

Cabinet – 26 July 2017

Direct Payment Support Service Tender

Portfolio: Councillor Diane Coughlan – Adult Social Care

Related portfolios: Councillor Aftab Nawaz – Children’s Services & Education

Service: Adult Social Care

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 This report outlines proposals for the re-procurement of the current direct payment support service (DPSS) funded by Adult Social Care (ASC) and Children’s Services, which is a key decision because it will continue to commit the Council to incur significant expenditure and it affects all wards across the borough.
- 1.2 The current DPSS Framework was commissioned by the Council, led by ASC Directorate and expires on 5 October 2017.
- 1.3 The Council is preparing to re-tender this service to continue to deliver four levels of direct payment support:
 - Level 1 – Advice, guidance and support
 - Level 2 – Advice, guidance, support and payroll
 - Level 3 – Advice, guidance and nominated accounts
 - Level 4 – Advice, guidance, payroll and nominated accounts
- 1.4 It is proposed by ASC that up to 3 providers, per level of direct payment support will be awarded contracts, for a maximum period of up to 4 years, following completion of compliant tender process.
- 1.5 The Cabinet timetable does not allow sufficient time to complete a compliant tender process, conclude the tender evaluation and recommendations prior to the expiry of the current contract. In order to ensure continuity of service when the existing contract expires, there is a need to seek delegated authority for the Executive Director of Adult Social Care to accept tenders and award contracts.

2. Recommendations

- 2.1 That Cabinet delegates authority to accept tenders and award contracts for the provision of DPSS services, for a period of two years, with the option to extend on an annual basis for a further period of up to two years, to the Executive

Director of ASC, in consultation with the Portfolio Holder for Adult Social Care and Children's Services and Education following completion of the tender.

- 2.2 That Cabinet delegates authority to the Executive Director of ASC, to enter into contracts for the provision of DPSS services and to subsequently authorise the sealing of any deeds, contracts or other related documents for such services.
- 2.3 That Cabinet delegates authority to the Executive Director of ASC to agree a contract modification with existing providers for the period 6.10.17 up to 31.12.17 to allow for a 60 day transition between new and outgoing providers; should this be necessary.

3. Report detail

Context

- 3.1 The current DPSS contractual framework was commissioned by the Adult Social Care (ASC) Directorate in October 2014 and expires on 5 October 2017. The framework is used by both ASC and Children's services to deliver direct payment support and to support the personalisation agenda¹ through the uptake of direct payments.
- 3.2 Walsall Clinical Commissioning Group (WCCG) has established a Personal Health Budget (PHB) system and may signpost PHB holders to providers on the Council's DPSS framework should they require support. The cost of this is funded by WCCG as an additional cost, within the PHB holder's PHB.
- 3.3 The Council's current DPSS framework provides four levels of direct payment support:
 - 3.3.1 Level 1 - Advice, guidance and support - This level of support provides ongoing information on all aspects of direct payments (DPs). This support is provided to direct payment recipients (DPR's) who receive their own direct payment (DP) funds, but require support to employ a care agency/day care provider to meet care/support needs. The average weekly fee is £5.32;
 - 3.3.2 Level 2 – Advice, guidance, support and payroll - This level of support provides assistance with the recruitment and selection of personal assistants (PA's); advice, guidance and support with all aspects of employment legislation; provision of a payroll service. Regular ongoing support is required with this level of support around the provision of payroll. This support is provided to DPR's who receive their own DP funds and require support to employ a PA(s) to meet care needs. The average weekly fee is £11.23;
 - 3.3.3 Level 3 - Advice, guidance and nominated accounts - This level of support provides the same as level 1 plus the DPSS opens an individual bank/building society or similar account that will be used to receive DP funds. This support is provided to DPR's who are unable to manage their

¹ **Personalisation** is a social care approach described by the Department of Health as meaning that "every person who receives support, whether provided by statutory services or funded by themselves, will have choice and control over the shape of that support in all care settings".

DP funds themselves but need nominated account support to pay a care agency/day care provider. The average weekly fee is £8.00;

3.3.4 level 4 – Advice, guidance, payroll and nominated accounts – This level of service provides the same as level 2 plus the DPSS opens an individual bank/building society or similar account that will be used to receive DP funds. Support is provided to DPR's who are unable to manage their DP funds themselves but need nominated account support to pay their PA(s). The average weekly fee is £14.63.

