

Item No.	Classification: Open	Date: 19 July 2013	Decision Taker: Cabinet Member for Health, Adult Social Care and Equalities
Report title:		Gateway 3 –Variation Approval Variation of Home Care Contracts to deliver quality improvements associated with the implementation of the payment of London Living Wage	
Ward(s) or groups affected:		All	
From:		Strategic Director of Children's and Adults' Services	

RECOMMENDATIONS

1. That the Cabinet Member for Health, Adult Social Care and Equalities implements the council's commitment to the London Living Wage through the contract variations with Enara (now MiHome Care¹) for both general and alcohol specialist home care and with London Care for general home care. These contract variations will require both MiHome Care and London Care to ensure that additional quality improvement measures (see point 26) are put in place as a result of paying all home care workers at or above the London Living Wage (LLW) – currently £8.55
2. That the Cabinet Member for Health, Adult Social Care and Equalities notes the estimated annual cost of the variation for the two main home care contracts is £1.246m (being the estimated additional annual cost of LLW from the contract anniversary 28 June 2013 to the end of the initial 3 year term 28 June 2014).
3. That the Cabinet Member for Health and Adult Social Care and Equalities notes the estimated annual cost of the variation for the Alcohol Special Home Care Contract is £24,920.

BACKGROUND INFORMATION

4. The council's Vision for Adult Social Care sets out the aim for social care services to be of excellent quality and provided a strong platform that has enabled the council to make progress on improving user choice and control over their care. Home care services provide a vital role in delivering this objective, through providing the right care and support to vulnerable people living independently in the community
5. These contracts were awarded following the retendering of home care services in 2011/12, each for a three year term with an option to extend for 2 x 1years (a total of 5 years if extensions are exercised). Due to the demand led nature of home care contracts, the original gateway 2 contract award report approved by Cabinet projected that the level of spend over five years would be between £7.858m and £25.748m for London Care and between £7.927m and £26.004m for MiHomelife. Based upon the actual spend on these contracts since they were originally awarded, the projected spend for each over a five year period (if the

¹ Following the acquisition of the Enara Group Ltd by Mitie PLC, Enara has been rebranded to trade under the name of MiHomeCare.

council chooses to extend) is currently projected to be within budget at approximately £9.3m for London care and £14.2 m for MiHomelife. The level of actual spend is on the lower range of the figures projected in the original contract award report due to the impact of personalisation, where people are provided with a personal budget from a separate funding pot to spend on the care that they wish to personally purchase. The annual cost of payment of the London Living Wage is estimated to be in the region of £1.246m per annum which the Council has made financial provision.

6. In addition to the award of two general home care contracts the council also awarded a contract for alcohol specialist home care to MiHomeCare for a 3 year term with provision to extend for 2 X 1 years (a total of 5 years if the extensions are exercised), at a maximum contract value of £608k over 5 years.
7. Through the transition process to the new home care contracting arrangements, over 400 users of home care services chose to remain with their current providers on a personal budget arrangement. The remaining users transferred to London Care and MiHomelife and since the commencement of these contracts the majority of council managed personal budgets have been commissioned from the two main providers.
8. Since the commencement of these contracts in June 2011, Cabinet has received regular performance reports on the delivery of these contracts. As a part the council's focus on developing a Quality Strategy and Best Practice Principles for home care services, in April 2013, Cabinet noted when considering the report on Unison's Care Charter, that the pay and conditions of the home care workforce can be a factor that influences service quality and outcomes. In particular it was noted providers reported that in other boroughs where LLW was paid to home care workers there were improvements in staff recruitment and retention, which can affect quality and continuity of care for service users.
9. To support the delivery of similar improvements in Southwark Cabinet agreed that LLW should be implemented for its current home care contracts, subject to further legal and procurement advice and the Leader of the Council expressly agreed the delegation of the decision to vary contracts to include enhanced quality improvement measures linked to a requirement to pay LLW to the Cabinet Member for Health, Adult Social Care and Equalities.
10. The home care contracts with London Care and MiHomeCare were let prior to the council's London Living Wage commitment and this report seeks approval to implement enhanced quality and performance improvement measures by way of a contract variation with effect from the contract anniversary 28 June 2013 and sets out the costs of implementing LLW which will support the delivery of these quality improvements.

KEY ISSUES FOR CONSIDERATION

11. National research and literature on the delivery and management of home care services underlines the importance that attracting and retaining a well skilled workforce can have on service quality and outcomes. Terms and conditions in their broadest sense are a factor in attracting and retaining staff and with reference to recent research into London Living Wage (Wills and Linneker,

2012)², there is some evidence that better pay rates can reduce staff turnover, reduce training costs and reduce recruitment costs. Consistent with this research, anecdotally, Home Care providers in Southwark report that in boroughs where LLW is paid they find it easier to recruit staff with the right skills and that turnover is lower.

