

CYNGOR SIR POWYS COUNTY COUNCIL.

PORTFOLIO HOLDER DELEGATED DECISION

By

Councillor Stephen Hayes (Portfolio Holder for Adult Social Care)

27th July 2018

**REPORT AUTHOR: Dylan Owen
Head of Transformation for Adult Services**

**SUBJECT: Reshaping the procurement of Home Care support
through the use of a Dynamic Purchasing System**

REPORT FOR: Decision

1. Summary

1.1 Further to the Portfolio Holder for Adult Social Care's delegated approval on 20th July 2017 for the Head of Transformation to undertake market engagement to explore the relative merits of implementing a Dynamic Purchasing System (DPS) for the future commissioning of domiciliary care, the purpose of this report is to:

- Outline the outcome of the market engagement process;
- Seek approval to create an approved electronic framework of Home Care support providers as a DPS for a range of home support services, including domiciliary care in Powys;
- Seek approval to extend the scope of the proposed DPS to enable all public bodies to be able to use the DPS in the future should this be beneficial.

1.2 It is proposed that the DPS will support the future procurement of the following home care services within separate lots: A description of what a Dynamic Purchasing System is, is included within Appendix 1 of this report.

- **Generic domiciliary care**
 - Domiciliary Care, including people with dementia (Town & Rural)
 - Domiciliary Care, including people with dementia (Remote Rural)

Split into two geographic areas, composed of the following community areas:

- North = North East, North West and North Central
- South = Mid East, Mid West, South Central and South West

- **Specialist domiciliary care**, operating county wide and not split into geographic areas
 - Domiciliary Care, including people with advanced dementia or mental ill health
 - Domiciliary Care for people with are terminally ill or have a life limiting illness
 - Domiciliary Care for people with a Physical Disabilities and/or Long Term Conditions
 - Domiciliary Care for people with Sensory Impairment(s)

Other related home care services

- (operating county-wide) Home Based Respite (Home Sitting Service)
- 24 hour live-in support (including sleep-ins)
- Overnight care
- Befriending Services
- Community Based Support (Disability Services)
- Return from Hospital
- Reablement Services (Rehabilitation support)
- Day Time Activities
- Home Based Support
- 24/7 Rapid response / Telecare
- Substance misuse / harm reduction services

1.3 The cumulative Home Care budget figure for 2018/19 to provide these services is approximately £10.5 m. At the end of April 2018 existing commissioned hours are

Domiciliary care - 854 clients, 11,762 hrs
 Live-in - 7 clients, 1,028 hrs,
 HBR - 61 clients 330 hrs

1.4 The purpose of the DPS is to:

- replace the existing Supplier Framework and Spot Contracting arrangements held with external providers with an additional, more dynamic and flexible engagement route with the authority
- ensure our supply pool of providers is able to grow sustainably and flexibly to deliver the requirements now and for the future
- support adding social, environmental and economic value through good procurement practice
- ensure that the Council has access to consistent high quality care providers
- ensure that the Council secures best 'market value' in terms of cost and quality of service, driving out any potential cost savings
- provide equality of opportunity to the external providers

- provide a more robust mechanism to avoid non-compliance and negate use of spot contracts; thereby reducing scope for inequality of access and outcomes.
- 1.5 Subject to the procurement timetable it is anticipated that the DPS will be rolled out first in South West Powys. Following an initial evaluation of the DPS's effectiveness, it is anticipated that rollout across the county in 2019.
 - 1.6 Once implemented, it is proposed that no single provider will be commissioned to provide more than a cumulative 45% of domiciliary town and rural care hours commissioned within any DPS. This restriction does not apply to 'Remote Rural' care packages commissioned within the remote rural DPS lots. This is to support the improved risk management of services, and to reduce the potential of any one provider becoming 'too big to fail'.

2. Background

- 2.1 The current procurement of care and support from external providers is done in a range of different ways including legacy individual placement agreements from the previous framework contracting arrangements, 'spot purchasing' of individual care packages as well as facilitating users to take direct payments and self-manage their care and support arrangements. These contracts are subject to the Public Contract Regulations 2015 though for the service the 'Light Touch' procedure can be applied to the procurement. This means that the Council can apply the rules more flexibly and set the rules for the procurement in the interest of the services and its clients so long as the Treaty principles of non-discrimination, proportionality equality and transparency are observed.
- 2.2 Within current arrangements, domiciliary care is provided in North Powys predominately via contracts previously let under 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 12 external providers and the Powys In-House Domiciliary Care Service. As a result, the majority of domiciliary care services are procured using spot contracts and are therefore not compliant with the PCR2015 regulations.
- 2.3 In June 2017, the Portfolio Holder for Adult Social Care agreed that officers should explore the benefits and opportunities achievable from the development of a DPS for domiciliary care and similar support services. This work also included undertaking appropriate market engagement to assess the viability of a DPS.

