

## For Publication

<b>REPORT TO:</b>	<b>CABINET 18 OCTOBER 2021</b>
<b>SUBJECT:</b>	<b>Children with Disabilities – Care Provider Register (CPR)</b>
<b>LEAD OFFICER:</b>	<b>Rodica Cobarzan / Head of Social Work with Families</b>
<b>CABINET MEMBER:</b>	<b>Councillor Alisa Fleming - Cabinet Member for Children, Young People and Learning and Councillor Callton Young - Cabinet Member for Resources &amp; Financial Governance</b>
<b>WARDS:</b>	<b>All</b>
<b>COUNCIL PRIORITIES 2020-2024</b> The Council's Renewal plan 2021-24 includes the following priorities which are relevant to this contract: <ul style="list-style-type: none"><li>• We will live within our means, balance the books and provide value for money for our residents.</li><li>• We will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy.</li></ul> The procurement exercise and the eventual implementation of the proposed Care Provider Register will ensure that the services are provided in accordance with; <ul style="list-style-type: none"><li>• Care Act 2014</li><li>• Autism Act 2009</li><li>• Health and Social Care Act 2008</li><li>• Children Act 2004</li><li>• NHS and Community Care Act 1990</li><li>• Children Act 1989</li><li>• Health and Social Care Act 2008</li></ul>	
<b>FINANCIAL IMPACT</b> The recommendation is to implement a Care Provider Register (CPR) for a period of up to 4 years.  There will be no guarantee of volume or spend under the terms of the proposed (CPR) throughout the duration of the contract.  The CPR will enable the Council to purchase single packages of support (based on an agreed hourly rate) and also block purchase. Block purchasing will be conducted via a	

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mini competition where providers will be encouraged to submit their most competitive price.

The anticipated annual spend is: £1.6m

The total anticipated aggregated contract value including all future extensions is expected to be: **£6.4m** (*annual spend multiplied by 4 years*).

The new model is expected to achieve savings of approximately £225,000 per year / £1m over the lifetime of the contract compared to the current adopted approach of spot purchasing.

The savings are included within the CWD MTFS savings plan (Code: CFE SAV 04)

Anticipated spend is based on the assumption of all new packages commissioned via the CPR. There will be requirements for legacy packages based on assessed need as well as the requirement to transfer packages at the point of statutory reviews. This may vary anticipated spend and will be closely monitored via the CWD service.

### **FORWARD PLAN KEY DECISION REFERENCE NO.: 5421CYPL**

The decision may be implemented from 1300 hours on the 6th working day after the decision is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

## **1. RECOMMENDATIONS**

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below;

- 1.1 The Cabinet is recommended by the Contracts and Commissioning Board, to approve the strategy detailed in this report for the procurement of a contract for a period of four years for the delivery of domiciliary and personal care during the period 1st April 2022 to 31st March 2026. The total estimated annual value is £1.6m which results in a total aggregated value of £6.4m over the 4 years.
- 1.2 The Cabinet is asked to note that the Director of Commissioning and Procurement has approved the waivers listed below under Regulation 19 of the Council's Tender and Contract regulations:
  - to adjust the split between cost and quality evaluation ratio as required under regulation 22.4 to 60% cost / 40% quality.
  - to adjust the social value evaluation criteria from 10% as required under regulation 22.5 to 5%.

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### 2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to seek approval to tender for a Care Provider Register (CPR) which enables the Local Authority to purchase domiciliary and care packages for children and young people (CYP).
- 2.2 The Children with Disabilities (CWD) service currently spot purchase their domiciliary and care services. The eventual implementation of the proposed CPR (as a result of the procurement outlined within this strategy) will provide a formal process for purchasing these services in the future.
- 2.3 The Council's strategy is to move away from off contract spend to contract spend in order to assist with the management of costs. The CPR contributes to this strategy and will reduce the spot purchasing of packages of care. In exceptional circumstances there may still be some spot purchasing requirements in order to meet specific individual assessed needs.
- 2.4 The purpose of the CPR is to provide the Local Authority with a quality assured pool of best value providers of which can be commissioned in order to meet the domiciliary & personal care requirements of individual CYP whilst enabling the Local Authority to fulfil their statutory duties.
- 2.5 An open procurement procedure will be conducted in accordance with PCR 2015 in order to secure providers under the proposed CPR. As the services fall under the Light Touch Regime (LTR) processes will be adapted accordingly in line with these regulations.
- 2.6 The CPR will be for a total duration of 4 years which is in line with a standard framework agreements (which will be adapted accordingly via use of LTR).
- 2.7 Croydon's anticipated spend under the CPR is expected to be in the region of £1.6m per annum with an anticipated spend of £6.4m over the full 4 year period.
- 2.8 In comparison, whilst currently spot purchasing the Council spends in the region of £2.7m per annum which if we carried on doing so for the next 4 years would result in an approximate spend of £10.8m
- 2.9 As a result of retendering it is anticipated that CWD will make a saving of £1m over the full term of the contract (this allows for a variance as explained in section 5.4).
- 2.10 Savings will be achieved as a result of introducing price caps. Prices for standard care will be capped at maximum £20 an hour and for complex care at £28 an hour.
- 2.11 The opportunity to block purchase hours will also be permissible via the CPR. Block purchasing will be conducted via a mini competition and may assist with further reducing anticipated spend.

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- 2.12 The savings are included within the CWD MTFS savings plan (Code: CFE SAV 04)

### **3. DETAIL**

#### **3.1 Background**

- 3.1.1 The Council currently spot purchases domiciliary and care services on a needs/demand led basis.
- 3.1.2 A child/young person (CYP) will have their individual need assessed by a social worker. The outcome of the assessment will determine the level of support required.
- 3.1.3 The social worker will then liaise with known providers (approx. 46 known to the LA) and those who determine can meet needs will provide a quote.
- 3.1.4 Quotes are then discussed and agreed by the CWD 'access to resources' panel. The panel will consider the recommendation from the social worker and agree to a package of support.
- 3.1.5 The majority of support packages are currently commissioned from approx. 15 agencies.
- 3.1.6 Packages are commissioned on an individual basis with hourly rates agreed. There is currently no formal mechanism for block purchasing or negotiating prices on higher packages.
- 3.1.7 Hourly rates when spot purchasing currently range from £16ph - £44ph depending on the level of need and will be driven by the market.
- 3.1.8 The annual spend via spot purchasing is in the region of £2.7m.
- 3.1.9 The content of this report forms a recommendation in order to end the current spot purchasing culture and to implement a formal structured approach, to be known as the CPR (Care Provider Register).
- 3.1.10 Whilst considering the implementation of a formal commissioning model the CWD service have begun to review their packages of support, including access pathways and the decision making process. This work will continue until the full implementation of the new proposed model.
- 3.1.11 In order to support the Council's wider savings programme the service met with existing providers to discuss their current hourly rates. A number of discounts were offered, which resulted in immediate savings for the service. These discussions also provided an opportunity to discuss the Councils intention of implementing a formal model in the future, which was well received (see section 4 for more detail).

