

<b>REPORT TO:</b>	<b>Cabinet Member for Families, Health, and Social Care</b>
<b>SUBJECT:</b>	<b>Contract Award Adult and Young People Social Care Dynamic Purchasing Systems (DPS 3 Lot 1)</b>
<b>LEAD OFFICERS:</b>	<b>Guy Van Dichele, Executive Director of Health, Well Being and Adults Sarah Warman Director of Commissioning and Procurement</b>
<b>CABINET MEMBER:</b>	<b>Councillor Janet Campbell, Cabinet Member for Families, Health, and Social Care Cllr Alisa Flemming, Cabinet Member for Children, Young People and Learning Councillor Simon Hall, Cabinet Member for Finance and Resources</b>
<b>WARDS:</b>	<b>All</b>
<p><b>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</b></p> <p>This approach supports the following corporate priorities for the next 4 years as set out in the Corporate Plan 2018-2022:</p> <p><b>Promoting Independence and Enablement:</b> To help people live long, healthy and independent lives with access to effective health services and care services. and, to help families be resilient and able to maximise their life chances and independence</p> <p><b>Partnership:</b> Work in partnership with the NHS to provide <b>good quality health</b> services to Croydon’s population.</p> <p><b>Children and Young People:</b> Ensure that children and young people in Croydon are safe, healthy and happy.</p> <p><b>Locality Matters:</b> Develop services that are place based and integrated within their local community and tailored to local needs.</p>	
<p><b>FINANCIAL IMPACT</b></p> <p>Lots from Dynamic Purchasing Systems (DPS) 3 to be introduced in over the next six months sit in two council departments Health Wellbeing and Adults and Children, Families and Education. The total value of the services included in DPS 3 is currently £26,080,000 per annum, against a 2020/21 Budget of £15,557,000.</p> <p>From this financial year 2020/21 onwards, there is an expectation that pressure on this budget will continue to be managed, through a combination of better contract monitoring and control of expenditure, and where required finding alternative savings.. The council budget for 2020/21 has been finalised and anticipated spending pressure</p>	

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on areas in scope has been flagged. The current Covid-19 pandemic has increased the demand for supported living and supported housing home care with more patients being discharged with care needs. The longer term impact on supported living and supported housing is not clear and will be reviewed regularly. Currently, during this Covid -19 emergency period, NHS funding for the hospital is picking up the initial costs of care before being reviewed.

COVID-19 will also impact the ability to deliver alternative savings to mitigate any spending pressures

Additionally, the Council's health partners have access to other public and private funds to commission and procure services from the DPS. It is anticipated that these organisations will contribute financially to our management of the DPS. This will significantly increase the total spend on potential contracts being procured from the DPS.

The proposal is to establish DPS 3, to provide flexibility and allow significant headroom for the Council and partners to procure from the DPS over the DPS duration of up to ten years. Most services commissioned to the DPS will be subject to mini-competition to ensure value for money.

### **FORWARD PLAN KEY DECISION REFERENCE NO.: 0220FHSC**

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.

The Leader of the Council has delegated to the relevant Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources (3220LR) the power to make the decisions set out in the recommendations below:

### **1 RECOMMENDATIONS**

The Nominated Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources is recommended by the Contracts and Commissioning Board to approve the following:

- 1.1 The establishment of, and initial appointment of suppliers listed in Part B of this report to, DPS 3 Lot 1 (Supported Living) of the Adult and Young People Social Care DPS for a period of five years with an extension option for five subsequent periods each of one year. This is based on the contract terms issued as part of inviting tenders, such suppliers being those who have satisfied specified selection criteria;
- 1.2 Delegation of the award of contracts and placements called off under DPS 3 Lot 1 to be approved in accordance with the Council's Scheme of Financial Delegations and notified to Cabinet in accordance with paragraph 2.4 of this report.
- 1.3 Delegation of the future appointment of providers to DPS 3 Lot 1 (and to the previously established DPS 3 Lot 2) to be approved by the Executive Director

of Health, Well Being and Adults in accordance with paragraph 2.4 of this report
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## **2 SUMMARY**