2.4 A formal market development event was held on 28th September 2017. The event was well attended, and included both existing Powys domiciliary care providers, and domiciliary care providers who are currently not commissioned by the Council to provide domiciliary care in Powys. The outcome of the market development event, together with wider market development work undertaken suggests that there was general support from the majority of providers for both the introduction of a DPS, and for maintaining continuity of care, with new packages only initially being procured via the DPS system. However, providers highlighted that need for further consideration of the following areas before proceeding:

- The proposed duration of a DPS. Initial thoughts within the workshop was for a five year DPS, with agreed review periods built in to enable changes / an extension to be introduced alongside any price revisions necessary;
- Need to be clear on definition of what a new package is. For example, whether an existing service users being discharged from hospital would require a new packages to be agreed;
- The range of services and the number of hours to be included with a DPS required to support providers to maintain / develop financial sustainability and support workforce retention;
- The cost effectiveness and sustainability of a DPS for the Council compared to standard framework contracts was also raised. Therefore in addition to the above efficiency measures introduced as part of the DPS to ensure cost effectiveness for providers would therefore also take in to consideration the council's financial position.
- If Electronic Call Monitoring (ECM) was to be used, this could reduce providers' invoicing costs, but would need to include 'tolerances' to ensure calls were not paid on a minute by minute basis which could negate any such financial benefits;
- How service user choice will be built in the DPS, and how the service provided will support a move away from time and task service provision to a more Outcome based service;
- Whether additional flexibility could be built in to the system for both service users and providers via the introduction of call banding;
- Package award process needs to be clearly defined, and initial DPS information provided to providers regarding individual packages needs to be as detailed as possible to permit clarity of decision making on successful provider, and to allow the providers to bid appropriately for packages of care.

2.5 Further market engagement has been undertaken within provider forums, which has helped to shape the DPS proposals within this report

including the nature of DPS lots, geographic zoning, and the proposals to pilot the DPS ahead of a wider rollout.

- 2.6 Whilst significant improvements have been made in the provision of domiciliary care services over the past 36 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. Work is ongoing within the service to both develop the necessary capacity across North Powys and to adjust capacity in South Powys to enable the service to fully undertake this role.

3. Proposal

- 3.1 This report seeks agreement to develop and implement 3 formal approved provider lists in the form of a Dynamic Purchasing System (DPS) with multiple lots within each DPS, through which the future procurement of a range of home care support will be procured.

The initial proposed DPS systems, and the proposed lots within them are:

1. North Powys
 - Domiciliary Care, including people with dementia (Town)
 - Domiciliary Care, including people with dementia (Rural)
 - Domiciliary Care, including people with dementia (Remote Rural).
2. South Powys
 - Domiciliary Care, including people with dementia (Town)
 - Domiciliary Care, including people with dementia (Rural)
 - Domiciliary Care, including people with dementia (Remote Rural).
3. Specialist county-wide Services
 - Domiciliary Care, including people with advanced dementia or mental ill health
 - Domiciliary Care for people with are terminally ill or have a life limiting illness
 - Home Based Respite (Home Sitting Service)
 - Befriending Services
 - Community Based Support (Disability Services)
 - Return from Hospital

- Reablement Services (Rehabilitation support)
- Day Time Activities
- Home Based Support
- 24/7 Rapid response / Telecare
- 24 hour live-in support (including sleep-ins)
- Substance misuse / harm reduction services

Flexibility will be built in to each DPS to revise / add additional service in to the DPS are required following each period review.

- 3.2 Providers will be able to join all DPS's should they wish to, however, providers who would prefer to focus on one of more DPS's would be able to join just those areas if they prefer. The development of the DPSs will enable providers to just join that DPS which is most relevant to them. This would enable providers to focus on specific geographic areas of interest, without the need to receive details of package of care in areas of no interest to them. Within each on the geographic areas, it is proposed that care packages will be commissioned in one of 9 time bands throughout a 24 hour period.

- Band 1: 6.45am to 8.30am
- Band 2: 8.30am to 10.30am
- Band 3: 10.30am to 12noon
- Band 4: 12 noon to 1.30pm
- Band 5: 1.30pm to 3pm
- Band 6: 3pm to 6pm
- Band 7: 6pm to 7.30pm
- Band 8: 7.30pm to 9pm
- Band 9: 9pm to 10.30pm

- 3.3 A DPS is a procedure available for the contracts of works, services and goods available from the marketplace. A DPS has similar aspects to a framework agreement, but, subject to key criteria being met, allow an unlimited number of suppliers to join the scheme at any time, and are completely electronic processes.
- 3.4 Theoretically a DPS could run indefinitely, however, following engagement with the market, it is recommended that the DPS is initially run for 10 years with an option to extend for a further 5 years subject to bi-annual reviews to ensure that arrangements continue to provide the best outcomes in light of any changes in circumstances. A fuller overview of a Dynamic Purchasing System is included within Appendix 1 of this report.
- 3.5 The use of approved provider lists in the form of a Dynamic Purchasing System would not differ greatly from the existing system used, but would move existing arrangements toward adherence with EU procurement regulations. The DPS would also allow the County Council to standardise existing procurement arrangements, and support commissioners to develop Powys's care markets in a more

flexible and sustainable manner. Improvement include operation of electronic call systems aligned to each DPS to improve the efficiency of council payment systems, and to monitor actual service delivery. The DPS's will also minimise all future off-contract spend as each DPS will remain open for additional suppliers to join.

