

Item No. 16.	Classification: Open	Date: 17 March 2015	Meeting Name: Cabinet
Report title:		Gateway 2 – Reablement Service Contract Award Approval	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Dora Dixon-Fyle, Adult Care, Arts and Culture	

FOREWORD – COUNCILLOR DORA DIXON-FYLE, CABINET MEMBER FOR ADULT CARE, ARTS AND CULTURE

The council's vision for adult social care underlines the importance of ensuring there is good quality, coordinated care and support available to people in their own homes and local neighbourhoods. Reablement services are central to our commitment to provide access to rehabilitative services that help people regain a level of independence after a period of sickness or incapacity. These services aim to help reduce the need for on-going social care support, prevent avoidable hospital admissions and delay or prevent people's need for residential care, and are also vital to our joint work with Southwark NHS.

We place quality and value for money at the heart of the services that we procure. It is vital that the council can be confident it can secure this before awarding contracts to work with external partners to deliver our commitments. This report sets out the outcome of the procurement the council undertook to secure providers to deliver reablement services across the borough. It highlights that we received a limited response from providers and that the quality assessment of providers' proposals combined with the cost of these proposals did not give the necessary level of confidence needed to proceed to award of contract. This report therefore recommends that we cease the procurement at this stage.

It is right that we are prepared to take such decisions for important services that some of the most vulnerable members of our community depend on. We should be proud of the exemplary standards we expect these services to deliver. I welcome the recommendation to cease the procurement and for officers to explore the options for the council to directly deliver a reablement service, and I look forward to receiving recommendations on how best to take this forward in the near future.

RECOMMENDATIONS

Recommendations for the Cabinet

1. That cabinet note the limited response to the reablement tender and the concerns set out in this report in relation to the outcome of the procurement.
2. That cabinet agree to cease the procurement and not to proceed to award the reablement contracts for the reasons set out in paragraphs 31-39.

- The cabinet authorises the strategic director of children and adult's services to urgently explore the options for directly delivering a reablement service and bring back to cabinet recommendations for taking this forward.

Recommendation for the Leader of the Council

- The leader of the council authorises the strategic director of children's and adults' services to enter into single supplier negotiations with the current providers for contracts to cover up to twelve months from 1 July 2015 to 1 July 2016 at a projected combined cost of approximately £635,000; to ensure continuity of service and allow time to complete the appraisal and, subject to cabinet approval, implement a direct delivery reablement service.

BACKGROUND INFORMATION

- The Gateway 1 procurement strategy for the two reablement contracts was agreed by cabinet in October 2013, and included an evaluation model based on 80% quality and 20% pricing.
- The timeline for the procurement was subsequently revised to allow time to fully assess how bidders would comply with the council's later requirements as set out in the Southwark Ethical Care Charter.
- The procurement strategy sought to award a three year term for each contract. It also allowed for provision to extend each contract for a further three periods of one year if required (following any necessary renegotiation taking place at the end of the initial contract term)

Procurement project plan (Key Decision)

- The timetable for this procurement is set out below:

Activity	Completed by/Complete by:
Approval of Gateway 1: Procurement Strategy Report	02/10/13
Invitation to tender	17/10/14
Closing date for return of tenders	21/11/14
Completion of evaluation of tenders	16/1/15
Children and Adults Board Review Gateway 2	18/02/15
CCRB Review Gateway 2	19/02/15
Notification of forthcoming decision – despatch of cabinet agenda papers	05/03/15
Cabinet consideration of Gateway 2: Contract Award Report	17/3/15
End of Scrutiny Call-in period and notification of implementation of Gateway 2 decision	25/3/15

KEY ISSUES FOR CONSIDERATION

Description of procurement outcomes

9. This procurement sought to deliver two reablement contracts:
 - Lot 1 – The North Reablement Contract
 - Lot 2 – The South Reablement Contract
 - One of the lots would also incorporate a smaller specialist “Neuro rehab” service, to work within the integrated stroke service in Southwark. This service would be awarded to one of the Lots at the discretion of the council on value for money principles.
10. Reablement is a short rehabilitative service that can help frail elderly and disabled people regain a level of independence after a period of sickness or incapacity, thus effectively reducing their incapacity or impairment.
11. The procurement sought to deliver providers that would manage Reablement Support Workers (RSWs) working in the community as well as senior RSWs and Care Co-ordinators who would be co-located with the council’s social work and occupational therapy teams at Queens Road, Peckham (or for neuro rehab, the Stroke Team based at Dulwich Community Hospital)
12. Reablement includes:
 - Reablement and neuro rehab RSWs working closely on a day to day basis with council social work / occupational therapists as well as other NHS professionals. The service model needs to be able to continually adapt and evolve, to reflect the on-going changes in the local social care and health economy and respond immediately to urgent issues such as the recent winter pressure on local accident and emergency and acute services.
 - Reablement is by definition time limited, with very specific goals to be achieved throughout the term of the package and is normally delivered by a team of RSWs.
 - Most service users who benefit from reablement services have either been recently discharged from hospital or recovering from a recent episode of ill health, a fall or other type of health problem.
 - Reablement is free for up to 6 weeks, though most reablement is for less than 6 weeks.
 - Reablement may not be taken as a direct payment. Reablement services are funded by the Department of Health, through the Better Care Fund (BCF) from April 2015 which has been agreed locally with the Clinical Commissioning Group (CCG)
 - A significant proportion of councils provide most of their reablement in house, as opposed to commissioning third party organisations.

