

REPORT TO CABINET

26 June 2019

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| Subject: | Approval to retender Direct Payment Support Services Contracts |
| Presenting Cabinet Member: | Cabinet Member for Living Healthy Lives – Councillor Farut Shaeen |
| Director: | Executive Director of Adult Social Care, Health and Wellbeing – David Stevens |
| Contribution towards Vision 2030: |  |
| Key Decision: | Yes |
| Cabinet Member Approval and Date: | 3 June 2019 |
| Director Approval: | 3 June 2019 |
| Reason for Urgency: | Urgency provisions do not apply |
| Exempt Information Ref: | Exemption provisions do not apply |
| Ward Councillor (s) Consulted (if applicable): | Ward Councillors have not been consulted |
| Scrutiny Consultation Considered? | Scrutiny have not been consulted |
| Contact Officer(s): | Justin Haywood Operations Manager: Commissioning Justin_Haywood@sandwell.gov.uk Beverley Stevens Commissioning Officer Beverley_Stevens@sandwell.gov.uk |

DECISION RECOMMENDATIONS

That Cabinet:

1. Approve the re-procurement exercise via competitive tender for Direct Payment Support Services with a contract period of three years, with an option to extend for two further periods of one year and to approve the procurement via a quotation exercise for Employer Liability Insurance with the same contract period.
2. Authorise the Executive Director - Adult Social Care, Health and Wellbeing to award the contract as referred to in 1 above and where required under the Council's Procurement and Contracts Procedure Rules for signature of contracts by the Director of Law and Governance.
3. That in connection with 1 above, any necessary exemption be sought to the Council's Procurement and Contract Procedure Rules to enable contracts to be awarded to the successful bidders.

1 PURPOSE OF THE REPORT

- 1.1 This report seeks approval from Cabinet to commence re-procurement of the current contract for Direct Payment Support Services covering Payroll, Managed Accounts and Employment Support for people in receipt of Direct Payments in relation to their Adult Social Care and Support. A quotation exercise will be undertaken for a new contract to cover Employer Liability Insurance. This will also include ongoing information and advice to employers of Personal Assistants.
- 1.2 Both contracts will be for a period of three years with an option to extend for two periods of one year.
- 1.3 The current Direct Payment Support Services contract expires on the 5 of April 2020, and the new contracts for Direct Payment Support and for Employer Liability Insurance will be in place to commence on the 6 of April 2020.

- 1.4 The report also seeks authority for the Executive Director - Adult Social Care, Health and Wellbeing to award the contracts to the successful bidders and because Direct Payment Support services are of a specialist nature, and there is a limited market of providers at local and national level, if fewer than 3 bids are received, then an exemption under rule 8.7 of Procurement and Contract Procedure Rules 2018-2019 is requested to allow contracts to be awarded to the successful bidders.

IMPLICATION FOR THE VISION 2030

- 1.5 This report contributes to two of the Council's ambitions as follows:

Ambition 1 - Sandwell will be a borough where families' aspirations are raised and that prides itself on equality of opportunity and resilience.

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.

- 1.6 Direct Payment Support Services have an essential role in ensuring the recipients of direct payments are supported to fulfil their responsibilities as employers and make best use of their direct payments.
- 1.7 This form of funding support enables choice and control over the support that service users and their families receive. It enables greater flexibility and resilience for service users and families.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Council has statutory responsibilities to provide or commission Direct Payment Support Services. Local authorities are required, through law and statutory guidance, to provide adequate information, advice and support to enable individuals to decide if they should request a Direct Payment and to manage that payment.
- 2.2 The legislative context for Direct Payments is set out in the Care Act 2014, section 117(2c) of the Mental Health Act 1983, the Care and Support (Direct Payments) Regulations 2014 and the Children and Families Act 2014. To fulfil this duty, the Council has commissioned services to provide Direct Payment Support.
- 2.3 Direct Payments provide independence of choice and control by enabling people to commission their own care and support and the Council is committed to promoting their use, in line with the national Personalisation agenda.

- 2.4 As of 1 February 2019, there were 752 adults receiving a Direct Payment which represented 25% of community services commissioned (including carers). About 400 Direct Payments recipients employ a Personal Assistant. Some of these are parents acting for their children and in these cases, Adult Social Care re-charges Children's Trust for this support.
- 2.5 The three services covered by the current contract are payroll, managed accounts and employer support and these are described in section 3.

3 THE CURRENT POSITION

- 3.1 The current contract was awarded to Ideal for All on 5 April 2017. It expires on 5 April 2020, with an option to extend for one year. However Adult Social Care wish to revise the way in which the services are delivered and due to this -- do not wish to take up the option to extend the existing contract favouring instead to re-procure the service.
- 3.2 The current annual budget for all three services is £112,300.
- 3.3 The three services are described in detail below:
- **Payroll Service:** supports people to ensure their employed Personal Assistants are paid on time and in compliance with the law, including the calculation of tax and National Insurance and the production of fortnightly payslips for Personal Assistants and other associated documents such as P60s, liaising with Her Majesty's Revenue and Customs (HMRC) at all required intervals, and auto-enrolling opted- in Personal Assistants on pensions as necessary.
 - **Managed Account Service:** supports those who require additional help to manage the associated financial responsibilities of taking a Direct Payment. A Basic Managed Account is provided for those who are purchasing their Services from an agency. An Enhanced Managed Account is provided for those who are employing a Personal Assistant, or a combination of employing a Personal Assistant and purchasing Services from an agency
 - **Employer Support Service:** supports people who take a Direct Payment and who employ or wish to employ a Personal Assistant but lack knowledge of employment law and the responsibilities of being an employer. The service delivers training and guidance and support in areas such as employment law, recruitment and employer responsibilities.