Setting up the DPS

- 3.6 Setting up the DPS would be undertaken 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 will be required to undertake a qualification process covering both financial and quality aspects. To support Powys' ongoing market viability, the cumulative number of hours commissioned from individual providers will be regularly reviewed alongside their respective financial sustainability to help maintain appropriate liquidity / cash flow.
- 3.7 Once a provider has been included on the DPS(s), providers will then be able to bid for care packages commissioned via the DPS. Bids received for care packages will then be assessed using both cost and quality measures. It is proposed that this will be undertaken using the Bravo eTender Wales portal (or an alternative suitable corporate system in the future), and will be fully compliant with EU procurement regulations. The procurement process will be open, fair and transparent in compliance with the County Council's Standing Orders on Procurement and Contracts and the Public Contract Regulations 2015.
- 3.8 To ensure best value for money the DPS requires that opportunities to bid on all care packages are referred to all qualified suppliers for that type of service, similar to the current mini competition. The County Council will then select the best value offer from the provider by assessing a combination of quality and cost. Where it would aid cost effectiveness or service efficiency, 'runs' or multiple care packages within defined geographic areas or thematic considerations may be tendered rather than individual care packages. Whilst it is not intended to recommission existing care packages at present. it is anticipated that some runs may at some time in the future may include a number of existing care packages alongside new care packages being commissioned for the first time.
- 3.9 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.

- 3.10 The initial quality score achieved by providers on entering the DPS will be regularly reviewed. Where appropriate individual provider's quality score may be adjusted at this time to reflect the quality of support provided over time. Aspects of quality considered as part of this process will include for example, customer feedback on the quality of support provided and the number of valid concerns against providers received by Adult Social Care commissioners.
- 3.11 In line with best practice, it is proposed that any significant change to the way domiciliary care is procured should be carefully trialled and evaluated to ensure effectiveness of processes before wide scale changes are made county-wide. This is to enable managers to oversee system change, and to implement any requires changes in processes quickly and safely. A review of domiciliary care provision, indicates that the South West area would provide a location to pilot the new DPS. This is because the South West area is clearly defined, and the relatively low number of new domiciliary care packages commissioned would enable commissioners to carefully manage the implementation of the DPS, without risk of any new systems becoming over loaded.
- 3.12 As the DPS will be run using Bravo (or any subsequent replacement service), 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.
- 3.13 It is currently intended to manage the North and South DPS systems via the existing Brokerage Team. Piloting the DPS initially within a clearly defined geographic area will enable managers to assess any required changes to the Brokerage Team structure, and to adjust it as appropriate ahead of full implementation. It should also be noted that as the number and complexity of services commissioned through DPS increase, the capacity of the Brokerage Team will need to be enhanced to enable the additional work to be undertaken. As each of these DPS lots are developed, any additional resource requirement will be identified and agreed with the Head of Service prior to launching the DPS lot(s) in question.
- 3.14 A DPS can also be used in conjunction with other contracting methods in the future should this be desirable. In the spirit of collaborative working and the shared service agenda the DPS should therefore be made available to other permitted public bodies in accordance with the Public Contract Regulations 2015 within the geographical boundaries of Powys.

- 3.15 Whilst the Council would benefit from being able to use the DPS to procure the above services in the future, the Council can choose when to use the DPS and when it would perhaps prefer to procure services through different mechanism. Implementation of DPS therefore increases the range and flexibility of procurement options open to the Council.
- 3.16 All of the above Home Care support services 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.

4. Options Considered / Available

- 4.1 Following a review of market engagement outcomes, an options appraisal was undertaken to further consider viable options for the future commissioning of home care support. Options considered included:

1. Do nothing: Continue with existing contracting arrangements.

This Option is not recommended as the 2014 North Powys Framework ended in March 2018. Existing spot contract arrangements do not adhere to current EU procurement regulations. Therefore existing arrangements are not sustainable.

- 2a. Review the operation of the Individual Placement Agreements that continue to be delivered under the previous North Powys Framework, and develop / retender a number of appropriately sized and geographically targeted Domiciliary Care Frameworks across Powys. Frameworks to include existing and new care packages.

This Option is not recommended. 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. There would be a high risk of loss of continuity of care. 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 Powys, thereby providing additional capacity across some remote rural areas where there is limited alternative private sector capacity.

- 2b. Review the operation of the Individual Placement Agreements that continue to be delivered under the previous North Powys Framework, and develop / tender a number of appropriately sized and geographically targeted Domiciliary Care Frameworks across Powys.

