

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 12 April 2023	<b>Meeting Name:</b> Strategic Director for Children and Adult Services
<b>Report title:</b>		<b>Gateway 2 – Contract Award Approval</b> Integrated Community Equipment Service	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Commissioning	

## RECOMMENDATIONS

1. That the Strategic Director for Children and Adult Services approve the award of a contract to Nottingham Rehab Limited (trading as NRS Healthcare) as part of the single supplier framework agreement for the provision of Integrated Community Equipment Services (ICES), which has been procured by the Royal Borough of Kensington and Chelsea (RBKC) as lead commissioner for the London Community Equipment Consortium.
2. That the Strategic Director for Children and Adult Services note that the Framework Agreement for these services is planned to commence on 1 April 2023 for a period of five years, with an option to extend for a further two years (maximum term of seven years) at an annual cost to the council of £980,000, an estimated five year total cost of £4.9m and an estimated total cost, including extension of £6.8m for seven years.
3. That the Strategic Director for Children and Adult Services note the risk and/or impact of ongoing litigation as referenced within paragraphs 33-34 of this report.
4. That the Strategic Director for Children and Adult Services note the intended use of a fleet of electric vehicles, described in paragraph 64, to deliver the community equipment.

## BACKGROUND INFORMATION

5. Section 2 of the Care Act (2014) places a general duty on Local Authorities to provide, arrange or otherwise identify, services, facilities and resources to prevent, delay or reduce the needs of adults for care and support.

6. The ICES is used by occupational therapists, physiotherapists and nurses who are employed either by health organisations or the council. Equipment is loaned to service users of all ages in Southwark to promote independence within the home or school environment. Equipment is also loaned to residents in care homes.
7. Examples of equipment provision includes:
  - handrail installation to support people to use the stairs at home safely.
  - hoists, which can enable people to get out of bed with greater independence whilst enabling carers to move individuals safely
  - ramps to enable wheelchairs users to access the community and safely remain living in their preferred home environment.
8. The overall role of ICES is to support health and social care professionals providing community equipment to individuals which will:
  - support discharge from hospital
  - prevent unnecessary admissions to hospital
  - support on-going frailty
  - prevent or delay further deterioration, e.g. falls prevention, intermediate care, move to a care home
  - support an individual's choice to remain in their own home and help to give elderly and disabled people control over their own lives
  - aid rehabilitation and reablement
  - maintain and/or increase independence, and optimise care and support packages
  - facilitate informal care provision, and reduce the risk of a breakdown in carer arrangements
  - reduce the length of hospital stay and reduce 'bed blocking' in hospitals, by facilitating earlier hospital discharges
  - reduce the costs of long-term care by avoiding the need for care home admissions
  - reduce the costs of long-term care by avoiding the need for paid carers, and/or by reducing the number of carers or frequency of care visits required;
  - play a key role in the delivery of early intervention and prevention strategies, and in avoiding crisis admissions to high cost services
  - promote independence, safety, social inclusion, quality of life and improved end of life care
9. Provision of community equipment for residents with eligible needs plays a key role in the delivery of our Care Act duties to reduce or delay progression of needs.
10. There is a Section 75 (NHS Act 2006) agreement in place between Southwark Council and NHS South East London (SEL) Integrated Care Board (ICB), for ICES where the council is the lead commissioner.

11. ICES is financed by a joint funding arrangement between the council and SEL ICB by means of a combined budget, with a cost sharing ratio of 35:65 where the council pay 35 percent and the ICB pays 65 percent. The current agreed annual budget across both organisations for 2022-23 is £2.55m, with the council paying £0.89m and SEL ICB paying £1.66m. Both the ICB and council contribute to staffing costs, including contract management.
12. The ICB has confirmed it will continue to contribute as per the existing Section 75 agreement and Better Care Fund arrangements to the new ICES contract and will support the council in mobilisation of the new contract with NRS via the consortium.
13. The bi-borough partnership of City of Westminster and Royal Borough of Kensington and Chelsea, the latter of whom is the named as lead commissioner of the pan-London 'call off contract' for the ICES Consortium Framework agreement. Southwark is one of 21 London boroughs which make up the London Community Equipment Consortium. One of the benefits for Southwark being a member of the London Community Equipment Consortium is the risk sharing and collective bargaining power that comes with collaboration and purchasing at scale.
14. Medequip was awarded the current ICES service contract as part of a framework agreement with other boroughs. The contract commenced on 1 April 2017 for a period of four years with the opportunity to extend for a further two years. The two year contract extension was exercised, therefore the current contract with Medequip is in the final year and comes to an end on 31 March 2023.
15. The benefits of collaboration are exemplified by the current service provider absorbing the initial increased costs attributable to Brexit and the pandemic at the beginning of the pandemic due to the scale and size of the contract allowing for some financial flexibility.
16. Whilst wishing to collaborate where there are areas of mutual interest and commonality, the contracting arrangement supports Southwark's local and specific needs being met because each borough in the consortium has a locally designed contract and equipment catalogue that meets the equipment needs of Southwark residents as identified by health and social care professionals.
17. As well as providing an essential service to residents who require equipment to keep them well in the community, the ICES contract will also benefit residents looking for employment, as set out in paragraph 63, as at least four apprenticeships will be offered to Southwark local people over the initial life of the contract, with another two or three apprenticeship opportunities being made available if the contract is extended. This reflects the social value commitment in the Fairer Futures Procurement Framework, creating one apprenticeship per £1 million in contract value.

18. The governance of the London Community Equipment Consortium is operated through a management committee and a board; which respectively meet on a monthly and bi-monthly basis. Both these meetings are administered and chaired by RBKC on behalf of the Consortium. The bi-borough management committee oversees the board which covers both strategic and operational issues. The incumbent provider, Medequip, attend part of these meetings and present a quality report on performance and updates on their action plan as well as discussing and resolving ongoing issues.