Policy implications

13. The reablement service is used by the council as a means to comply with its statutory duties under the Care Act 2014 (which takes full effect in April 2015) to support older and disabled people to retain as much independence at home as possible.

14. Reablement compliments the aims of the Health and Well Being Strategy; to promote resilience within the population and support the most vulnerable.
15. Reablement is paramount in the council's approach to delivering the objectives of integrated care with the NHS as set out in the Southwark BCF.
16. An emphasis upon integrated care and reablement is also a key component of the Southwark and Lambeth Integrated Care (SLIC) programme involving Lambeth and Southwark councils, and Guys and St Thomas's, Kings and South London and Maudsley NHS Trust.
17. Reablement is also a key approach through which the council will meet on-going budget pressures required within its social care budget (due to continued reduction in financial support received from central Government)

Tender process

Pre-Qualification Questionnaire (PQQ)

18. An advert for the contracts, where potential bidders were asked to request a Pre-Qualification Questionnaire (PQQ) was placed in the following:
 - The council web site,
 - The South London Press
 - Community Care Magazine
 - A voluntary notification on the Official Journal of European Union (OJEU) – Part A/B Services
19. The PQQ documentation set out the methodology to be used to assess the PQQ submissions, background to the contracts and the requirements of the council in relation to quality and performance. The PQQ stated that the council would only consider the ten highest scoring submissions at PQQ stage to be invited to tender. The PQQ also made it clear that the council could withdraw from the process at its sole discretion at any stage of the process, and without liability for costs.
20. The PQQ submissions were assessed by an evaluation team comprising of operational/safeguarding, finance, and health and safety, procurement and commissioning officers. The PQQ evaluation examined the following areas:
 - I. Company Information
 - II. Financial Viability
 - III. Equal Opportunities
 - IV. Health and Safety
 - V. Safeguarding
 - VI. Technical questions
 - VII. Company policies and procedures
 - VIII. References
21. 51 PQQ packs were requested by applicants, but only 12 eligible bids were finally received. The outcome of the PQQ resulted in the ten top scoring

applicants being invited to tender, with the two lowest scored bidders being eliminated from the process. The results are summarised below:

Table 1 Summary of PQQ Stage

Outcome of PQQ	Number of applicants
Evaluated and invited to tender	10
Evaluated and not invited to tender	2
Late submission and ineligible for evaluation	1

22. Only 12 (24%) of those who requested a PQQ pack made an eligible submission, which was lower than had been anticipated (considering the efforts taken to widely advertise to the sector). Views were therefore sought from those who requested a PQQ pack but failed to make a submission, as summarised below:

Table 2 Summary of reasons given why an eligible PQQ was not submitted

Reason	No of bidders
Late submission deemed ineligible	1
Did not meet the company turnover threshold requirement (£2m p.a.)	5
Did not have the local capacity to deliver the service	1
Did not have the technical experience to deliver the service	1
Declined to respond	31

23. Despite the response rate to the PQQ, the Procurement Project Board was satisfied at that stage that the procurement outcomes might still be delivered through a continuation of the tender process.