Frameworks would include new packages of care only, and existing contractual arrangements maintained for existing customers

This Option is not recommended. 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.

Frameworks for new packages of care only would not provide any guarantees of work on which providers could develop business models. If all new care packages were entered on to the new frameworks, existing care runs would become inefficient / unsustainable as holes within runs emerge. 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 Powys, thereby providing additional capacity across some remote rural areas where there is limited alternative private sector capacity.

- 3a Develop and implement an Approved Provider list using Dynamic Purchasing System mechanisms. DPS to include existing and new care packages.

This option is not recommended as it does not maintain continuity of care. This option would develop and implement an Approved Provider list using Dynamic Purchasing System to commission all existing and future domiciliary and wider home care support. Consideration will 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.

Within a single DPS, all providers eligible to receive details of tendered care packages would receive details of all tendered packages whether they provide services in specific geographic areas or not. It is considered that this would be wasteful of some providers' resources in considering packages in which they have no interest in bidding.

- 3b Develop and implement one Approved Provider list using Dynamic Purchasing System mechanisms. DPS to include new care packages only and continue to operate current contractual arrangements for existing customers.

This Option is not recommended. This option would develop and implement an Approved Provider list using Dynamic Purchasing System to commission all future domiciliary and wider home care support only. Consideration will 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.

Within a single DPS, all providers eligible to receive details of tendered care packages would receive details of all tendered packages whether they provide services in specific geographic areas / specialisms or not. It is considered that this would be wasteful of some providers' resources in considering packages in which they have no interest in bidding.

- 4a Develop and implement Approved Provider lists using Dynamic Purchasing System mechanisms to include existing and new care packages.

This Option is not recommended as it does not maintain continuity of care for residents. This option would develop and implement two Approved Provider lists using Dynamic Purchasing Systems (North Powys and South Powys) to commission future domiciliary and wider home care support. Consideration will 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.

- 4b Develop and implement multiple Approved Provider lists using Dynamic Purchasing System mechanisms. DPS's to include new care packages only, and continue to operate current contractual arrangements for existing customers where care needs have not changed.

This Option is recommended as it both maintains continuity of care for residents, and because it would develop and implement multiple Approved Provider lists using Dynamic Purchasing Systems, (North Powys, South Powys and Specialist domiciliary care) which permits providers to choose whether they wish to receive details of all care packages being tendered, or to receive only details of packages in areas of interest. This option also supports the development of specialist care markets targeted to support the needs of residents across the county.

Consideration will 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.

5. Increase the capacity of the In-House Domiciliary Care Service and bring the provision of all domiciliary care across Powys In-House.

Increasing the capacity of the In-House Domiciliary Care service to bring all domiciliary care support in-house would not maintain continuity of care, and is not recommended as part of this consideration. However, an increase in the capacity of the In-House Domiciliary Care service may be required to ensure appropriate access to support is maintained across localities as contingency whilst alternative external market capacity is developed.

4.2 Preferred Choice and Reasons

- 4.2.1 Option 4b: Develop and implement an Approved Provider list using a Dynamic Purchasing System mechanism. DPS's to include new care packages only, and continue to operate current contractual arrangements for existing customers.

A summary of the option scoring matrix is attached at Appendix 2.

- 4.2.2 All providers would be eligible to join all DPS's if they wish to. However, for providers who do not wish to operate county-wide, could choose which DPS to join; thereby concentrating the specific care package details received by providers to those care packages in which they have an economic interest. The development of multiple DPS's would also permit providers currently only working across one half of Powys to more easily understand and identify additional business opportunities outside of their traditional working areas. It is anticipated that this opportunity could benefit both providers, and the Council if it encourages additional capacity to be created by providers seeking to expand their current geographic areas of work. Over time, as people cease to require future support or their care needs change, support commissioned via current contractual arrangements will reduce in prevalence, until ultimately being replaced by the new DPS arrangements proposed for new clients. Any existing care packages that have not be recommissioned within the 21 months of the DPS system, will be recommissioned in the following quarter with a view of all existing care packages having been commissioned under the new DPS within 2 years of its implementation.

- 4.2.3 During the 2 year transition period to the new DPS system, the cost of existing Spot Contracts, and Framework Individual Placement Agreements will continue to be monitored, and bench marked against hourly rates sort by providers via the DPS. Where appropriate, inflation increase request to the Portfolio Holder / Cabinet may be made within the 2 year period to revise fees payable on existing spot contracts or Framework Individual Placement Agreements if this is considered necessary to maintain market viability.

4.2.4 Operating the DPS systems in this way, would also 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.

Anticipated Benefits

4.3 This above commissioned care, along with other services, postpones the need for residential care 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

4.4 Other anticipated benefits of utilising the system to commission future home care support services are:

- The home care support 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.
- It is anticipated that within ceiling and floor prices (to be reviewed annually) agreed as part of the DPS, prices would remain current, as providers submit prices for individual packages rather than a fixed rate at the beginning of the financial year.

