

Item No. 13.	Classification: Open	Date: 16 July 2013	Meeting Name: Cabinet
Report title:		Gateway 1: Procurement Strategy Approval - Nursing Care Demand Led Contracts	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Catherine McDonald, Health, Adult Social Care and Equalities	

FOREWORD - COUNCILLOR PETER JOHN, LEADER OF THE COUNCIL

Our Fairer Future promise is that people live independent and fulfilling lives, based on choices that are important to them. We are committed to support the aspiration of older people to remain independent in their own home for as long as possible. However we recognise that for a small number of particularly frail older people, including those who may be coming to the end of their lives, there may be the need to be placed in a nursing care home.

What is vital when a placement in nursing care is needed is that these homes provide the right support to meet people's needs with dignity. We know that older people overwhelmingly would prefer to remain in the borough and close to friends, family and their community and that is why I am committed to ensuring that people in Southwark can choose to remain in the borough when they need this support.

Since the collapse of the former operator of Southwark's three nursing homes (Southern Cross), the Council has worked intensively with the new providers to improve the quality of the care that they provide. Through our commitment to working with experts in the field, the My Home Life project, which is collaboration between providers, health partners and the voluntary sector, has been developing a Quality Strategy for Nursing and Care Homes and will produce a quality improvement plan that will be approved by me in the coming months.

This report seeks to build upon the improvements in the quality of care being provided, through negotiating two fixed term demand led contracts to cover the three in borough homes and I am pleased to note that this will also include negotiating a commitment from providers to pay their staff at the London living Wage, a key commitment of this administration, which will be linked to further sustained improvements in quality such as improving staff retention and the motivation and calibre of staff employed in the homes.

RECOMMENDATIONS

1. That the cabinet approves the procurement strategy outlined in this report, namely to enter into single supplier negotiations with the two in-borough nursing care home providers in order to establish two demand led contracts for nursing care placement for the elderly and chronically disabled.

2. That the cabinet notes that anticipated contract value for the two contracts will be in the region of between £5.8m and £6.3m per annum, making an anticipated total contract value in the region of between £23.2 and £25.2m over the four years life time of the contracts.
3. That the cabinet notes that contract one will be with HC1, to cover two nursing home sites at Tower Bridge Road and Camberwell Green and contract two will be with Four Seasons, to cover a single site at Burgess Park nursing home.

BACKGROUND INFORMATION

4. The Care Quality Commission (CQC) is responsible for regulatory compliance for nursing and residential care. While much of the regulatory framework applies to both types of establishments, there are additional provisions that apply to homes that provide nursing care. For example the requirement to have a nurse on duty twenty four hours a day to carry out nursing tasks for those who need regular medical attention. Some homes can be registered for specific nursing needs, for example dementia care or terminal illness.
5. The NHS pays for the nursing costs in care homes, through a set contribution fee to the home. As well as funding nursing costs, the CCG in Southwark commission's ongoing clinical nursing support for the homes through the Care Home Support Team, which is operated by Guys and St Thomas's Community Services.
6. Current nursing provision within Southwark is provided by three homes which have a total capacity of 237 bed spaces. The three homes are as follows:
 - I. Tower Bridge, (managed and delivered by HC-1 Ltd),
 - II. Camberwell Green, (managed and delivered by HC-1 Ltd)
 - III. Burgess Park (managed and delivered by Four Seasons Ltd).
7. Tower Bridge and Camberwell Green are registered for dementia care and accept people living with dementia as the primary need for placement.
8. Historically the council and NHS have had concerns about the quality of care provided in all three homes. As a result the council placed embargos on new placements into the homes for substantial periods. At the time of these concerns all of the homes and care services were managed and delivered by Southern Cross.
9. Following the financial collapse and winding up of Southern Cross at the end of 2011, as part of a nationally facilitated approach that sought to ensure continuity of care, two new providers took over the ownership, management and delivery of care at the homes.
10. HC1 is a new company that was formed in 2011 from two existing companies and took over operations at 241 homes formerly run by Southern Cross, including Tower Bridge and Camberwell Green. These two companies being NHP who were Southern Cross' largest landlord and the existing care operator Court Cavendish.

