

CABINET

10 JANUARY 2023

GATEWAY 3 CONTRACT AWARD: SUPPORTED LIVING FOR ADULTS OVER THE AGE OF 18

Portfolio Holder: Councillor David Brake, Portfolio Holder for Adults' Services

Report from: James Williams, Director of Public Health

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Summary

This report seeks permission to award the first round of the Dynamic Purchasing System (DPS) for the purchase of Supported Living for Adults over the age of 18.

Procurement Overview

| | |
|-----------------------|-------------------------|
| Total Contract Value: | £74,800,000 (estimated) |
| Project Budget: | N/A |
| Contract Term: | 48 months |

| | |
|----------------------------------|-----|
| Suppliers expressed an interest: | 335 |
| Applications received: | 146 |

1. Budget and policy framework

- 1.1. The local authority is under a statutory duty to provide care and support to eligible adults with identified needs. The funding for this procurement will come from the Adults Social Care budget. The budget is agreed by Council as part of the budget setting process.
- 1.2. Under the provisions of the Care Act 2014, Part 1, Section 9, local authorities are required to assess “whether an adult has needs for care and support, and if the adult does, what those needs are.” A needs assessment must include an assessment of the outcomes that the adult wishes to achieve in day-to-day life, and to what extent the provision of care and support could contribute to the achievement of those outcomes. Where needs have been identified and are

considered to be eligible in line with the criteria set out at Part 1, Section 13 of the Care Act 2014, including that the adult is requesting support from the local authority to meet those needs, the Council has a duty to consider how it may meet those needs. ¹

- 1.3. The Department of Health and Social Care (DHSC) sets out policy on the provision of learning disability services. The National Institute for Clinical Excellence (NICE) sets out guidance for the provision and commissioning of learning disability services. The most up to date guidance, “Learning disabilities and behaviour that challenges: service design and delivery”, was published on 28 March 2018. The guidance recommends that services should be commissioned in the community for people with a learning disability that are able to cater for people with lower-level needs up to intensive, complex or fluctuating needs. Guidance also states that, wherever possible, provision should be provided as an alternative to residential care placements for children and young people. The guidance recommends that services are designed and delivered in a way that aims to maximise people’s choice and control. Services should also promote person centred care and help people take an active part in all aspects of life that they choose. To promote continuity of relationships, they should help people as soon as problems emerge, and not just when crisis has been reached. ²
- 1.4. The DHSC established the Transforming Care programme in 2012. The aim of this programme is to reduce the number of people with learning disabilities who are cared for in inpatient units in mental health hospitals and set a target of reducing the number of beds for people with a learning disability in mental health hospitals by 35% to 50%. This programme was refreshed and a new national plan ‘Building the Right Support’ was published in 2015. This latest revision and update to national policy highlights a further future need for more services to be provided in the community to meet the needs of people with learning disabilities who need support, who will be leaving hospital, or interventions to prevent hospital admission. ³
- 1.5. The Medway Joint Adult Learning Disability Strategy 2019-24 was co-designed with a range of stakeholders including people with learning disabilities and their families and carers. It sets out the vision for reducing inequalities and improving outcomes for people with learning disabilities in Medway, highlighting the support people may need to live the life they choose within their local community.
- 1.6. Section 8 of Part 1 of The Care Act (2014) says that a local authority is able to engage the services of other people to meet the needs. This

¹ <https://www.legislation.gov.uk/ukpga/2014/23/section/9/enacted>

² <https://www.nice.org.uk/guidance/ng93/chapter/Recommendations>

³ <https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf>

DPS provides the framework to enable Medway Council to meet its statutory responsibilities.