3.4 The Council previously award contracts to up to three providers per level of support (detailed in Table 1 below), which appears to be working well based on current levels of demands. Details of the four contracted providers are listed below:

Table 1

Provider	DPSS Level 1	DPSS Level 2	DPSS Level 3	DPSS Level 4
Age UK Walsall	√	√	√	X
People Plus	√	√	X	X
Ideal for All	√	√	√	√
IBS Managed	X	X	√	√

3.5 Table 2 below shows the breakdown of DPR's per support level and costs per DPSS level as at November 2014 compared to January 2017. These figures are based on an average cost per client, with an assumption that all PAs are auto-enrolled.

Table 2

DPSS Level	November 2014 No of DPR's	January 2017 No of DPR's	Annual Value November 2014	Annual Value January 17
1	104	118	£28,771	£32,644
2	192	170	£97,843	£99,273
3	147	139	£65,968	£57,824
4	101	144	£67,646	£112,177
	544	571	£260,228	£301,918

This data is based on run10 payment data

Table 2 shows that there has been a 5% (27) overall growth in the number of DPR's receiving a DPSS, which has mainly been affected by a change in social work practice which requires all DPR's to have a DPSS; to ensure that their DP is audited annually. The Council no longer has the resource to undertake DP audits; this task is included in the DPSS contract but could be viewed as a perverse incentive as the provider is also the auditor.

3.6 It is possible that there may be further growth with the introduction of the Community Based Services contract in April 2017, as a number of existing

domiciliary care providers have been unsuccessful and individuals may choose to have a DP to retain their existing carer/provider.

What is happening in the sector?

- 3.7 There is no consistent DPSS offer or fee structure regionally or nationally.
- 3.8 It has been established locally that Birmingham, Sandwell and Dudley all commission DPSS's. Birmingham and Sandwell commissioned new services in 2016 and Dudley is about to extend existing contractual arrangements whilst they determine what they wish to commission in future. As a result Walsall was not able to undertake a joint procurement exercise; but this is something that may be considered in future.
- 3.9 Sandwell and Dudley only commission a payroll and employment support service (similar to Walsall's level 2) and a nominated account service (similar to Walsall's level 3 & 4) for which they pay a weekly fee. They do not commission low level support similar to Walsall's level 1 support. Birmingham commission a comprehensive menu of DPSS's and although they could provide support similar to Walsall's level 1, their DPSS's are primarily used to support the use of PAs and DPR's requiring PA and nominated account support. Using Birmingham's fees it would cost approximately £5.90 per week to provide support similar to Walsall's level 1.
- 3.10 Birmingham's commissioned services purely provides the DPR with support, Providers are not expected to do any auditing; this is undertaken by Birmingham's finance team who analyse DPSS quarterly financial returns. Dudley requires DPSS providers to complete financial returns and their Quality Monitoring Officers audit providers annually, taking a random sample of DPR's receiving support. Sandwell require the DPSS to complete an annual audit and Commissioning undertakes quarterly relationship meetings.
- 3.11 In Walsall DPSS's are required to complete quarterly financial returns which are currently sent to Integrated Business Support; providers are required to conduct annual audits on behalf of the Council to ensure DP's have been used in accordance with the DPR's support plan. In addition to this the Council audit² DPSS providers each quarter taking between a 5% to 10% sample per support level to ensure compliance with the current contract specification. This has revealed some quality issues amongst providers (Ideal for All, Age UK Walsall and PeoplePlus) in terms of them not meeting the 90% Council spot check target^{3,4}. The contract allows the Council to recover losses from providers which have arisen due to contractual non compliance.
- 3.12 Based on previous experience the Council is aware that if an existing provider(s) is unsuccessful they would require a 60 day transition between new and outgoing providers to ensure a smooth transfer of business. The Council will not know until

² Undertake spot checks to ensure that the service is delivered in accordance with the service specification to mitigate any risk to DPR's and financial risk to the Council. The way this is currently conducted may change in future.

³ Spot checks include the following checks: personal visit conducted, management of client contributions; invoices paid, DBS's in place, Public Liability Insurance evidenced, times sheets evidenced and pay completed and no excessive surpluses, annual audit completed.

⁴ Where target not met follow up audits are completed by Commissioning and improvement plans issued.

the outcome of the tender process whether there will be a change of DPSS providers; if there is then the Council will need to negotiate by agreement the extension of each of the existing contracts affected for the period 6.10.17 up to 31.12.17. Regulation 72 of the Public Contracts Regulations 2015 sets out a number of scenarios in which existing contracts can be modified lawfully without a new compliant procurement having to be undertaken. In particular regulations 72(1)(f) and (5) allows a modification of a contract where the value of the modification is below 10% of the initial contract value. This extension period would cost £76,000 and represents approximately 9% of the total of the contract value, so the proposed contract extension modification is within the statutory limit referred to above.

