

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 2 April 2019	<b>Meeting Name:</b> Cabinet Member for Children, Schools and Adult Care
<b>Report title:</b>		Gateway 1: Procurement Strategy Approval for Reablement Service	
<b>Ward(s) or groups affected:</b>		All	
<b>From</b>		Director of Commissioning	

## RECOMMENDATIONS

1. That the cabinet member for children, schools and adult care approves the procurement strategy outlined in this report which is to enter a single supplier negotiation with Thames Homecare Limited for the provision of the reablement service for a period of 15 months from 1 July 2019 to 30 September 2020, for an estimated value of £2 million.
2. That the cabinet member for children, schools and adult care approve the delegation of the Gateway 2 contract award report to the strategic director of children's and adults' services for the reasons of timeliness.

## BACKGROUND INFORMATION

3. The aim is to secure the supply of reablement support workers (RSWs) and associated coordination function for the reablement service until a long-term supplier of the service is procured.
4. The reablement service forms part of a partnership of health and social care services under intermediate care Southwark (ICS). ICS is an integrated health and social care service that supports people to remain independent, safe and well at home, which will prevent or delay the need for long term care. Aligned to the Southwark local care networks, it is made up of two multi-disciplinary components:
  - enhanced rapid response including @home; and
  - rehabilitation and reablement.
5. The council, over a number of years, commissioned the RSWs from Medacs Healthcare, to provide 40 full time equivalent staff working 36 hours per week within the integrated service, delivering an annual capacity of 74,880 support hours (1440 hours per week).
6. From April 2018 Medacs was placed under "provider concerns" by the council due to several serious quality issues. Following a care quality commission (CQC) inspection in October 2018, Medacs issued a voluntary suspension request. Very shortly afterwards, the provider was placed under special measures by CQC; which meant that the provider could no longer provide the regulated activity of personal care to any new service user without the prior written agreement of the CQC. This meant that once the existing cohort of clients had been discharged by Medacs, they were not able to continue to

provide a reablement service to the council. At the time of writing this report the provider remains under special measures.

7. As a result of this, the council had to source a temporary/emergency reablement support and conducted a selection process for an alternative provider for reablement comprising of four providers – ServeSoul Ltd, Concept Solution, Thames Homecare Limited and Westminster Homecare Limited. The Council carried out due diligence checks which included financial checks as well as references on quality and safety of service users, and compliance with the Southwark Ethical Care Charter (SECC), from those organisations. After assessment, the council appointed Thames Homecare as the provider who was able to meet the council's urgent need for reablement services in Southwark. This included the co-ordination of the RSW staff to be based at the council offices at Queens Road and cover arrangements for the co-ordinator including out of hours.
8. The temporary arrangement with Thames Homecare secured under the emergency powers under the council's contract standing orders commenced on 29 October 2018 and was to run until the end of February 2019, with an option to extend depending on the outcome of the CQC report on Medacs. This arrangement has been extended to 31 March 2019 as the special measures of Medacs by the CQC has not been lifted.
9. It is the intention to further extend the existing contract from 1 April 2019 by way of delegated emergency action powers for 3 months to 30 June 2019 which enables the council to meet the statutory duty under the Care Act to ensure continuity of provision to vulnerable service users.
10. A longer-term strategy for a reablement service that fits in with the strategic objectives of the council is being considered. A detailed finance modelling and options appraisal will be undertaken over the next six months to agree a preferred option.
11. The current contract with Medacs expires on 31 March 2019 and will not be renewed. In the meanwhile, the continuity of the service must be maintained, therefore this procurement strategy provides for interim arrangements.
12. As stated above, Thames Homecare has been providing a reablement service since October 2018 and regular contract monitoring has evidenced that the provider is responsive and delivering a good and reliable service.
13. The service is required to provide 1400 hours per week, including double-handed care. This is an increase from 800 hours a week with Thames Homecare because the current capacity is not meeting the demand for the service and clients are referred to Brokearge for support. The intention is to increase capacity to the level the council had with Medacs to enable all referrals including double handed clients to be met.
14. All supervision, training and HR requirements are the provider's responsibility, however staff are deployed, rostered and supported by council staff.
15. To enable experienced care workers to work in an enabling focused way with service users, there is an expectation that they have the capability to complete the care certificate, and then develop through the additional training and guidance from ICS therapy staff.

16. The provider, Thames Homecare Ltd, holds care quality commission (CQC) home care registration status. They are rated as good with the caring domain rates as outstanding. Additionally, all reablement staff will continue to be employed in line with the Southwark ethical care charter (SECC).