Invitation to Tender

24. The Invitation to Tender (ITT) documentation was sent to the ten selected bidders on 14 October 2014. These bidders were required to bid for both "Lots": Reablement North and Reablement South, with the neuro rehab service being awarded to the bidder that demonstrated best value for the council for that service. The ITT methodology used is set out in appendix 1.
25. A bidders meeting was held on 22 October 2014 to further clarify the ITT methodology and the outcomes sought by the council. Notes taken at this meeting alongside subsequent FAQs were then distributed to the ten bidders prior to the closing date of the ITT on 21 November 2014.
26. Only four ITT submissions in total were finally received by the council by the closing date. One of these submissions was disqualified as being ineligible for technical reasons. Bidders who chose not to submit a bid were contacted and asked why they chose to withdraw from the tender process. The responses are summarised below:

Table 3 – ITT submission summary

Reasons given by bidders to their ITT response	No of bidders
Submitted an eligible bid	3

Reasons given by bidders to their ITT response	No of bidders
Submitted an incomplete and therefore ineligible submission	1
Lacked the capacity to deliver the contract	2
The contracts on further assessment did not fit into the companies' strategic business plan	2
Financial risk	1
Declined to provide a reason	1

27. The Procurement Project Board reviewed at this stage whether the procurement was still viable given the relative low response rate of eligible ITT submissions. They decided to proceed with evaluating the three submissions received and then review again whether the council's procurement objectives and value for money requirements would be achieved from the evidence of the evaluation process.

Tender evaluation

28. The final quality scores were reached following a consensus scoring process. This addressed any variance in the initial scores between the different evaluators and paid due regard to the clarification responses obtained from the bidders themselves, the outcomes of the site visits and reference requests. The process ensured that the views of different professionals on the quality of the submissions as validated by the evidence obtained through the verification process resulted in a consensus score that they were all content with. This resulted in a single score for both the north and south lots as summarised below:

Table 4 - Quality Scores (for both lots)

Bidder	Score
Bidder A	57.6
Bidder B	54
Bidder C	53.6

29. The outcome of the finance evaluation provided separate scores for both lots are summarised in the tables below:

Table 5- Lot 1 North Contract Finance Scores

Company	Sustainability Score- Pass /Fail	Final Finance Score
Bidder A	Pass	20.00
Bidder B	Pass	12.59
Bidder C	Pass	19.03

Table 6 - Lot 2 South Contract Finance Scores

Company	Sustainability Score- Pass /Fail	Finance Score
Bidder A	Pass	20.00
Bidder B	Pass	12.46
Bidder C	Pass	19.95

Final Scores

30. The final combined scores are set out in the tables below.

Table 7 - Lot 1 North Contract Final Scores

Company	Quality Score	Finance Score	Final combined Score
Bidder A	57.6	20.00	77.6
Bidder B	54	12.59	66.59
Bidder C	53.6	19.03	72.63

Table 8 - Lot 2 South Contract Final Scores

Company	Quality Score	Finance Score	Final combined Score
Bidder A	57/6	20.00	77.6
Bidder B	54	12.46	66.46
Bidder C	53.6	19.95	73.55

Issues for consideration

31. Following the extensive evaluation process and the subsequent clarifications, verifications and reference vetting process, the council is **not** fully satisfied that this procurement will deliver the outcomes required for these vital services. Whilst bidders submitted acceptable and in some instances good method statement responses, in the areas of critical importance to the council (partnership working and user experience) the responses tended to only met the minimum requirements. The tendered submissions therefore failed to sufficiently convince officers that the guaranteed quality assurance measures and approach to partnership working that are essential to delivering this vital service would deliver.
32. Although bidders obtained acceptable scores, for the reasons set out below the council considers that its interests will be best met over the coming years through not proceeding with the procurement and developing its own direct delivery service model.

33. The council is aware that a neighbouring borough with which it works closely in relation to integrated care services, undertook an external reablement procurement exercise in 2014. However following contract award the authority terminated the contract with the successful provider within months, as the quality and flexibility of the service on the ground did not meet that council's expectations matched against the tender submission. Similarly the council is also aware that there are other pilot reablement services using third party providers elsewhere in London that have ceased due to significant quality issues on the part of the provider.
34. The response from the market to this procurement has been more limited than was initially anticipated and hoped. While the reablement independent sector is still evolving, soft market testing prior to start of the procurement process indicated that it was reasonable to assume the tender would deliver a higher response rate of eligible ITT submissions than was actually received.
35. With so few submissions received to the tender, and the lack of any of the bidders demonstrating sufficiently robustly that they could deliver the service at the exemplary standard required, it was essential that the council considered whether it could be fully assured that a comprehensive value for money assessment could be made through comparison of just three bids.
36. It should be noted that the hourly rates tendered are at a level approaching those modelled against potential direct delivery costs. Given the specialist nature of reablement, it is reasonable for the council and the CCG to assess whether their joint objectives in this area would be better placed by delivering these services through a different and more integrated way.
37. Reablement services are at the fore of the on-going re shaping of the different but locally converging responsibilities of the NHS and the council in relation to supporting frail older and disabled people at home, as opposed to hospital or other forms of institutional care. The council increasingly requires the roles of RSWs and the reablement services to evolve very rapidly in response to changes in the local health and social care economy. In consideration of this and the outcome of this tender it is recommended that it is likely to be more effective to implement future changes through directly managing these services itself, rather than frequently re negotiating contractual terms with a third party organisation.
38. It should also be noted that the NHS already deploy a number of its own RSWs to work with externally commissioned workers in the current hospital discharge teams. The proposals in relation to direct delivery will be further developed in the coming months. Approval to proceed with an in house solution will be brought back to cabinet later this year through a gateway 1 report, in line with the council's constitution.
39. The current contracts for these services expire in June 2015 and to ensure continuity of service existing contracts will need to be extended in some form after this time in order to allow sufficient time to organise and successfully implement a direct delivery service.