Council priorities

- 4.1 Commissioning these services will enable the council to promote independence choice and control for adults and children who live in the community and are eligible for a direct payment. This in turn may improve the quality of service provision, leading to better outcomes for residents.
- 4.2 This proposal also links and contributes to the Council's corporate priority 'Make a positive difference to the lives of Walsall people':
 - Increasing independence and improving healthy lifestyles so all can positively contribute to their communities.

5. Risk management

- 5.1 There is a risk that if the existing provider(s) choose not to bid for the work or are unsuccessful, DPRs, who have been assessed as requiring support, may have to choose an alternative DPSS, because DPRs will only be able to receive support from the Council's contracted provider.

6. Financial implications

- 6.1 The current combined value of all the contracts is circa £302,000 per annum for Adult Social Care and Children's Services, and so a cumulative total of circa £1.2 million over the four years.
- 6.2 There are no plans to reduce expenditure on these services with expenditure likely to increase with the growth of personalisation. The total 2017/18 budget is £334,000 and any cost reductions as a result of changes to the DPS framework are likely to offset additional demand related cost increases.

7. Legal implications

- 7.1 All new service contracts will be evidenced by a written contract, in a form approved by the Head of Legal and Democratic Services and shall be made and executed in accordance with the Council's Contract Rules.

8. Procurement Implications/Social Value

- 8.1 The procurement process will be conducted via the Councils' e-procurement portal, in accordance with the Public Contract Regulations 2015, the Council's Contract Rules and Social Value Policy.

8.2 Steps will be taken to minimise procurement-related risk. However, there will always remain an inherent risk of legal challenge associated with any procurement undertaken by the Council.

8.3 Input has and will continue to be sought from Procurement and Legal Services, as required to ensure the conduct of compliant procurement process.

9. Property implications

9.1 No Council property assets are implicated by the proposals in the report.

10. Health and wellbeing implications

10.1 Continuing to provide a DPSS will enable the Council to promote independence choice and control for adults and children who live in the community and are eligible for a direct payment. This in turn may improve the quality of service provision, leading to better outcomes for individuals. It also links and contributes to the Council's corporate priority 'Lifelong health wealth and happiness',

11. Staffing implications

11.1 There are no direct staffing implications for the Council; however TUPE may apply between outgoing and incoming providers in the event that the tender results in a change of service provider. The Council will facilitate the dispatch of TUPE information which has been received from the existing provider as part of the procurement process to enable bidders to consider and respond accordingly.

12. Equality implications

12.1 An equality impact assessment has been undertaken and is attached as **Appendix A** to this report. It recommends that the Council continues with its proposals but undertakes two actions listed below:

- Regular contract monitoring through ASC Contract Management framework and Children's forum to review performance and screen for any unexpected equality impact of the DPSS provider.
- Access, Assessment & Care Management review support plan raise and issues with quality/satisfaction to enable commissioning to share good practice and address concerns.

13. Consultation

13.1 Exiting providers were advised in February 2017 that the service would be going out to tender during 2017 to replaced the existing framework which is due to end 5 October 2017. During February/March 2017 consultation has taken place with existing service users/carers, social care staff and existing DPSS providers to provide feedback on the exiting service and to identify areas for improvement. Information gathered revealed that DPSS's contacted DPR's as and when required; DPR's valued the support provided by DPSS which reassured them that they were spending their DP appropriately and social care staff confirmed that level 1 support was very low level which did not require a weekly support fee. This supported the move to a fixed fee for level 1 support providing up to 4 hours support to retain this low level support.

13.2 Consultation with existing DPSS providers confirmed proposed fee levels were sustainable. It also outlined the need to specify the requirement for face to face visits on receipt of a referral and clarify the DPSS's responsibility around ensuring the DPR pays their client contribution.

13.3 A communication plan will be developed to ensure clear and consistent messages are delivered to service users, carers, providers and staff.

Background papers

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Paula Furnival
Executive Director

18 July 2017



Councillor Diane Coughlan
Portfolio Holder for Social Care

18 July 2017

Equality Impact Assessment (EqIA) for Policies, Procedures and Services

Proposal name	Direct Payment Support Service (DPSS) Tender 2017		
Directorate	Adult Social Care		
Service	Adult Social Care Commissioning		
Responsible Officer	Paula Furnival		
EqIA Author	Tracy Simcox		
Proposal planning start	Ongoing November 2016	Proposal start date (due or actual)	April 2017 Updated 23 May 2017

