development and design of the DPS, specifications and tender documentation
- DPS advertised via London Tenders Portal on 16th May 2016
- Closing date for submission of applications Thursday 16th June 2016
- Applications evaluated by Thursday 30th June 2016.

- 12.4 In July 2016 Ealing Council as lead authority then sought Cabinet approval to make initial awards to successful providers to join the DPS arrangement. Following agreement by Ealing Cabinet the next steps in the process are as follows

- Successful applicants, for the first round, were notified of their inclusion on the DPS at the end of July 2016
- The initial DPS is will become fully operational on 1st September 2016
- Other WLA authorities wishing to make use of the DPS are required to make their own individual governance decisions to enter into an Access Agreement with Ealing Council. These are expected to occur at different times between August and October 2016, authority by authority.
- The DPS will be open for new Suppliers to join with subsequent applicants wishing to join during the Term of the DPS notified of the outcome 10-days after submission of their application.

## **13. CONTRACT MANAGEMENT**

- 13.1 The DPS will provide an improved ability to analyse and track spot placement activity for Hammersmith and Fulham individually but also in conjunction with other WLA participating authorities

13.2 Existing contract management arrangements will continue as the contracts awarded from the DPS will be spot placement agreements. However as these agreements will be subject to more comprehensive service specifications there will be greater scope for the Adult Social Care brokerage team to hold providers to account and to collaborate with other WLA borough in relation to homes where there are larger numbers of spot purchased beds by a number of different WLA authorities.