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3.1.12 The option of utilising existing Council arrangements to commission these services (such as the adults DPS) has been considered. Please refer to section 12 for further information).

### **3.2 Domiciliary & personal care**

3.2.1 The Local Authority is responsible for providing any non-medical care services a child is assessed as needing. This could include equipment for daily living, home care (domiciliary care), and access to play schemes, and shortbreaks/respite care.

3.2.2 Domiciliary care is defined as the range of services put in place to support an individual in their own home.

3.2.3 Services may involve routine household tasks within or outside the home, personal care of the client and other associated domestic services necessary to maintain an individual in an acceptable level of health, hygiene, dignity, safety and ease in their home.

3.2.4 The definition of personal care, as opposed to domiciliary care can be summarised as per the Social Care Act 2008: Physical assistance given to a person in connection with;

- eating or drinking (including the administration of parenteral nutrition)
- toileting (including in relation to the process of menstruation)
- washing or bathing
- dressing
- oral care
- the care of skin, hair and nails (with the exception of nail care provided by a chiropodist or podiatrist)

3.2.5 CYP who will need help with domiciliary and personal care tasks typically have a disability or special educational need. Their impairments make it difficult for them to learn how to carry out these tasks for themselves.

3.2.6 To meet the identified support needs, domiciliary and personal care agencies will thus typically offer their services to CYP with:

- physical disabilities
- learning disabilities
- complex needs
- autism
- sensory impairments
- long-term physical and terminal illnesses.

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### **3.3 Legislation**

- 3.3.1 The Children Act 1989 sets out the duties of local authorities to ensure access to a range of services that meet the needs of some of the most vulnerable children in society.
- 3.3.2 The Council will expect services to be provided in accordance with the registration requirements of the Care Quality Commission (CQC), where appropriate, and the Care Standards Act 2000, complying with all relevant regulations, the National Minimum Standards and best practice guidelines. Any provider delivering personal care will be required to be registered with CQC.
- 3.3.3 Service Providers will deliver homecare services to CYP with full regard to legislation including the Children Act 1989, 2004 and the Children and Families Act 2014.
- 3.3.4 Service Providers must have regard to the wellbeing duty in the Care Act 2014 when providing support to parent carers. Service Providers must safeguard and promote the welfare of the disabled child cared for and any other child for whom the parent carer has parental responsibility.
- 3.3.5 Where service providers deliver healthcare services to CYP who meet Continuing Care criteria, care and support will be provided in full compliance with the National Framework for Children and Young people's Continuing Care guidance (Department of Health, 2016).

### **3.4 CQC**

- 3.4.1 A provider who carries out domiciliary care does not necessarily have to be registered with the Care Quality Commission (CQC), however, should a provider also provide personal care then they must be registered.
- 3.4.2 Any supplier who provides personal care must be CQC registered.
- 3.4.3 Domiciliary care providers can be registered with the Care Quality Commission (CQC) to offer personal care to CYP of all ages as well as adults.
- 3.4.4 Service users are treated as adults from 19 years onwards.
- 3.4.5 Most agencies that seek to offer services to CYP will do so as part of their range of provision including adult care.
- 3.4.6 The CQC have fundamental standards for which must be adhered to in order to satisfy registration.
- 3.4.7 Where Service Providers deliver regulated activity covering treatment related to disease, disorder or injury, including treatment by a health care professional, social workers, and / or multi-disciplinary team, they will have

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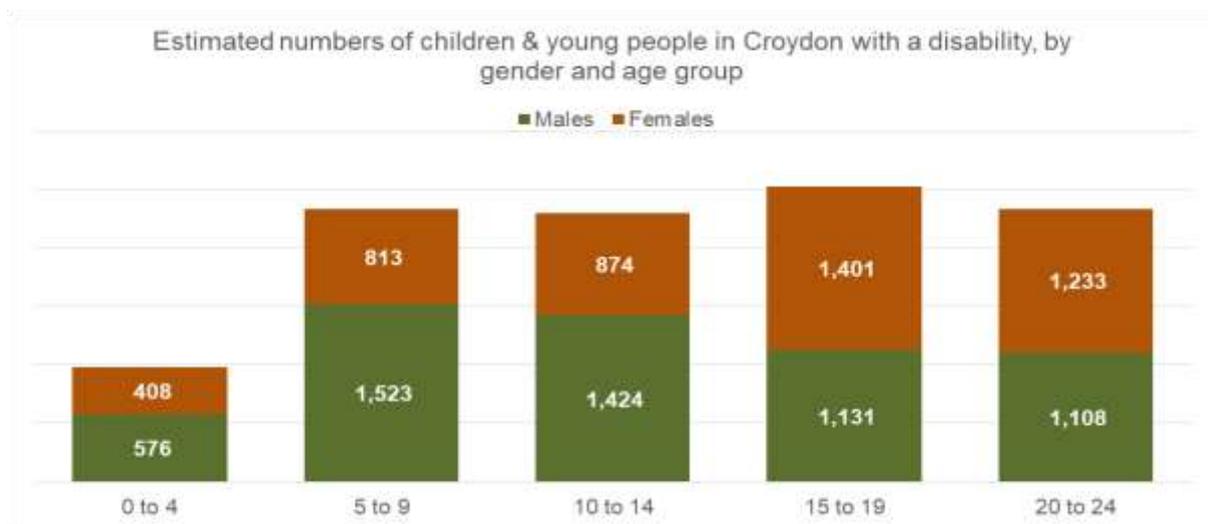
appropriate registration for Treatment of Disease, Disorder or Injury regulated activity with the Care Quality Commission (CQC).