- 3.4 An analysis of data on current trends since the start of the contract shows that demand is likely to increase. An analysis of the take up has resulted in an estimated forecast by the end of the current contract, if current trends continue, of approximately 550 managed accounts, 200 payroll service users, with 150 also using employer support.

4 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 4.1 Consultation to date has involved the current provider and a range of professionals and service users who liaise with the services regularly. This includes the Council's Direct Payments team and social workers.
- 4.2 Feedback has shown that there are communication issues which regular meetings has addressed recently. Feedback from a telephone survey of current service users has shown that most were satisfied with the service, but some preferred a choice of provider, especially if not satisfied.
- 4.3 Most support was required at the start of the Direct Payment and many stated the service does not respond to requests in a timely way – with some being confused about what they pay for. In developing the tender documentation, feedback from Council and health stakeholders, the current and potential providers, and service users will be considered.

5 ALTERNATIVE OPTIONS

- 5.1 If the services were not re- procured, this would leave the Council in a position of non-compliance with legislation and leave some vulnerable adults without their legal rights to Direct Payments support.
- 5.2 Several options were considered – including the option to deliver services in-house. However, apart from the provision of basic information and advice, most of the functions are required to be delivered by an independent organisation, so this option was discounted
- 5.3 The option of contracting with two or more providers to offer choice was also considered. However, this was also discounted because the contract value is not sufficient to sustain two or more providers, and their associated infrastructure and management costs.
- 5.4 The option of extending the current contract then retendering on an as - is basis was discounted due to the need for the new service model, and the option of jointly procuring a service with another local authority was discounted due to unaligned service requirements and contract timescales.

- 5.5 The preferred option therefore is to develop a new model of Direct Payment Payroll and Managed Account services and support to recruit a Personal Assistant if and when required, and to introduce a new contract for Employer Liability Insurance.
- 5.6 A separate procurement process will be undertaken to put in place a new contract for Employer Liability Insurance with associated Human Resources information and advice for employers of Personal Assistants, and online training about the legal responsibilities of employers. Currently, the Employment Liability Insurance is paid from the Direct payment to Insurance Companies to set up an annual policy, and the information, advice and training services are delivered as part of the Direct Payments Support Services Contract. However, the Insurance Companies have recently included these services as part of their new policies, and this option demonstrates better value to the Council in purchasing this support.

6 STRATEGIC RESOURCE IMPLICATIONS

- 6.1 For the financial year 2019/20, the budget for Direct Payment Support Services is £112,300 and the costs associated with the new contract will be met from existing budgets.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

- 7.1 The new direct payment support service contracts will be fully compliant with the Care Act 2014, and Data Protection Act 2018 and the General Data Protection Regulations, all relevant law and changes in legislation during the contracts.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment has been completed as part of the Cabinet report process which has identified no adverse impacts or issues of concern for protected groups.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 Data protection issues are addressed within the contracts for commissioned services. Information Governance will be an important part of contract reviews.

10 CRIME AND DISORDER AND RISK ASSESSMENT

- 10.1 The contract already includes requirements around safeguarding, and this will not change. They will be added to the new contract.
- 10.2 The Corporate Risk Management Strategy has been complied with –to identify and assess the significant risks associated with this decision. This includes (but is not limited to) political, legislation, financial, environmental and reputational risks.
- 10.3 The risks have been recorded in the Adult Social Care Commissioning Risk Register and will be monitored by the Commissioning Team on a regular basis, with risks being escalated as required. Based on the information provided, it is the officers' opinion that there are no significant risks that have been identified, arrangements are in place to manage and mitigate all risks effectively.

11 SUSTAINABILITY OF PROPOSALS.

- 11.1 The proposals contained within this report are aimed at ensuring that statutory direct payment support services are on a financially sustainable and viable footing for a period of three years.

12 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE).

- 12.1 The service review and subsequent revised specification for new direct payment support contracts will ensure that the services work to improve the health and wellbeing of the service users. The services will also be required to evidence benefit to the local community in terms of increased awareness of direct payments, engagement activities and recruitment and training of local volunteers.

13 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 13.1 There is no impact on any council managed property or land because of the proposals outlined in this report.

14 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 14.1 Approval is sought to re procure by competitive tender the Direct Payments Support Services contract, and to procure a new contract for Employer Liability Insurance using a quotation exercise. All providers will be required to satisfy the Council, in answer to the 'suitability assessment' section of the tender documents, that they meet statutory and Council requirements for all contractors (legal compliance, financial standing, equalities, health and safety, insurance and information management). They will also be required to meet the specific requirements of the services (suitability, financial standing and technical and professional ability).
- 14.2 All contracts will be awarded in accordance with the council's Procurement and Contracts Procedure Rules and the Public Contracts Regulations 2015.

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