11. Four Seasons is an existing care home operator, who owned the lease for the Burgess Park home and had let on a shorter term lease the home to Southern Cross. Following the closure of Southern Cross, Four Seasons took over the direct running of the home. Since that time, Terra Firma, acquired control of Four Seasons through an investment of over £300million in April 2012. However, the Burgess Park home still continues to trade as Four Seasons.
12. The two new providers have adopted a significantly different approach to the overall management of the homes through working collaboratively and in partnership with the council and the NHS, as well as making significant capital investments in the buildings. Through proactive support from the council and NHS the new providers have sought to attract new staff and develop existing staff teams to improve the quality and consistency of care. This has produced improvements in the quality of care and as a result in early 2012 the embargos were lifted by the council which then resumed making new placements.
13. The quality of care provided in the homes is actively monitored by the council, the finding of which is shared with CQC and compared with any of their inspection findings. The council's monitoring includes both planned and unplanned visits, obtaining feedback from social work reviews of residents placed in the homes and listening carefully to the views expressed by the older people living in the homes and those of their family.
14. Currently the council purchases placements in these homes on a "spot" purchase basis. Each placement is subject to an individual care contract between the council and the home. The council purchases the majority of available beds in the three homes and as of March 2013 had 143 placements or 60% of the total number of beds.

Southwark Council use of the three homes (March 2013)

Name of Home	Provider	No of Beds	No of council placements as of March 2013	Out-turn spend by the council in 2012/13
Tower Bridge	HC1	122 ¹	79	£1,743 K
Camberwell Green	HC1	55	29	£617K
Burgess Park ²	Four Seasons	60	35	£825K
Excel ³	Queens Rd	88		
TOTAL		325	143	£3,185 K

15. Although the council already purchases the majority of the beds available, a number of other London boroughs and NHS organisations also make placements in the homes.

¹ Includes 14 "mothballed" units on the ground floor that are currently not being utilised, and 14 which were re opened in April 2013.

² Does not accept service users with dementia.

³ 100% Block booked to Lambeth until 2019

16. There are comparatively few self funders in the homes, reflecting the economic profile of our older population in Southwark. Unlike other areas of the capital and the country the numbers of older owner occupiers and subsequently those most likely to end up being self funders for residential and nursing care in the borough is low.
17. Approximately 34% of the council's current total spend on nursing care is associated with these three homes, although the number of placements in the homes accounted for just over 50% of the 278 nursing care beds purchased by the council in 2012/13. This reflects the fact that out of borough nursing placements tend to be more expensive. As of March 2013, the average weekly unit cost for an in-borough nursing bed was £511, compared to £554 for an out of borough bed. The council was historically required to make out of borough placements and not respond to the majority of older people's aspirations to stay in Southwark, due to the extended periods of embargos on in-borough homes while they were managed by Southern Cross.
18. The estimated contract values quoted within this report are based upon an increase in the number of placements in the homes over a four year period to a maximum rate of utilisation by the council of 75% of the total beds by the end of the four year period.
19. The contract for HC1 will cover two sites and the expected spend for these over the four years is anticipated to be as follows:
 - Tower Bridge £3.2 million per annum, making a total estimated contract value for the four years of £12.9 million
 - Camberwell Green £1.4 million per annum, making a total contract estimated contract value for the four years of £5.7 million
20. The council and both of the new providers have been committed to working in close partnership to ensure that the quality of the services being provided has improved since Southern Cross' demise. It will be a requirement that this will become an even stronger feature of the demand led contracts.
21. It should be noted that there remain a small number of residents in the homes who receive only registered care services, and as they do not currently require nursing care, the council only funds a registered care rate. This reflects past practice when the homes were dual registered for residential and nursing care; however the intention is that in the future all three homes will only be used by the council for nursing care needs.

