

Portfolio Holder for Adult Social Care



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14 July 2017

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NOTICE OF INTENDED PORTFOLIO HOLDER DELEGATED DECISION

The Portfolio Holder has received the following report for a decision to be taken under delegated authority. The decision will be taken on **20 July 2017** (i.e. 3 clear days after the date of this note). The decision will be published on the Council's website but will not be implemented until 5 clear days after the date of publication of the decision) to comply with the call-in process set out in Rule 7.37 of the Constitution.

1.	DOMICILIARY CARE MARKET DEVELOPMENT
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CYNGOR SIR POWYS COUNTY COUNCIL.**PORTFOLIO HOLDER DELEGATED DECISION****By****Councillor Stephen Hayes (Portfolio Holder for Adult Social Care)****7th June 2017**

REPORT AUTHOR: Dylan Owen
Head of Transformation for Adult Services

SUBJECT: Domiciliary Care Market Development

REPORT FOR: Decision

1. Summary

This report provides an update, and seeks further approval for the ongoing development and management of domiciliary care markets across Powys. The report does not propose any immediate change to residents' support or how services are currently commissioned, but reflects the next stage of market development considered necessary ahead of the end of the 2014 Domiciliary Care Framework in March 2018.

The report also seeks agreement to (a) undertake a 4 week market engagement process to further explore the relative merits of implementing a Dynamic Purchasing System ("DPS") for the future commissioning of domiciliary care services across Powys; and (b) to implement a Dynamic Purchasing System in liaison with the Portfolio Holder for Adult Services should the outcome of the market engagement work suggest that the system would be a safe, effective procurement method for commissioning domiciliary care in the future.

Should the market engagement however identify any significant issues for the implementation of a DPS, appropriate change management actions and options will be presented to the Portfolio Holder for consideration before any changes are implemented.

2. Background

Domiciliary care is currently provided in North Powys via the 2014 Domiciliary Care Framework supported by a small number of providers commissioned via spot contracts. In contrast, commissioning in South Powys is via spot contracts with 14 external providers and the Powys In-House Domiciliary Care Service.

Significant improvements have been made in the provision of domiciliary care services over the past 24 months. It is however important to note that

challenges remain in some areas across the county in relation to both capacity and provider sustainability. In recognition of the challenges, the 20th December 2016 Cabinet approved plans for the Council's In-House Domiciliary Care Service to act as a 'provider of last resort' to provide care for any resident where there is not an alternative external provider.

In developing future commissioning proposals, best practice and future market development options continue to be considered from across the UK. One such market development option considered is the use of approved provider lists in the form of a Dynamic Purchasing System. Operating such an approved provider list would not differ greatly from the existing system used, but would move existing arrangements toward adherence with EU procurement regulations. New packages of care procured through the Dynamic Purchasing System would be compliant, with existing packages moving to compliance via the system over time.

In order to explore the potential future use of an approved provider list in the form of a Dynamic Purchasing System, it is proposed that a 4 week market engagement programme is undertaken to inform future commissioning intentions to be presented for formal decision. We will engage with both providers and listen to service users views when designing the service specification.

Officers will continue to work with Scrutiny and the Portfolio Holder. We are not anticipating that any significant issues will be identified within the engagement process. If no significant issues are identified we will implement an approved provider list in the form of a Dynamic Purchasing System by the end of 2017.

3. Proposal

This report seeks approval to engage with domiciliary care providers to explore and understand the potential merits of commissioning future domiciliary care through the use of formal approved provider lists in the form of a Dynamic Purchasing System (DPS). The report also seeks agreement to implement a Dynamic Purchasing System should the outcome of the market engagement work suggest that the system would be a safe, effective procurement method for commissioning domiciliary care in the future.

The DPS would be set up in two stages. The first stage would be implemented via an advertisement in the Official Journal of the European Union (OJEU), from which providers could apply to be approved by completing a prequalification questionnaire focusing on providers' financial and technical capabilities. All providers eligible to join the Dynamic Purchasing System after evaluation of a Pre-Qualification Questionnaire would become an approved provider on the system, and able to apply to deliver future commissioned domiciliary care packages.

The second phase is the individual contract or tenders where costs and quality of intended service are evaluated as part of each individual award. All companies would be asked to bid to deliver either individual packages, or groups of care packages if this would be more cost effective.

For people in receipt of domiciliary care, such a system would not differ greatly from the existing system used, but would provide a firm base on which to continue to build capacity within the Powys domiciliary care market. Such market development could include supporting the creation of additional local care providers. Introduction of the Dynamic Purchasing System would significantly move existing arrangements toward adherence with EU procurement regulations, with new packages of care procured through the DPS being compliant, with existing packages of care moving to compliance via the system over time.