4.5 The intention is to ensure the delivery of an affordable service that is best value for money for residents. Package will be awarded using a 60:40 quality and cost evaluation criteria. Additional quality criteria scores that will be applied each year to provider's bids may include for example:

- a) customer feedback in the form of 'net promoter score'
- b) feedback from both the Council's formal monitor and Provider Performance Framework

- c) reliability score calculated from real time late / missed calls evidenced from Electronic Call Monitoring.

Providers within their first year of membership of the DPS will be allocated a score for each of the above 3 additional quality criteria. This score will be updated periodically once a provider has been a member of the DPS for a year, and commissioners have been able to calculate a provider specific score from care packages provided by the provider throughout the previous 12 month period.

- 4.6 Risks will be managed through the design of the procurement strategy that will protect the interests of the County Council and take into account local market capacities.
- 4.7 The quality of the delivery will be monitored through robust contract and performance management. Observations of service delivery and ultimately service user feedback will also be used. This will ensure the quality and delivery of the commissioned care meets residents' assessed needs.
- 4.8 The procurement process will be run in accordance with best practice procurement principles to reduce risk of challenge or non-compliance with the relevant 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.
- 4.9 A risk log will be developed to mitigate risks associated with the procurement process. The risk log will be dynamic to reflect the progress of the DPS and will be managed by the commissioning manager for domiciliary care.
- 4.10 Initially, the DPS will be used to procure domiciliary care service, and to subsequently evaluate the successfulness of the procurement process before utilising the DPS to procure other services. To aid clarity, the following section provides a brief overview of the Powys Domiciliary Care Market

The Powys Domiciliary Care Market

- 4.13 Powys County Council currently supports around 854 people, commissioning around 11,762 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.

- 4.14 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 support people where it is not possible to commission external support, particularly within areas where there is currently no alternative private sector provider.

5. Impact Assessment

5.1 Is an impact assessment required? Yes

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)

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

Finance: The Finance Manager notes the content of the report which is to seek approval to pilot three areas of a Dynamic Purchasing System (DPS) for Home Care, then evaluate. It is essential that the financial viability of the organisations are considered before a provider becomes approved. Additionally, consideration should be given to the application of a floor and ceiling to the cost structure, potentially for internal use only as a bench mark to ensure the overall service can be maintained within the available financial envelope.

Corporate Property: No comments received

HR support this proposal. There are no implications for Powys County Council employees.

ICT: No comments received

Business Support: Business Support representatives have been involved in the Domiciliary Care Project Team. They have contributed to discussions on the creation of an approved electronic framework of Home Care support providers as a Dynamic Purchasing System (DPS) and are supportive of the preferred option and recommendations.

11. Scrutiny

Has this report been scrutinised? Yes

11.1 An earlier, preparatory report seeking agreement to explore the potential of implementing a DPS was however 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) commented as follows :
“ I note the legal comments and have nothing to add to the report.”

12.2 (The Strategic Director Resources (Section 151 Officer) has commented as follows

13. Members' Interests

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

Recommendation:	Reason for Recommendation:
<ol style="list-style-type: none"> 1. Subject to recommendation 2 below, the Head of Transformation, Adult Services is authorised to implement three Dynamic Purchasing Systems for the future commissioning of home care support services across Powys as set out in paragraph 3.1 of the report. 2. In establishing the North and South Domiciliary Care DPS' the Head of Transformation, Adult Services is required to pilot and evaluate the success of the DPS for the future procurement of domiciliary care services in South West Powys before extending its rollout to other areas across Powys. 3. The Head of Transformation, Adult Services is asked to report on significant opportunities / weaknesses or barriers to the ongoing use of the DPS identified during the pilot to the Health Care and Housing Committee before seeking approval of the Portfolio Holder for Adult Service to extend its use to other areas. 4. The DPS system should be available to be used by all public bodies in Powys who wish to do so at their risk. 	<ul style="list-style-type: none"> • The development of geographic and specialist DPS's will support providers to develop market capacity within the specific areas of Powys that they wish to continue to develop their business in. • To pilot the use of, and to evaluate the success of using a DPS before rolling the system out across Powys. • To assess the viability / market response to the Dynamic Purchasing System, and to revise its use should this be necessary.

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:	September 2018

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Background Papers used to prepare Report:

DELEGATED DECISION REPORT TEMPLATE VERSION 52

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.