12. The wider literature on home care reablement services provides some evidence that a stable, well trained workforce is a factor that influences service quality, the outcomes achieved by home care services and users experience. In recognition of this progress has already been made to incorporate additional quality measures associated with the introduction of LLW within the council's reablement service. The introduction of LLW for these contracts has enabled the provider to recruit home care workers with enhanced skills and qualification and coupled with wider provisions in the contract there is ongoing training and support provided in partnership with the council and provide to further enhance the skills of the workforce. Early evidence indicates that this is contributing to improved outcomes and service quality for users and a lower turnover of staff.
13. In relation to the current workforce associated with these contracts, of the 475 home care workers some 84% or 401 live in Southwark. Therefore there are potential wider benefits for Southwark and its local economy that arise from the payment of LLW as well as the benefits in terms of improvements in quality of service delivery and outcomes.
14. As noted in point 7. above the current contracts were re-tendered prior to the council's LLW commitment and an important aspect of the proposed variation is to ensure that the payment of LLW as a contractual requirement is linked to improvements in the quality of service. Some key proxy measures for quality are set out in paragraphs 25 to 27, which deals with contract management and monitoring.

Key Aspects of Proposed Variation

15. The variation seeks to introduce measurable improvements in quality linked to the payment of LLW which will focus on measures that the research evidence identifies can influence quality of outcomes, service delivery and user experience.
 - Increasing the percentage of staff with NVQ qualification
 - Reducing the turnover of staff
 - Ensuring continuity for service users and improving user reported experience
16. The proposed variation in the current contracts involves introducing a contractual requirement for both providers to ensure that all staff are paid at or above LLW, currently £8.55, with effect from 28 June 2013.
17. The total projected cost of the contracts for the period of 28 June 2011 to 28 June 2014 are set out in table 1. below along with the value and percentage variation for each contract associated with the introduction of LLW.

² Wills, J. and Linneker, B. (2012) The Costs and Benefits of London Living Wage, London, Queen Mary University of London.

Table 1.

Contract Name	Projected contract value June 28 2011 to June 28 2014 (initial 3 year term)	Estimated value of contract variation	Percentage of contact value of variation
Enara General Home Care	8,096,077	710,220	8.77%
Enara Alcohol Specialist Home Care	346,995	24,920	7.18%
London Care General Home Care	5,406,750	510,860	9.45%
Total	13,849,822	1,246,000	9.00%

Alternative Options Considered

18. Table 2. summarises the alternative options considered for introducing the payment of LLW for contracted home care services:

Option considered	Issues identified
Do nothing	To do nothing would be inconsistent with the council's commitment to introduce LLW as soon as possible for all contracted services and with the decision made by Cabinet in April 2013 to progress LLW for home care contracts
Retender services and include the LLW commitment and quality improvement as part of the procurement	This would delay the implementation of LLW to the summer of 2014 at the earliest and would involve considerable resource and time commitment
Vary contracts at the end of the 3 year term	This would delay the implementation to June 2014 and would be inconsistent with the decision made by Cabinet in April 2013.

19. On the basis of the alternative options outlined above this report recommends the implementation of LLW by way of a contract variation to existing contracts to take effect on the contract anniversary date or as soon thereafter as possible.

Identified risks for the variation

20. The table below summarises the main risks identified with this variation and the steps to mitigate against these risks. In relation to technical risk of challenge this is addressed more fully in the legal concurrent in paragraphs 41 to 45.

Risk issue	Likelihood	Mitigation
Risk of provider legal challenge	Low	Procurement and legal advice to ensure that all reasonable steps are taken to ensure the detail and approach to the contract variation addresses any grounds for potential challenge
Financial sustainability of paying LLW	Low	The budget challenge and planning process has made provision for the payment of LLW for Home Care contracts in 2013/14
Risk that payment of LLW does not lead to further improvement in service delivery and quality	Medium	Clear conditions will be attached to the contract variation that are measurable and provide good proxy measures of quality improvement against which the implementation of LLW can be performance managed

21. As set out in the table above the main risk is that the payment of LLW does not lead to improvements in the quality of home care services. On the basis of wider research the implementation of LLW should lead to improvements in those factors that can influence quality such as recruitment and retention of staff and improvements in the overall skills and quality of home care staff.
22. The next section addresses quality improvements linked to LLW will be monitored and managed to ensure that do secure sustainable improvements in service delivery and outcomes.