Plans for monitoring and management of the contract

40. The current contracts will continue to be robustly monitored by the council's commissioning and operational teams within the Children and Adult's Department.

Identified risks for recommendations set out in the report

41. The main risks in relation to the recommendations contained in the report are set out below

No.	Risk	Risk Level	Mitigating Action
1.	The council may be challenged on its decision not to award contract	Low	<ul style="list-style-type: none"> The tender documentation is quite explicit that the council can cease the tender exercise at any stage at its absolute discretion.
2.	Reputational risk with the sector at a time when the council is going out to procure other services	Medium	<ul style="list-style-type: none"> Make clear to the sector the particular issues in relation to reablement contracts with regards to joint working with the NHS and integrated working that are not so relevant for other services
3.	Incumbent providers may be reluctant to continue with the services after June 2015	Low	<ul style="list-style-type: none"> It is believed from past negotiations that there will be sufficient interest amongst the current providers to continue with these services for a time limited period after June 15
4.	Incumbent providers will not invest in the service as required knowing that the extension would be time limited.	Low	<ul style="list-style-type: none"> These issues would be addressed in any contract extension renegotiation The service model means that RSWs work with council/NHS professionals;
5.	Long term costs need to ensure that value for money is achieved.	Low – medium	<ul style="list-style-type: none"> These services are funded through money transferred from the NHS to the council, and the whole cost to the local health and social care economy of providers who are not fully able to meet the service requirements will be even greater (With delays on hospital discharge and increased admissions into care homes) Given the nature of reablement the difference between in- house and commissioned unit costs is less marked than for other services.

No.	Risk	Risk Level	Mitigating Action
			<ul style="list-style-type: none"> The direct financial costs to the council of managing a failing contract in the future could be considerable in relation to legal costs, officer time, procuring urgent alternative provision, increased admissions to residential/nursing care etc

Community impact statement

- 42. There is not thought to be any disproportional impact in relation to the following areas covered by the council equality agenda: Race, Gender, Age, Disability, Faith and Religion, Sexuality, Gender re assignment, Marriage and Civil Partnership and finally Child Care and Pregnancy.
- 43. The recipients of the service are overwhelmingly older people above pensionable age, who are also likely to be living with a disability or one or more chronic long term conditions. Both older people and younger disabled people overwhelmingly aspire to maintain their independence and live fulfilling lives outside of institutional care or hospital settings for as long as possible. These services help to deliver this aspiration.
- 44. The current providers hold acceptable equalities codes of practice and policies as part of their registration requirements with the CQC, and are compliant with the standards expected by the council .
- 45. It is noted that the majority of RSWs are women and disproportionately made up of women from BME populations. It is also noted that TUPE may apply to some of this workforce, if the council adopts a directly delivery position.
- 46. The council will consider any further equality implications which will include a fresh equalities analysis of any future direct delivery proposals when determining its final recommended course of action, which will duly be reported to cabinet.

Economic considerations

- 47. The majority of RSWs tend to live locally, and therefore the continuation of the current contractual arrangements will not have a negative impact upon the local economy and continue to provide social value within the borough. Economic considerations will be taken into account when considering alternative options.

Social considerations

- 48. The incumbent providers have a satisfactory track record in delivering services to a diverse group of service users that would continue until the new service model is implemented.

Environmental considerations

49. The current providers have demonstrated an acceptable green policy that will continue until a new service model is set in place. The majority of RSWs use public transport to travel between service user visits and the providers are expected to use electronic mail and use a database for resources as far as possible in order to eliminate the unnecessary use of paper.

Market considerations

50. Nationally councils are still piloting various different service models to deliver reablement with many councils providing in-house services.

Staffing implications

51. This procurement was resourced from within existing staffing and resource compliment.
52. Any future staffing implications with regards to a direct delivery option will be fully considered and assessed before final recommendations are put before cabinet.