**Procurement project plan (Key Decision)**

<b>Activity</b>	<b>Completed by/Complete by:</b>
Forward Plan for Gateway 2 decision	01/07/2022
Briefed relevant cabinet member (over £100k)	13/12/2021
Approval of Gateway 1: Procurement Strategy Report	01/02/2022
Invitation to tender ( by RBK&C)	09/05/2022
Closing date for return of tenders	05/07/2022
Completion of evaluation of tenders	10/08/2022
DCRB Review Gateway 2:	01/03/2023
CCRB Review Gateway 2:	09/03/2023
Lead Member consultation of Gateway 2:	21/03/2023
Notification of forthcoming decision – Five clear working days	31/03/2023
Approval of Gateway 2: Contract Award Report	12/04/2023
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	21/04/2023
Contract award	31/03/2023
Add to Contract Register	27/03/2023
Contract start	01/04/2023
Publication of award notice in Find a Tender Service (by RBK&C)	08/02/2023

Activity	Completed by/Complete by:
Publication of award notice on Contracts Finder (by RBK&C)	08/02/2023
Contract completion date	31/03/2028
Contract completion date – if extension(s) exercised	31/03/2030

## KEY ISSUES FOR CONSIDERATION

### Description of Procurement outcomes

19. The key outcome of this procurement is a cost-effective service that will meet the needs of residents. Other outcomes in relation to social value include the fleet of electric vehicles supporting the council's climate change emergency response, and the creation of at least two apprenticeships throughout the life of the contract.

### Key/Non Key decisions

20. This report deals with key-decision.

### Policy implications

21. Section 2 of the Care Act (2014) places a general duty on local authorities to provide, arrange or identify services, facilities and resources to prevent, delay or reduce the needs of adults for care and support in the local area, such as community equipment.

22. In addition to our legal duties to provide community equipment under the Care Act 2014 the following legislation is relevant:

- National Health Service Act (2006)
- Children Act (1989)
- Chronically Sick and Disabled Persons Act (1970)
- Children and Families Act (2014)

23. The community equipment contract is aligned with the council's "Fairer Future for All" vision, including the Fairer Future promises to create an age friendly borough and secure value for money services.

### Tender process

24. The bi-borough partnership of City of Westminster and RBKC had developed tender documentation on behalf of the pan-London consortium. All boroughs have participated in sub-groups to shape the documentation and identify robust and meaningful Key Performance Indicators (KPIs).

25. Individual boroughs were not named and listed in the tender documentation. A total number of boroughs who had expressed an interest to be included in the pan-London consortium were instead cited. However, the Contract Notice had named the boroughs included in the pan-London consortium.

### **Tender evaluation**

26. The bi-borough partnership of the City of Westminster and RBKC coordinated the tender evaluation process on behalf of the London Community Equipment Consortium which included a quality and price ratio of 60:40, with quality including Social Value of 10% .

27. The Consortium has outlined a number of benefits from the new contract:

#### **Clients**

- A wider delivery window i.e. across 12 hours- 6 days a week
- Increase in orders completed during one visit
- Improved access to repairs

#### **Prescribers**

- Improved IT systems and stock management information
- Equipment Review Groups will return enabling utilisation of new products

#### **Quality Assurance**

- Improved contract performance metrics and opportunities to address underperformance.

#### **Wider community and environment**

- A swifter community equipment response to compliment the work of acute/urgent services
- Payment of London Living Wage to employed staff
- Reduced waste and increased recycling
- Introduction of apprentice schemes targeted towards local people

### **Description of procurement outcomes**

28. 21 suppliers accessed the tender documents with four declining to respond and the remaining suppliers did not submit a bid. Two bids were received and this reflects the specialist nature of the sector.

29. Both tenders received were reviewed in two stages which were:

#### **Stage 1 – Compliance with the qualification envelope**

- Acceptance of the Councils' Terms and Conditions confirmed
- All tender forms were completed in accordance with the ITT
- Commitment to the required insurances and their respective levels of cover
- Their tenders were compliant and met the specification requirements
- All tenderers provided the required case studies in support of their experience and capabilities in having provided similar services

- They both confirmed that they could meet the stipulated turnover threshold

**Stage 2 – Quality and Price Award criteria (Technical & Commercial Envelopes)**

- As both tenderers were found to be compliant and their responses passed all the questions posed within the Qualification Envelope, a full evaluation of their tender submissions was carried out by a designated tender evaluation panel.

30. Total Scores (Quality + Commercial) - The overall total scores for both suppliers out of 100% combining the technical evaluation (out of 60%) scores and the Commercial (out of 40%) scores is set out in the table below:

	<b>Weighting (%)</b>	<b>NRS Healthcare</b>
<b>TOTAL SCORES</b>	100%	83.35%

31. Based on the overall outcome of the procurement exercise, it was recommended that NRS Healthcare, Company registration number (01948041) be awarded the contract for the provision of ICES for the London Community Equipment Consortium.

32. On 5 September 2022, the key decision reports were published by RBKC, and the contract award decision notices were issued to bidders, commencing the mandatory ten-day standstill period from 5th – 15th September 2022. The contract award decision notices also provide feedback to bidders in line with the Public Contract Regulations (PCR) via the e-sourcing portal. Once the standstill period concluded, a Letter of Acceptance was planned to be issued to NRS Healthcare, so that the framework agreement could then be finalised and entered into; which would have then enabled the call-off contracts to be entered into for each of the Consortium members.

33. The lead commissioner received a letter of challenge to the procurement outcome. This triggered a suspension preventing RBKC from signing the contract with NRS. On behalf of the Consortium, RBKC made a legal application to lift the automatic suspension. This was successfully achieved on 15 December 2022, when the judge ordered that the automatic suspension be lifted. RBKC is now free to enter into the Framework Agreement with NRS, and the framework agreement has now been signed by NRS. Call-off contracts can follow in accordance with internal governance of each borough and the terms of the Framework Agreement. The Court has directed that the claimant reimburse RBKC's legal costs.

34. Lifting the suspension does not mean that the legal claim comes to an end. Although the Consortium can now sign the contract with NRS, there is still has an outstanding claim for damages. The next step in progressing to trial would be a Case Management Conference in early spring 2023. This would lay down the timetable to trial which is unlikely to be held before early 2024.