Summary of the business case/justification for the procurement

22. The procurement strategy proposed in this report seeks to negotiate two demand led contracts. Generally demand led contracts unlike 'block' contracts do not commit the council to payment for any services not used. Volumes are not guaranteed from the outset of the contract and instead orders are placed as demand dictates.
23. It is proposed that these two contracts will set out terms and conditions under which specific purchases (orders) can be made throughout the life of the contracts. Through the single supplier negotiations, the council will also explore:

- Embedding sustained and ongoing improvements in quality through a partnership approach setting out clear expectations of responsibilities for each party.
 - Require the providers to pay all staff the London Living Wage (LLW) and how this will ensure that the best quality care is provided.
 - Introducing a % retention fee payable annually on condition that the quality of care is maintained in the home throughout the year.
 - Whether the council can achieve volume discounts and whether purchases of beds made by Southwark Clinical Commissioning Group (CCG) can be included in these volumes for purpose of discounts.
 - Whether there will be a separate rate for specialist Elderly Mentally Ill beds
 - How to improve rates of fee collection for those placed in the homes.
 - The council undertaking ongoing scrutiny of each organisation's financial sustainability and governance (including those of any relevant parent companies).
24. The business case for adopting two demand led contracts is summarised below, and set out in more detail in appendix 1 of this report. Due to the complexity of these issues and the time then required procuring a longer term solution, four years' contracts are considered the most appropriate course of action.
25. **Need for local homes for Southwark residents:** Overwhelmingly older people and their families tell our social workers if they need nursing care that they wish to remain in borough. The council knows that since embargos on these homes were lifted, three out of every four new placements in 2012/13 requested to be, and were, placed in borough. The council wishes to ensure that Southwark residents are able to take advantage of the improved quality of care now being offered in these three homes. Given such a small local market, it is not considered feasible to undertake a full competitive procurement at this stage.
26. **Allow for a strategic assessment of long term nursing requirements:** The council is currently undertaking further work to establish its long term needs for nursing care over the next 15-20 years. This will look at both historical placement patterns, as well as those under the new contractual arrangements, demographic profiling of our older population and undertake further stakeholder engagement to establish the "critical mass" of the expected number of nursing care beds that will be required, and what proportion of these will need to be in borough. Once this work is completed, the council will then consider its longer term procurement strategy, and how new homes (if that is what will be required) can be developed in the borough, or whether to procure on a more formal basis out of borough nursing beds. These points are outlined in greater detail in appendix 1 of this report.
27. **Obtain continuous improvement in the quality of care:** The council is committed to build upon the recent improvements in the quality of care provided at the homes. The Director of Adult Social Care is currently chairing a task and finish group, comprising key stakeholders and representatives from local care homes, and the group is agreeing an implementation plan in respect of a shared vision for improved and sustainable quality in care homes in Southwark. The proposed contracts will incorporate this agreed vision and will set out robust quality standards and an approach to partnership working that will have quality at its core. It is anticipated that the LLW payment will assist the council in this objective, as it will ensure that the providers can attract staff with wider skills and experience. In turn this will help with retention of the good staff and thus the quality of care being provided in the homes.

28. **Best value principals:** The proposed contract negotiations will seek to achieve value for money in relation to negotiating volume discounts, a retention fee payable following a quality service throughout the year and making providers' roles in relation to fee collections from residents more explicit than they are under the current spot contracting arrangements. It is also noted that out of borough placements currently tend to be more expensive than those charged by the three homes, and so it is anticipated that additional savings may be realised during the four year term of the contracts.
29. **Checking the Financial viability of the providers:** The collapse of Southern Cross has illustrated the need for the council to undertake more robust checks in relation to the financial viability of a provider. The management of such risks is considered to be more practical and straight forward to address within the context of two demand led contracts as opposed to spot purchase arrangements.

Market considerations

30. A thorough assessment has been carried out, and there are currently only two capable providers in the borough providing the nursing care home services required by the council. This assessment also considered whether there would be any EU interest in this procurement. Given the very specific and immediate requirements for good quality in-borough nursing care provision it was concluded that it was highly unlikely there would be any interest given the very high costs associated with building or purchasing a new care home facility, for what would be a relatively short contract period (4 years). The council does not consider that there is a cross-border interest because: (a) the market for these services would be localised and it is very unlikely that this procurement would widen that market; (b) the cost of establishing and providing these services and the geographical restriction for the delivery of these services means that it is unlikely that an organisation in another Member State would be interested in delivering the services (either itself or through a subsidiary).
31. Historically Southwark has a very small nursing care sector (Now only 3 homes providing 237 beds in total) compared to comparator neighbouring boroughs of Lambeth, which has 750⁴ nursing care beds situated in 10 homes and Lewisham, with 425 beds in 11 homes.
32. The local market has been fully evaluated to establish whether there are additional nursing care establishments with whom the council could commission. This assessment is summarised below.
33. In April 2013 a fourth nursing care home provided by a third provider organisation has closed down in Southwark. This followed a period of extended embargos placed by the council on new placements within the home. The council has successfully worked with the residents of this fourth home and their families to find suitable alternative nursing beds (which have primarily been to the three in-borough homes). At this stage it is unclear whether there is an intention from the home owner to reopen this fourth facility in the future, and if it were to re-open, what steps would be taken to improve leadership to ensure the quality of care being provided was acceptable and that the organisation was financially viable.