Financial implications

53. Continuity of the service may dictate that the current contracts be extended for up to 12 months whilst new arrangements are being made. Such an extension of the current contracts could be met from within the existing budgets and will require formal approval through a report to the appropriate decision maker in line with the council's constitution.

Investment implications

54. N/a

Legal implications

55. Please see concurrent from the Director of Legal Services below.

Consultation

56. Consultation took place to inform the procurement plan as set out in the original gateway 1 report, which included views obtained from Children's and Adults' commissioning, operational, finance officers, procurement and legal alongside NHS colleagues.
57. The council will continue to work closely with these partners in developing its direct delivery approach. The NHS within this context being most notably the Clinical Commissioning Group and Guys and St Thomas's (GST) Community Services as well as Kings and GST Acute Trusts and the SLIC Programme Operations Board.
58. The council has also sought the views of the Older People's Partnership Board on its general approach to reablement and the Better Care Fund, which has helped to inform its future approach.

Other implications or issues

59. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

60. This report is seeking agreement to cease the procurement and not award the Reablement contracts.
61. Following approval of a GW1 report a procurement process has been carried out with the intention of awarding two contracts. An extensive evaluation of the bids concluded that full satisfaction in delivering the required outcomes of the service could not be reached through this procurement. The report explains that the response from the sector was more limited than initially anticipated and therefore a comprehensive quality and value for money assessment could not be made.
62. The report describes that the future delivery of the services will be explored. To allow time to complete an options appraisal and subsequent implementation, continuity of the service for the interim period shall be covered by entering into single supplier negotiations with the incumbent providers.

Director of Legal Services

63. This report seeks decisions relating to the ceasing of the procurement for reablement services and negotiations for interim provision as further detailed in paragraphs 1-4.
64. As a public body the council has a general unfettered discretion to make and change policies, as long as they do so within legislative powers, and act fairly and reasonably, taking into account all relevant considerations and recording the reasons for the decision. In terms of a procurement decision, the EU Regulations do not impose any restrictions on a contracting authority's discretion to abandon a contract award procedure up until the point of award of contract (with the only requirement that the council is obliged to notify tenderers and issue a cancellation notice).
65. The council also included a specific reference in its invitation to tender, allowing the council to cancel the tender process at any time prior to award. However due to the stage at which this decision is being made (at the end of the evaluation process) it is necessary to consider the possibility of challenge to the council's decision. Further details of this are noted in the closed report, but in summary the wording of our invitation to tender, and recent case law supports the decision of public authorities to cancel procurement processes. As noted in the report, there are a number of justifications for not proceeding with this award which support the decision to cease this process.
66. Contract standing order 4.1.3 requires that any decision to bring a service (which was previously externalised) in-house is subject to the approval of a gateway 1 report. This will be brought to the cabinet for approval later this year.

Strategic Director of Finance and Corporate Services

(reference FC14/052)

67. The strategic director of finance and corporate services notes the recommendations in this report to:
- cease the procurement of reablement contracts
 - enter into single supplier negotiations with the current providers for short-term interim contracts that will ensure continuity of service
 - explore a directly delivered reablement function.
68. The interim contracts are anticipated to take effect from 01/07/2015. The costs therefore fall into the 2015/16 budget which was agreed by council assembly on 25 February 2015. It is important that all expenditure and budgets are monitored carefully to ensure the budget is not exceeded.
69. The estimated costs of the service from 2016/17 onwards are to be met from the council's general fund budget, which is subject to annual agreement by council assembly. The council faces further cuts in its funding from government in 2016/17.

Director of Human Resources

70. N/a

BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Southwark Ethical Care Charter	Children and Adults Commissioning Southwark Council 160 Tooley Street London SE1 2QH	Andy Loxton 020 7525 3130
Link: http://moderngov.southwark.gov.uk/documents/s47493/Report%20Integrated%20Community%20Support.pdf		
Reablement Gateway 1 Report	Children and Adults Commissioning Southwark Council 160 Tooley Street London SE1 2QH	Andy Loxton 020 7525 3130
Link: http://moderngov.southwark.gov.uk/ieDecisionDetails.aspx?id=4044		

APPENDICES

No	Title
Appendix 1	Invitation to tender methodology

AUDIT TRAIL

Cabinet Member	Councillor Dora Dixon-Fyle, Adult Care, Arts and Culture	
Lead Officer	Jonathan Lillistone, Head of Children's and Adults	
Report Author	Andy Loxton/Wayne Warwick, Children's and Adults' Services	
Version	Final	
Dated	5 March, 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Head of Procurement	Yes	Yes
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	5 March 2015	