- 2.1 The procurement strategy for the establishment of three Dynamic Purchasing Systems ('DPS') for Health and Social Care (subsequently referred to as Adult and Young People Social Care) for the initial period of five (5) years with options to extend for five subsequent periods each of one year with a total estimated annual value of up to £150,000,000.00 was approved by Cabinet on 8th July 2019 (CCB Ref: CCB1498/19-20).
- 2.2 Pursuant to a recommendation of Cabinet on 19<sup>th</sup> December 2019, the Leader delegated to the Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources the authority to approve the appointment of suppliers to, and award of contracts and placements called off from, the DPSs.
- 2.3 Pursuant to such delegation the Cabinet Member for Families, Health, and Social Care in consultation with the Cabinet Member for Finance and Resources has previously approved the initial appointment of suppliers for the establishment of the Health and Social Care Services DPS for DPS 3 Independent Living & Supported Housing – Lot 2 (key decision notice 4919FHSC – 27 January 2020). The scheme of delegation for the award of placements and call offs from the said DPS was also approved. The associated report detailed the processes relating to the setting up the Health and Social Care Dynamic Purchasing Systems, selection of appointees to the DPS and scheme of delegation for call offs. Part A of that report (The Lot 2 Report) is attached as a background document to this report.
- 2.4 The purpose of this report is to:
- a) agree the establishment and initial appointment of suppliers to DPS 3 Lot 1 (Supported Living) with the providers listed in Part B meeting the minimum requirement for becoming an approved provider for health and social care services following the same process as that set out in the Lot 2 Report;
  - b) agree that the award of contracts and placements for DPS 1 shall be undertaken and approved in the same manner as described in the DPS 3 Lot 2 Report;
  - c) agree that approval of future appointments of providers to DPS 3 Lot 1 (and also to the previously established DPS 3 Lot 2) shall be delegated to the Executive Director of Health, Well Being and Adults. Such appointments shall be based on the same selection criteria and contract terms as applicable to the appointment of initial providers.
- 2.5 Reporting of future appointments approved in accordance with this delegation as well as call offs shall be notified in accordance with the DPS 3 Lot 2 report.

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- 2.6 There were 71 SQ Submissions received for DPS 3 for the Lots and Service Categories as follows, (noting that tenderers may have submitted tenders for any number of Lots and Categories):

Fig 1. **DPS 3 all returns**

<b>Lots</b>	<b>Service Categories</b>	<b>Bidders</b>
<b>Lot 1</b>	<b>Supported Living</b>	<b>71</b>
	1. Mental Health	57
	2. Learning Disabilities	64
	3. Physical Disabilities	44
	4. Autism	58
	5. People with Challenging Behaviour	61

- 2.7 The outcome of this quality and price evaluation process for DPS 3 has resulted in 31 approved providers

Fig. 2 **DPS 3 Lot 1 Approved Providers**

<b>Lots</b>	<b>Service Categories</b>	<b>Approved Providers</b>
<b>Lot 1</b>	<b>Supported Living</b>	<b>31</b>
	1. Mental Health	21
	2. Learning Disabilities	28
	3. Physical Disabilities	17
	4. Autism	24
	5. People with Challenging Behaviour	20

- 2.8 The content of this report has been endorsed by the Contracts and Commissioning Board.

<b>CCB Approval Date</b>	<b>CCB ref. number</b>
06/07/2020	CCB1587/20-21

## 3 CONSULTATION

- 3.1 **Suppliers:** For DPS 3 the Project Team spent time specifically engaging with the social care market before and during the application window. Several market warming events were held earlier in the year and two market briefings were held at the Croydon Conference Centre on Monday 7th and Wednesday 9th October 2019. Over 150 organisations attended the conferences. Supplier engagement events have also taken place for DPS (100 suppliers attended) and DPS 2 (90 suppliers attended).
- 3.2 **VCSE:** The procurement opportunity will be open to VCSE groups to work as a direct suppliers and with main suppliers as a partner or sub-contractor.
- 3.3 **Partners:** Prospective partners from across Croydon Council and One Croydon Alliance have been involved and consulted. The partners will have open access to the new DPS's and will be able to commission services. The partners include the Croydon One Alliance, the CCG, and SLaM.

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- 3.4 **Stakeholders:** Some service users have been consulted over the last 12 months by commissioning and brokerage teams. It will be ensured that service users to receive services commissioned through the DPS understand the process and have their preferences accommodated where possible.