Option Appraisal & Scoring Matrix

Home Care: Options Scoring

Option	Pros	Cons
1. Do nothing: Continue with existing contracting arrangements.	<ol style="list-style-type: none"> 1. Existing contractual arrangements are known. 2. Would maintain continuity of care. 3. Projected future cost of care can be estimated. 	<ol style="list-style-type: none"> 1. Existing contractual arrangements are not compliant with EU Procurement regulations. 2. The North Powys Framework ended in March 2018. 3. Current arrangements do not ensure that all care packages can be successfully 'brokered'. 4. Does not comply with Public Contract Regulations 2015. 5. The In-House service does not yet operate in North Powys. Therefore there would be no 'provider of last resort' if frameworks covering some remote rural areas are not tendered for.
2a. Review the operation of the North Powys Framework, and develop / retender a number of appropriately sized and geographically targeted Domiciliary Care Frameworks	<ol style="list-style-type: none"> 1. Could achieve economies of scale compared to existing spot contract arrangements. 2. Could support geographic development of Powys care markets. 	<ol style="list-style-type: none"> 1. This model failed in 2014. There is therefore a significant reputation risk if tender was not successful. 2. Could lead to loss of a number of providers currently working in Powys.

<p>across Powys. Frameworks to include existing and new care packages.</p>	<ol style="list-style-type: none"> 3. This model successfully operates across many Councils. 4. Could encourage large national providers to move and work in Powys. 5. The Council can influence the number of providers operating in individual communities, thereby increasing its influence over the sustainability of commissioned providers. 6. Frameworks could be developed to ensure providers have to pick up all care packages, irrespective of location. 	<ol style="list-style-type: none"> 3. Would not secure continuity of care. 4. Risk to maintaining workforce if staff are TUPED. 5. Further market development work is considered necessary to ensure safe, sustainable market capacity is maintained across Powys. 6. The In-House service does not yet operate in North Powys. Therefore there would be no 'provider of last resort' if frameworks covering some remote rural areas are not tendered for. 7.
<p>2b. Review the operation of the North Powys Framework, and develop / tender a number of appropriately sized and geographically targeted Domiciliary Care Frameworks across Powys. Frameworks would include new packages of care only, and existing contractual arrangements maintained for existing customers</p>	<ol style="list-style-type: none"> 1. Would initially maintain continuity of care. 2. Could achieve economies of scale compared to existing spot contract arrangements. 3. Could support geographic development of Powys care markets. 4. Framework contracts successfully operate across many Councils. 5. Could encourage large national providers to move and work in Powys. 6. The Council can influence the number of providers operating in individual communities, thereby increasing its influence over the sustainability of commissioned providers. 7. Frameworks could be developed to ensure providers have to pick up all care packages, irrespective of location. 	<ol style="list-style-type: none"> 1. Framework contracts failed in 2014. There is therefore a significant reputation risk if tender was not successful. 2. Could lead to loss of a number of providers currently working in Powys. 3. Would not secure continuity of care as existing provider runs likely to fail over time as some people on them ceased to need care. 4. Risk to maintaining workforce if staff are TUPED. 5. Further market development work is considered necessary to ensure safe, sustainable market capacity is maintained across Powys. 6. The In-House service does not yet operate in North Powys. Therefore there would be no 'provider of last resort' if

		frameworks covering some remote rural areas are not tendered for.
3a. Develop and implement an Approved Provider list using Dynamic Purchasing System mechanisms. DPS to include existing and new care packages.	<ol style="list-style-type: none"> 1. Would provide flexible county-wide contracting arrangements. 2. DPS's are successfully used in a number of Council to procure a range of services. 3. Inclusion 'runs' for tendering may introduce cost efficiencies by building some economies of scales for providers. 4. Could be used to procure a wide range of services. 5. DPS's remain open, allowing new providers to enter the DPS at any time. 6. A DPS is not constrained by the 4 year time limit of Frameworks. 7. Flexibility can be built in to allow DPS's to be revised over time. 8. Flexibility can be built in to allow other public bodies to use the DPS in the future. 	<ol style="list-style-type: none"> 1. Would not maintain continuity of care, and transfer of care packages across providers. 2. Providers would receive details of all packages of care being tendered. This could lead to waste of provider resources. 3. Providers may overlook a package of care that they are interest in tendering for if it is mixed in with large amounts of care package details that they are not interested in tendering for. 4. Unlikely to be as cost effective as Framework contracts that generally provide greater economies of scale. 5. It will be more difficult to estimate future service costs. 6. Unless 'blocks of works' (geographic or thematic' are tendered, there is no guarantee that packages of care will be pick up by a provider. 7. In-House Domiciliary Care service does not currently operate in North Powys. There is therefore no 'provider of last resort' across North Powys. 8. DPS's have not been used to procure domiciliary care in Powys before. 9. No guarantee that all existing providers or new providers will sign up for inclusion on the DPS.