**Summary of the business case/justification for the procurement**

17. Reablement service delivery differs significantly from general home care. Reablement is a time-limited service of up to 6 weeks where the service user is supported to learn or relearn motor skills that will enable them to live as independently as possible. By learning or re-learning these skills, the council in partnership with GSTT is complying with the Care Act 2014 by making services available that will delay or reduce the need for long term care. Apart for the direct benefits for the service user and their family, there are financial benefits for the council. Therefore, the council is investing in this area to ensure that the highest possible quality service is procured.

**Market considerations**

18. There is fragility in the home care market and many providers in the sector are struggling to recruit, retain and develop their staff to meet the needs of the people they care for. The level of turnover and churn indicates that providers are struggling to recruit and retain suitable people to the sector. This was indicated in the selection process for this service as the unsuccessful providers were unable to guarantee the requisite number of qualified and trained reablement support workers.
19. Workforce problems have a direct impact on people’s care; getting the right workforce is crucial in ensuring services can improve and provide high-quality person-centred care.
20. Thames Homecare was able to meet the service requirements of the council at short notice and has incorporated the inter-professional working practice of the ICS service. Feedback about the quality of service delivery from key stakeholders including ASC operational colleagues and service users is very positive. This has given the council the confidence to enter into single supplier negotiation with the provider for a contract from 1 July 2019 to 30 September 2020.

**KEY ISSUES FOR CONSIDERATION**

**Options for procurement route including procurement approach**

21. The following options have been considered:

Do Nothing and cease providing the service	There is a statutory duty under the Care Act 2014 to provide support to enable older and disabled people to retain as much independence at home as possible.
Conduct a competitive procurement to establish	Timescales will not allow this procurement and would not achieve value for money as the market

short term contracts to cover the period required	would show little interest in tendering for a relatively short-term contract.
Bring In house	Timescales do not allow for a detailed appraisal including financial implications and infrastructure requirements which needs to be undertaken to consider whether an in-house service model is a viable option and then to mobilise such a service.
Single supplier negotiation	This route is recommended to ensure the continuity of the service is maintained in the interim until a detailed finance modelling and options appraisal is undertaken to agree a preferred option that fits with a longer-term strategy for a Reablement service.

### Recommended Option

22. The proposed procurement approach is to undertake a single supplier negotiation with Thames Homecare. There has been considerable negotiation regarding Thames Homecare's unit costs and the council is confident that the single supplier negotiations will be completed swiftly and will represent value for money under these exceptional circumstances.

### Identified risks for the procurement

23. A risk register of the key risks identified is set out in the table below. The procurement will be overseen by the project group chaired by the assistant director of ASC older people and disabilities and which reports to the intermediate care project board chaired by the assistant director of partnership commissioning. The project group will review the risks, issues and mitigations on a monthly basis.

Risk	Risk Level	Mitigating Action
Thames Homecare is unable to maintain an acceptable level of quality.	Low	Feedback about the quality of service delivery from key stakeholders including ASC operational colleagues and service users is very positive. KPIs will continue to be monitored by the performance and contract team to ensure continuity of quality over time.
Thames Homecare may require a higher unit cost on a reducing volume of activity.	Low to medium	Negotiations have been conducted with Thames Homecare to reduce their unit costs which has been agreed. The service is to be fully costed and will be covered through allocation of funding from the Better Care Fund (BCF).
Provider failure	Low to	The Council carried out due diligence checks

	medium	which included financial checks as well as references on quality and safety of service users from organisations where Thames Homecare were providing a service. The Council is satisfied that Thames Homecare is a well-established company.
Legal challenge.	Low	The procurement of this contract by way of single supplier negotiation in these circumstances is permissible under the EU procurement regulations (please see legal concurrent below).

### Key decisions

24. This a non-key decision.

### Policy implications

25. Under the Care Act 2014, the council has a statutory responsibility to support older and disabled people to retain as much independence at home as possible. The Care Act requires Southwark Council, amongst other things, to promote people's wellbeing and independence; prevent, delay or reduce care and support needs of vulnerable clients.
26. The reablement and intermediate care services enables the council to comply with its statutory duties under the Care Act 2014 and the service complements the aims of the health and well being strategy; to promote resilience within the population and support the most vulnerable people.
27. This procurement strategy seeks to achieve the following strategic objectives and outcomes:
- Improve people's outcomes to enable them to live at home, safe and well in their communities
  - Provide responsive, holistic, home-based, person-centred co-ordinated care, treatment and support focused on enabling people to maximise their independence or recover from illness or injury
  - Reduce dependency on long term services, delay possible admission to long term care and reduce hospital admissions and A&E attendance
  - Work effectively with all parts of the health and social care system to provide seamless, smooth and safe transfers of care for people – right person, right time, right place
  - Reduction in delayed transfers of care (DToc) rates in line with 2018 NHSE requirements.
28. In accordance with the fairer futures procurement strategy, trade union recognition will be stipulated as a workforce requirement in the contract negotiation.
29. In accordance with the SECC staff will continue to be paid LLW, travel time, etc.
30. This procurement is in accordance with the council plan commitment for a healthier life and our values - that we will treat residents as if they were a valued

member of our own family; work for everyone to realise their own potential; and spend money as if it were from our own pocket.