Providers can apply at any time for inclusion on the DPS and unsuccessful providers can reapply should they fail initially (having corrected any disqualifications). It remains open throughout its duration for the admission of any provider that satisfies specified qualification criteria. Procurement regulations permit flexibilities to be built into Dynamic Purchasing Systems at their start that allow subsequent changes in the way they are implemented to be applied over time, enabling the system to evolve in line with residents' assessed needs. A DPS can also be used in conjunction with other contracting methods in the future should this be desirable. It is therefore proposed that should it be agreed that a DPS is to be developed, the DPS will be periodically reviewed. Adoption of any recommended variations to the system or the enhancement of contracting options that could be applied in the future to promote improve quality and/or cost effectiveness (e.g. indicative acceptable floor and ceiling rates to be used in bid evaluations) will be presented to the Portfolio Holder for Adult Social Care for consideration.

The system would be a fully electronic commissioning approach for setting up and maintaining a list of pre-approved providers. The development of a DPS would not be significantly different to the existing brokerage system used by the Council in commissioning spot domiciliary care contracts. Preliminary discussions with Welsh Government and the owners of the Council's current procurement software have been positive. Discussions are ongoing around the attraction of government funding for the enhancement of pan-Wales procurement software used by Powys County Council and many other public sector bodies.

Subject to confirmation of deliverable local benefits identified through the proposed targeted market engagement process, anticipated benefits of utilising the system to commission future domiciliary care services are:

- The domiciliary care market would be able to grow and develop over the lifetime of the system with new entrants being added which encourages the local market to develop.

- The market place may remain competitive in terms of cost and quality, should the DPS be effective.
- Prices can remain current, as providers submit prices for individual packages rather than a fixed rate at the beginning of the financial year.

An overview of a Dynamic Purchasing System is included within Appendix 1 of this report.

The proposed 4 week market engagement process will seek to assess:

1. The potential local benefits and disadvantages to residents, providers, and the council of employing an approved provider list (through a Dynamic Purchasing System).
2. How and when such a system or multiple systems could be introduced.
3. Should all future care be commissioned via the system, or would the system represent one of a number of components within a wider procurement programme.
4. Whether residents would benefit from one approved provider type list, or whether residents would benefit from use of targeted arrangements designed to support specific geographic areas and/or communities of need.
5. How the system can be deployed to maximise future continuity of care.
6. Explore potential synergies that could be achieved through extending the use of a Dynamic Purchasing System to commission other health and social care services such as day care services.

What is domiciliary care?

Domiciliary care can be broadly defined as help and services provided in a person's own home to improve their quality of life and enable them to maintain their independence. These can include a range of different services: personal care, assisting with dressing/undressing, supporting to prepare and/or eat meals, and helping people to go to bed or get up, etc. This care, along with other services, postpones the day when residential care may be needed and can be provided for a range of different clients including:

- older people
- people with a physical disability
- people with a sensory loss including dual sensory impairments
- people with a mental health problem
- people with a learning disability
- people with a substance misuse issue
- personal or family carers

Typical domiciliary care services are based on visits of 30 minutes to an hour at certain times of the day. Depending on the individual level of need, numbers of visits can range from one per day to four times a day by one or

two workers. Future domiciliary services will seek to increase the flexibility for people in receipt of support to work with care providers to model their support package to more closely help deliver the wellbeing outcomes that people have identified as being important to them.

The Powys Domiciliary Care Market

Powys County Council currently supports around 860 people, commissioning around 11,826 hours of domiciliary care support each week. Co-production of services with all providers continues to progress well, and the Domiciliary Care Forum continues to be very productive. The Domiciliary Care Forum work programme has included a range of market development initiatives, collaborative working measures, and service improvement actions. However, access to domiciliary care is not equitable across all communities and further capacity needs to be built, especially in a small number of relatively remote, rural communities.

The 2014 Domiciliary Care Framework continues to operate in North Powys and has been enhanced over the last two years through the use of spot contract arrangements with seven additional providers. Domiciliary care is provided in South Powys via spot contracts with 14 external providers and the Powys In-House Domiciliary Care Service.

Within the South Powys Market, the Powys County Council In-House Domiciliary Care service is one of the largest domiciliary care providers, providing care for a range of different client groups. These include those people who are physically and mentally frail as well as younger disabled clients. However, as the In-House service currently does not operate in North Powys, access to the In-House Domiciliary Care service is not equitable across the County. As a result, the 20th December 2016 Cabinet approved the development of a county-wide In-House service that would operate as a service of last resort, particularly within areas where there is currently no alternative private sector provider.