⁴ This total does not include the 4th home in Southwark that is 100% block booked by Lambeth Council

34. There is a fifth 88 bed dual nursing and registered care home in Peckham. However this home is 100% block booked to Lambeth Council, on a contract that is due to expire in 2019 (With an option for both parties to extend further). Lambeth Council have informed the council that they intend to continue with this contract until 2019 at the earliest. The council takes the view that in these circumstances this particular home would not be approached as part of this proposed procurement exercise, although it could feature in a future longer term tendering exercise.
35. A sixth nursing care home in Southwark was decommissioned in 2006, again following a period of ongoing embargos placed on it by the council due to concerns about quality. The building is currently derelict and due for demolition.
36. In addition to the nursing care homes in Southwark, there are a further 5 registered care homes for older people (four of which are currently 80% block booked with a single provider by the council until 2025). Both of these registered care home providers have made it clear to the council that they do not wish to expand into the nursing care market.
37. There are also two further registered care homes that are primarily catering for younger adults with either physical disability or alcohol issues (although they do house a number of long term residents who are now 65 +). Neither of these homes wish to either become nursing care establishments or specialise in older adults as their primary client group.
38. Although there are nursing homes in neighbouring boroughs, our local residents' primary aspiration is for in-borough provision. Following the strategic assessment of long term needs referred to above, the council may for example decide to stimulate the local market through a number of possible means to develop a new home(s) or procure a framework or alternative contractual arrangements with homes operating in neighbouring boroughs.

KEY ISSUES FOR CONSIDERATION

Options for procurement route including procurement approach

39. The council has considered a number of alternative procurement approaches, which are summarised below alongside the reasons why they are not being pursued at this time.

Alternative procurement approaches considered

Procurement Approach	Details	Reasons not pursued.
Undertake an open procurement	Advertising for nursing care providers to enter into a contract agreement for in-borough nursing care beds.	<ul style="list-style-type: none"> ▪ Nursing care is dependent upon a suitable, usually large purpose built building from which to operate. This will require significant capital investment implication for any new provider in the borough. ▪ Currently there are no alternative available premises that have been identified that could become registered and fully functional within the timescales required by the council. ▪ Once the council has established its long term requirements, it may wish to stimulate

Procurement Approach	Details	Reasons not pursued.
		<p>the local market in a number of different ways and agree a new procurement strategy accordingly. Typically this is expected to cover a longer period, of up to ten years.</p>
Extend contracts to include homes in neighbouring boroughs.	Seeking expressions of interest from providers in neighbouring boroughs.	<ul style="list-style-type: none"> ▪ There is a clear wish of the majority of older residents who need nursing care, for these homes to be in borough, where links can be more readily maintained with families, the local community, the council's own social work services, GPs and primary care and related support services. ▪ The mechanism and approach of monitoring registered care contracts out of borough is more complex than it would be for those located within the borough. ▪ The work the council is currently undertaking will determine what proportion of its future nursing care needs will be in and out of borough, and thus reflected in the subsequent procurement strategy. ▪
Spot contracting	Continue with current spot contracting arrangements.	<ul style="list-style-type: none"> ▪ Although the "spot" contract used by the council has recently been updated, it is considered that purchasing on an ad hoc basis by means of spot purchases is unlikely to facilitate the ongoing quality assurance and partnership approach sought by the council. The Department of Health Winterbourne View Concordat (although focusing upon out of borough learning disability placements) highlights some of the quality assurance and safeguarding issues faced by local authorities when using spot contracts out of borough. ▪ It will be more difficult to undertake organisational financial viability assessments on providers, and for the council to negotiate volume discounts whilst the entire nursing care provision continues to be spot purchased.
Block Contracts	Undertake either single supplier or open procurements for a lock contract	<ul style="list-style-type: none"> ▪ A block contract arrangement could provide the council with a greater degree of risk compared to the proposed contract agreements, as there would be a possibility that beds not occupied for whatever reason would still have to be paid for. ▪ The contracts will minimise the risk of the council paying for beds that are not being used.