## 4 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 The Council currently spends in excess of £26.1m on DPS 3 every year in financial support to the Adult and Young Peoples Social Care and Supported Living Services against a budget of £15.6m. Expenditure will be procured through the three DPS's via mini competition and individual call-offs.
- 4.2 Based on previous years, there is expected to be a financial pressure on this activity in 2020/21. Overspends in 2020/21 will be managed in year through identifying savings, of which some have been agreed during the 2020/21 budget setting process . Following the establishment of the DPS for Health and Social Care, from 2020/21 onwards, there is an expectation that this pressure will continue to be managed through a combination of better contract monitoring and control of expenditure, and where required finding alternative savings.
- 4.3 The current Covid-19 pandemic has increased the demand for supported living and supported housing with more patients being discharged with care needs. The longer term impact on supported living and supported housing is not clear and will be reviewed regularly. Currently, during this Covid -19 emergency period, NHS funding for the hospital is picking up the initial costs of care before being reviewed.
- 4.4 COVID-19 will also impact the ability to deliver alternative savings to mitigate any spending pressures. Fig. 8 highlights budget areas calling-off DPS 3. Supported Living (DPS 3, Lot 1) and Supported Housing (DPS 3, Lot 2) budgets are from Health, Wellbeing and Adults, whilst Young People's accommodation services (DPS 3, Lot 3) are from Children, Families and Education budgets.
- 4.5 **Fig. 8 Actual Adults Social Care Spend against by DPS 3 Lots in 2019/20:**

DPS 3	Annual Spend 2019/20	Budget 2020/2021
Lot 1: Supported Living	13,763	8,755
Lot 2: Supported Housing	2,247	2,369
Lot 3: Young People	10,070	4,433
<b>Total</b>	<b>26,080</b>	<b>15,557</b>

### The effect of the decision

- 4.6 **Competition on price** - The DPS's are an effective procurement system to call-off significant volumes of care. Currently spot purchase is used frequently across these service areas where, aside from regulatory reports and some

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monitoring, there is insufficient information on the quality of the services. All services through the DPS will have passed a quality threshold. Furthermore provider costs will be built into the DPS rather than providers naming their price. The use of mini-competition allows for further submissions on quality and revised pricing.

- 4.7 **Medium Term Financial Strategy** – Notwithstanding the price competition outlined above enabling service commissioned to be value for money, the DPS's support the revised Medium Term Financial Strategy through ensuring sufficient capacity of supported living, supported housing and home care to keep residents away or step-them down from more institutional residential and nursing care. The spend on residential care should reduce with Extra Care and supported living seen as more independence maintaining options.

### London Living Wage

- 4.8 As a LLW borough, all applicable contracts will include the requirement to pay the LLW. This is an important investment in the social care workforce which should result in increased productivity. LLW will apply to all new Supported Living and Housing Related Support contracts called off from the DPS for services in Croydon. The impact of the LLW on new contracts will be gradual and will apply to new service users, as many existing placements are long term contracts. Cost implications are about £20,000 for new placements in Year 1 in Supported Living. For new Housing Related Support contracts called off from the DPS for services in Croydon there will be volume contracts with the providers. Cost implications are about £100,000 in year one but this could be reduced by mini-competition.

### Other Risks

- 4.9 **Not committed spend** - Spend through the DPS is not committed spend as the commitment only applies to the quantities required for each call off or mini competition. This means that if the budget were to increase or decrease in the future, the required volumes could easily change year on year to reflect this. The focus will be on prevention and re-ablement to help service users live more independently thereby reducing the dependency on more expensive and traditional methods of providing care (spend in DPS 2). Monitoring of spend via the DPS's will be robust with a six monthly report to CCB and more frequent reporting the Executive Director Health, Wellbeing and Adults.
- 4.10 **Partner usage** – The CCG and SLaM may use the DPS's. Participating organisations will need to sign an Access Agreement to use the DPS's.
- 4.11 **Commissioning outside DPS** - There is a risk that all partners of the integrated procurement hub do not purchase services via the DPS. This will be mitigated by engaging with the partner local authorities to gain their buy-in to the specifications and awarding methodology.
- 4.12 **Staff resources** – Setting up three DPS's is a resource intensive process. The bid evaluation to ensure only quality providers join the DPS has and will place a heavy demand on council staff time. Longer term staff implications of

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managing any new applications to join the DPS's and the continual brokerage and contract management functions will be managed within the newly restructured Adults, Health and Integration team in Commissioning and Procurement.

### **Options**

- 4.13 Options were considered as part of the RP1 Make or Buy report agreed by CCB in 2018. Using the DPS enables more frequent refreshing of the bidder base and prices, to better match the dynamics in the supplier market and gain the continual value improvements.

### **Future savings/efficiencies**

- 4.14 It is not anticipated that the DPS's collectively will make savings as there will be cost pressure on existing services joining the DPS that do not currently stipulate LLW. As vulnerable residents' needs will become more complex, the DPS will seek to ensure a variety of independence maintaining/enhancing options through DPS 1 and 3. The DPS's will provide a flexible solution through mini-competition to the commissioning and procurement of services that can be managed to contain expenditure within approved budgets.