### 3.5 Service users & market

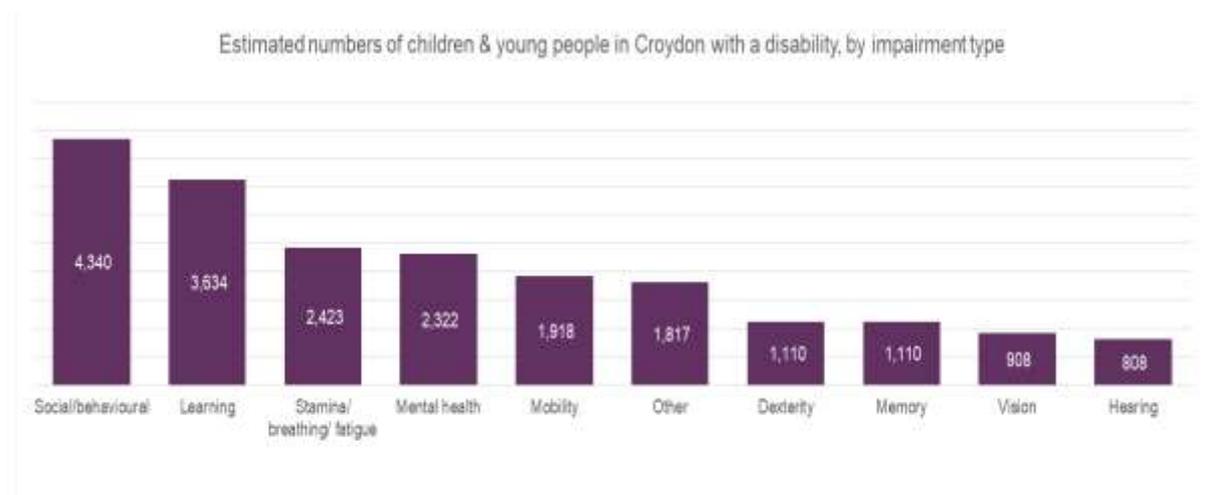
General population:

3.5.1 We know there are about 10,500 CYP (0-25 years of age) living with a disability in Croydon (~8% of CYP)

3.5.2 As at 25th March, there are 472 CYP under 18 known to the CWD service, for which they meet the eligibility criteria of having severe and profound levels of disability.

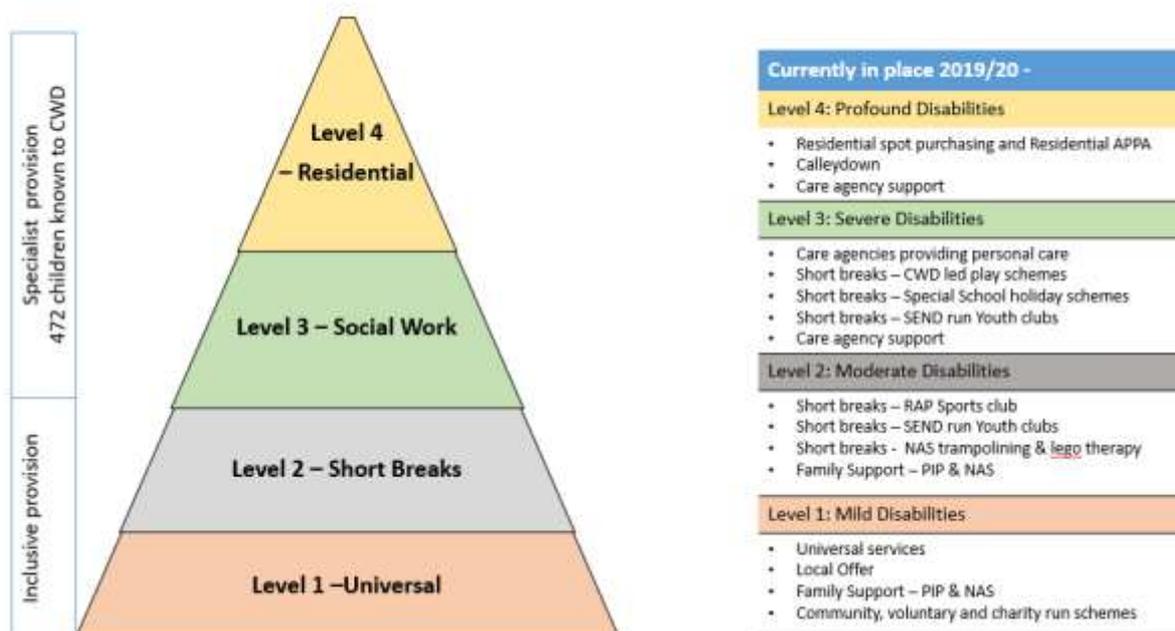


3.5.3 We know that the largest percentage of CYP who have a diagnosed disability, have a social, emotional or behavioural impairment, followed by a learning disability.



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- 3.5.4 The current CWD provision within Croydon provides 4 levels of support which ranges from inclusive provision (available to all) to specialist provision (available to those known to CWD services).
- 3.5.5 Whilst some CYP diagnosed with mild/severe disabilities may receive domiciliary or personal care (due to their individual need) the majority of CYP will be diagnosed as severe/profound and will access domiciliary and personal care via level 3 – social work intervention.



Receiving domiciliary or personal care:

- 3.5.6 The number of individual hours commissioned by the Local Authority varies depending on demand. As of April 2021 the number of hours being commissioned from the market for 0-17yrs is 70,362.
- 3.5.7 At the time of writing (April 2021) the number of CYP (0-17yrs) accessing domiciliary and personal care support is 152.
- 3.5.8 On average a CYP and their family will receive 463 hours PA (total number of hours commissioned / total service users). This equates to 9.5hrs per week (annual per user / 52 weeks).
- 3.5.9 Currently the Local Authority spot purchases from a total of 46 individual providers with 15 of these agencies receiving the majority of money from the Local Authority.
- 3.5.10 Accessing the support is dependent on individual need with service users ranging from mild to severe, however, the majority of service users are deemed to be severe/profound.

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3.5.11 The levels of support that are typically offered when spot purchasing can be classified as:

- Standard Care – Typically community participation and activities of daily living; support in the home; personal care
- Standard Care Plus – Typically more specialist input; challenging behaviour; seizure management
- Complex Care – Typically clinical support which requires additional training; nursing care

3.5.12 The current committed annual spend on 0-17yrs domiciliary and personal care support is via spot purchasing is: £2.7m PA.

3.5.13 Dependent on the level of support that is required the current hourly rates range from £16ph to £44ph. With the average hourly rate being £38.39 (total committed spend / number of hours).

3.5.14 The number of CYP open to CWD and those accessing care packages fluctuates throughout the year, however, has remained consistent for a number of years.

### **3.6 Aims & Outcomes**

3.6.1 The purpose of proposed CPR is to provide access to a range of best value, quality domiciliary and personal care providers that the service can access in order to meet the assessed needs of CYP within Croydon.

