

Report to:	Cabinet	Date of Meeting:	23 June 2022
Subject:	Domiciliary Care Procurement		
Report of:	Executive Director of Adult Social Care and Health	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member - Adult Social Care		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

To update Cabinet on work that has taken place regarding the Domiciliary Care sector since the last report to Cabinet in December 2021 and to seek approval on a specific procurement exercise to establish a new Sefton Pseudo Dynamic Purchasing System (PDPS) for the future commissioning of Domiciliary care services in Sefton.

Recommendation(s):

Cabinet is recommended to approve;

- (1) The commencement of a procurement exercise to establish a new Sefton only Pseudo Dynamic Purchasing System (PDPS) for Domiciliary Care services that will be established for up to, and not more than, a ten-year period, commencing in April 2023. All contracted spend on domiciliary care is in scope of this Cabinet paper.
- (2) That decisions on the rules of the new PDPS, including the workforce strategy, specification, quality and cost threshold, initial procurement, tender evaluation process direct awards throughout the life of the new PDPS to deal with any specific additional service delivery requirements are delegated to the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member
- (3) That decisions on any new Provider contract model, contractual terms and conditions, service delivery arrangements (including service specification and geographical contracted areas) and payment arrangements (including fee rates paid for services, including any enhanced rates for certain geographical areas) to be applied to the above procurement exercise and throughout the life of the new PDPS be delegated to the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care and the Executive Director of Corporate Resources and Customer Services, subject to adhering to the required budgetary approval processes;
- (4) That delegated authority is given the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care to award

contracts under this new PDPS to Providers, based on the contract model agreed, which may include the awarding of Lead Provider contracts and SPOT Provider contracts, including at the commencement of the new PDPS the direct award of contracts to Providers contracted under the current PDPS for Domiciliary Care services;

- (5) That throughout the life of the new PDPS delegated authority is given the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care to make decisions on the implementation of any permitted extension periods to contracts initially awarded.
- (6) That throughout the life of the new PDPS delegated authority is given the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care to make decisions on periodic re-opening exercises of the PDPS, to attract new Provider applications onto it, and to then make decisions on the awarding of contracts and any subsequent permitted extensions within them, to successful new applicants.
- (7) That throughout the life of the new PDPS delegated authority is given the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care to make decisions on any amendments to its operation, so as to ensure that such decisions can be implemented in a timely manner and so that the PDPS is able to operate in a flexible way which addresses any emerging issues and supports wider work such as the further integration of Health and Children’s services with Adult Social Care.

Reasons for the Recommendation(s):

To ensure that commissioning arrangements for the provision Domiciliary Care within Sefton are directed by Sefton, to meet its demographic requirements, are in place to meet the assessed needs of Sefton’s residents, so that future decisions on commissioning and market management can be made in a timely manner and to put in place new contractual and service delivery arrangements which both seek to ensure market sustainability and reduced disruption to Service Users.

Alternative Options Considered and Rejected: (including any Risk Implications)

- 1. Maintaining the status quo** – This was not considered a viable option due to identification of the need to establish new purchasing arrangements in Sefton for the commissioning of Domiciliary Care needs, which reflect the needs of Sefton residents and meets Sefton’s demographic requirements aligned to enabling market sustainability and sufficiency.
- 2. Establishing a new local PDPS which would encompass all current contracts being put out for re-tender** – This option was considered and rejected as it was identified that where applicable, should existing contracted Providers meet the requirements for the new local PDPS, then Sefton should have the ability make direct awards of contracts to such Providers as this will ensure reduced market disruption and widescale disruption for Service Users and Provider Staff.

What will it cost and how will it be financed?

(A) Revenue Costs

Revenue costs with respect to the new contracts will need to be met from existing Domiciliary Care budgets. The current gross cost of Domiciliary Care is £18.4m per annum.

(B) Capital Costs

There are no capital costs associated with the implementation of the recommendations within this report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):								
Legal Implications: Care Act 2014 Care and Support Statutory Guidance								
Equality Implications: The equality Implications have been identified and mitigated.								
Climate Emergency Implications: The recommendations within this report will <table border="1"><tr><td>Have a positive impact</td><td>No</td></tr><tr><td>Have a neutral impact</td><td>Yes</td></tr><tr><td>Have a negative impact</td><td>No</td></tr><tr><td>The Author has undertaken the Climate Emergency training for report authors</td><td>Yes</td></tr></table> It is not anticipated that there will be any positive or negative impacts relating to the recommendations proposed in this report, however the establishment of a Sefton specific purchasing system will support through contract terms that climate issues are supported by Providers.	Have a positive impact	No	Have a neutral impact	Yes	Have a negative impact	No	The Author has undertaken the Climate Emergency training for report authors	Yes
Have a positive impact	No							
Have a neutral impact	Yes							
Have a negative impact	No							
The Author has undertaken the Climate Emergency training for report authors	Yes							