Approved by: Josephine Lyseight, Head of Finance, on behalf of the Director of Finance, Investment & Risk.

## **5 LEGAL CONSIDERATIONS**

- 6.1 The Director of Law and Governance comments that the legal considerations are as set out in this report.

Approved by Sonia Likhari on behalf of Sean Murphy, Director of Law and Governance.

## **6 HUMAN RESOURCES IMPACT**

- 6.1 There are no direct Human Resources implications arising from this report for Croydon Council employees. Nonetheless, this procurement strategy could result in service provision changes, as services are called off from the DPS's and new contracts are awarded, which may invoke the effects of TUPE (Transfer of Undertakings (Protection of Employment) 2006 Legislation, amended 2014). The application of TUPE will be determined by the incumbent and the new service providers, for which the Council is the client. On that basis, the role of the Council would usually extend no further than facilitating the process.
- 6.2 Paying LLW rates where applicable will be a contractual requirement of the DPS approach. National Living Wage, as set by Living Wage Foundation, will apply to contracts in other parts of the country.

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Approved by: Debbie Callister, Head of HR for Health, Wellbeing and Adults, on behalf of the Director of HR

### **7 EQUALITIES IMPACT**

- 7.1 An Equalities Analysis has been completed by the e-market place implementation team to ascertain any potential impact on protected groups in relation to the creation of DPS to supply services. This was approved by CCB in 2018.
- 7.2 The services positively promotes equalities across all groups with protected characteristics. The provision of personal care services promotes independence, improves quality of life.

Approved by: Yvonne Okiyo, Equalities Manager

### **8 ENVIRONMENTAL IMPACT**

- 9.1 There are no adverse environmental impacts to the report.

### **9 CRIME AND DISORDER REDUCTION IMPACT**

- 9.1 There are no adverse implications for crime and disorder arising from this report. There are however, positive implications by supporting homeless people and people with mental health problems, drug and alcohol abuse, etc.

### **10 REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 10.1 The procurement carried out has been compliant with the approved procurement strategy, the Council's Tenders and Contracts Regulations and the Procurement Contracts Regulations 2015. The DPS offers an end to end process for commissioning and award of a range of services for adults and young people.

### **11 OPTIONS CONSIDERED AND REJECTED**

- 11.1 An Options Appraisal was considered as part of the RP1 (Make or Buy) report, which has been agreed by CCB. The establishment of DPS 1 - 3 ensures that the Council and other authorities within the Integrated Procurement Hub are getting the best possible value for money in relation to the purchase of personal care services. Procuring outside of the DPS would not enable the Council and the Integrated Procurement Hub to achieve the savings detailed within this paper.



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- 11.2 The establishment of a Framework similar to the previous IFA. A framework is considered in this case to be too restrictive as the maximum term is limited to 4 years maximum. New suppliers cannot be added to the framework of approved suppliers unless the framework is refreshed.
- 11.3 Without a DPS or Framework, the Council would have to advertise and tender all services every time a new service is required. The process is very inefficient and time consuming, requiring extra staff.
- 11.4 Spot purchasing services as and when required – this approach is considered to be non-compliant with the Council’s financial regulations and EU Procurement legislation.

## 12 DATA PROTECTION IMPLICATIONS

### 12.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF ‘PERSONAL DATA’?

**YES** - The first (current) stage of the establishment of the DPS’s for Adults and Social Care services does not involve the processing of personal data about service users. However, all providers have been asked to confirm that they comply with current GDPR legislation as well as providing their data protection policies and procedures. This has been evaluated for all providers (as a pass/fail question in the Selection Questionnaire).

In the second call off stage any Approved Providers who are awarded a contract or placement, will process some personal data on behalf the residents and the Council namely identity data, some financial data and health and care data.

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

**IN PROGRESS** - A Data Protection Impact Assessment is being undertaken for the second call off stage. Additionally as part of contract mobilisation further work will be undertaken on the Assessment with the approved providers who are awarded contracts from the DPS who will process and or hold some data on behalf of the Council and residents. For example, the Council in some cases the Council will need to create a three-way data sharing agreement with the preferred provider and Croydon CCG.

Approved by: Guy Van Dichele, Executive Director of Health, Wellbeing and Adults

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### CONTACT OFFICER:

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**Background Papers:** None