## **Plans for the transition from the old to the new contract**

35. The bi-borough partnership of the City of Westminster and Royal Borough of Kensington and Chelsea will oversee the mobilisation of the new contract from January to April 2023. The consortium confirmed on 8 February 2023 that NRS have signed the framework agreement and are currently working toward the 1 of April 2023 as the start date for the contract. Regular meetings will be held with the incumbent provider to ensure that the mobilisation is carried out as smoothly as possible. A mobilisation and recruitment plan has been produced by NRS Healthcare Ltd., and the consortium is working closely with NRS to move the mobilisation forward despite the current challenges.

36. The final mobilisation plan has been shared with Consortium members once the contract award process has been completed and the Consortium Team have met with the provider and agreed the deliverables and timescales. The main elements of the mobilisation include the following:

- Data cleansing by boroughs – Removing deceased service user records, merging duplicate records, updating incomplete & inaccurate service user information.
- Implementation of a new IT system – Transfer of existing service user data to the new system, setting up a new equipment catalogue, submitting an updated authorisation matrix for each borough, training for local prescribers and contract leads to use the IT system. All users will be issued with new logon information.
- Contract management training for boroughs to take them through the new contract, service specification and contract manual.
- Equipment Review Groups – Clinical reviews of the standard equipment catalogue, all product groups will be reviewed over a rolling two year period, where new items will be procured and old items identified for decommissioning.
- Review of recycled specials and monitoring of new specials (this has started, Southwark's information has already been issued)
- Implementing a new suite of Power BI performance dashboards

37. Since early January 2023, the London Community Equipment Consortium has been holding regular meetings with NRS to oversee their mobilisation plan. Joint meetings have taken place with Medequip, the Consortium and NRS to agree information sharing and other key elements to mobilising the new service.

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

38. The contract will be strategically managed by the Consortium Team, who are funded through the Consortium's annual membership fees. Management resources will be required by each member borough to manage day to day operational activities and authorisations.



39. In Southwark, the contract will continue to be monitored and managed within the Commissioning Department with Contract Review reports being presented to the Children's and Adults' Departmental Contracts Review Board (DCRB) and Corporate Contract Review Board (CCRB) in line with Contract Standing Orders (CSO) requirements.
40. An ICES Management Board takes place on a six weekly basis with representatives from contract management, clinicians, commissioning, finance, budget holders and the SEL Southwark ICB. The Board is chaired by the Assistant Director Children and Adults Joint Commissioning. This board is responsible for monitoring the delivery of the contract and the recommissioning timetable. Monitoring of the contract through the board shows good contract performance.
41. It is the Consortium's intention to develop a detailed 'Contract Management Manual' which will set out a robust approach in terms of how the contract will be managed, along with clarity on the responsibilities that rest with individual Consortium boroughs and those which will be undertaken at a Consortium/Strategic level. This will be underpinned by the performance and contract management provisions set out in the framework agreement. It has been recognised that the previous contract management and remedial approach was restrictive and cumbersome, leading to bureaucratic delays which in turn enabled underperformance and did not allow the provider to be fully held to account. The new contract management approach aims to address these issues and improve upon the previous arrangements.
42. It is also recognised that in addition to robust performance management in line with the new KPIs and performance indicators, the benefit realisation for responsible procurement and social value outcomes will need to be closely monitored to ensure the provider is delivering on their commitments.
43. Furthermore, enhancements outlined as a result of the revised IT specification will ensure that business intelligence is more transparent and that reporting from this can be used to address opportunities and concerns more robustly and promptly. Power Business Intelligence has also been adopted which will enable the Consortium Team to provide performance data and activity analysis to member boroughs.
44. Monthly Consortium level strategic contract meetings will be undertaken with the provider and bi-monthly Consortium Board meetings will be held between the Consortium Team, borough members and the provider. Annual service reviews to assess key performance levels and deliverables against the contract requirements will also take place.
45. Monthly contract monitoring meetings at a borough level will be undertaken and will feed into the annual service reviews. 'Critical' KPIs which trigger clearly defined remedial measures, performance indicators and commitments have been developed which are proportionate and SMART and will be monitored locally. The remedial approach will be linked to critical and non-critical defaults and KPIs have been included in the contract.

46. The new service specification has been developed to address a number of inefficiencies experienced during the previous ICES contract. The new service model will migrate from the current five day/eight hrs per day model to a six day/12 hrs per day operating model with the flexibility to switch (at a Consortium level) to seven days if required during the contract period. It is anticipated that the next model's costs will be partially offset by a reduction in use of the higher cost emergency out-of-hours activity fee.
47. There will be a new "On Time In Full" KPI which will require the provider to ensure that all deliveries and other activities are completed within the time window specified by the Prescriber and that all equipment is delivered clean, in good working order and with no missing parts. Failure to achieve this will require the provider to cascade the activity fee to the actual completed tariff and any re-work will be at the provider's expense. Failure to achieve the KPIs will result in service credits being applied. Currently, all repeat work is chargeable unless challenged by the relevant borough.
48. The Consortium aims for a recycling target of 70% on the equipment issued. The current incumbent provider applies equipment price increases to recycled equipment as well, this element has been removed from the new contract; to enable recycled equipment prices to remain at their original purchase price throughout its useful life. Equipment price increases will now only apply to new equipment purchases.
49. The introduction of the Lifecycle model will also support the monitoring of expenditure on equipment and repairs to maximise the equipment's useful economic life and support decision making to decommission existing equipment and implement new equipment. The Consortium will also be taking the lead in reviewing the equipment catalogue and working directly with the supply chain and the service provider to maximise the Consortium's buying power.