Procurement Approach	Details	Reasons not pursued.
Framework agreement	Establish a nursing care framework for the three homes	<ul style="list-style-type: none"> ▪ Due to the relative small scale of the local market, a framework would not be necessary and the proposed demand led contracts would be a more effective tool to achieve the council's objectives.

Proposed procurement route

40. For the single supplier negotiation, the procurement route will involve the following:
- I. The council will establish a project team to undertake the negotiations. This will include representatives from Older Adults Services, Commissioning, Social Work and Brokerage teams. Technical support will be provided by the council's legal, procurement and finance services as required.
 - II. Initial separate meetings with the two providers at which the council will outline its requirements. These will then be summarised and supplied to the providers in writing.
 - III. Both provider organisations will then be requested to submit method statements in order to assess various aspects of quality assurance in the care being provided at the homes including
 - Pricing schedules
 - Any volume discounts that can be obtained
 - Whether cost and quality can be better achieved by the council through the provision of minimum guarantees of beds purchased
 - Details of organisational financial standing
 - Assessment of how the providers will ensure continuous improvement in quality standards and the role that the payment of LLW (London Living Wage) to all staff will have in this.
 - Policies and procedures
 - Transitional arrangements.
 - IV. The providers will also be required to submit a breakdown of costs as set out in the Valuing Care Evidence Based Costing Template developed on behalf of the council by OLM. This will then be assessed against a standard set of variables including
 - Building depreciation costs
 - Fixtures and fittings depreciations
 - Mortgage costs
 - Void charges
 - Profit on core hotel⁵ and staffing costs (but not any additional staffing that may be negotiated)
 - A permissible level of central recharges
 - Direct Staffing costs for both care and hotel costs
 - V. This will then be reviewed by the project team. Technical input will be provided as required.

⁵ Hotel charges refer to non personal and nursing care costs, for example on food provision, cleaning , building security etc

- VI. Further separate clarification of submitted material may be required between the council and the two providers.
- VII. Once the scope and range of the negotiation has been reached in principle, this will be summarised (without prejudice on the council side) to the organisations.
- VIII. Approval for the negotiated tender will then be sought through gateway 2 reports to be considered by cabinet in autumn 2013.

Identified risks for the procurement

41. The main risks are identified below:

Risk	Level	Mitigation
Provider quality falls below acceptable standard	Low	<ul style="list-style-type: none"> ▪ Close partnership approach adopted, ie engage with other initiatives, ie My home life, ICP, care home support team to safeguard quality ▪ Improvement in quality and retention of care staff through payment of LLW ▪ Not a block contract and spot purchasing outside of borough will continue as required ▪ Contracts will contain a termination clause to end the agreement early if required. ▪ Negotiations will include the exploration of the introduction of a 5% retention fee that would only be payable upon satisfactory performance during that year
The council paying for units it does not use	Low	<ul style="list-style-type: none"> ▪ Contract will not have block bookings and any negotiated minimum occupation level in the contracts would be set at a relatively low level to minimise risk for the council.
Provider financial viability not assessed	Low	<ul style="list-style-type: none"> ▪ The contracts will allow more controls than presently ▪ Full engagement with corporate finance to assess the financial viability of the providers. ▪ Close working with the CQC in relation to their expanded role in monitoring the financial viability of the care home providers

Key /Non Key decisions

42. This report is considered as a key decision due to the financial value of the contracts.

Policy implications

43. The council is committed to supporting older people who wish to, to remain in their own home for as long as possible. It is delivering this shift in the balance of care away from avoidable residential care placements through the development of personalised community based initiatives, such as extra care housing, assistive technology, and intensive specialised home care packages and through improved integrated care with the NHS. However, the council will continue to require good quality nursing care provision for the most frail where the council retains a statutory duty under Fair Access to Care (FACS)⁶ that is close to their families and community in Southwark.