Policy Implications

23. The council has made a commitment to ensure that all staff engaged either internally or externally through its contracted services be paid at LLW or above and is itself an accredited LLW provider.
24. These externally commissioned home care contracts were tendered prior the Council making its commitment to be a LLW organisation and this report seeks to respond to this policy commitment by way of a contract variation to implement LLW and associated quality improvement measures.

Contract management and monitoring

25. Since the commencement of the two home care contracts in June 2011 Cabinet has received regular reports on the delivery and performance of these contracts. This has included a range of measures including service risk alerts, safeguarding and complaints as well as overall delivery metrics such as the hours of care and number of service users supported.
26. In order maintain this continued improvement and to achieve the additional required level of quality expected through introducing the LLW, the council will robustly monitor these contracts to measure :
 - The turnover of care staff, which is anticipated will reduce significantly as a result of the payment of the LLW

- The percentage of staff with NVQ qualifications and the rise in the overall proportion of staff who achieve NVQ qualifications who are anticipated to become more incentivised through the payment of LLW
 - User reported experience collected via providers monthly and annual customer feedback surveys, measures within the statutory Adult Social Care user survey and emerging intelligence on user reported quality through 'care opinion'³.
27. In relation to the current baseline position this will need to be tailored to each provider individually in order that measurable improvements are realistic and deliverable. Over time through ongoing partnership work and benchmarking with other authorities and the development of the council's quality strategy and best practice principles for home care commissioning, a standard set of indicators and level of performance will be agreed that can apply to all providers of home care services.

Community impact statement

28. The demographics of people who receive care in Southwark can be summarised as follows:
- Of 4600 people who receive care, approximately 64% are older people, with the remainder being people with learning disabilities, mental health problems or physical disabilities.
 - Amongst the over 65's approximately 65% of these are women and approximately 37% are from BME groups.
 - Amongst the under 65's approximately 47% of these are women and approximately 56% are from BME groups.
 - All people receiving care meet the Fairer Access to Care Services (FACS) criteria of critical and substantial. This means they are all likely to experience a degree of either physical or mental health disability in order to require support with their personal care or independent living and therefore would be considered disabled under the council's equality scheme.
29. In relation to the home care contracts that are the subject of this report, the two main providers between them support nearly 1100 people providing over 540,000 visits and 502,000 hours of care on an annual basis.
30. The demographics of the workforce providing these services can be summarised as follows:
- At present, contracted providers of home care in Southwark employ around 475 home care workers.
 - Of these, approximately 82% are women and approximately 65.5% are from BME groups.
 - Providers have indicated that they do not have any staff who have declared a disability under the Disability Discrimination Act.
 - The majority, some 401 or 84%, of homecare workers reside in Southwark

³ Care Opinion is a 'trip advisor' style, web based feedback system, where users, carers and family members can post comments, views and experiences of using care services regulated by the Care Quality Commission (CQC).

31. Any changes that impact on the quality of care delivered will affect all adult social care client groups, though it should be noted that older people represent the largest group of service users.
32. The proposed variation to introduce LLW for home care workers delivering service under the two main council contract will predominately benefit female workers from BME background, the majority of whom reside in Southwark, and therefore the proposed variation should have positive a equalities impact as well as providing potentially wider benefits to the local economy.
33. As a part of the council's wider work on the development of a quality strategy and best practice principles for homecare services, an ongoing and further assessment of the equalities implications of the recommendations made in this report will be made.

Resource implications

34. The recommendations contained in paragraphs 1 & 2 will require annual additional funding of approximately £1.24m delivering 502,000 hours of homecare with MiHomecare and London Care. Over the remainder of the initial contract to 28 June 2014 and to June 2016 if the extension provisions are exercised (3 years maximum) this equates to approximately £3.7m.
35. The council agreed a commitment for LLW in the 2012/13 and 2013/14 budgets. Funding for this variation can be confirmed at this stage, subject to evidence of the costs incurred. Funding for any contract extension would need to be identified and all options including requiring some supplier commitment to absorb these additional costs or make efficiency savings that would mitigate them need to be considered. The work of the Task and Finish group will inform and advise members on the options as a part of its wider work on the development of the Council's Quality Strategy and Best Practice principles for the commissioning of home care services which is due to report to cabinet in November 2013.

Legal implications

36. Please refer to concurrent report.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

37. This report is seeking approval to vary the three existing Home care contracts.
38. The report explains how and why the council has made a commitment to paying LLW to staff (directly and indirectly employed) working to deliver its services. Paragraph 10 confirms that the Home care contracts were let prior to the council making this commitment.
39. Through negotiations with the current homecare providers, officers have agreed some enhanced quality and performance improvement measures which should positively impact on the front line services being delivered through these contracts. Paragraph 15 details the measurable improvements that are expected as a result of the homecare workforce being paid in line with the LLW rate.

