

## REPORT TO CABINET

25 July 2018

<b>Subject:</b>	<b>Capacity Plan – Award of Contracts for Bed and Community Based Provision</b>
<b>Presenting Cabinet Member:</b>	<b>Councillor Ann Shackleton - Cabinet Member for Social Care</b>
<b>Director:</b>	<b>Executive Director of Adult Social Care, Health and Wellbeing – David Stevens</b>
<b>Contribution towards Vision 2030:</b>	
<b>Key Decision:</b>	Yes
<b>Forward Plan (28 day notice) Reference:</b>	SMBC11/07/2018
<b>Cabinet Member Approval and Date:</b>	Cllr Shackleton 27/06/2018
<b>Director Approval:</b>	David Stevens 27/06/2018
<b>Reason for Urgency:</b>	Urgency provisions do not apply
<b>Exempt Information Ref:</b>	Exemption provisions do not apply
<b>Ward Councillor (s) Consulted (if applicable):</b>	Ward members have not been consulted
<b>Scrutiny Consultation Considered?</b>	Scrutiny have not been consulted
<b>Contact Officer(s):</b>	Daljit Bhangal, Operations Manager Kay Murphy, Service Manager

## **DECISION RECOMMENDATIONS**

### **That Cabinet:**

1. Authorise any necessary exemption to the Council's Procurement and Contract Procedure Rules 2018-2019 to allow the Executive Director of Adult Social Care, Health and Well-Being to award a contract(s) to successful bidders following a procurement process for the provision of a short term fast response domiciliary care service as a result of only 2 tenders being received.
2. Authorise any necessary exemption to the Council's Procurement and Contract Procedure Rules 2018-2019 to allow the Executive Director of Adult Social Care, Health and Well-Being, in consultation with the Cabinet Member for Adult Social Care, to award a contract(s) to successful bidders following a compliant procurement process for the provision of Enhanced Assessment Beds and a Complex Dementia Nursing service.

## **1 PURPOSE OF THE REPORT**

- 1.1 A Cabinet report entitled Capacity Plan – Bed and Community Based Provision was approved on 16 May 2018. Members approved a number of actions, which included:
  - i) Authorisation of the procurement of an Early Supported Discharge /Admissions Avoidance block contract.
  - ii) Authorisation of the Executive Director of Adult Social Care, Health and Wellbeing, in consultation with the Cabinet Member for Social Care, to enter into the appropriate contracts to secure provision of 46 nursing beds across a number of locations following a procurement process that has already commenced.
- 1.2 Following Cabinet approval, a procurement exercise has been undertaken to obtain 2 Providers for a short term fast response domiciliary care (early supported discharge /admissions avoidance) service. While 8 Providers were invited to bid via the council's electronic tendering portal in-tend, only 2 tenders were received.
- 1.3 Rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 requires a minimum of three written tenders for services, goods or works being procured over a value of £100,000, and where a restricted procedure is used, 5 bids to be invited. While more than 5 bids were invited, only two tenders were received.

- 1.4 If the minimum number of bids required as set out in Rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 has not been obtained, but at least two bids have been received, approval of the Chief Officer is required to enable the process to proceed. Cabinet approval is required for all contracts above £250,00.00 where three tenders have not been obtained. Approval must include details on why the bids received represent value for money and any information on process carried out to attract sufficient bids. The total value of the short term fast response domiciliary care service is £497,893 for the contract period, with individual contracts not expected to exceed £250,000.
- 1.5 The Cabinet has already approved the procurement process being undertaken and award of contracts in May 2018, but as three bids were not received, further approval is sought to allow award of contracts to Tipton Homecare Ltd and Carewatch Care Services. The bids were evaluated solely on quality; the rate was set as it mirrored the domiciliary care framework price which Cabinet was informed of in the May 2018 Cabinet paper that was approved.
- 1.6 In addition to the short term fast response domiciliary care service tender exercise, a separate tender exercise has been commenced for the provision of enhanced assessment beds and a complex dementia nursing service, however given the market is limited in the number of providers who have the required number of beds being tendered for, or the expertise, it is probable that the number of bids received will be below the minimum levels required in 8.7 of Procurement and Contract Procedure Rules 2018-2019.
- 1.7 The evaluation of tenders should complete for the provision of enhanced assessment beds and a complex dementia nursing service by 27 July 2018 and the date for the services to commence following the procurement process is 1 October 2018. If the number of bids is lower than the minimum level required, there will not be sufficient time to seek Cabinet authority to award contracts given the timescales attributed to the Cabinet process. Notification of contract award will need to be given in sufficient time to providers in order that they can mobilise, and where necessary, create or hold bed capacity. Whilst securing additional bed capacity in the market to manage Delay Transfers of Care (DToC) has historically been done for the winter period, there are pressures to the health and social care system throughout the year, and the Council and Sandwell and West Birmingham Clinical Commissioning Group have therefore agreed a joint strategic plan to respond to the perpetual yearly pressure to mitigate the negative impact to the Council's favourable DToC by purchasing additional capacity throughout the year. Given this joint strategic plan, timescales for procurement outcomes, service start dates and the Cabinet process on this occasion are not aligned.