#### Identified risks for the new contract

No.	Risk	Risk Level	Mitigating Action
1.	Legal challenge from provider	Medium	The suspension of the contract award was lifted and the complainant was ordered to reimburse RBKC's legal fees for this aspect of the challenge. Despite losing the legal challenge to lift the suspension, up to £20m in damages may still be sought. RBKC has commissioned a legal firm to represent the Consortium throughout this legal process. Any financial damages awarded would be shared between the consortium members

			and Southwark's portion would be split between the council and ICB.
2	Data quality, the data cleansing required by boroughs is not or has only been partially completed resulting in the transfer of existing data to have missing/incomplete information.	Low	<p>The Consortium Team have provided guidance on the process but ultimately the responsibility lies with the boroughs to undertake.</p> <p>Southwark has a team in place to oversee the transfer of data between providers and any data cleansing that is required. Work has started on cleansing local data.</p>
3.	Sustainability of the provider	Low	All providers in a position to apply for this tender are well-established providers, of significant size, with a broad customer base within London, and across the country. Providers have provided a detailed financial submission as part of the tender process for the consortium.
4.	Increased activity within the service	Medium	<p>Arrangements are in place for regular and robust contract management of the contract, including a review of prescribing activity against the contract, and will identify any significant increases in prescribing by teams early.</p> <p>Ongoing work is in place to continue to increase the rate of collections to reduce new spend on equipment across the contract.</p> <p>The Clinical Leads are conducting training with prescribers to ensure they are informed about the different pieces of equipment that may be prescribed, to ensure that correct items of equipment are prescribed, and over-prescribing does not take place.</p>

5.	Delays within the Consortium progressing the mobilisation	Medium	<p>Regular meetings between the new provider and NRS are being held to oversee the mobilisation process. A mobilisation plan has been produced. Every effort will be made to ensure deadlines are met.</p> <p>NRS have now signed the framework agreement and Medequip has shared key information with NRS enabling mobilisation efforts to begin in full. The timescales for mobilisation are short, however there are regular meetings taking place locally to align processes and operational work is underway in Southwark to prepare for the transfer of ICES to NRS.</p> <p>Southwark Council commissioning lead will continue to be part of and meet with the procurement subgroups to ensure the timeliness of this procurement and that Southwark's input is included.</p>
6.	Boroughs not completing their individual governance processes.	Low	<p>The Consortium Team will be sharing the governance award reports and briefings to Consortium members to use for their own reports. A workshop has been held for boroughs to talk through any local questions or concerns.</p>
7.	Staff not wishing to transfer under TUPE	Low	<p>The incoming provider has indicated that they will over recruit in advance of the contract start date. 22 new staff members are now in post and are working on setting up the three new distribution warehouses. NRS have also stated they will temporarily transfer experienced staff from other contracts to support the implementation.</p> <p>The TUPE information was shared on 31 January and NRS have planned meetings with staff groups impacted w/c 6 February 2023.</p>

8.	High inflationary uplifts	Medium	Equipment prices and activity fees are fixed for the first contract year. In subsequent years, fees may at the absolute discretion of the contracting authority be subject to indexation in line with the average annual rate of the Consumer Price Index (CPI).
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## Community, equalities (including socio-economic) and health impacts

### Community impact statement

50. Southwark's Borough Plan describes the vision for the borough and sets out priorities and promises to the people of Southwark. The Plan was refreshed in 2020 to consider the progress made since 2018 when it was first developed and to reflect the new demands and priorities Southwark faces from the COVID-19 pandemic.
51. The delivery of this service contract aligns with Southwark Council's Borough Plan, specifically promoting independence, safety, social inclusion and quality of life for residents through enabling access to community equipment and creating a fairer future for all with reduced health inequalities.
52. Southwark Council have recently embarked on the Southwark Stands Together programme which brings together local organisations, community groups and individuals across the borough committing to identify, and then implement solutions to address entrenched racism and injustice. It recognises the importance of listening to the voice of the workforce to hear their concerns and most importantly identify solutions to address areas of inequality by taking positive action to address these imbalances. In addition, the programme seeks to ensure we meet the needs of our residents and ensure those from all ethnic backgrounds are treated equally and fairly and receive the same service.
53. Partnership Southwark is a Local Care Partnership within SEL Integrated Care System, working with other health, care and non-statutory organisations and local communities to bring together services and support at a neighbourhood level so that they do a better job of keeping people healthy and meeting their needs. Since 2019, they have been working to better join up services and support, tackle the causes of inequality, and improve the health and wellbeing of Southwark residents.
54. Partnership Southwark focus on the groups most affected by long-standing health, social and racial inequalities. Their work is informed by engaging the community in Southwark to understand their needs, develop services and support that work for them, and empowering people to look after their own wellbeing and live longer, healthier lives, by focusing on prevention and self-management.

## **Equalities (including socio-economic) impact statement**

55. The Public Sector Equality Duty under section 149 of the Equality Act 2010 requires the council, when exercising its functions, to have due regard to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.
- The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and
- Foster good relations between those who have protected characteristics and those who do not.

56. 'Protected characteristics' are age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment. The council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce.

57. The new provider is committed to undertake:

- Board level oversight on relevant policies and procedures and annual confidential employee surveys to ensure continuous improvement.
- Pay gaps - median pay gap already being closed, mean pay gap negatively favouring females (although this indicates higher male representation amongst front line workforce).
- Front line workforce representation/ understanding; local and targeted recruitment to ensure diverse workforce in terms of all protected characteristics, use of specialist agencies, advertising will reflect diverse culture and unconscious bias training for recruiters.
- Mandatory Equality and Diversity training for all TUPE transferees, monitoring of new starters behaviours etc.

## **Health impact statement**

58. The Health Inequalities Framework, which was approved at the Health and Wellbeing board in March 2021, notes that health inequalities are avoidable, unfair and systematic differences between different groups of people that influence our opportunities for good health, both physical and mental.

59. The Framework notes that the COVID-19 pandemic has exacerbated existing health inequalities in Southwark, impacting all groups but particularly people from Black, Asian and minority ethnic backgrounds, low-income households and those with disabilities.

60. Outcomes from the Southwark Stands Together (SST) programme have been used to develop five recommendations to tackle health inequalities experienced by Black, Asian and minority ethnic communities. The Health Inequalities Framework will incorporate the findings from SST and address

these alongside the other influences of inequalities; including other protected characteristics such as socio-economic factors and inequalities experienced by socially excluded groups.