31. In accordance with the commitment to the joint five year forward view (FYFV) Southwark Council and NHS Southwark CCG want to improve the way that our local health and social care system operates to bring about the best possible health and care outcomes for the people of Southwark.

#### **Procurement Project Plan – (Non- Key Decisions) Reablement Service**

<b>Activity</b>	<b>Complete by</b>
CCRB Review Gateway 1: Procurement Strategy report	14/02/2019
CAB/DCRB Review Gateway 1: Procurement Strategy report	06/03//2019
Cabinet member briefing	19/03/2019
Approval of Gateway 1 Procurement Strategy report	20/03//2019
Completion of tender documentation	21/03//2019
Contract negotiations	05/03/2019
CCRB Review Gateway 2: Contract Award report	04/04/2019
CAB/DCRB Review Gateway 2: Contract Award report	17/04/2019
LMB – Gateway 2: Contract Award report	30/04/2019
Approval of Gateway 2: Contract Award report	07/05/2019
Notification of implementation of Gateway 2 decision	07/05/2019
Debrief notice and Standstill period (if applicable)	14/05/2019
Contract Award	15/05/2019
Add to Contract Register	16/05/2019
TUPE Consultation Period (if applicable)	N/A
Place award notice in Official Journal of European Union (OJEU)	15/05/2019
Place award notice on Contracts Finder	15/05/2019
Contract start	01/07/2019
Initial contact completion date	30/09/2020
Contract completion date -	30/09/2020

#### **TUPE/Pensions implications**

32. TUPE did not apply between Medacs and Thames Homecare Ltd when Thames Homecare were appointed in October 2018 nor will it apply on the expiry of the Medacs contract on 31 March 2019. However, TUPE is likely to apply on the expiry of the proposed interim contract in September 2020 if the longer-term

contract is awarded to another provider (other than Thames Homecare) following the tender exercise for that contract. The procurement of the longer-term contract will be subject to a separate future report. Nevertheless and, whilst due diligence will need to be undertaken prior to the termination/expiry of this interim contract to establish whether TUPE will apply at that time, appropriate provision for TUPE therefore needs to be made in the relevant conditions of this interim contract.

### **Community impact statement**

33. The public sector equality duty under the Equality Act 2010 will apply. This requires that the council has due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out its activities. To ensure that the council meets its obligations an equality impact analysis will be undertaken to inform the development of the service. However, the proposed procurement will have a positive impact in relation to the groups identified as having “protected characteristic” under the Equality Act 2010 and the council’s equality agenda and particularly benefit the older population and those living with complex conditions that constitute a disability.
34. The recipients of the service are overwhelmingly older people above pensionable age who are likely to be living with a disability or one or more chronic long-term conditions. There are predominately more women than men, 58% women and 42% male. The ethnicity profile of the service is 60% white, 30% BME and 10% other. Most older people and younger disabled people aspire to maintain their independence and live fulfilled lives outside institutional care or hospital settings for as long as possible. This service helps to deliver this aspiration as well as equipping people with independent living skills, as far as possible to avoid requirements for more intensive or long-term care.
35. The majority of staff engaged in delivering the contract are women and there is a relatively high representation from Black African and Black Caribbean communities. A significant proportion of the workforce are local residents providing the added social value of local employment. The Council requirement of payment of the London Living Wage has a positive impact upon this group of workers as well as the local economy.

### **Social Value considerations**

36. The Public Services (Social Value) Act 2012 requires that the council considers, before commencing a procurement process, how wider social, economic and environmental benefits that may improve the well-being of the local area can be secured.

### **Economic considerations**

37. The majority of care workers tend to live locally therefore the award of this contract will support the local economy.

### **Social considerations**

38. The Southwark ethical care charter, to which the council is committed within the fairer future procurement policy, establishes a minimum baseline for safety, quality and dignity of care by ensuring fair employment conditions for home care

staff (including sustainable pay, conditions and training levels). Services are commissioned according to need, not hours or tasks. Reablement workers will be paid for travel time (i.e. time which is additional to travel time between home and their allocated work base) and expenses. Fair terms and conditions ensure a well-trained workforce which has the ability to provide appropriate care. The workforce in this service are predominantly women performing semi-skilled or skilled tasks which require expertise. Payment of the London Living Wage (LLW) not only improves their financial wellbeing; it also recognises the skills and competencies that they deploy in order to keep vulnerable residents safe and well. Thames Homecare complies with the SECC.

