

## CABINET

24 May 2022

### DOMICILIARY CARE DYNAMIC PURCHASING SYSTEM

Report of the Portfolio Holder for Health, Wellbeing and Adult Care

Strategic Aim:	Protecting the vulnerable	
Key Decision: Yes	Forward Plan Reference: FP/140422	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Samantha Harvey, Portfolio Holder for Health, Wellbeing and Adult Care	
Contact Officer(s):	John Morley, Strategic Director for Adult Services and Health	01572 758442 jmorley@rutland.gov.uk
	Mat Wise, Hospital and Clinical Integration Lead	01572 758287 mwise@rutland.gov.uk
Ward Councillors	N/A	

#### DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the procurement model for the provision of Domiciliary Care.
2. Authorises the Director for Adults and Health, in consultation with the Cabinet Member with portfolio for Health, Wellbeing, and Adult Care, to award the contract(s) resulting from this procurement.

#### 1 PURPOSE OF THE REPORT

- 1.1 This report sets out the proposed model for procurement of future domiciliary care provision, and the proposal to move from the Council's current Framework Agreement with providers to a Dynamic Purchasing System (DPS).

#### 2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Care Act 2014 places a statutory duty on local authorities to provide appropriate support to those vulnerable people who have care needs where they are eligible and also to ensure sufficiency and quality of provision for both social care funded individuals and those who self-fund.

- 2.2 The Framework Agreement currently in place is due to expire on 31st March 2023, and the Council needs to undertake a procurement to establish new contracts with providers in order to continue the provision of domiciliary care. The proposed contracting model of a DPS will create a less bureaucratic and more efficient way of securing sufficient domiciliary care hours.

### **3 NATIONAL CONTEXT**

- 3.1 Over the past two years, the care market has faced significant challenges in recruiting and retaining staff, and in providing financially sustainable care. This is a national issue.
- 3.2 Overall, the marketplace has reduced, with care providers closing or simply focusing on the more lucrative self-funders.
- 3.3 The Government are proposing to introduce the Care Cost Cap in October 2023. This is likely to have a major impact on the care market, although at this stage it is too early to predict the exact impact. Work on the likely implications is currently being undertaken by Officers.

### **4 LOCAL CONTEXT**

- 4.1.1 The Council currently contract with seven domiciliary care providers, and spot-purchase with a further three. During the past six months, one provider has terminated their contract with us citing financial loss against council funded packages.
- 4.1.2 The Council also has an internal domiciliary care provider - MiCare – who are used to ‘bridge’ whilst securing care from private providers, particularly for hospital discharge, and for those service users who have more challenging needs.
- 4.1.3 There is currently little capacity within the local Domiciliary Care market, including with the Council’s internal care provider. The number of service users who are awaiting care packages is growing.
- 4.1.4 Four of the domiciliary care providers contracted with are based outside of Rutland, including two of the spot-contracted providers recently taken on. These four domiciliary care providers deliver over three quarters of the total care hours currently commissioned.
- 4.1.5 There is a risk that the out of area providers may choose to contract with the Local Authorities where they are geographically based, and so it is important to ensure that there are no unnecessary barriers in place that would prevent them continuing to contract with the Council.

#### **4.2 Cost of Domiciliary Care**

- 4.2.1 The current fee paid to domiciliary care providers on Rutland’s Framework, and to those spot contracted with, is £18.79 per hour. In the last financial year 2021/22, 75,000 hours for 168 individuals were commissioned at a total cost of approximately £1.339m.
- 4.2.2 Due to the current high cost of fuel, a temporary arrangement with all domiciliary care providers for an additional £2.50 per visit is in place until such time as petrol

costs fall back to below £1.50 per litre.

- 4.2.3 Providers are reporting increased costs for insurance, fuel and staffing as well as overall inflation costs.

## **5 PROCUREMENT MODEL**

- 5.1 It is proposed the Council moves to a Dynamic Purchasing System (DPS) contracting arrangement with providers.

- 5.2 A DPS is a contracting structure which allows contracts to be held for the same services with multiple providers in order to purchase individual care packages according to the most appropriate provider and their capacity at any one time.

- 5.3 As opposed to a Framework Agreement, it remains open for new providers to join throughout its lifetime. Taking on new spot-purchase providers alongside the current Framework has led to a two-tier approach of commissioning care packages from providers which increases the time for packages to be moved to a private provider and increased workload for Officers.

- 5.4 A DPS encourages competition, making it is easier for local providers to join the DPS at any time during its lifetime. The procurement and approval process is quicker and simpler than a Framework Agreement, enabling small to medium enterprises (SMEs) providers to engage effectively. This is especially important in the local market.

- 5.5 The open market nature of a DPS supports providers who have little or no experience in tendering for work with the public sector. Because a DPS is open to providers throughout its duration, new start-ups are encouraged and not frozen out for what can be a lengthy period of time. This provides the opportunity to engage with local potential providers and supports wider Council aims of working with local businesses for economic growth.

- 5.6 In addition, the more straightforward procurement process reduces the length of time and administration involved for Officers. Although the DPS remains open to join, the reduction in procurement process would still result in less workload overall for Officers and would be spread over time.

- 5.7 The same ongoing quality checks prior to contract award and quality monitoring during contracts that operate under the Framework Agreement will continue under the DPS, ensuring all domiciliary care providers we contract with are meeting our requirements, and are safe for service users.