⁶ Fair Access to Care criteria are the statutory guidance set down by the Department of Health against which the council discharges its statutory duties under the community care legislation.

44. There are 10 key pledges in the Council Plan, and the one that relates closest to the recommendations set out in this report is: "The council will create a fairer future for all in Southwark, by protecting the most vulnerable, by looking after every penny as if it was our own, by working with local people, communities and businesses to innovate, improve and transform public services, and standing up for everyone's rights".
45. The Future Vision for Social Care approved by the cabinet in April 2011 also sets out the council's commitment to provide the best possible nursing and residential care for the very frailest who are no longer able to live at home.
46. The Cabinet Member for Health and Adult Social Care is due to approve a quality strategy for care homes in the autumn of 2013. The establishment of the demand contracts outlined in this report will be part of a wider programme of initiatives to improve the quality of care that have either been, or will be introduced under the quality strategy. These initiatives include:
 - Investment by the council in My Home Life⁷ programme to create a partnership approach including a facilitated peer support programme for the Registered Managers of the homes. My Home Life is a national charity with the overall aim of improving the quality of life for residents in care homes. The approach is one of partnership and collective responsibility in bringing about whole system change in improving the support to care homes and the quality of life for residents. Health and social care have been working with My Homelife for the past year in providing more integrated support to Southwark care homes. The improvements in care homes are evident through significantly improved CQC inspection reports and more positive feedback from council and health staff and residents and their families.
 - Using the opportunity of changes in the CQC operate to develop a more proactive relationship to improve quality.
 - Reorganised the social work teams and creating a dedicated review team and link social worker for the homes
 - The council's full involvement with the Southwark and Lambeth Integrated Care programme⁸, and particularly in relation to a specific work stream to help improve the clinical support that the homes receive from both primary care, acute trusts and London Ambulance Service
 - Funding is being made available by the council in 2013-14 for a new initiative to be co-ordinated by Attend⁹ to deliver community befriending in reach, activities and build stronger links between the home to the local community, as well as potential pathways into a career in social care for local unemployed people.

⁷ <http://myhomelife.org.uk/>

⁸ <http://www.kingshealthpartners.org/info/integrated-care-programme> is involving all local NHS Trusts, the CCG and the council in ways of improving integrated

⁹ www.attend.org.uk

Procurement Project Plan (Key Decisions)

Activity	Complete by:
Gateway report on the forward plan	21/04/2013
DCRB Review Gateway 1	12/06/2013
CCRB	20/06/2013
Notification of forthcoming decision – despatch of Cabinet agenda papers	08/07/2013
Approval of Gateway 1: Procurement strategy report	16/07/2013
Scrutiny Call-in period and notification of implementation of Gateway 1 decision	26/07/2013
Completion of contract documentation	31/07/2013
Advertise the contract	NA
Forward Plan (if Strategic Procurement)	31/08/13
Completion Single Supplier Negotiations with the two providers	31/10/13
DCRB Review Gateway 2:	20/11/2013
CCRB Review Gateway 2:	25/11/2013
Notification of forthcoming decision – despatch of Cabinet agenda papers	03/12/2013
Approval of Gateway 2: Contract Award Report by cabinet	10/12/2013
Scrutiny Call-in period and notification of implementation of Gateway 2 decision	18/12/2013

Contract award	23/12/13
Place award notice in Official Journal of European (OJEU)	02/01/2014
TUPE Consultation period	NA
Contract start	31/01/2014
Contract completion date	31/01/2018
Contract completion date – (if extension(s) exercised)	NA

TUPE/Pensions implications

47. Not applicable

Development of the tender documentation

48. The council's negotiation team will develop method statements matched to an updated service specification document, pricing schedules and templates with which the two providers can complete in order to assess their financial viability and organisational infrastructure and governance. The contract documentation will be drawn up by the council's legal team.

Advertising the contract

49. Not applicable.

Evaluation

50. The submissions completed by the two providers as part of the contract negotiations will be reviewed by the council's project team. Both submissions will be assessed against the service requirements, the available budget, with clarifications sought as appropriate with a strong emphasis being placed by the council on quality assurance and value for money.