- 1.8 Approval of the recommendation to allow award without further Cabinet authority for the enhanced assessment beds and a complex dementia nursing service if the number of bids received is below the minimum level required in 8.7 of the Procurement and Contract Procedure Rules, and further exemption of 8.10 and 8.11 of Procurement and Contract Procedure Rules 2018-2019 will allow Adult Social Care (ASC) to award Contracts to successful bidders in the event that only one bid is received for a service or the number of tenders received is below the minimum level required without needing to seek further Cabinet approval. This action will enable ASC to continue to assist people to be discharged from hospital to the most appropriate setting as soon as they are medically fit thereby enabling the council to fulfil its requirements under the Care Act 2014 in relation to hospital discharges.
- 1.9 Approval of an exemption to rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 to allow award of Contracts to Carewatch Care Services and Tipton Homecare Limited for the provision of a short term fast response domiciliary care service will enable the council to meet its responsibilities to discharge patients from hospital for whom they have a statutory duty.

## **2 IMPLICATIONS FOR SANDWELL'S VISION**

- 2.1 The proposals contained within this report supports the Sandwell Council Vision 2030 as stated in Ambition 2, "Sandwell is a place where we live healthy lives and live them for longer, and where those of us who are vulnerable feel respected and cared for.
- 2.2 Sandwell Council, together with its partners is committed to supporting individuals' timely discharge from hospital and enabling them to live independent lives within their own communities. This provision is designed to provide them with timely care and support needed to enable them to return to their own homes or avoid leaving their own homes for a stay in hospital.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 The Better Care Fund was announced in 2013 by central government with the aim to support the transformation and integration of health and social care services. It is a pooled budget arrangement intended to benefit Sandwell & West Birmingham CCG (SWBCCG) and Sandwell Council. Strategic decision-making is overseen by the Health and Social Care Integration Board. Through the (Improved) Better Care Fund (BCF), the Council has commissioned a number of services, which are agreed through the Health and Social Care Integration Board.

- 3.2 The contracts being procured support the Council and SWBCCG in securing optimum use of hospital provision by managing the level of Delayed Transfers of Care (DToC) relating to individuals for whom the Council has a statutory duty.
- 3.3 The Care Act and the Care and Support (Discharge of Hospital Patients) Regulations 2014 require Adult Social Care to arrange for the assessment and discharge of individuals fit for discharge within 24 hours of notification. The NHS body has a discretion as to whether to seek reimbursement from the relevant local authority for each day an acute patient's discharge is delayed.
- 3.4 The proposed contracts would provide immediate access to both assessment by the provider and immediate availability of care and support services to assist patient to be discharged from hospital thereby minimising delays through days lost trying to secure social care.
- 3.5 The Care Act 2014 updated and re-enacted the provisions of the Community Care (Delayed Discharges) Act 2003, which set out how the NHS and local authorities should work together to minimise delayed discharges of NHS hospital patients from acute care. The NHS is required to notify relevant local authorities of a patient's likely need for care and support where the patient is unlikely to be safely discharged from hospital without arrangements, and to give at least 24 hours' notice of when it intends to discharge the patient. From 1 April 2015, if a local authority has not carried out an assessment or put in place care and support, and that is the sole reason for a patient not being safely discharged, the NHS body has a discretion as to whether to seek reimbursement from the relevant local authority for each day an acute patient's discharge is delayed. This situation is more commonly referred to as 'bed-blocking'.
- 3.6 The following table sets out the procurement thresholds and minimum number of bids required for contracts exceeding the value of £100,000 and the responsibility for obtaining those bids according to the Procurement and Contract Procedure Rules 2018/2019:

<b>Estimated value of goods, services or works (Including Aggregation)</b>	<b>Minimum number of bid/s required</b>	<b>Method of obtaining bids</b>	<b>Responsibility for obtaining bids</b>	<b>Written Records required</b>
£100,000 and above	Three tenders to be obtained  Where restricted procedures under the Public Contract Regulations 2015 are used	Advertisement required via e-Tendering portal and Contracts Finder.  Sealed or electronic bids	Corporate Procurement Team (excluding Social Care and Public Health Requirements)	Invitation to Tender, tender schedules, bids and communications from suppliers

Estimated value of goods, services or works (Including Aggregation)	Minimum number of bid/s required	Method of obtaining bids	Responsibility for obtaining bids	Written Records required
	<p>at least 5 bids to be invited</p> <p>Where competitive procedure with negotiation, or the competitive dialogue procedure or the innovation partnership procedure is used under the Public Contract Regulations 2015 the minimum number of candidates shall be 3.</p>			

- 3.7 The procedures (8.10) state that if the minimum number of bids required as set out have not been obtained, but at least two bids have been received, approval of the Chief Officer is required to enable the process to proceed. However, Cabinet approval is required for all contracts above £250,000 where three tenders have not been obtained, the aggregate values for both the short term fast response domiciliary care and enhanced assessment beds and complex dementia nursing beds services exceed this threshold. The procedures further state that any approval requested must include details on why the bids received represent value for money and any information on process carried out to attract sufficient bids.
- 3.8 The procedures (8.11) state that If only one bid is received for requirements over £5,000, an exemption will be required to award the contract as per Rule 15. The report must set out how the received bid represents value for money.
- 3.9 The tender exercise for the short term fast response domiciliary care service was comprised of an evaluation based solely on quality; the rate was set as it mirrored the domiciliary care framework price which Cabinet was informed of in the May 2018 paper that was approved.
- 3.10 The tender exercise for the enhanced assessment beds is based on 100% quality as the bed rate of £675 per bed per week is set. The council is assured that the fee is very competitive according to benchmarking completed with other neighbouring authorities who in most cases pay more.

- 3.11 The tender exercise for the complex dementia nursing beds is based on quality and price, however there is a maximum bed rate of £1250 per bed per week that any bids made cannot exceed. People with complex dementia nursing needs are difficult to place and can spend a significant period in hospital while medically fit because provision is limited, with providers refusing to accept the individuals due to the challenges presented particularly due to behaviours exhibited. The ceiling rate for this provision is very competitive and reflects the specialist nature of provision, notwithstanding there is evaluation based on price.
- 3.12 All eight of the council's domiciliary care framework providers were invited to bid in the tender exercise for the short term fast response domiciliary care service, and therefore the whole of the selected market for this provision was provided an opportunity to submit a bid. The procurement for the enhanced assessment beds and a complex dementia nursing service has been advertised on the council's electronic tender portal, intend and all nursing homes in Sandwell, which includes the incumbent providers, have also been notified of the opportunity via email communication, and therefore it is considered sufficient advertising to the whole of the market has been completed. The council cannot compel organisations to submit a bid, it can only notify them when opportunities become available, and it is satisfied that for both procurement exercises, bids have been invited from the whole of the available or selected market.

#### **4 THE CURRENT POSITION**

- 4.1 For the short term fast response domiciliary care service, as a result of a minimum of 3 tenders not being received, contracts cannot be awarded until Cabinet provide their decision to the recommendation seeking an exemption to rule 8.7 of Procurement and Contract Procedure Rules, and therefore the service cannot start on the scheduled date of 19 June 2018.
- 4.2 Cabinet approval has already been achieved in May 2018 (decision reference SMBC08/05/2018) for the award of contracts for the provision of enhanced assessment beds and a complex dementia nursing beds service and the procurement is currently being undertaken. However, as a result of the limited number of providers with the available bed capacity and expertise in Sandwell, it is considered there is a high likelihood that the minimum number of tenders required by Procurement and Contract Procedure Rules will not be obtained.

- 4.3 The timeline is extremely tight from tender evaluation to contract award as referenced in 1.7, and if three tenders are not received, further Cabinet authority will need to be sought to enable contract award to take place. If the outcome of the tender process is awaited prior to going to Cabinet, the council will be unable to meet its responsibilities to discharge patients within 24 hours of being declared medically fit because additional bed based provision will not have been secured to discharge patients to.