61. The implementation of a new ICES contract will improve the health of residents by providing equipment and resources to prevent, delay or reduce the needs of adults for care and support and provide support for residents' health and wellbeing in the community.
62. One of Southwark's Council Plan key aims is to support and protect vulnerable residents so that they can lead healthy and active lives. The ICES will enable many older and disabled residents to live safely and independently at home, many of whom are recovering from illness after discharge from hospital. It will provide them with the care and support they need to live healthy and fulfilled lives and prevent many from having to be admitted to residential or nursing care.
63. Providers will be expected to expand the number of local apprenticeships they offer, and they will also be expected to offer flexible and part-time working arrangements to encourage a wider range of applicants and reduce barriers to employment. The new contract will require all staff employed by the community equipment provider to be paid the London Living Wage. It will therefore reduce health inequalities in Southwark by ensuring people from socio-economic disadvantage are better remunerated for their work and will lead to a more stable, well-equipped workforce that is able to deliver high quality, consistent care for service users.

### **Climate change implications**

64. The winning bidder's tender included a clear commitment to delivering full electric fleet from contract award, which is far more ambitious than the 10% annual carbon reduction requirements set out in the service specification. They have evidenced the pre-order of 145 electric vehicles (EV) with a confirmation letter from supplier. The installation of charge points at each depot is planned and EV driver training is committed to. Vehicle maintenance and upkeep tailored for the EV's will be in place as well.
65. The provider will make use of environmental management system 14001 and environmental management system. EMS 14001 is an internationally agreed standard that sets out the requirements for an environmental management system and leads to more efficient use of resources and reduction of waste. Currently just 4% of products goes to landfill, latest improvements for mattress waste solutions means there should be net zero for landfill by the contract start. From contract start the Consortium will seek a breakdown on recycling rates, any 'energy from waste' (incineration is high carbon) percentage as well as landfill statistics to ensure continuous improvement and environmental sustainability.

## **Social Value considerations**

66. 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 wellbeing of the local area can be secured. The social value considerations included in the tender (as outlined in the Gateway 1 report) are set out in the following paragraphs in relation to the tender responses, evaluation and commitments to be delivered under the proposed contract.
67. In addition to creating four apprenticeships, the new provider will recruit a full time Social Value lead during mobilisation and will work with internal relevant partners, including employment and procurement as well as social value leads in each consortium borough to ensure outcomes are measurable. The provider will compile a register on targeted recruitment and social value and will review monthly and report six monthly. Targeted recruitment in terms of partner organisations and schemes will be used and a wide range of socially excluded demographics targeted for employment opportunities.

## **Economic considerations**

68. The current contracted staff associated with the contract are paid the London Living Wage as a minimum. The service falls in scope of the Living Wage Foundation threshold and was included as part of the procurement exercise. The Consortium has stipulated that the London Living Wage (LLW)/Real Living Wage (as applicable to where staff are based or work) must be paid to all staff engaged on this contract as a minimum. We will seek assurance and ensure that the contract requires that any future uplifts are passed on to staff to maintain this compliance and during the life of the contract we will ensure this via robust contract management.

## **Social considerations**

69. The new provider has proposed three depots across London, in west, north and south London. They are committed to providing opportunities for promoting local labour initiatives or the use of local supply chains, recruiting whenever possible from neighbouring boroughs. Apprenticeships are offered through the contract for local residents to gain experience as part of a dynamic company.
70. The service will promote independence and people's ability to live longer in their own homes and be discharged to their own homes sooner after a hospital admission, promoting their social wellbeing within their own communities.

## **Environmental/Sustainability considerations**

71. The recycling and collection of equipment contributes towards a positive environmental impact.



72. Emerging technologies and digitalisation benefits have been realised by the consortium and are being integrated into the development of the new service specification.
73. The new provider is committed to baselining and measuring all waste produced within the contract to ensure our strategies for waste reduction are continually effective and transparent. Specific waste streams set out include trade effluent. They will use partner Biffa to provide data on three highest waste streams after 3 months so this can be robustly monitored and any issues addressed.
74. The new provider will work with the Consortium to set high volume waste streams targets i.e., tonnage/£1000 contract spend. One initiative being explored with the provider is to shred mattresses to use as carpet underlay. Techniques such as removal and recycling of packaging has been set out, as well as packaging in batches where possible. They will use leverage with manufacturers to continuously improve sustainability of packaging and have already moved away from plastic with small exceptions and they no longer use polystyrene.
75. With low impact cleaning systems they will use a dry steam cleaning technique when decontaminating equipment. For chemical cleaning during decontamination processes, the provider will use TEC Care products. These retain the benefits of chlorine-based disinfectants, yet are non-toxic, biodegradable, and non-cumulative in the ecosystem.

### **Market considerations**

76. The commercial sector provider market is dominated by three providers, who between them have the majority of the market share of outsourced local authority and ICB Community Equipment contracts; however, there are also some other smaller providers in the community equipment market.
77. Market Engagement feedback has been in the form of individual feedback sessions, workshops, questionnaires and a market engagement exercise advertised by the publication of a PIN notice (Publication reference: 2021/S 000- 024374) issued to the market on 30 September 2021 which sought their views on key elements of the service and feedback on potential approaches to the model.
78. One-to-one sessions were held in December 2021 with those organisations who responded to convey our direction of travel and proposed approach to the tender to ensure they are engaged and recognise the commercial opportunity. The outcome from these sessions was that broadly all organisations agreed to have an integrated service with the future flexibility to include 'additional and complimentary' services. However, it was decided to remove these from the scope of the framework and make clear that they would be subject to a separate procurement (drafting was included in the Specification to that effect). This reflects that:

- officers considered that it would be preferable to keep such services separate either at Borough level (i.e. Boroughs make their own arrangements) or in a separate Consortium procurement. This would enable the unified contract management approach to the framework;
- legal advice was that any inclusion of these services would need to comply with Regulation 72, Public Contracts Regulations 2015 at the time they were activated because they were not capable of being fully scoped or priced at this stage. Without full detail it could not be confirmed whether this would be possible to achieve.