2. Background Information and Procurement Deliverables

- 2.1. Supported Living services provide support to individuals with an assessed need. The support is provided in the individual's home, which could be owned by the cared for. They are, however, more likely to be living in rented accommodation with a tenancy agreement. Supported living service users are typically 18-64 and living with a learning disability, autism, physical disability and/or a mental health condition. At the lower end a Supported Living service could provide just two or three hours of care and support per week. This generally consists of support to manage a home environment, or support with activities such as shopping and paying bills. Alternatively, service users could receive a very high level of complex care 24 hours per day, often with 2:1 or 3:1 care throughout the day.
- 2.2. The current supported living DPS was based around providers delivering a certain number of hours of care per day. The new DPS will be outcomes focused. The focus of the provision will be supporting the service user to work towards meeting agreed personal goals and targets to improve their quality of life. This meets the Adult Social Care Strategy 2021 – 2025 Principles: prevention, early intervention and recovery, enablement and safeguarding.
- 2.3. The DPS operating from 2015 had a rate cap in place. There was no mechanism in place to provide an annual uplift, and by 2019 packages were only being awarded to spot purchase providers, as DPS registered providers were not prepared to accept packages at the historic, low rate.
- 2.4. In 2019 the rate cap was removed and further rounds of the DPS were opened. This allowed further providers onto the DPS and increased the number of tenders received from DPS registered providers.
- 2.5. In 2019, prior to removing the rate cap, there were 15 DPS registered providers. By 2022 this had increased to 44, following the removal of the rate cap and reopening further rounds of the DPS.
- 2.6. The new DPS will be kept open to new providers throughout the life of the contract. This will ensure that the market is constantly stimulated, and services continue to develop which will in turn ensure a competitive marketplace.
- 2.7. The key objectives to be achieved through this procurement are:
 - Improved offering to service users
 - More choice in the market
 - Outcomes focused care leading to greater independence
 - Financial efficiencies across the system
 - Greater independence leads to reduction in support hours
 - Providers encouraged to share resources
 - System wide transparency in the delivery of care

- Peer challenge and review
- Openness in the cost of care
- Long term planning
 - Support the transition to adulthood
 - Improved ability to life plan

2.8. Parent Company Guarantee/Performance Bond Required

2.8.1. The requirement for a performance bond is waived for this procurement on the basis of the additional costs to bidders who may be deterred from participating in the procurement process (as referenced in the Gateway 1 report). Most individual packages of care should fall below £250K. A Parent Company Guarantee would be requested from any successful organisation which has a Parent Company.

3. Procurement Process

3.1. Procurement Process Undertaken

3.1.1. The DPS is being established using the Restricted Procedure and was advertised in the FTS and Kent Business Portal in accordance with Public Contracts Regulations. The procurement process was managed by the Category Management team, working closely with the Commissioning team.

3.1.2. The DPS is divided into three lots, based on the level of support offered at the accommodation:

Lot 1 Support at accommodation for individuals with lower needs.

To include, but not limited to:

- budgeting/income maximisation
- support to coordinate and attend appointments
- managing and maintaining personal hygiene
- maintaining their home environment
- enabling social inclusion and community involvement
- ensuring adequate nutrition and support towards a healthy lifestyle
- medication compliance
- support to access suitable gainful daytime activity
- support planning with individual goals
- managing and maintaining their tenancy
- developing capabilities and skills to progress to more independent living

Night support (sleep in or waking night) would not be included in Lot 1, and CQC registration would not be required.

Lot 2 Support at accommodation meeting higher needs.

To include (in addition to lower level), but not limited to:

- regular supervision throughout the day
- behaviour management

- support with eating, feeding, personal care or other activities of daily living
- medication administration
- support to manage clients' lives in the short and long term
- help developing clients' skills to become independent or more independent with activities of daily living
- all accommodation with night support (either sleep in or waking night) would fall into this category
- night support (sleep in or waking night) to be nine hours
- higher support providers are required to be CQC registered, and staff training levels should be appropriate.

Lot 3 Specialist Support

Providers with specialisms in complex challenging behaviour including violent and forensic behaviour and substance use.

- not necessarily required to be CQC registered but will be required to provide details of significant relevant experience
- specialist support services are likely to be tailored to meet a particular individual's need

3.1.3. Providers who are successful in applying to join the DPS will be invited to participate in 'mini-competitions' (invitations to tender) for specific opportunities (referrals) under each lot they originally applied for. This approach will provide clear information on the services and prices offered by all providers. The award criteria for these competitions will be Quality 65% and Price 35%.

3.2. Evaluation Criteria Used

3.2.1. To apply to join the DPS providers are asked to complete a selection questionnaire. The responses to this questionnaire form the evaluation criteria on which the applications from Providers are to be assessed by the Council and on which a decision is made as to whether to admit a provider to the DPS.

3.2.2. The selection questionnaire and evaluation criteria are similar to those for a normal tendering process, and include:

- Supplier information
- Grounds for mandatory / discretionary exclusion
- Examples of previous contracts that providers have performed (relevant to each lot)
- Previous experience (relevant to each lot)
- Service delivery
- Mobilisation
- Staffing
- Risk management

3.2.3. Providers are also required to be bound by a series of commitments relating to outcomes, health & wellbeing, accountability & transparency, staffing & safeguarding, reporting, and environmental considerations.