3.6.2 The eventual implementation (as a result of the procurement outlined within this strategy) will enable the Local Authority to fulfil our statutory duties as per the legislation identified within this report.

#### **Aims:**

3.6.3 The council wishes to work with providers in order to ensure the delivery of high quality domiciliary and personal care to our CYP. The CPR would aim to:

- Work towards achieving key outcomes for CYP and families who receive the support
- To have a number of providers who are able to deliver good quality support to CYP and their families from 0-18 years
- Support agencies that deliver personal care are CQC registered
- Ensure that all care providers have sound safeguarding procedures in place
- Consider best value in the provision of care and support

#### **Desired outcomes:**

3.6.4 The Council will ensure the delivery of 'outcome-focused' interventions and support via the procurement of the CPR. Desired outcomes include:

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**Outcome 1.** Improved Quality of Live for CYP and families, which means:

- The CYP develops and maintains independence
- The CYP develops confidence and ability in using community resources
- The CYP performs useful and meaningful activities with whatever assistance is required
- The CYP develops skills and abilities as agreed in their support plan
- Parents and carers have a short break from caring

**Outcome 2.** Enable parents and carers to provide care for CYP with disabilities that promotes their personal dignity, which means:

- Parents & carers are supported and feel confident
- Parents & carers, CYP feel confident that the care workers will assist their personal care with discretion and in such a way that dignity is maintained and that wherever possible, the carer takes direction from the child or parent/carer
- Parents & carers are satisfied that the changes they had hoped to achieve have been realised and the balance between support and assistance is appropriate to their circumstances

**Outcome 3.** Improved Well-being for the CYP and Family, which means:

- The CYP and family will receive services that reflect their changing circumstances and whenever possible will be encouraged to undertake physical activities appropriate to their circumstances and abilities
- The CYP and family will feel the service has assisted in them regaining confidence, developing skills and opportunities to learn

3.6.5 Outcomes and expectation of delivery will be further developed when drafting the specification and tender documentation.

### **3.7 Proposed service model**

3.7.1 It is recommended to have an approved provider panel (to be known as the CPR) covering CYP up to the age of 17.

3.7.2 The CPR will be divided into lots which will ensure that CYP can be matched with the correct providers quickly and easily.

3.7.3 A comprehensive service specification is in the process of being developed for each of the lots detailing the LA requirements.

3.7.4 Children disability services will be able to access the CPR and commission their requirements on a needs led basis.

3.7.5 Under the CPR the LA will also be able to block purchase packages of support when/if required.

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- 3.7.6 Each service area will be responsible for their own spend under the CPR and monitoring of service user progress as per the statutory requirements.
- 3.7.7 With regards to transitions and when a CYP turns 18; there will be a clause to ensure that providers are dual registered (i.e. able to accommodate adults). This will ensure that packages of support are not required to automatically cease.
- 3.7.8 The transition will be discussed and monitored via the CWD and Adult disabilities service with adults initially absorbing the cost of any package that may have been commissioned via children's services.
- 3.7.9 If required and/or at a point of a natural review (in line with statutory guidance) packages of support may be recommissioned for adults. If this is required then adults will refer to their own commissioning processes.
- 3.7.10 Should a child or family need to remain on their current package of support then there will be a clause for legacy placements to continue. Any packages of support continuing with providers that are not on the new CPR will be as a result of assessed need. Packages of support will transfer at the earliest appropriate time, in line with statutory reviews and guidance.

### **3.8 Proposed Procurement Route**

- 3.8.1 An open procurement procedure will be conducted in accordance with PCR 2015 in order to secure providers under the proposed CPR. As the services fall under the Light Touch Regime (LTR) processes will be adapted accordingly in line with these regulations.
- 3.8.2 The contract value over the aggregated life time of the contract is above the PCR advertising thresholds for light touch services (currently £663,540), and an Find a Tender Service contract notice will be posted via the Councils e-tendering portal.
- 3.8.3 The opportunity will be advertised on the London Tenders Portal the Councils e-tendering portal.
- 3.8.4 The Children with Disabilities (CWD) Care Provider Register (CPR) will consist of two individual lots:
- Lot 1 - Standard Care
  - Lot 2 – Complex Care
- 3.8.5 Each lot will allow providers who can provide for service users from the ages of 0-17yrs.
- 3.8.6 Providers may bid for one or multiple lots and may collaborate to make a joint bids for one or more lot.

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- 3.8.7 The tender opportunity will be open to the market for a minimum of 30 days.
- 3.8.8 The tenders will be returned electronically via the e-tendering portal.
- 3.8.9 The CPR will not guarantee any volume of work or spend for the duration of the proposed contract.
- 3.8.10 Call off from the CPR for individual packages of support will be via direct awards. The level of need of the CYP will determine the lot from which you will commission from. Any award will be discussed and agreed via the Access to Resources Panel under the financial scheme of delegation.
- 3.8.11 Each lot will have predefined minimum expectation for delivery and set costs. Hourly rates for each of the lot will be capped with the Local Authorities expectation made clear at the point of tender.
- 3.8.12 Each lot will provide the Local Authority with the opportunity to purchase single packages of support i.e. 1 child x 1 hr or to block purchase packages of support i.e. 100 hrs.
- 3.8.13 Should block purchases be required then this will take place via a mini competition under the terms of the CPR. Providers will be given the opportunity to compete on price (but not exceed their rate for individual packages).

### **3.9 Proposed award via the CPR**

- 3.9.1 The award of the domiciliary or personal care package will be determined by considering:
- Individual call offs; the providers will be tiered based on their tender price. Providers in the top tier will be approached first, those with availability will respond and the panel will make a decision as to which provider is awarded. If no providers within the top tier have availability then the social worker will move to the second tier until a provider is identified.
  - Block purchasing; All providers within the appropriate lot will be invited to a mini competition. Following the mini completion the provider who is ranked first based on price will be awarded the contract (following panel approval)
- 3.9.2 The options from the CPR will be presented and considered by the 'Access to resources & short breaks panel' as per current standard practice. The panel will determine the successful provider following the steps above.
- 3.9.3 The 'Access to resources & short breaks panel' will consider the outcome from the CPR, the recommendation from the social worker, including individual child need and risk.
- 3.9.4 The agreed provider will be informed of the panel decision and the Local Authority will enter into a contract with the awarded provider.

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### 3.10 Contract Terms and Conditions

3.10.1 The term of the CPR will be for a period of 4 years from 01/04/2022 until 31/12/26. It will be permissible for existing call offs to continue beyond the expiry of the framework and if required the contract can be terminated with 3 months' notice in line with Croydon's standard terms and conditions.