Community impact statement

51. Consideration has been given to the procurement strategy proposed, to assess whether there is likely to be any disproportional impact in relation to the following areas covered by the council's Equality Duty: Race, Gender, Age, Disability, Faith and Religion, Sexuality, Gender Reassignment, Marriage and Civil Partnership and finally Childcare and Pregnancy. This assessment concluded that it would be older people who were also disabled as a result of dementia or other forms of mental or physical ill health as being the primary group affected. It recognised that women and people from black and minority ethnic communities are also disproportionately over represented in the traditionally low paid workforce within the homes. The assessment identified that the impact on these sections of the community would be overwhelmingly positive.

Economic considerations

52. It is noted that the homes currently work with the job centres in Southwark to support local unemployed people back into work. The implementation of the Attend programme referred to elsewhere in this report, will further increase the opportunities for unemployed people to gain experience working as a trained and supported volunteer in the homes.

Social considerations

53. A significant proportion of the care workers in the homes live locally and are currently paid below the LLW. The new contracts will increase the salaries of these traditionally low paid workers and retain employment within the local community.

Environmental considerations

54. The negotiation team will assess whether the suppliers have an acceptable green policy and procedures with due regard to the council's standard requirements.

Plans for the monitoring and management of the contract

55. The contracts awarded will be monitored through a proactive and robust partnership approach featuring:
 - Purchases from the contracts will be undertaken by the council's brokerage and social work teams.
 - The outcomes for the individual residents will be monitored through the work of the designated social work teams.
 - The council's contract monitoring team will undertake both planned and un planned visits and inspection on the homes, in partnership with the CQC.
 - The council funded Age UK Lay Inspectors scheme will continue to operate in the homes to provide a voice for the residents, particularly those without families or net of kin.
 - Regular contract steering group meetings will be held with each of the homes, with bi annual contract review meetings involving senior management from the council and HC1.
 - Any beds purchased by the CCG through the contracts will be monitored by NHS staff and the CQC (With input as appropriate by the council)

Staffing/procurement implications

56. The resources to negotiate manage and utilise this contract are contained within the existing relevant Children and Adults, Legal, finance and procurement teams.

Financial implications

57. The proposals in paragraph one will cost between £5.8m - £6.3m per annum and £23.2m - £25.2m over 4 years. As at end of 2012/2013 similar spend by same providers was £3.1m per annum equivalent to £12.4m over 4 years. This represents a significant £12.8m increase in funding requirement.
58. The above estimate of current proposal includes impact of London Living Wage (LLW) and at a targeted usage of 75% of capacity from the present 59%. These figures are based upon a projected standard unit cost with a possible additional Elderly Mental Ill rate. However they do not include any future cost volume discounts that the council may be able to negotiate
59. Historically the cost of out of borough older people's nursing placements has been 8.41% higher than those purchased in borough. Therefore during the length of the contracts the proportion of comparatively more expensive out of borough placements is anticipated to decrease.
60. The nursing care cost element in nursing homes is funded by the local CCG of the NHS. If the primary need of a resident ever becomes medical as opposed to personal care, the cost of the full placement transfers to the NHS.
61. The council also charges fees from residents of the homes following a fairer charging financial assessment.
62. In 2012/13 the council spent in total £9.24m on older people nursing care placements. Once the contract negotiations with the two providers have established a without prejudice fee rate and volume pricing structure, more detailed modelling will be undertaken to establish the overall revenue budgetary

impact. This modelling will be used to assist the council in making a final decision whether it will proceed with the contract award.

63. It is also noted that the single supplier negotiations will incorporate a thorough assessment of the overall financial viability of each provider

Investment implications

64. Not applicable.

Legal implications

65. Please see the comments of the director of legal services below.

Consultation

66. These procurement plans have been drawn up in consultation with the council's adult social care social work managers and the appropriate legal, finance and procurement teams
67. The council's procurement intentions have also been shared with external voluntary sector, NHS and pensioner groups (including representatives from the Lay Inspectors Service) through the Older People's Partnership Board.