79. Soft market engagement demonstrated that adopting a ‘partnership’ approach with the wider supply chain was beneficial for the provider and purchasing organisations. Engagement also indicated that the market conditions continued to be volatile in terms of the supply chain – with volatility becoming pronounced following Brexit.

80. Those authorities who still have in-house services are reported to be considering their options as to whether to outsource partially or move to a fully managed service. An in-house service does not have the same scale nor bargaining power as a consortium of local authorities.

81. The market in London is segmented in the following way for the 33 London boroughs:

- 21 (64%) have an outsourced ICES contract with one of the providers via the pan-London consortium;
- 7 (21%) have an outsourced ICES contract with another of the two main providers;
- 2 (6%) are thought to be operating an in-house service or through a trading arm of the local authority;
- 3 (9%) are using a shared service arrangement.

### **Staffing implications**

82. The procurement approach is managed on Southwark’s behalf and led by the bi-borough partnership of City of Westminster and RBKC, so there will be no staffing implications for Southwark Council.

83. Southwark Council’s contract management team, and occupational therapy team currently support the ICES contract. These posts are joint funded by the council and ICB and it is anticipated this arrangement will continue under the new contract.

### **Financial implications**

84. The current agreed annual budget across both Southwark Council and SEL ICB for 2022-23 is £2.55m.

85. Based on the trends over the past five years, the estimated total projected spend over the next five years is £13.9m. This takes into consideration changes in demand and projected cost increases in line with historical trends.
86. ICES is financed by a joint funding arrangement between the council and the SEL ICB, with a cost sharing ratio of 35:65 respectively. Hence, Southwark Council have a total estimated cost of £4.9m for the five-year contract term, and SEL ICB have a total estimated cost of £9m for the five-year contract. Total estimated costs for the additional two years if exercised are £6.8m (Southwark Council) and £12.6m (SEL ICB) respectively.
87. The ICES contract is also funded by the Better Care Fund (BCF) for both the council and ICB element. The council have a BCF allocation of £562k, whereas the ICB have a BCF allocation of £1,646k. The BCF is subject to change on an annual basis depending on organisation priorities.
88. The ICB has confirmed it will continue to contribute as per existing Section 75 and BCF arrangements outlined above to the new ICES contract and will support the Council in mobilisation of the new contract with NRS via the consortium.
89. The current annual consortium membership fee is £20,650, made up of an IT Licensing fee of £10,500 and the consortium membership fee of £10,150. The current annual consortium fee is incorporated into the combined budget mentioned above and included in the estimated contract value.
90. The contract is demand led as a statutory service and budgets are agreed each year through meetings with SEL ICB and Southwark Council, and expenditure is monitored through the ICES Management Board. In addition, there is an element of control over spend as we only call off the framework as needed.
91. Given that the ICES contract is a cost and volume contract, active contract monitoring will be a key role in ensuring that activity is in line with the proposed budget.
92. The ICES contract has experienced both an increase in demand and inflationary increases in the cost of various equipment due to COVID-19 and implications of Brexit.
93. The majority of community equipment prescribers are in Southwark's acute trusts, and this is reflected in the ratio of funding between the council and the ICB, so the financial risk to Southwark Council is lower than that of the ICB.
94. Equipment prices and activity fees shall remain fixed for the first contract year as submitted in the tender. The fix on tender prices in the first contract year only applies to the extent the item was priced and the item of equipment remains the same. Then in each subsequent contract year during the Framework Period, the activity fees may at the absolute discretion of the Contracting Authority be subject to indexation in line with the average annual

rate of the Consumer Price Index published by the Office for National Statistics twelve-month measure for January to December in each case published following the immediately preceding December to the fee review date.

95. Activity fees increases will be subject to ratification by the Consortium Board members and satisfactory performance and completion of Open Book accounting requirements as set out in the contract. Increases to the Equipment Purchase Price from one Contract Year to the next may not exceed the average annual rate of the Consumer Price Index published by the Office for National Statistics twelvemonth measure for January to December in each case published following the immediately preceding December to the fee review date. These increases will apply to new equipment purchases only.
96. The Consortium has estimated the saving on activity fees from current prices to be 10% for the main spends with projected savings across the Consortium of £2.8m in the first year of the contract. For Southwark, this would mean an estimated saving of £46.7k for the council and £86.7k for the ICB.
97. Using 2021/22 activity volumes, the Consortium is projecting a potential £1.9m reduction in the first year of the contract in activity fees across seven activity speeds from emergency (four hours) to collection within ten days. This represents a 10.7% reduction on current activity fees. These savings are purely an estimate at this stage and will depend on supporting behaviour change of prescribers and the provider to support these efficiency savings.
98. The Consortium is also projecting a £861,590 (1.9%) saving from other activity fees using 2021/22 consortium wide data but accounting for the new tendered prices. This includes joints visits; PPM; peripheral store delivery and collection; transfer of equipment; repairs and non-standard stock handling fee. For the remaining tendered other activity fees (out of Consortium boundaries activity), cleaning of small/large aids; cleaning of small/large mechanical aids and on non-standard stock, it is more difficult to calculate an initial saving due to the volume and complexity. However, initial analysis suggests a 44% reduction.

### **Investment implications**

99. The ICES operates on an equipment loan basis. Boroughs do not invest in specific items of equipment, apart from special items that are not included in the standard equipment catalogue. These items are purchased by the ordering borough but once returned, are shared with other boroughs in the consortium, in a reciprocal arrangement.