3.10.2 A 4 year duration is in line with standard framework agreements and therefore more desirable to the market and potential suppliers, however, this will be procured and adapted under LTR which will enable the opening/closing of the framework during this time in order to fulfil the Council's needs.

3.10.3 Following completion of the tender process the Council will enter into contracts with the successful providers to be admitted to the CPR and be eligible for call off.

3.10.4 Any provider that fails to meet the specified quality criteria can be omitted from the CPR at any point during the lifetime of the contract. Appropriate action will be discussed and monitored via the contract management meetings.

3.10.5 All CPR contracts and agreements will be based on Croydon standard terms & conditions and will be reviewed by legal prior to publication to ensure they align with the specified requirements of the CPR.

### 3.11 Evaluation

3.11.1 A Price/Quality ratio split of 60% price / 40% quality will be applied.

3.11.2 This ratio will ensure that there is more emphasis on the cost of the service being provided, however, this will not be at the detriment of quality due to the minimum quality arrangements specified at the point of tender and stringent contract management throughout the lifetime of the contract.

3.11.3 The evaluation panel will consist of members of the CWD Team:

- 2 team managers from the CWD service
- 2 service managers from the CWD service
- A representative from the adults social care (transitions service).

3.11.4 Compliance with the Council's mandatory requirements and minimum quality standards will be specified in the eligibility and tenders will be evaluated using a 3 stage process:

3.11.5 **Stage 1** – Minimum Requirements:

- Mandatory, Discretionary, Economic and financial standing,
- Technical and professional ability
- Modern slavery
- GDPR

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- Insurance
- and any additional minimum service requirements e.g. CQC registration/rating for those suppliers providing personal care.

### 3.11.6 **Stage 2** – Method Statements – 40% quality:

- Service Delivery - 10%
- Safeguarding – 10%
- Quality Assurance – 8%
- Workforce – 5%
- Social Value – 5%
- PSP - 2%

### 3.11.7 **Stage 3** – Price – 60%:

- Completed Pricing Matrices/Pricing Schedule – Prices will be provided as an hourly rate and will include specified rates for weekday & weekend packages.
- Compliance with London Living Wage will be set out as a requirement within the tender documentation.
- Should a mini competition take place once the CPR is active then providers will not be able to exceed their hourly rate provided at this stage of the process should they wish to compete.

Financial evaluation:

3.11.8 The financial assessment of the prospective suppliers will be conducted to determine their financial viability. However, so to not disproportionately impact on sole trader or smaller to medium size enterprises, the intention is to gain approval for the removal of the minimum financial turnover threshold from the S151 Officer.

3.11.9 With permission from the S151 officer, we intend to amend this criteria of the economic and grounds for financial assessment to enable an assessment of the bidder's turnover to be assessed after submission.

3.11.10 The question would ask the bidders to state their annual turnover and to declare any known financial situation which would prevent them from carrying out work on behalf of Croydon. This will be assessed as part of the overall economic and financial standing of bidders by a methodology set out by Finance. Assessments will only be undertaken on those providers who would be recommended to join the CPR following their evaluation. Any provider who presents a financial risk following a finance assessment will be flagged for individual discussion and consideration prior to be appointed to the CPR.

## 3.12 Procurement Timeline

<b>TASK</b>	<b>BY</b>
RP2 to CCB	19/08/21
Deadline for Cabinet report	16/09/21 ( <i>Set date</i> )
Cabinet	18/10/21 ( <i>Set date</i> )

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Implement Cabinet decision	26/10/21 <i>(Set date)</i>
Confirm all tender documentation	End of September 21
Market warming	End of September 21
Publish Tender	27/10/21
Tender Closes	28/11/21
Compliance / Evaluation / Moderation	End December 21
RP3 to CCB	January 22
Deadline for Cabinet report	01/02/22 <i>(Set date)</i>
Cabinet	21/02/22 <i>(Set date)</i>
Implement Cabinet decision	01/03/22 <i>(Set date)</i>
Contract award	01/03/22
Mobilisation*	March 22
Contract start	April 2022

*\*due to the requirements of being part of the CPR (to be outlined within the tender documentation) the mobilisation time is minimal as the expectation is that providers will already have their resource and infrastructure in place in readiness for the provision of care packages.*

### 3.13 Risks

Risk	Risk description	Risk rating	Risk management / mitigation
Completing procurement within timescale	<p>Delays in procurement/contracting process meaning new arrangements are not in place as per the deadline.</p> <p>There must be continuity in the delivery of this service.</p> <p>Additional risk; September Cabinet, moved to August resulting in this report not able to be discussed until October at the earliest.</p>	High	<ul style="list-style-type: none"> <li>Detailed procurement timetable will be shared and agreed with relevant Heads of Service (C&amp;P and CSC).</li> <li>The service currently spot purchase and therefore there are no further contractual considerations should delays occur.</li> </ul>
Service users facing a "cliff edge" post 17yrs.	<p>The model allows for the commissioning of packages for CYP 0-17yrs.</p> <p>There must be continuity for service users when they turn 18 and leave the children with disabilities service.</p>	High	<ul style="list-style-type: none"> <li>The head of 25-65 disability service (whose service oversees transitions) has agreed that any package commissioned prior to transferring to the adults service will be honored until the point of a natural break/review.</li> <li>Providers will be required to be dual registered,</li> </ul>

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			<p>therefore the service user wishes to remain with a provider then this would be possible.</p> <ul style="list-style-type: none"> <li>The head of children's and adults services have agreed to plan transitions in advance.</li> </ul>
Insufficient marketplace of high quality providers	Insufficient suitable providers applying and being successful	High	<ul style="list-style-type: none"> <li>Providers have been asked for their views on possible service models so that we can better anticipate challenges for the market.</li> <li>Ability to refresh Approved list built in</li> <li>Market warming event to be planned</li> </ul>
Increasing costs	Increase in costs against static budgets	High	<ul style="list-style-type: none"> <li>Monthly monitoring of demand / spend.</li> <li>Cap proposed costs within the individual lots.</li> <li>Provide an option for block purchasing.</li> <li></li> </ul>
Failure to achieve savings	The savings that will be generated through this work are significant contributor to the overall service savings required.	Medium	<ul style="list-style-type: none"> <li>The numbers and model suggested has been discussed with finance.</li> <li>A high tolerance has been built within the model to allow for any discrepancies</li> <li>The service will actively monitor the decision to award individual contracts via their service panels</li> <li></li> </ul>
Policy Change	Political implications - Spending & contract review	Low	<ul style="list-style-type: none"> <li>Proposed model provides flexibility to accommodate policy changes</li> <li>No guaranteed minimum level of spend or volume</li> <li>Exit clauses within the contract</li> </ul>