40. Paragraph 25 describes the monitoring and management arrangements that have been in place to date. Paragraph 26 confirms that going forward there will be additional performance indicators introduced to these arrangements. User reported experience will be a clear indicator of any quality improvements and these should be carefully reviewed going forward. It is also important that as part of the contract monitoring arrangements, the homecare contractors provide ongoing evidence of payments being made to the homecare workforce to ensure the council's commitment is being supported.

Director of Legal Services

41. This report seeks the approval of the Cabinet Member for Health, Adult Social Care and Equalities to a variation of the existing home care contracts which are being performed by London Care plc and MiHome Care Limited. This report sets out the extent of the required variation and the reasons why the variation is necessary.
42. The decision to approve these variations was delegated to the Cabinet Member by the Leader on 16 April 2013.
43. In February 2012 the council agreed that there should be a presumption that LLW would apply when letting new contracts where best value can be demonstrated and quality improvements delivered. These home care contracts were let before 2012, so this was not included as part of that procurement. However as noted in this report there is an expectation that quality improvements will be achieved by this variation, and these will be measured for the remaining life of the contract.
44. Home care is a Part B service so the Public Procurement Regulations 2006 do not apply in full; however there remain core obligations, including the obligation to be transparent and non-discriminatory. The council therefore needs to be mindful of these core obligations when agreeing these variations. Whilst this variation increases the value of the contract in a manner that was not envisaged at the time of the original procurement, the variations (representing approximately 9% of the contract value) are not considered material and on the basis of the best value achieved by the quality improvements, it is not considered that the variations distort competition.
45. CSO 2.3 provides that a variation decision may only be made if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. Paragraph 34 of this report confirms how the proposed additional expenditure will be funded.

Strategic Director of Finance and Corporate Services

46. The Strategic Director of Finance and Corporate Services notes the recommendations in this report to vary three contracts to enable providers to pay home care workers at London Living Wage rates.
47. The council's budget for 2012/13 included a commitment of up to £1m to support the council's commitment to seek London Living Wage in contracts where services/works are to be provided on council premises or in the London areas, and where best value can be demonstrated on a case by case basis. The 2013/14 budget included a further commitment of £1m as additional resources to

support London Living Wage in council contracts as they are awarded or extended. The commitment identified that releases would be subject to contract, taking all other factors into account.

48. This report identifies the benefits that are likely accrue to suppliers from the payments of London Living Wage a reduced turnover of staff, with consequent savings in recruitment, induction and training costs. The report also identifies that the Council will introduce requirements for measureable improvements in quality linked to the payment of LLW which will focus on measures that research evidence identifies can influence quality of outcomes, service delivery and user experience.
 - Increasing the percentage of staff with NVQ qualification
 - Reducing the turnover of staff
 - Ensuring continuity for service users and improving user reported experience
49. The service is demand-led but increased take up of personal budgets and a greater focus on re-ablement is likely to reduce demand for contracted home care over the longer term. This may generate savings over the lifecycle of these contracts, although these costs would then show within the personal budgets area.
50. It is important that the homecare contractors provide ongoing evidence of payments being made to the homecare workforce, to identify the actual cost of the commitment to be supported, and that options be explored for suppliers to absorb these additional costs or make efficiency savings to mitigate the costs.
51. As identified in the original contract award report, it is important that the council work in partnership with the suppliers to ensure the most efficient use is made of these contracts, and that ordering is closely managed. To ensure savings are delivered, finance officers will continue to work closely with the operational teams and contract management officers to regularly monitor spend activity against budget provision to ensure that effective cost management techniques are used to control spend throughout the lifecycle of these contracts.

FOR DELEGATED APPROVAL

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.

Signature Date

Designation

BACKGROUND PAPERS

Background Papers	Held At	Contact
Gateway 2 Contract Award Report	Strategy and Commissioning Children's & Adults Services Tooley Street	Jonathan Lillistone 020 7525 2940
Contract documents:	Strategy and Commissioning Children's & Adults Services Tooley Street	Jonathan Lillistone 020 7525 2940

AUDIT TRAIL

Lead Officer	Jonathan Lillistone – Head of Commissioning, Children Families and Adults
Report Author	Jonathan Lillistone – Head of Commissioning, Children Families and Adults
Version	Final
Dated	22 July 2013
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 Services	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		22 July 2013