### **Legal implications**

100. Please see concurrent from the Assistant Chief Executive - Governance and Assurance.

101. RBKC published a Contract Notice in the Find a Tender Service (ref 2022/S 000-012055) to commence a competitive tendering process for the establishment of an ICES framework. The framework is for an initial term of five years with the ability to extend by a further two years (a maximum term of seven years). Whilst RBKC was the responsible authority for the conduct of the procurement process, the ICES framework is not only for its own benefit but is for the benefit of the existing and future members of the London Community Equipment Consortium as identified in the Contract Notice.
102. By the relevant deadline, two bids were received and RBKC has concluded its evaluation and moderation process of those bids in accordance with the evaluation criteria and methodology set out in the procurement documents. The completion of that evaluation process has identified NRS Healthcare as the most economically advantageous tenderer. RBKC is now seeking approval to proceed to award the NRS Healthcare.
103. The approach to contracting here is a framework agreement with underlying call-off contracts. The framework agreement will be entered into by RBKC (on behalf of the consortium) and then each borough (including RBKC) will enter into their own call-off contract. Orders are placed by each borough under their own call-off contract. No guarantee has been given to the market as to any volume of spend or that any Borough will enter into a call-off contract.
104. The framework agreement is based on the existing ICES framework but has been subject to extensive updating to account for changes in the way in which the service operates and to account for inefficiencies and issues arising through the operation of the existing framework. The form of framework has been developed in consultation with consortium officers. It is a bespoke contract. The framework agreement will be executed as a deed under RBKC's seal. The framework agreement commences on the date it is entered into with the time between that date and 1 April 2023 (when the service becomes operational) being the mobilisation period. The parties have agreed a mobilisation plan.
105. The call-off contract form is set under the framework agreement. The majority of the terms are set within the framework agreement itself and incorporated into the call-off contract. This allows for a uniform approach across the consortium. The call-off contracts will be executed as deeds. The term of a call-off contract cannot extend beyond the term of the framework agreement and the termination/expiry provisions are interlinked. It is also possible for contract management to occur at a consortium level. Call-off contracts commence no earlier than 1 April 2023.

## **Consultation**

106. During July 2021, engagement with service users was conducted at borough level. In Southwark, a random sample of service users who received a delivery in July 2021 were contacted directly to complete a

survey about their experiences. The engagement was intended to gauge service users' satisfaction with the service they received from the incumbent provider, and to consider how it could be improved for the new contract.

107. In Southwark, a total of 20 telephone surveys were completed, with either service users or their family / carer. A link to the survey was shared with a wide range of community and voluntary organisations within the borough. These findings were then used to help shape the service specification.
108. A survey was designed for prescribers as well and was conducted at the same time. In Southwark it was promoted by ICES team via the manager's network, and by the Principal Occupational Therapist at Team Manager and Service Manager Level. It was also promoted virtually via MS Teams channel. Southwark reported the highest volume of responses within the consortium, with a total of 40 completed surveys.

### **Other implications or issues**

109. None.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Finance and Governance REF: [78AS2022-23]**

110. This report seeks approval of the award of contract to NRS Health care for the provision of the Integrated Community Equipment Services (ICES). The Strategic Director of Finance notes the estimated annual contract value of £980k to the council and the estimated five year total cost of £4.9m. It has been noted that this is a cost and volume contract, hence regular budget monitoring with all stakeholders is essential.
111. The dynamic of a joint funding arrangement, coupled with the contribution made by the Better Care Fund (BCF) reflects the shared benefits accruing to the council and the ICS in their endeavours to improve outcomes for the residents of Southwark. Whilst funding is secure for 2022-23, the service and other partners will need to work closely to mitigate any risks arising from future spending reviews and subsequent changes to the BCF. The ICS and the council should ensure that the appropriate Section 75 is in place to ensure clarity of this joint arrangement.
112. The Strategic Director of Finance notes that this is a single supplier negotiation and that this has been procured by the Royal Borough of Kensington and Chelsea as the lead commissioner for the London Community Equipment Consortium. The Strategic Director of Finance also notes the financial implications sections from points 82 - 96.

## Head of Procurement

113. This report seeks approval from the Cabinet for award of contract to NRS Healthcare as part of a single supplier framework for the provision of Integrated Community Equipment Services, which has been procured by the Royal Borough of Kensington and Chelsea as lead commissioner for the London Community Equipment Consortium. The contract is scheduled to commence on 01 April 2023 for an initial period of five years, with an option to extend for a further two years with annual cost to the council of £980,000, an estimated five-year total cost of £4.9m, and an estimated total cost, including extension of £6.8m.
114. The value of the proposed contract is above the minimum threshold for services covered by the Light Touch Regime (LTR) as detailed in the Public Contracts Regulations 2015 (PCR2015) and the report provides detail of compliance with salient aspects, including full advertisement and conduct of the procurement process (please refer to paragraphs 99-103). Regulatory requirements for conclusion of, and entry into, framework agreements is covered by regulation 33 of PCR2015 and section 5 of the Council's Contract Standing Orders (CSOs). The report satisfies both sets of criteria, including rationale for the proposed term of the framework (in excess of four years) on account of the subject matter and capital costs associated with mobilisation and implementation.
115. Headline options and risks associated with award are contained at the end of paragraph 47 and reference ongoing litigation vis a vis damages arising from the legal challenge together with a provisional sum (estimate) if successful. The cost of damages, if awarded, would be shared amongst consortium members, albeit the precise allocation remains to be determined.
116. Alignment with the Fairer Future Procurement Framework (FFPF) is evidenced, specifically via creation of apprenticeships (paragraph 17) confirmation of London Living Wage (LLW) payment (paragraph 66) and the subject matter of the contract ("Tackling Health Inequalities").
117. Proposed methodology for performance/contract monitoring is detailed within paragraphs 38-49, including detail of Key Performance Indicator (KPI) regime and expenditure review mechanism. In Southwark, the contract will continue to be monitored and managed within the Commissioning Department with Contract Review reports being presented to the Children's and Adults' Departmental Contracts Review Board (DCRB) and Corporate Contract Review Board (CCRB) in line with Contract Standing Order (CSO) requirements.
118. The Community, Equalities and Health Impact Statements are set out in paragraphs 48-61.
119. The Climate change, Social Value, Economic and Environmental / Sustainability statements are set out in paragraphs 64-65 and 71-75.