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COVID	Prioritisation of resource and services to combat the COVID pandemic	Medium	<ul style="list-style-type: none"> <li>• COVID measures now in place to ensure continuity</li> <li>• All activities planned to take place virtually</li> </ul>
Service Delivery	Disruption to service provision as a result of procurement exercise	Low	<ul style="list-style-type: none"> <li>• Procurement is being managed via the C&amp;P division.</li> <li>• Current services are spot purchased and therefore no impact on current arrangements</li> </ul>
Challenge from incumbent provider	Incumbent providers launch a challenge to the tendering process	Low	<ul style="list-style-type: none"> <li>• Current providers are spot purchased with no formal arrangements in place.</li> <li>• The procurement will be conducted in line with LTR.</li> <li>• The new tender will be in strict adherence to procurement regulations and guidelines and transparency through the tendering process.</li> </ul>
HR / TUPE / Pension	Implications for the incumbent providers	Low	<ul style="list-style-type: none"> <li>• All providers are currently spot purchased with no guarantee of volume or spend. There are no current TUPE implications known.</li> </ul>
Legal Risk	Failure to deliver a statutory Service	Medium	<ul style="list-style-type: none"> <li>• Ensure the specification is compliant and references all appropriate regulations</li> </ul>
Data Protection	Issues regarding the way data is shared between the Council and the Contractor.	Medium	<ul style="list-style-type: none"> <li>• A Data Protection Impact Assessment will be completed ensuring all data is processed in accordance with Data Protection Legislation.</li> </ul>

### 3.14 Performance Monitoring

3.14.1 There will be robust KPIs and a consistency of expectations for all providers who form part of the CPR.

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- 3.14.2 There will be a separate service specification for each of the lots with appropriate KPI's and outcomes set for each lot as appropriate.
- 3.14.3 All providers who provide packages of domiciliary and personal care, will be subject to regular quality assurance checks and contract monitoring by the service.
- 3.14.4 Suppliers who provide personal care are also subject to the Care Quality Commission (CQC) inspection regime, and relevant clauses will be included in the contract in relation to minimum CQC ratings required to enable personal care packages to be commissioned.
- 3.14.5 Proposed KPI's will include the following:
- How many CYP have used the service?
  - How many have attended?
  - What is the number of CYP who have missed?
  - What difference is the support making?
  - What feedback have we received?
  - What is the number of complaints?
  - Report on the number of CYP where there are safeguarding concerns?
- 3.14.6 KPI's will be further developed during the drafting of the service specification.
- 3.14.7 Contract management will be the responsibility of the CWD service. Regular meetings will be held with the provider and reports will be provided at agreed intervals (to be detailed further within the specification). This will enable to service to manage the effectiveness, compliance of providers and spend under the CPR.

## **3.15 Social Value**

- 3.15.1 The recommendation is that scoring related to social value is lowered to 5% of the total quality scoring criteria. This is a deviation from the Council's requirement of 10% under Regulation 22.5 of the Council's Tenders and Contracts Regulations and, as such, a waiver has been requested in the recommendations.
- 3.15.2 There is an increased emphasis on price for this tender and therefore the weighting for quality would be more proportioned if the standard social value weighting was decreased.
- 3.15.3 Given the nature of the service a large amount of social value will be realised via the contract as a direct result of supporting the most vulnerable CYP entail supporting their wider family circle.

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### 4. CONSULTATION

- 4.1 In August 2020 the CWD service initiated a parent/carer survey in relation to the current short break offer.
- 4.2 Whilst this was not specific to the packages of care it did provide an insight as to how the support from CWD was being received:
- Number of parents/carers who participated: 52
  - Of which 27 currently access the provision on offer
  - 73% of respondents had been accessing short breaks from 0-5years
  - 15% have accessed short breaks for 6-10 years
  - 53% were either happy or very happy. 16% were either unhappy or very unhappy
  - 43% believe that short breaks have made a significant difference to their family
  - 84% believe that short breaks are very effective or fairly effective
- 4.3 The outcome of the short break survey will feed into the review of those services, however, the emerging themes will be considered as part of this procurement exercise.
- 4.4 In August 2020 a soft market exercise took place via the London Tenders Portal.
- 4.5 The purpose of the soft market exercise was to gain an early indication as to what provider views were in relation to potentially providing services for Croydon.
- 4.6 The views received would help to start shape the service specification and tender documentation.
- 4.7 As this was not an official tender exercise the questions were generic and were left open for providers to provide their general views.
- 4.8 Views were requested in relation to the 4 services as a whole, with providers being asked the following:
- Interest in providing short breaks, care packages, family support and family assessments
  - How do they envisage providing services for Croydon
  - Main challenges of delivering these services
  - Desired length of contract
  - Appropriate cost for delivery
- 4.9 The outcome of the soft market exercise was as follows:

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- 12 providers participated
- 3 suppliers informed that they could provide all of the potential service elements
- 9 providers advised that there would need to be commitment in terms of volume
- 67% of suppliers would require a minimum 3 year contract

4.10 Providers came forward as to what the potential challenges may be. This included:

- Securing safe venues in the current climate (COVID)
- Restrictions in place (COVID)
- Last minute cancellation from families and the impact on staffing
- Weekend staffing and recruitment
- Recruiting and retaining staff
- Consistency of staff being available
- Sustainable and safe staffing levels being available

4.11 The outcome of the soft market test exercise will assist with shaping the specification and tender documentation. Mitigation against the relevant identified challenges will also be considered as part of this work stream.

4.12 Between November 2020 and January 2021 the service began in year negotiations with care providers. As part of these discussions the appetite from the market for a framework type agreement in the future was explored. Feedback from the market was as follows:

- There is a lot of interest and commitment to continue working with Croydon and supporting young people
- There are a lot of agencies providing domiciliary care which makes it less of a providers market and gives leverage to negotiate rates
- There is interest in a preferred provider framework
- There are significant issues for providers in terms of receiving timely purchase order numbers and payments. For some providers there are significant payment amounts outstanding that have built up over some time.
- Whilst on the whole, there is commitment to continue working with Croydon, for some providers the issues with payment and purchase orders is so significant that they are looking to withdraw from the packages they support.
- Some providers have expressed that they would be able to reduce their rates further if they have agreement for a minimum number of packages with Croydon; if payments are made on time; and if there are no issues with receiving purchase order numbers.