		10. May result in existing providers runs becoming less cost effective as holes in runs appear.
3b. Develop and implement an Approved Provider list using Dynamic Purchasing System mechanisms. DPS to include new care packages only.	<ol style="list-style-type: none"> 1. Would provide flexible county-wide contracting arrangements. 2. DPS's are successfully used in a number of Council to procure a range of services. 3. Would maintain continuity of care for existing service uses. 4. Inclusion of 'runs' for tendering may introduce cost efficiencies by building some economies of scales for providers. 5. New and existing contracting arrangements could operate in tandem 6. Could be used to procure a wide range of services. 7. DPS's remain open, allowing new providers to enter the DPS at any time. 8. A DPS is not constrained by the 4 year time limit of Frameworks. 9. Flexibility can be built in to allow DPS's to be revised over time. 10. Flexibility can be built in to allow other public bodies to use the DPS in the future. 	<ol style="list-style-type: none"> 1. Providers would receive details of all packages of care being tendered. This could lead to waste of provider resources. 2. Providers may overlook a package of care that they are interest in tendering for if it is mixed in with large amounts of care package details that they are not interested in tendering for. 3. Unlikely to be as cost effective as Framework contracts that generally provide greater economies of scale. 4. Would require two contracting arrangement to operate at the same time (existing contracts, and new DPS arrangements). 5. It will be more difficult to estimate future service costs. 6. Unless 'blocks of works' (geographic or thematic) are tendered, there is no guarantee that packages of care will be pick up by a provider. 7. In-House Domiciliary Care service does not currently operate in North Powys. There is therefore no 'provider of last resort' across North Powys. 8. DPS have not been used to procure domiciliary care in Powys before. 9. No guarantee that all existing providers

		<p>or new providers will sign up for inclusion on the DPS</p> <p>10. Initially existing care packages would not be compliant with PCR2015 but over time as more packages are let n not be compliant with PCR2015 as contract and packages are let under the new arrangements the position will correct and become compliant</p> <p>11. The In-House service does not yet operate in North Powys. Therefore there would be no 'provider of last resort' if frameworks covering some remote rural areas are not tendered for.</p>
<p>4a. Develop and implement two or more Approved Provider lists using Dynamic Purchasing System mechanisms. DPS to include existing and new care packages.</p>	<ol style="list-style-type: none"> 1. Would provide flexible county-wide contracting arrangements. 2. DPS's are successfully used in a number of Council to procure a range of services. 3. Providers would be able join one or both DPS 4. Inclusion of 'runs' for tendering may introduce cost efficiencies by building some economies of scales for providers. 5. Could be used to procure a wide range of services. 6. DPS's remain open, allowing new providers to enter the DPS at any time. 7. A DPS is not constrained by the 4 year time limit of Frameworks. 8. Flexibility can be built in to allow DPS's 	<ol style="list-style-type: none"> 1. Would not secure continuity of care, and transfer of care packages to new providers. 2. Unlikely to be as cost effective as Framework contracts that generally provide greater economies of scale. 3. It will be more difficult to estimate future service costs. 4. Unless 'blocks of works' (geographic or thematic) are tendered, there is no guarantee that packages of care will be pick up by a provider. 5. In-House Domiciliary Care service does not currently operate in North Powys. There is therefore no 'provider of last resort' across North Powys. 6. DPS have not been used to procure domiciliary care in Powys before.

	<p>to be revised over time.</p> <p>9. Flexibility can be built in to allow other public bodies to use the DPS in the future.</p>	<p>7. No guarantee that all existing providers or new providers will sign up for inclusion on the DPS.</p>
<p>4b. Develop and implement two or more Approved Provider lists using Dynamic Purchasing System mechanisms. DPS to include new care packages only.</p>	<p>1. Would provide flexible county-wide contracting arrangements.</p> <p>2. DPS's are successfully used in a number of Council to procure a range of services.</p> <p>3. Would maintain continuity of care for existing service uses.</p> <p>4. Providers would be able join one or both DPS</p> <p>5. Inclusion of 'runs' for tendering may introduce cost efficiencies by building some economies of scales for providers.</p> <p>6. New and existing contracting arrangements could operate in tandem</p> <p>7. Could be used to procure a wide range of services.</p> <p>8. DPS's remain open, allowing new providers to enter the DPS at any time.</p> <p>9. A DPS is not constrained by the 4 year time limit of Frameworks.</p> <p>10. Flexibility can be built in to allow DPS's to be revised over time.</p> <p>11. Flexibility can be built in to allow other public bodies to use the DPS in the future.</p>	<p>1. Unlikely to be as cost effective as Framework contracts that generally provide greater economies of scale.</p> <p>2. Would require two contracting arrangement to operate at the same time (existing contracts, and new DPS arrangements).</p> <p>3. It will be more difficult to estimate future service costs.</p> <p>4. Unless 'blocks of works' (geographic or thematic' are tendered, there is no guarantee that packages of care will be pick up by a provider.</p> <p>5. In-House Domiciliary Care service does not currently operate in North Powys. There is therefore no 'provider of last resort' across North Powys.</p> <p>6. DPS have not been used to procure domiciliary care in Powys before.</p> <p>7. No guarantee that all existing providers or new providers will sign up for inclusion on the DPS.</p> <p>8. May result in existing providers runs becoming reducing less cost effective as holes in runs appear.</p> <p>9. Initially existing care packages would</p>