## **Assistant Chief Executive – Governance and Assurance**

120. This report seeks approval of the award of a contract to Nottingham Rehab Limited (trading as NRS Healthcare) as part of a single supplier framework established for the provision of Integrated Community Equipment Services, which the council will be able to access as part of an existing pan London consortium, and as lead commissioner on behalf of the NHS South East London Integrated Care Board.
121. Due to the nature and estimated value of the service required by the consortium boroughs its procurement is governed by the Public Contracts Regulations 2015 (PCR), which require expressions of interest to be sought through the publication of a contract notice on the UK's Find-a-Tender portal. The report notes that the framework has been procured in line with the PCR by the bi-borough partnership of the City of Westminster and the Royal Borough of Kensington and Chelsea, which acts as the lead commissioner for the pan London consortium, and that the council will be able to place orders following a process defined in the terms of the framework agreement made between the bi-borough partnership and the appointed service provider.
122. Paragraphs 33 to 34 summarise the chronology of events which have arisen following the issue by the unsuccessful bidder of legal proceedings which initially caused an automatic suspension of the contract award. Whilst it remains possible that the unsuccessful bidder will seek to recover damages through further litigation, the legal advisers acting for the consortium have requested a detailed substantiation of the unsuccessful bidder's claim, and if fresh proceedings are commenced it is unlikely that the matter will be heard and determined until 2024. The consortium has sought the view of each participating borough in order to obtain a consensus in relation to the recommendation to proceed with an award to NRS Healthcare.
123. The proposed contract award is also consistent with the requirements of the council's Contract Standing Orders (CSOs), which reserve to the Strategic Director for Children's and Adult's Services the decision to approve the report recommendations.
124. The Strategic Director for Children's and Adult's Services will be aware of the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:
  - (a) Eliminate discrimination, harassment, victimisation or other prohibited conduct;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
  - (c) Foster good relations between person who share a relevant protected



characteristic and those who do not share it.

125. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnership are protected in relation to (a) only.
126. The community impact statement and the health impact statement in this report note the benefits that the proposed contract award is intended to generate. The report further notes the engagement that has been made with service users and service providers, in order to establish the level of satisfaction with the current service and the extent to which the feedback has been taken into account in formulating the service requirements for the new procurement. Those activities serve to demonstrate the council's observance of and compliance with the PSED, although the Strategic Director for Children's and Adult's Services must be satisfied in this regard when considering the report's recommendations.

#### **PART A – TO BE COMPLETED FOR ALL DELEGATED DECISIONS**

Under the powers delegated to me in accordance with the council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report (and as otherwise recorded in Part B below).

Signature  Date **12 April 2023**  
Designation **David Quirke-Thornton**  
**Strategic Director of Children and Adult Services**

#### **PART B – TO BE COMPLETED BY THE DECISION TAKER FOR:**

- 1) All key decisions taken by officers
- 2) Any non-key decisions that are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available (see 'FOR DELEGATED DECISIONS' section of the guidance).

<b>1. DECISION(S)</b>
As set out in the recommendations of the report.

**2. REASONS FOR DECISION**

As set out in the report.

**3. ALTERNATIVE OPTIONS CONSIDERED AND REJECTED BY THE OFFICER WHEN MAKING THE DECISION**

Not applicable.

**4. ANY CONFLICT OF INTEREST DECLARED BY ANY CABINET MEMBER WHO IS CONSULTED BY THE OFFICER WHICH RELATES TO THIS DECISION**

None.

**5. NOTE OF ANY DISPENSATION GRANTED BY THE MONITORING OFFICER, IN RESPECT OF ANY DECLARED CONFLICT OF INTEREST**

*If a decision taker or cabinet member is unsure as to whether there is a conflict of interest they should contact the legal governance team for advice.*

None.

**6. DECLARATION ON CONFLICTS OF INTERESTS**

**I declare that I was informed of no conflicts of interests.\***

Signature



Date **12 April 2023**

**David Quirke-Thornton**

Designation **Strategic Director of Children and Adult Services**

**7. CONSIDERATION GIVEN TO WHETHER, AS A NON-KEY DECISION, THIS SHOULD BE FORWARDED TO THE CONSTITUTIONAL TEAM FOR PUBLICATION IN ACCORDANCE WITH REGULATION 13(4)\***

*The decision taker should consider whether although a non-key decision, the decision is sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available. Where there is any doubt, having considered the importance and/or sensitivity of a decision, it should be deemed that Regulation 13(4) would apply.*

**I consider that the decision be made available for publication under Regulation 13(4).\***

Signature



Date **12 April 2023**

**David Quirke-Thornton**

Designation **Strategic Director of Children and Adult Services**

\* Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the council is required to put in place a scheme for recording and publishing some officer executive decisions. This process is sometimes referred to as "Regulation 13(4)".

## BACKGROUND DOCUMENTS

Background documents	Held At	Contact
Gateway 1 – Procurement Strategy Approval – Integrated Community Equipment Service	Commissioning Directorate Children and Adult Services 4 <sup>th</sup> Floor Partnership Commissioning Team 160 Tooley Street London SE1 2QH	Jonathan McInerny 020 8176 5552
Link: <a href="https://moderngov.southwark.gov.uk/mglIssueHistoryHome.aspx?Ild=501">https://moderngov.southwark.gov.uk/mglIssueHistoryHome.aspx?Ild=501</a>		

## APPENDICES

No	Title
None	

## AUDIT TRAIL

<b>Lead Officer</b>	David Quirke-Thornton Strategic Director of Children and Adult Services	
<b>Report Author</b>	Jessica Neece, Programme Lead - Adults, Older People and Complex Needs	
<b>Version</b>	Final	
<b>Dated</b>	13 March 2023	
<b>Key Decision?</b>	Yes	
<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
Assistant Chief Executive – Governance and Assurance	Yes	Yes
Director of Exchequer (for housing contracts only)	N/A	N/A
Cabinet Member	Yes	Yes

<b>Contract Review Boards</b>		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes
<b>Cabinet</b>	Yes	No
<b>Date final report sent to Constitutional Team</b>		12 April 2023