Providers felt that the model should:

- Provide and streamline definitions of the levels of care required, for example, outreach support in the community, personal care; and

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complex care. Consideration will need to be given to how challenging behavior and medical care feature in these levels.

- Look to incorporate a commitment around the number of packages providers can expect over a year.

- 4.13 All of the above feedback will be taken into consideration when drafting the specifications and tender documentation.
- 4.14 It is the intention to hold a further market warming event specifically in relation to this tender. This will ensure maximum engagement from the market in preparation for tender go live.
- 4.15 Discussions have also taken place with other services; Adults, transitions & CHC regarding potential joint working and the procurement of a joint model. The other services are currently exploring their own routes to the market and at this stage there is no scope to implement a joint solution. We will ensure conversations continue with these services to avoid any duplication and the sharing of best practice. CWD will also liaise with other supporting services to ensure there is no impact on families when in transition.

## 5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

### Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000
<b>Revenue Budget available</b>				
Expenditure	2.7m	2.7m	2.7m	2.7m
Income				
<b>Effect of decision from report</b>				
Expenditure		2.45m*	2.45m	2.45m
Income				
<b>Remaining budget</b>	<u>0</u>	<u>225*</u>	<u>225</u>	<u>225</u>

*\* To note that during transition from BAU to the new model legacy arrangements may be in place, which may vary the initial spend/savings under the new arrangements. This will be closely monitored by the CWD service.*

### 5.1 The effect of the decision

- 5.1.1 The service has budgeted for the future award of the contract to the successful providers in order to fulfil their statutory requirements.
- 5.1.2 There will be no impact upon service delivery as a result of awarding the contracts to the successful providers.

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5.1.3 As a result of implementing a formal commissioning model it is expected savings can be achieved as a result of this procurement. The level of anticipated savings can be found in section 5.4 of this report.

5.1.4 Anticipated spend is based on the assumption of all new packages commissioned via the CPR. There will be requirements for legacy packages based on assessed need as well as the requirement to transfer packages at the point of statutory reviews. This may vary anticipated spend and will be closely monitored via the CWD service.

5.1.5 The savings are included within the CWD MTFs savings plan (Code: CFE SAV 04)

## 5.2 Risks

5.2.1 The financial risk to the Council will be assessed as part of the first stage of the evaluation process. Basic due diligence information will be included as part of the submission including:

- Ensuring that organisations are competent to manage the money awarded (e.g. haven't been declared bankrupt and have managed contracts of the size they are applying for)
- Checks on criminal convictions
- References
- Insurance coverage
- Turnover

5.2.2 All other associated risks can be found in section 3 of this report.

## 5.3 Options

5.3.1 The following is a summary of the options that have been considered. (Please refer to section 12 for further detail):

- I. Do nothing; Continue to spot purchase: **Not recommended**
- II. Implement an approved provider list (to be known as the CPR): **Recommended**
- III. Implement a standard framework: **Not recommended**
- IV. Implement a DPS: **Not recommended**
- V. Join the existing adults DPS: **Not recommended**

## 5.4 Future savings/efficiencies

5.4.1 As a result of ending the spot purchasing practice currently adopted by the service a number of savings and efficiencies are expected as a direct result of this tender.

5.4.2 As of April 2021 the recorded financial commitments were as follows:

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SERVICE USERS	TOTAL HOURS PA	COMMITTED SPEND PA
152	70,362	£ 2,701,505.00

5.4.3 It is acknowledged that not all CYP will receive the same support or level of support and that individual factors will determine the cost of support currently provided. The mean average has therefore been used for the purpose of this model.

<b>AVERAGE HOURS PER SERVICE USER</b>	<b>463</b>	(total hours PA / total service users)
<b>COST PER HOUR</b>	<b>£ 38.39</b>	(total committed spend / total hours)

5.4.4 The recommendation of this report is to implement an approved provider panel. This will be split into 2 separate lots (standard/complex). The CWD service estimate that the current cohort would fall into these lots as follows:

NEED	% SERVICE USERS
	(Service estimate)
Receiving standard care	70%
Receiving complex care	30%

5.4.5 Applying this to the current cohort would therefore equal the following:

NEED	% SERVICE USERS	AVERAGE USERS	APPROX HOURS	APPROX COST
Receiving standard care	70%	106	49,253	£ 1,891,053.50
Receiving complex care	30%	46	21,109	£ 810,451.50
		<b>152</b>	<b>70,362</b>	<b>£ 2,701,505.00</b>

5.4.6 Within the new model it is proposed to introduce caps for each of the lots. The below caps are proposed. Price caps have been based on current average costs, CWD service discussions with neighbouring boroughs and CWD market expectation.

NEED	PROPOSED £ CAP PER HOUR
	(Requested cap from the service)
Lot 1: Standard	£ 20.00
Lot 2: Complex	£ 28.00

5.4.7 Applying the proposed caps to the current cohort would result in the following:

NEED	AVERAGE USERS	APPROX HOURS	PROPOSED £ CAP PER HOUR	ESTIMATED SPEND
Lot 1: Standard	106	49,253	£ 20.00	£ 985,068.00
Lot 2: Complex	46	21,109	£ 28.00	£ 591,040.80
	<b>152</b>	<b>70,362</b>		<b>£ 1,576,108.80</b>

5.4.8 If we were to subtract the estimated spend from the current committed spend then there is a difference of approx. £1.1m, however, the model is based on assumption and averages. Children with Disabilities are complex and their needs can vary significantly within a year, therefore packages are not static. The number of CYP supported is variable within a year and the choice of package can change from direct payments to domiciliary care within a year.

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5.4.9 Due to the use of assumption and averages a high tolerance of 80% has been applied to allow for any discrepancies. As a result CWD and finance believe that 20% of the savings within the model are achievable due to the following reasons:

- Historical discrepancies with the miscoding of provision within the financial system
- Historical discrepancies with the tracking of actual cost for individual CYP
- A proportion of the CYP cohort who are not recorded as receiving packages of care but their needs are such that this will be adhoc within the year
- The average hours per week/child is variable as needs of CYP are complex and not easy to predict
- The balance of standard/complex cases within the model is difficult to predict
- Many parents opt for direct payments to support with their CYP needs, however, in the absence of carers they know the use of contracted carers via domiciliary care is likely, in some cases both options are necessary
- Any increase in demand that the service may experience as a result of greater awareness.
- The need for legacy packages to remain in place (due to an assessed need) which may result in some packages remaining commissioned outside of the CPR and/or slow transition to providers on the CPR at the point of statutory review.