3. Options Considered / Available

Options considered included:

1. Do nothing: Continue with existing contracting arrangements.

This Option is not recommended as the 2014 North Powys Framework will end in March 2018, and therefore existing arrangements are not sustainable.

2. Review the operation of the North Powys Framework, and develop / retender a number of appropriately sized and geographically targeted Domiciliary Care Frameworks across Powys.

Whilst this option may introduce the potential for cost efficiencies compared to spot contracts due to economies of scale, this Option is not recommended at this time. Further market development work is considered necessary to ensure safe, sustainable market capacity is maintained across Powys. It is important to also note that the In-House service has yet to fully move to becoming a service of last resort across North Powys, thereby providing additional capacity across some remote rural areas where there is limited alternative private sector capacity.

3. Develop an Approved Provider list using a Dynamic Purchasing System mechanisms.

Continue to research and explore the use of an Approved Provider list using Dynamic Purchasing System to commission future domiciliary care support. Consideration can be given within research undertaken on the relative merits of using any future Dynamic Purchasing System to commission other social care services such as Day Care Services or other support services. Consideration can also be given to collating care packages into commissioning service lots, to be commissioned in addition to commissioning individual care packages. Inclusion of such collation may introduce cost efficiencies by building some economies of scales for providers.

4. Preferred Choice and Reasons

4. Develop an Approved Provider list using a Dynamic Purchasing System mechanisms.

Option 3 supports the research and development of a flexible domiciliary care commissioning model. The proposed market engagement would support consideration of potential synergies that could be achieved through a Dynamic Purchasing System operating across domiciliary care and/or other social care services. There is also a potential to explore market views on flexing the size, and therefore the value of care packages commissioned to improve cost efficiencies.

5. Impact Assessment

- 5.1 Is an impact assessment required? Not at this time
- 5.2 If yes is it attached?

6. Corporate Improvement Plan

This proposal will contribute towards the following aim and objectives:

Supporting people in the community to live fulfilled lives

Older people will feel:

- Supported, independent, safe, dignified and connected
- A valued member of their communities
- Informed and empowered to make choices about their support and care

Carers:

- Are able to maintain employment, education and training where they choose
- Have good physical, emotional and mental health

People with a learning disability:

- Have improved health and well-being
- Receive services that meet their needs and enable them to maximise their independence and live in the community of their choice

People's emotional and mental health:

- Is promoted and improved
- Challenges are responded to effectively, aiding recovery

What will this look like?

People will:

- Be confident that challenges are responded to effectively, aiding recovery
- Have opportunities for activity, social stimulation and community inclusion to maintain their well-being.
- Feel safe in their own home and retain their independence for as long as possible through a range of home based services.
- Be informed to enable them to have increased choice and control over what matters to them.
- Have greater access to health and social care which is close to home and responsive to their needs.
- Can be discharged home safely once fit to do so.

7. **Local Member(s)**

The proposal will affect all electoral divisions.

8. **Other Front Line Services**

Does the recommendation impact on other services run by the Council or on behalf of the Council? No

If so please provide their comments

9. Communications

Have Communications seen a copy of this report? Yes

Have they made a comment? No proactive media action required, initial communication will be through specific stakeholder engagement.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

10.1 Legal: The recommendations can be supported from a legal point of view.

10.2 Finance: The Finance Business Partner notes the content of the report which is to seek approval for engagement with providers. It is essential that the financial viability of the organisations are considered before a provider becomes approved. Additionally, a floor and ceiling must be included within the cost structure to ensure service remains within current financial envelope.

10.3 Corporate Property: The Professional Lead-Strategic Property notes the contents of this report.

10.4 HR: As this relates to external provision of Domiciliary Care rather than our in-house service it is not within the remit of HR to provide comment.

10.5 ICT: ICT note the report. We have no comments to add.

11. Scrutiny

Has this report been scrutinised? Yes

11.1 The report was presented to Scrutiny Committee A, Adult Social Care Working Group on 3rd July 2017. Scrutiny suggested that:

1. The financial modelling of the new proposals be provided for a 12 month period;
2. The Group requested further information on how budgets will be managed and monitored within the service;
3. Proposals may provide an opportunity for collusion between providers, but it was acknowledged that the risk of collusion was present within the current system;
4. The Group welcomed the move to outcome based care planning for clients.

11.2 Comments from Scrutiny have been noted. In line with the comments received, officers will continue to work with Scrutiny to address all matters raised following, and in light of the market engagement outcomes.

12. Statutory Officers

12.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report save to record that the implementation of a DPS must not be put in place without an Impact Assessment having been prepared and considered by the Portfolio Holder".

12.2 (The Strategic Director Resources (Section 151 Officer) has commented as follows: "The report outlines an important step in the process and it is essential the Authority obtains and considers market feedback on potential options for the future commissioning arrangements before any decisions are taken."

13. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If a Portfolio Holder has an interest he should declare it, complete the relevant notification form and refer the matter to the cabinet for decision.

Recommendation:	Reason for Recommendation:
<ol style="list-style-type: none">1. The Head of Transformation, Adult Services is authorised to undertake a four week market engagement process to further explore the relative merits of implementing a Dynamic Purchasing System for the future commissioning of domiciliary care services across Powys.2. The Head of Transformation, Adult Services is requested to present the outcome of the market engagement process and proposals for the future commissioning of domiciliary care services to the Portfolio Holder for Adult Social Care.3. Implementation of a Dynamic Purchasing System for the future commissioning of	<ul style="list-style-type: none">• To obtain, and then consider market feedback on the potential options for the future commissioning arrangements before any decisions are taken.• To stimulate, and assess the viability of the likely market response to any future decision that could involve use of a Dynamic Purchasing System.

<p>domiciliary care services across Powys, if recommended, will require a further report for Portfolio Holder decision, supported by an Impact Assessment.</p> <p>4. Extension of Dynamic Purchasing to other health and social care services (such as day care services) will be subject to formal approval by the Portfolio Holder.</p>	
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Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y – Engagement within budget.

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Dylan Owen
Date By When Decision To Be Implemented:	01.09.17

Contact Officer:	Lee Anderson or Sally Beech
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Background Papers used to prepare Report:

What is a Dynamic Purchasing System?

A Dynamic Purchasing System (DPS) is an electronic system for the purchase of commonly used goods, services or works. It can only be established using the rules of the Restricted Procedure and must be open throughout its duration for the admission of any provider which satisfies the qualification criteria and submits a tender which complies with the service specification.

The advantage of a DPS are:

- **Market Development:** The marketplace can grow and develop over the lifetime of the system with new entrants being added which encourages the local market to develop.
- **Quality Assurance:** Providers must first be 'accredited' against a set of quality criteria dictated by the Council before being granted entry to the DPS. The criteria can be amended at any time to reflect the market. This can ensure that only high quality suppliers, with strong financial checks, are permitted to submit bids.
- **Outcome based:** A list of service outcomes can be specified by the Council when procuring through the DPS. In the case of a care package, providers would have to detail how and when they would deliver the desired outcomes for the resident.
- **Transparency:** The Council would have complete visibility over the end-to-end process of procuring its services, a full transparent audit trail. The open, transparent nature of a DPS can also build trust and certainty for providers.
- **Increased flexibility.** Unlike a Framework, a DPS can respond quickly to sudden demand or supply changes in the market, e.g. a cold winter or care home closing. Contracts can be added, issued, and awarded faster, reducing risk and decreasing uncertainty for the Council.
- **Value for money.** With the DPS ranking bids in terms of both cost and quality, the Council is able to demonstrate that all services procured represent maximum value for money.

- **Straightforward implementation.** The new EU Procurement Regulations 2015 (PCR 2015) have simplified the way a DPS can be implemented. There are also fewer reporting requirements; only the DPS itself needs to be advertised within the Office Journal of the European Union (OJEU).
- **Fewer spot purchases.** Tendering services, such as domiciliary care packages, on a case by-case basis would see the Council becoming less reliant on the spot market.
- **No time limit.** A DPS can remain 'open' to new suppliers at all times. They have no set time limits regarding how long they can run for, unlike a Framework.

There are, however, drawbacks and possible risks to a DPS:

- **Supplier disengagement.** For the DPS to work effectively suppliers must be engaged to participate. If only a handful opt to join (or are accepted onto) the system, its ability to reduce spend and improve quality standards is diminished. A critical mass of accredited suppliers is therefore required. Bidders who are consistently unsuccessful in bidding may also disengage or where a provider cannot reach a sizeable block of packages over time, which may make it difficult to continue to operate efficiently.
- **Size of packages.** Individually tendering care packages may deter other out of Powys providers or larger providers from showing interest in the business and favour existing providers with established runs.
- **Entirely electronic.** The DPS is entirely electronic and Business Wales may need to be commissioned (free of charge) to work with providers to ensure that they are able to respond.
- **Cultural change.** The transition away from a traditional Framework to a DPS may deter some suppliers from approaching the Council. Adequate training would also need to be provided to Council staff using the DPS.

- **Just a system.** The DPS will not revolutionise the local market and guarantee improvement. It would simply be a new, compliant and electronic way for accredited suppliers to approach the Council for work.
- **Value for money.** May not be guaranteed for individual packages as the Council will not be able to lever the benefits of larger more efficient block packages. This would need to be monitored carefully.

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