- 3.2.4. Evaluation of providers responses was conducted by Adults Partnership Commissioning and Category Management.
- 3.2.5. It should be noted that Providers who have not been successful in Round 1 (which is the subject of this report) or other rounds will receive feedback which will give them the opportunity to apply again in future rounds.
- 3.2.6. Providers who are successful in joining the DPS will be invited to tender for specific referrals through mini-competitions. Evaluations of tenders will be the responsibility of the Brokerage Team under the oversight of Adults' Commissioning.
- 3.2.7. Quality will be based on the following evaluation criteria:

| Criteria | Weighting |
|---|------------------|
| Ability to meet service user needs | 20% |
| Ability to meet service user outcomes | 20% |
| Service user preference for accommodation | 15% |
| CQC Rating | 10% |
| Total | 65% |

3.3. Contract Management

- 3.3.1. Contract management will be the responsibility the Contract Manager for Supported Living, who will be the link between Providers, Commissioning, Adult Social Care, Brokerage and Finance. The Contract Manager will report to the Programme Lead for Accommodation and Registered Services.

4. Risk management

4.1 Risk Categorisation

| Item | Risk Description | Risk Category | Likelihood | Impact | Plans to Mitigate |
|------|---|------------------------------|-------------|----------|---|
| 1. | Failure to attract enough providers, leading to lack of competition | Procurement | Low | Marginal | Removing price caps two years ago led to a surge of new applicants to join the DPS. Confident that market forces will ensure that there is always competition, but where providers fail to come forward, spot purchasing will be an option. |
| 2. | Provider failure | Contract delivery | Significant | Critical | Commissioners will work in partnership with providers to ensure early identification of issues Contract management will be robust and performance reviews will be conducted regularly |
| 3. | Financial – rates paid to providers are not sustainable | Service model | Low | Critical | Without price caps providers are responsible, to some degree, to set their own rates – we would expect to only award where competitively priced. All package prices run through Care Cubed – outliers of main body to be subject to further scrutiny. |
| 4. | Overpopulated marketplace – too many providers on DPS, providers not sustainable due to low numbers of packages | Service model | Significant | Critical | Providers should always be free to enter market to ensure competition. New placements to undergo sustainability checks around the placement property. Key element of the specification will be around management of voids. |
| 5. | Service fails to deliver required outcomes | Service model / reputational | Low | Critical | Regular contract management meetings, performance review meetings, individual care review meetings. |

5. Financial implications

- 5.1. The procurement requirement and its associated delivery as per the recommendations will be funded from the Adult Social Care budget.

6. Legal implications

- 6.1. Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.
- 6.2. The process adopted complies with public procurement regulations and the Council's Contract Procedure Rules.

7. Other implications

7.1. TUPE Implications

- 7.1.1. Not applicable

7.2. Procurement Implications

- 7.2.1. The establishment of the DPS will provide more flexibility for new providers to be appointed for the duration of the DPS. This should reduce the need for spot purchases through non-contracted providers. There would be a resource issue for Commissioners in that the evaluation of DPS applications would occur on a more regular basis.

7.3. ICT Implications

- 7.3.1. Functionality for the establishment and continuous operation of the DPS already exists in the Kent Business Portal's web-based system so there is no additional cost or IT functionality required.

8. Social, Economic & Environmental Considerations

- 8.1.1. In 2019 Medway Council declared a climate emergency with a stated intention to achieve "net zero" by 2050. By applying to join this DPS, providers will confirm that their organization will align to Medway Council's Action Plan.
- 8.1.2. Providers will also confirm that they will encourage a continuous behavioural change cycle towards a greener lifestyle at each location from which they operate supported living. Providers will also encourage service users towards a more active, healthier lifestyle.

9. Recommendation

- 9.1. It is recommended that the Cabinet agrees to admit the providers identified in the Exempt Appendix on to the Dynamic Purchasing System (DPS) on the basis that they meet the Council's evaluation criteria.

10. Suggested reasons for decision

- 10.1. The providers identified in section 3.1.2 of the Exempt Appendix meet the Council's evaluation criteria.

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Appendices

Exempt Appendix – Financial analysis

Background Papers

[Gateway 1 Procurement Commencement – Recommissioning Supported Living Services in Medway, Cabinet 14 December 2021](#)