### **5.8 Procurement Process**

- 5.8.1 The procurement process will follow a Dynamic Purchasing System process in line with the Council's Contract Procedure Rules, supported by Welland Procurement.

- 5.8.2 It is a two-stage process. In the initial stage, all providers who meet the selection criteria must be admitted to the DPS. There is no limit on the number of providers who may join. Individual contracts are then awarded as and when each provider is used.

- 5.9 The value of the contract is £1.62m per year which is above the threshold of

£663,540 for the Light Touch Regime for Services. It is proposed that the DPS is active from 3<sup>rd</sup> January 2023 until 2<sup>nd</sup> January 2027.

- 5.10 The timetable for the process is set out in Appendix A.
- 5.11 The award criteria will be on a Pass/Fail basis focusing on quality standards and providers' ability to deliver in Rutland.

## **6 CONSULTATION**

- 6.1 Domiciliary care providers will take part in a review of the specification for the DPS in April 2022.
- 6.2 As part of the Market Sustainability requirement from the DHSC, domiciliary care providers are also participating in an exercise to set out their current costs and their challenges in the market.
- 6.3 The then Portfolio Holder has been consulted in the drafting of this report.

## **7 ALTERNATIVE OPTIONS**

- 7.1 The Council must have a means by which to purchase Domiciliary Care for eligible service users in order to fulfil its statutory responsibilities under the Care Act, having contracts in place enables care to be sourced quickly and efficiently. It would not be viable to
- 7.2 To renew a Framework Agreement, prospective domiciliary care providers (including the ones currently on the Framework) would be required to submit a considerable amount of technical, operational, and financial information. This is incredibly time consuming for them and does not offer any guarantee to the Council around their financial viability or the provider remaining on the Framework in future years. The process is so involved that many providers 'outsource' the writing of their Pre-Qualifying Questionnaire and Invitation to Tender responses to companies whose only function it is to fill in this type of paperwork, leading to unsatisfactory bids and excluding providers from our contracts. Consequently, this option has been discounted.
- 7.3 A straightforward tender process would result in only one provider delivering all the care for Rutland, resulting in a risk if that provider is unable to meet an individual's care needs, or fails for any reason. In addition, as a local authority, the Council is required to support the local care market and awarding a single contract would inevitably result in some providers going out of business.
- 7.4 The approval of award of the contracts could be brought back to Cabinet for approval rather than delegated to the Portfolio Holder and Director for Adults and Health, however the pass/fail nature of the procurement would mean that there would be no grounds for not awarding to any providers who meet the criteria.

## **8 FINANCIAL IMPLICATIONS**

- 8.1 Moving to a DPS should not place any additional financial burden on either the Council or prospective domiciliary care providers. The fee rates will remain on the same structure and be calculated in the same way as they are currently.

## **9 LEGAL AND GOVERNANCE CONSIDERATIONS**

9.1 The procurement process will be drawn up by Welland Procurement Unit, in line with the requirements of the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules.

9.2 Legal advice on the process has been sought.

## **10 EQUALITY IMPACT ASSESSMENT**

10.1 The service will support vulnerable people in Rutland. Implementing a DPS will not have a negative impact on any specific group.

## **11 COMMUNITY SAFETY IMPLICATIONS**

11.1 The council is required by Section 17 of the Crime & Disorder Act 1998 to take into account community safety implications.

11.2 There are no specific community safety implications from the procurement.

## **12 HEALTH AND WELLBEING IMPLICATIONS**

12.1 The provision of Domiciliary Care enables the Council to meet its duty of providing care and support to vulnerable people within Rutland.

12.2 The service users receiving Domiciliary Care from the Council have been assessed as meeting Adult Social Care eligibility criteria.

## **13 SOCIAL VALUE IMPLICATIONS**

13.1 Under the provisions of the Public Services (Social Value) Act 2012 local authorities are required to consider how economic, social, and environmental well-being may be improved by services that are to be procured, and how procurement may secure those improvements.

13.2 Whilst the pass/fail nature of the award criteria will not include specific reference to Social Value, it is intended that for the duration of contract with individual providers Officers work with them to identify where additional Social Value might be gained.

## **14 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

14.1 It is recommended that a DPS is procured in order to maximise the number of providers the Council contracts with both initially and for the duration of the DPS.

14.2 In order for the procurement process to commence the procurement model needs to be approved by Cabinet. The criteria have been carefully considered to ensure that providers successful in the process are capable of meeting the requirements and can deliver appropriate quality services in Rutland.

14.3 It is recommended that approval of the award of contracts is delegated to the Director for Adult and Health in consultation with the Portfolio Holder.

## **15 BACKGROUND PAPERS**

15.1 There are no additional Background Papers.

## **16 APPENDICES**

16.1 Appendix A – Procurement Timetable

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.

## Appendix A. Procurement Timetable

<b>Action</b>	<b>By When</b>
Invitation to Tender published	6 <sup>th</sup> October 2022
Deadline for clarifications from bidders	3 <sup>rd</sup> November 2022
Tender submissions deadline	10 <sup>th</sup> November 2022
Validation of responses	17 <sup>th</sup> November 2022
Approval of Contract Awards	28 <sup>th</sup> November 2022
Contract start date	3 <sup>rd</sup> January 2023