		<p>not be compliant with PCR2015 but over time as more packages are let n not be compliant with PCR2015 as contract and packages are let under the new arrangements the position will correct and become compliant</p> <p>10. The In-House service does not yet operate in North Powys. Therefore there would be no 'provider of last resort' if frameworks covering some remote rural areas are not tendered for.</p>
Bring service In-House	<ol style="list-style-type: none"> 1. Could maintain continuity of care. 2. Projected future cost of care can be estimated. 3. Could achieve economies of scale compared to existing spot contract arrangements. 4. Could support capacity development across all geographic areas. 5. Reduced invoice processing costs 	<ol style="list-style-type: none"> 1. There is therefore a significant reputation risk if transfer was not successful. 2. Would lead to loss of a number of providers currently working in Powys. 3. May not secure continuity of care. 4. Risk to maintaining workforce if staff are TUPED. 5. Would reduce customer choice 6. Would not provide alternative market capacity if In-House service was unable to take on a pack a care. 7. Concern voiced on accuracy of In-House costing model

Design Criteria

This design criteria will be used to assess the most cost-effective procurement method that will allow Powys County Council to re-shape home care markets in Powys.

Using the design criteria will allow the Council to critically evaluate the opportunities and risks associated with each option from all stakeholder perspectives.

The assessment has been developed using a set of seventeen design criteria, under the five headings of Quality, Continuity of Care, Cost, Governance and Flexibility and Acceptability to Stakeholders.

QUALITY

Q1: Improves outcomes for service users	The option has the potential to most improve outcomes for service users?
Q2: Protects services for those with very complex needs	Provides assurance that it will secure quality services for those with very complex needs?
Q3: Does not negatively impact on safeguarding	Provides assurance that it will secure service user safeguarding
Q4: Promotes use of the Welsh Language (Active Offer)	Will actively promote use of the Welsh Language for people who wish to communicate in Welsh
Q5: Can build flexibility and responsiveness within the market	Supports capacity to be developed in the market in response to communities' changing needs. Market able to respond quickly to individual residents' changing needs.

CONTINUITY OF CARE

C1: Service users see little to no changes to their care and the way it is delivered	Which option minimises the impact on the ground / ensures that service users encounter no major changes within their care provision?
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C2: Existing staff are retained and continue to deliver high quality of care to service users	Which option is most likely to be favourable to the existing staff in order to retain the skills and expertise of the workforce?
C3: Creates a sustainable market	Which option creates the most sustainable market going forward and for the future?

FINANCE / COST

F1: Maximise value for money	Option would not increase costs, and maintain costs within cost envelop.
F2: Will enable the Council to project future service costs	Will the option enable the Council to project future service costs with reasonable certainty?
F3: Builds opportunities to develop cross service / commissioning organisation synergies	Option provides opportunities to develop synergies (long term and short term) either across services included within the overall tendering process, or across commissioning organisations.

GOVERNANCE AND FLEXIBILITY

G1: Democratic scrutiny / political acceptability	Which option will provide Elected Members with the greatest ability to influence services or is politically acceptable?
G2: Would prevent a successful procurement challenge	Which Option will provide a legally defensible position if procurement challenged in court.

		Max. Score	Option 1	Option 2a	Option 2b	Option 3a	Option 3b	Option 4a	Option 4b	Option 5
Ref.										
Quality										
Q1	Improves outcomes for service users	4	1	2	2.5	2.5	3	2.5	3	3
Q2	Protects service for those with very complex needs and ensures a service of last resort	4	1	3	2.5	3	2.5	3	2.5	3
Q3	Does not negatively impact on safeguarding	4	4	3	4	3	4	3	4	3
Q4	Promotes use of the Welsh Language (Active Offer)	4	4	4	4	4	4	4	4	4
Q5	Can build flexibility and responsiveness within the market	4	3	2	2	3	4	3.5	4	1
Continuity of Care										
C1	Existing service users see little to no changes to their care and the way it is delivered	4	3	1	3	1	3	1	3	2
C2	Existing staff are retained and continue to deliver high quality of care to service users	4	3	2	4	2	4	2	4	2
C3	Creates a sustainable market	4	1	2.5	2.5	2	2.5	2	2.5	1
Finance / Costs										
F1	Maximise value for money	4	2	4	3.5	1	1.5	1	1.5	4
F2	Will enable the Council to project future service costs	4	2	2.5	2.5	2	2.5	2	2.5	3
F3	Builds opportunities to develop cross service / commissioning organisation synergies	4	1	2.5	2	3	2.5	3.5	3	3.5

Max. Score		Max Score	Option 1	Option 2a	Option 2b	Option 3a	Option 3b	Option 4a	Option 4b	Option 5
Governance / Flexibility										
G1	Democratic scrutiny / political acceptability	Y/N	N	N	N	N	Y	N	Y	N
G2	Adheres to EU procurement law	4	1	4	3.5	4	3.5	4	3.5	4