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1	What is the purpose of the proposal?		Yes / No	New / revision
	Policy		No	
	Procedure		No	
	Internal service		No	
	External Service		Yes	Revision
	Other - give details			
2	What are the intended outcomes, reasons for change? (The business case)			
	<p>What is the intended outcome? To award a new framework for the provision of DPSS services, for a period of two years, with the option to extend on an annual basis for a further period of up to two years, which will replace the existing framework which ends on 5 October 2017.</p> <p>Reasons for change? The existing framework ends on 5 October 2017, and there are no further options to extend. Furthermore as the current combined value of this exiting framework is in the region of £302k per annum for Adult Social Care and Children's Services, EU Procurement Regulations and the Council's current Contract Rules would require this service to be tendered.</p>			
3	Who is the proposal potential likely to affect?			
	People in Walsall	Yes / No	Detail	
	All	N		
	Specific group/s	N		
	Other	Y	Existing and future direct payment recipients and existing DPSS staff	
4	Summarise your evidence, engagement and consultation.			
	Exiting providers were advised in February 2017 that the service would be going out to tender during 2017 to replaced the existing framework which is due to end 5 October 2017. During February/March 2017 consultation has taken place with existing service users/carers and social care staff to provide feedback on the exiting service and to identify areas for improvement. Approximately a third of service users were sent			



questionnaires and social care staff were consulted with through team briefings:
 South & West locality attended 1.3.17
 IDT attended 8.3.17
 North Locality attended 30.3.17

77 out of 182 Direct Payment recipients (DPRs) completed questionnaires which represented a 42% response rate. 49% of DPRs used their DP to employ a PA, 29% to engage a care agency and 12% for day care.

DPRs stated that DPSS's contacted them as a when required, 91% said their DPSS responded in a timely manner. The majority were satisfied with the service but some DPRs could do with more frequent contact. DPR's noted that this service was important to them because it provided:

- Guidance and support with payroll, employment support, pension responsibilities
- Managed payments and invoices
- DPR with support manage DPs and provided 'peace of mind' through conducting annual audits of accounts.
- DPR with support through answering ad-hoc queries

Social Care staff accepted that changing level 1 payment arrangements from a weekly fee to a fixed fee would deliver better value. They were reluctant to remove this level of support due to the impact it may have on their workload. Social workers noted that where a DPR was receiving support that DPSS must be clear that it is their responsibility to recruit the PA or contact them to convert the support to a Level 1 or 3 where they have been unable to successfully recruit a PA within a reasonable timescale.

Existing DPSS were consulted on 30.3.17 with regards to the proposed change to introduce a fixed fee for level one, sustainability of existing fees, need for all referrals to receive a face to face visit on receipt of referral, net payments and the responsibility of DPSS to ensure DPR pay their contribution within 2 months of receiving this information to ensure the DP continues and clarity non Quality Question word limited when bidding for more than one support level.

Information gathered from the above consultations has been used to shape the service specifications. A communication plan will be developed to ensure clear and consistent messages are delivered to service users, carers, providers and staff.

5	How may the proposal affect each protected characteristic or group? The affect may be positive, negative or neutral.			
	Characteristic	Affect	Reason	Action needed Y or N
	Age	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Disability	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per	N

			level of support.	
	Gender reassignment	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Marriage and civil partnership	Neutral	No significant impact foreseen.	N
	Pregnancy and maternity	Neutral	No significant impact foreseen.	N
	Race	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Religion or belief	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Sex	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Sexual orientation	Neutral	DP recipients requiring support services will continue to be offered a choice of support provider, up to 3 providers per level of support.	N
	Other (give detail)	Parents/carers of children in receipt of direct payments. Again this tender should have a neutral impact. The new framework will continue to choice of support provider, up to 3 providers per level of support.		N
	Further information	CCG Children patients – this tender should have a neutral impact. The new framework will continue to choice of support provider, up to 3 providers per level of support.		
6	Does your proposal link with other proposals to have a cumulative affect on particular equality groups? If yes, give details below.			(Delete one) No
	N/A			
7	Which justifiable action does the evidence, engagement and consultation suggest you take? (Bold which one applies)			
	A	No major change required		
	B	Adjustments needed to remove barriers or to better promote equality		
	C	Continue despite possible adverse impact		
	D	Stop and rethink your proposal		

Action and monitoring plan

Action Date	Action	Responsibility	Outcome Date	Outcome
Ongoing	Regular contract monitoring through the Adult Social Care's Contract Management framework and Children's forum to review performance, and screen for any unexpected equality impact of the DPSS provider	Older People & Vulnerable Adults Commissioning	Ongoing	Areas of good practice shared with other DPSS providers and poor practice/areas of concern addressed and learning embedded to ensure no unexpected equality impact.
Ongoing	Support Plan Review will identify issues of quality/satisfaction	Older People & Vulnerable Adults Commissioning	Ongoing	Areas of good practice shared with other DPSS providers and poor practice/areas of concern addressed and learning embedded to ensure no unexpected equality impact.