Other implications or issues

68. None identified

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

69. This report is seeking approval to enter into single supplier negotiations with two in borough nursing home providers HC1 and Four Seasons.
70. The report confirms that in the past the standard of quality received in these homes was poor and resulted in the council placing an embargo on their use. However the report highlights that this was at a time when the homes were managed by another provider. Paragraph 12 confirms that since the new providers took over management of these homes the quality standard has increased and the council is satisfied with the levels of service being delivered.
71. The report confirms that whilst there is an ongoing need for this service, it is difficult to accurately predict the volumes going forward. It is for this reasons officers are proposing a move away from block contracts and spot purchases which in the past have proved expensive. Instead the report is proposing the use of demand led contracts which will standardise quality and price levels and allow orders to be placed as and when required.
72. The market for nursing care home services appears limited and paragraphs 30 to 38 identify the known providers within the borough. Given the nature and scope of services required, the level of investment needed and the length of contract offered, officers are of the view that these contracts are unlikely to attract much interest.

73. Paragraph 39 summarises the range of procurement options that were considered and discounted with further detail being provided in Appendix 1.
74. Paragraph 40 outlines the approach that will be taken when carrying out the negotiations. Without a competitive process it is sometimes difficult to demonstrate that value for money is being achieved. On this procurement however, it is envisaged that with negotiations being undertaken with two providers in parallel, coupled with the use of benchmarking information, officers will be able to demonstrate the achievement of value for money through these contracts.

Director of Legal Services

75. This report seeks the approval of the cabinet to the procurement strategy for the establishment of two demand led contracts for nursing care placement for the elderly and chronically disabled within the London Borough of Southwark as is outlined in this Report.
76. It is considered that these services are Part B services under the Public Contracts Regulations 2006 and therefore there is no requirement to publicly advertise this procurement in the Official Journal of European Union (OJEU). However, the council is still under an obligation to treat all potential bidders fairly and equally and to act in a transparent and non-discriminatory fashion in accordance with the Treaty of Rome Principles and the EU Regulations.
77. If the council is of the view that there is cross-border interest in the contracts (i.e. where an organisation based in or linked to another Member State may wish to provide the services) the council must ensure that the procurement is advertised and a competitive tendering process undertaken. Where there is no cross-border interest in the provision of the services, this obligation does not apply.
78. As noted in paragraph 30 it is considered highly unlikely that there is a cross-border interest in the provision of these services and as such the obligation to advertise and competitive tender this service does not arise. The council may therefore enter into negotiations with the 2 providers as outlined in this report. Legal services will however continue to advise on this aspect during the negotiation period and will provide further advice to the cabinet in the gateway 2 report to ensure no cross-border interest has been identified.
79. CSO 4.4.2 details who may approve decisions on the procurement strategy. As this contract is classified as a strategic procurement the decision is reserved to the cabinet.

Strategic Director of Finance and Corporate Services FC13/051

80. The strategic director of finance and corporate services notes the recommendations to enter contract negotiations with HC1 and Four Seasons for nursing care. The anticipated contract value for the two contracts will be in the region of between £5.8m and £6.3m per annum, making an anticipated total contract value in the region of between £23.2 and £25.2m over the four years life time of the contracts.
81. In 2012/13 the council spent in total £9.24m on older people nursing care placements. Once the contract negotiations with the two providers have established a without prejudice fee rate and volume pricing structure, more

detailed modelling will be undertaken to establish the overall revenue budgetary impact. This modelling will be used to assist the council in making a final decision whether it will proceed with the contract award.

82. Although this represents a significant increase in spend with these suppliers, this is considered to represent better value for money, as in-borough placements tend to be less expensive than out of borough placements, and are the overwhelming preference for older people who need nursing care and their families.

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact
Evidence based costing template. The document is available to view on this web page: http://moderngov.southwark.gov.uk/ielistDocuments.aspx?CId=302&MId=4549&Ver=4	Children's and Adults Services - Commissioning Southwark Council, 160 Tooley Street	Andy Loxton 020 7525 3130

APPENDICES

No	Title
Appendix 1	Business case for the procurement

AUDIT TRAIL

Cabinet Member	Councillor Catherine McDonald, Health, Adult Social Care and Equalities
Lead Officer	Sarah McClinton – Director of Adult Social Care
Report Author	Andy Loxton Lead Commissioner Older People
Version	Final
Dated	4 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
Head of Specialist Housing Services	NA	NA
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		4 July 2013