5.4.10 **As a result of the new model and taking into consideration the agreed tolerance the following savings could be achieved as a result of implementing the CPR:**

- **£225,000 per year**
- **£1m over the full duration of contract (4 years).**
- The savings are included within the CWD MTFS savings plan (Code: CFE SAV 04)

5.4.11 The opportunity to achieve savings will be further enhanced via the option of block purchasing as well as a potential option for the Council to request a price refresh:

- Block purchasing for standard packages of care may be required for community based activities. If this is required then a mini competition will take place via the CPR. Providers will be able to submit their best hourly rate, however, will not be able to exceed their tendered hourly rate. This may reduce hourly rates for a percentage of service users.
- The option for price refreshes/renegotiation to take place at the request of the Council will be further explored with legal prior to tender publication. For example if the Council commissions a number of single packages with the same provider then the Council will be able to exercise their right to renegotiate the hourly rates. This may further reduce the rates with the providers whom the Council has the highest individual spend. Should this be possible then this will be made clear within all tender documentation prior to publication.

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5.4.12 Efficiency savings are also expected through the establishment of the CPR, including:

- Enhanced value for money
- A more streamlined, standardised and efficient commissioning process.
- A reduction in the number of spot purchases made.
- Opportunities to address gaps in the market and improve the service offer.

## **5.5 Essential spend**

5.5.1 The proposed spend meets the following S114 permissible criteria for new spend in accordance with S115(6A) of the Local Government Finance Act 1988:

- Improves the situation, & prevents it from getting worse by ensuring access to a statutory and supportive service that is vital for supporting families within Croydon, therefore;
- Expenditure required to deliver the council's provision of statutory services at a minimum possible level; which will replace the current spot purchasing culture with a proposed new cost effective commissioning model.

Approved by: Kate Bingham, (Interim) Head of Finance, Children, Families and Education. (Note: Kate Bingham in post at point of providing financial approval. Phillip Herd is now the Head of Finance, Children, Families and Education).

## **6. LEGAL CONSIDERATIONS**

6.1 The Interim Director of Law and Governance comments that the services which are the subject of the report fall under the light touch regime (LTR) of the Public Contracts Regulations 2015 (PCR). Subject to certain mandatory requirements there is flexibility under the LTR to tailor the procurement process according to achieve desired outcomes.

Approved by Nigel Channer, Head of Commercial and Property Law on behalf of the Director of Law and Governance.

## **7. HUMAN RESOURCES IMPACT**

7.1 This procurement exercise does not propose changes to service delivery beyond what is being undertaken although providers may have to adapt their delivery approach in order to achieve expected service outcomes.

7.2 The expectation is for the service to refer all future requests for care packages to providers who qualify to be appointed to the CPR.

7.3 As a London Living Wage borough, all applicable contracts will include the requirement to pay the London Living Wage. Living Wage will apply to contracts in other parts of the country.

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7.4 There will be no TUPE implications for Croydon through this procurement as domiciliary and personal care provision is currently procured through spot purchasing arrangements.

7.5 There will be no TUPE implications for existing providers through this procurement as domiciliary and personal care provision is currently procured through spot purchasing arrangements.

Approved by: Debbie Calliste, Head of HR for Children Families and Education on behalf of the Director of Human Resources

## **8. EQUALITIES IMPACT**

8.1 An EQA has been completed and approved by the Equalities Manager (07/06/21).

8.2 The conclusion of the EQA is that our analysis demonstrates that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review.

## **9. ENVIRONMENTAL IMPACT**

9.1 There are no environmental sustainability impacts arising from this report.

## **10. CRIME AND DISORDER REDUCTION IMPACT**

10.1 There are no crime and disorder impacts arising from this report.

## **11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

11.1 Approving the strategy in order to implement the Care Provider Panel will enable a structured, quality assured approach when commissioning domiciliary and personal care packages thus enabling the Council to fulfill its statutory duty.

11.2 Implementing the CPR will ensure that Croydon purchases in open and fair way as opposed to spot purchasing which is the method currently adopted. The reliance on spot purchasing will be significantly reduced which will provide Croydon with increased control and oversight of the market.

11.3 Implementing the CPR will ensure that the Council procures in line with PCR and therefore fulfills legislative requirements.

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- 11.4 The CPR will enable the Council to quickly and effectively commission from a pre-qualified list of providers, therefore, ensuring best quality and the best possible outcomes for our CYP and families.
- 11.5 The CPR will enable a standardised approach for contract management within the sector, ensuring best value for money and that the needs of Croydon are continuously met during the lifetime of the contract.
- 11.6 The Council's strategy is to move away from off contract spend to contract spend in order to assist with the management of costs. The CPR contributes to this strategy and will reduce the spot purchasing of packages of care.

## 12. OPTIONS CONSIDERED AND REJECTED

- 12.1 **Do Nothing:** The Council currently spot purchases services which is not sustainable and does not reflect true value for money. Continuing with this approach should not be seen as an option. **Not recommended.**
- 12.2 **Implement a standard Framework Agreement:** A standard framework agreement does not allow for new providers to be admitted once established. The standard framework cannot be refreshed to ensure it continues to meet demand and attract the best providers throughout the life span of the framework. **Not recommended.**
- 12.3 **Implement a Dynamic Purchasing System (DPS):** The additional resources and costs required to implement and manage a DPS will not be a cost effective solution at this stage as packages are currently commissioned directly by the social worker. The implementation of a DPS will also likely have the biggest impact on current service established processes. **Not recommended.**
- 12.4 **Join the existing adults Dynamic Purchasing System (DPS):** Joining the current DPS as an additional lot was explored, however, this is not possible as the potential opportunity was not advertised within the original OJEU notice when that DPS was procured. Further discussions with the adults service also confirmed that there is different governance and legislative requirements that must be considered for adults which is not appropriate to children's commissioning. **Not recommended.**
- 12.5 **Implement an Approved Provider Panel (aka the CPR):** This is the recommended option as it provides the security of a traditional framework, however, will allow flexibility to refresh the list during the lifetime of the contract as well as amend requirements as necessary and admit/restrict providers as required. **Recommended.**

## 13. DATA PROTECTION IMPLICATIONS

- 13.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

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**YES**

### 13.1 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**YES\***

\*The DPIA is currently being considered by IMT & Legal. The service will ensure complete sign off prior to any publication of the tender.

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**APPENDICES TO THIS REPORT:** None

**BACKGROUND PAPERS:** None