## 5 **CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 Commissioners have consulted with stakeholders across Sandwell Better Care Fund, the Acute Hospital Trust and the hospital social work team for their view on the provision.

## 6 **ALTERNATIVE OPTIONS**

- 6.1 Given a minimum of 3 bids were not received for the short term fast response domiciliary care service, the service cannot commence on 19 June 2018. While the Cabinet decision is awaited, the council's domiciliary care framework and approved list will be used to source domiciliary care, but given there is no guarantee of business, it is expected that DToCs may increase as providers take longer to start packages.
- 6.2 If the contract award does not happen in a timely way for the enhanced assessment beds and a complex dementia nursing service, and with sufficient notice to providers to mobilise and hold or create bed capacity to fulfil the requirements of the contracts, there will be increased DToC from hospitals which will leave the Council in a vulnerable position around their ability to effectively respond to their obligations around hospital discharge and meet the DToC targets set. There are no alternative options to maintain the required patient flow.
- 6.3 The corporate risk management strategy has been complied with to identify and assess the risks associated with the decision being sought. The assessment has identified there are no significant risks associated with the approach. Where risks have been identified, suitable measures are in place to mitigate these risks.
- 6.4 If the recommendation to approve award of contracts to the winning bidders is not approved, risks would include:
- Increased delayed transfers of care from hospital
  - Increase on delays regarding family choice
  - Increase in admissions from the community

- Undermining delivery of enablement and independence

6.5 The recommendations if approved therefore would contribute significantly to the mitigation of the strategic risk SRR 049 in respect of Delayed Transfers of Care, which is currently assessed as red.

## 7 STRATEGIC RESOURCE IMPLICATIONS

7.1 The projected impact of the proposals is summarised in the following table:

	2018/19	2019/20	2020/21	2021/22	Total
	£'000	£'000	£'000	£'000	£'000
Bed based contracts	897	1,804	1,799	902	5,402
Short term fast response domiciliary care	498				498
Total proposal	1,395	1,804	1,799	902	5,900

7.2 The projected costs will be funded from the Better Care Fund / Improved Better Care Fund and the allocation of the required resources were agreed at the Joint Partnership Board of 23 March 2018.

7.3 As the award of these contracts is to meet partnership priorities around delayed transfer of care arrangements and admissions avoidance, services will be provided through external organisations resulting in no impact on the Council's workforce.

## 8 LEGAL AND GOVERNANCE CONSIDERATIONS

8.1 The procurement of the enhanced assessment beds and complex dementia nursing services is being conducted in accordance with the Public Contracts Regulations 2015 and the council's Procurement and Contract Procedure Rules.

8.2 For the short term fast response domiciliary care service, the total value of the contracts as specified in paragraph 1.4 of this report are below the threshold at which the contract must be awarded in accordance with the Public Contracts Regulations 2015 unless there is concrete evidence of cross border interest in the contract.

## 9 EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment has been undertaken, there are no negative or adverse impacts on any protected groups.

9.2 There are no significant equality issues arising from this report. The commissioning of these contracts will ensure that vulnerable people in need of care including protected groups will benefit from the provision of support for hospital discharge.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

10.1 Data protection is addressed within the Council's contract for the service.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

11.1 There are no implications from this proposal on crime and disorder.

## **12 SUSTAINABILITY OF PROPOSALS**

12.1 It has been agreed that the funding for these contracts will be through the (i)BCF.

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

13.1 The DToC figures indicate that additional capacity is required to assist people to leave hospital within the agreed timescales throughout the year and not during the winter and the proposals contained within this report will support these needs.

## **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 There are no implications from this proposal on the Council's managed property or land.

## **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 Approval of an exemption to rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 to allow award of Contracts to Carewatch Care Services and Tipton Homecare Limited for the provision of a short term fast response domiciliary care service will enable the council to meet its responsibilities to discharge patients in a timely way from hospital for individuals for whom they have a statutory duty.

15.2 Agreement to award the enhanced assessment beds and complex dementia nursing service contracts without the need for further Cabinet approval where the minimum level of bids has not been received will allow the services to commence on 1 October 2018, and aligns with the focus of both the Council and Sandwell and West Birmingham Clinical Commissioning Group to support the reduction of DToC and admissions avoidance to support the continued flow of patients from hospital back to their communities.

## 16 BACKGROUND PAPERS

16.1 Nil

## 17 APPENDICES:

None



**David Stevens**  
**Executive Director of Adult Social Care, Health and Wellbeing**