39. The council's fairer procurement strategy is designed to ensure best value and continued improvement in everything purchased by the council. The policy ensures compliance with best value, probity and transparency principles, with all organisations in any given market following the same rules.

### **Environmental/Sustainability considerations**

40. As a minimum, the provider will be expected to have environmental policies in place, particularly regarding transport. This will be assessed during the single supplier negotiation process.

### **Plans for the monitoring and management of the contract**

41. Since January 2018 the council established a programme board which provides strategic oversight of all intermediate care services, of which the reablement service is one. The contract will be performance managed by the council's quality and performance team in the children's and adult services department as well as day to day oversight of quality issues by the respective ASC operational teams.
42. The contract will be monitored and managed in respect of:
- Compliance with the service specification and contract
  - Performance measurement of the provider
  - Service user outcomes
  - Service user satisfaction
  - Stakeholder satisfaction
  - Annual reports to DCRB

### **Staffing/procurement implications**

43. There are no specific staffing implications. The procurement and commissioning requirements to carry out and implement this single supplier negotiation are contained within existing staffing and resources of the partnership commissioning team, and legal, procurement and finance teams.

### **Financial implications**

44. The proposed annual value of the contract is £1.6m which is based on an estimate of 1400 hours per week at £22 per hour. There is sufficient budget available within older people to cover this. The service is part funded from the better care fund.



## **Legal implications**

45. Please see concurrent from the director of law and democracy

## **Consultation**

46. Consultation undertaken to inform the procurement plan of a single supplier negotiation outlined in this report has included adult social care, finance, procurement, legal and other commissioning colleagues.

## **Other implications or issues**

47. There are no other specific issues.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Finance and Governance**

48. The strategic director of finance and governance notes the contents of this report especially the financial implications detailed in paragraph 43.

### **Head of Procurement**

49. The report seeks Individual cabinet member for children, schools and adult care's approval for the award to Thames Homecare Limited of a contract for reablement service for an interim period of 18 months from 1 July 2019 to 30 September 2020 (for a value of £2m).
50. The report confirms that a single supplier negotiated procedure under EU procurement regulations due to the fact the incumbent provider is currently under special measure from CQC and therefore unable to take on any new cases. And in accordance with the council's CSOs. and as detailed in paragraphs 15 to 20.
51. The report confirms the monitoring and management arrangements that will be in place during the life of the contract and should include 6 monthly reports to DCRB.
52. Thames Homecare Limited will meet SECC requirements.

### **Director of Law and Democracy**

53. This report seeks approval of a procurement strategy for the delivery of reablement services, involving the proposed award of a contract to Thames Homecare Ltd by way of single supplier negotiation as detailed in paragraph 1.
54. The procurement of services of this nature and value is subject to the application of the (EU) Public Contracts Regulations 2015. Under those regulations there are limited, particular circumstances in which it is permissible to award a contract without tendering and the prior publication of a contract notice in the official journal of the European Union. One permissible ground is where, "for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with".

55. The report advises (at paragraph 6) that the existing service provider remains under special measures imposed by the Care Quality Commission, which render it unable to fulfil the council's requirements. The report notes the duties imposed on the council under the Care Act 2014, and therefore it is essential that the council appoints a suitably experienced and qualified organisation without delay in order to maintain continuity of service delivery and to satisfy its statutory duty.
56. The proposed procurement strategy is also consistent with the council's contract standing orders (CSOs), which, amongst other things allow for an alternative course of action to be taken in exceptional circumstances which mean that the usual procedures set out in the CSOs cannot be followed.
57. The decision to approve the report recommendation is one which is expressly reserved to the Cabinet Member under the council Constitution.

#### **BACKGROUND DOCUMENTS**

<b>Background Documents</b>	<b>Held At</b>	<b>Contact</b>
None		

#### **APPENDICES**

<b>No</b>	<b>Title</b>
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Jasmine Ali, Cabinet Member for Children, Schools and Adult Care	
<b>Lead Officer</b>	David Quirke-Thornton, Strategic Director for Children's and Adults' Services	
<b>Report Author</b>	Juliet Alilionwu, Joint Commissioning Manager, Older People and Complex Needs	
<b>Version</b>	Final	
<b>Dated</b>	19 March 2019	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Finance and Governance	Yes	Yes
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Director of Exchequer (For Housing contracts only)	N/A	N/A
<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet</b>	N/A	N/A
<b>Date final report sent to Constitutional Team</b>		1 April 2019