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Domiciliary Care provides care and support to vulnerable people assessed as requiring such services, thus ensuring that the Council meets its statutory obligations.
Facilitate confident and resilient communities:

<p>Domiciliary Care services support the maintenance of independence, including ensuring that Service Users remain as part of their local communities.</p>
<p>Commission, broker and provide core services:</p> <p>The adoption of the recommendations will ensure that statutory services will continue to be delivered to vulnerable Service Users and that the new arrangements better support the Provider market and its sustainability.</p>
<p>Place – leadership and influencer:</p> <p>The establishment of a new PDPS will help to ensure that there is a placed-based approach to the commissioning of Domiciliary Care services and Sefton will be better able to adapt and respond to any emerging market issues.</p>
<p>Drivers of change and reform:</p> <p>The drivers are:</p> <ul style="list-style-type: none"> • Integration - national context and local linked to the White Paper • Adult Social Care Reform Act 2021 • Market Position Statement for Sefton • Adult Social Care Vision and Strategy • Adult Social Care Demand Management Programme
<p>Facilitate sustainable economic prosperity:</p>
<p>Greater income for social investment:</p>
<p>Cleaner Greener</p>

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6814/22) and the Chief Legal and Democratic Officer (LD.5014/22) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Consultation has taken place with Providers and Stakeholders.

If the recommendations within this report are approved then as part of the development of the new PDPS, further consultation and engagement will take place with Stakeholders on the arrangements for the PDPS and the procurement approach.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

Contact Officer:	Carol Cater
Telephone Number:	Tel: 0151 934 3614
Email Address:	Carol.Cater@sefton.gov.uk

Appendices:

There are no appendices to this report

Background Papers:

There are no background papers available for inspection.

1. Introduction / Background

- 1.1. In December 2021 Cabinet approved an approach to the future commissioning of Domiciliary Care and were advised that a further report would be submitted providing details on the future strategy for the sector
- 1.2. Since approval of that Cabinet report, specific proposals have been formulated on the proposed future commissioning arrangements and strategic direction for the sector. In addition, the Department of Health and Social Care (DHSC) have outlined requirements on Local Authorities relating to fair cost of care and market sustainability, which will impact on the sector.
- 1.3. As a result, the purpose of this report is to seek approval for the implementation of the specific proposals on the future commissioning approach, associated future delegated authority permissions and to outline the future strategic direction for the sector, linked to the wider DHSC directed work which has impacted on the implementation and direction of previous decisions approved by Cabinet.
- 1.4. At present Sefton operates a Pseudo Dynamic Purchasing System (PDPS) jointly with Knowsley Metropolitan Borough Council which was established in 2017 with activities such as the re-opening of it to new applicants and the assessment of such new applications being primarily led by Knowsley Metropolitan Borough Council. Whilst this approach supported both Councils, the more current emerging issues, impacts on the domiciliary care market as well as the DHSC Market Sustainability agenda would support a Sefton commissioning approach where decisions can be made to meet local needs and management of the Sefton market.
- 1.5. Sefton is currently ‘split’ into six contracted areas with Lead Providers in place for four of these areas. These Providers are expected to accept the majority of new referrals. The Lead Provider contracts have been agreed until Summer/Autumn 2022 and as outlined later on in this report, are in the process of seeking to be

extended in line with the proposed timeline for the establishment of the new PDPS. The remaining two areas are currently delivered by the Local Authority trading Company, however ongoing work is taking place with them on their withdrawal from the Sefton Domiciliary Care market.

- 1.6. There is then a list of approved SPOT Providers who can be contacted to accept referrals should the Lead Provider/s be unable to accept them.
- 1.7. Sefton, as is the case with many other Local Authority areas, is currently experiencing significant issues with the Domiciliary Care market, due to increased demand for services (linked to both changes in demand for other services such as care home placements, but also the implementation of strategic aims around supporting people to maintain their independence in their own homes) and issues with meeting such demand. This factor is also linked to wider workforce issues which are affecting the social care market including issues such as recruitment, retention and staff pay rates.

2. The Proposal to Establish a New Purchasing Framework

- 2.1. It is proposed to meet current demands upon domiciliary care in Sefton and ensure sufficiency and sustainability, Sefton withdraws from the current arrangements that it has in place with Knowsley Metropolitan Borough Council which are currently used to commission new Providers and establish new contracts.
- 2.2. It has been identified that due to local issues being experienced with the Domiciliary Care sector and to also ensure greater control and shaping of the local market, there is a need to ensure that Sefton is able to better control commissioning arrangements and therefore exercise more ability to shape and support the local market.
- 2.3. A new approach will allow Sefton to;
 - Secure provision which can be evaluated based upon Sefton's local demographic and resident's needs;
 - Control the number of core Providers commissioned in order to support sustainability for Providers and enable greater sufficiency in the market. This will also support the quality of provision and ability of the council to monitor provision;
 - Stronger focus on a core base of Providers will support the delivery of strategic objectives and support with issues such as recruitment and retention;
 - Have more control over procurement exercises, so that Sefton is more quickly able to respond to any market pressures such as a reduced Provider base or the need to seek new Providers, for example to deliver services to meet specific commissioning needs;
 - Support further work on the integration agenda in Sefton and affords Sefton more flexibility to implement new joint commissioning arrangements with partners such as Health and Children's Services; and
 - Seek to implement revised contractual and service delivery arrangements, such as the implementation of block contracts to 'guarantee' a level of

income/business for Providers, which in turn will support them with establishing dedicated Staff teams. This can then assist with recruitment and retention of Staff.

2.4. It is proposed that the new PDPS is established so that it commences on 3rd April 2023 and will be in operation for a ten-year period.

2.5. In order to support the above timeframes, it is proposed that current Lead provider contracts are extended to 2nd April 2023, using the current joint PDPS, with the proposed procurement process timetable to establish the new PDPS being;

ACTIVITY	TIMEFRAME
Service Specification, engagement and co-design	July 2022 onwards
New Contracts start	3rd April 2023
Contract Implementation Period	1st February 2023 – 2nd April 2023
Contract Award Activities (approval etc)	January 2023
Evaluation of Bids	28th November 2022 - 18th December 2022
Tender Response Deadline	27th November 2022
Tender Advertised on The CHEST	17th October 2022
<p>Tender Preparation Activities</p> <ul style="list-style-type: none"> • Agree approach and obtain Cabinet Member approval of it • Work on extension of existing Lead Provider contracts (extension for period Summer/Autumn 2022 – early April 2023) • Carry out consultation and co-design – including issuing draft documents via The Chest procurement portal for provider comments that may inform the spec etc and also hold supplier event to further discuss. Issues such as; <ul style="list-style-type: none"> ○ Block contracting ○ Brokerage arrangements ○ Service delivery / outcomes ○ Zones ○ Review and revision of service specification / contract ○ TECS ○ Staffing / workforce issues • Complete Invitation to Tender documentation. (Procurement will draft the I.T.T., Commissioners main focus will be; <ul style="list-style-type: none"> ○ Setting zones ○ Provider model (Lead / Spot etc) ○ Updating the specification and contract ○ Drafting tender selection criteria ○ Commissioning processes – Brokerage etc ○ Rules for the PDPS – opening periods / criteria for periodic opening etc • Acquire current staffing information from existing contractors, (most likely not necessary at the point of setting up the PDPS). • Finalise contract Terms and Conditions and Call off Agreements 	June – October 2022

- | | |
|--|--|
| <ul style="list-style-type: none">• Engage with Partners on potential joint commissioning arrangements | |
|--|--|

- 2.6. As detailed above, it is proposed that between now and October 2022 Council Officers will conduct the work required to formulate the new PDPS arrangements and commence the procurement / tender exercise.
- 2.7. A dedicated project group will be established consisting of Officers from Strategic Commissioning, Procurement, Legal, Adult Social Care Social Operations and Commissioning Partners.
- 2.8. An engagement and co-production ethos will be adopted, bringing in partners such as Healthwatch Sefton, Service Users and their Families/Advocates and Providers, to ensure that the new arrangements deliver services to best meet people's needs and desired outcomes for people who use services. Furthermore, it will put in place contractual and service delivery arrangements which support market sustainability and viability of Providers.
- 2.9. There will also be a strong focus on workforce matters, such as Staff training and development and the new specification reflecting wider issues such as the Council not commissioning care packages that encompass 15-minute call durations.
- 2.10. The above, will also be informed by and also inform, wider work on Market Sustainability and Fair Cost of Care requirements mandated by the Department of Health and Social Care which will be required to be completed by October 2022.
- 2.11. With respect to the work to establish the details of the new PDPS, it is proposed that decisions on new contractual terms and conditions, and service delivery arrangements (including service specification, geographical contracted areas) be delegated to the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care.
- 2.12. Initial work on reviewing the Domiciliary Care sector has to date identified that any new commissioning arrangements need to reflect issues such as;
 - Providers continuing to adopt an enabling approach which seeks to maintain people's independence as much as possible;
 - Greater use of equipment and technology – such as adaptations to support people to live independently and manage their long-term conditions as well as technology to support service delivery and quality monitoring activities;
 - Putting in place contracting models that support with market sustainability and which are based on cost of care exercises that reflect commissioning activity levels and any additional pressures on delivering services in certain geographical areas where service delivery costs may be higher. This work could include exploration of implementing block contracts to guarantee Provider capacity and secure Staffing resources; and
 - A service model that seeks to supports all Providers to further take on a Trusted Assessor role whereby they an exercise a level of authority to make recommendations on changing people's care and support packages in order to reflect and adapt to changes in need.

2.13. It is also proposed that delegated authority is given to the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member – Adult Social Care to make decisions on the future contracting / Provider model for the new PDPS, for example whether contracts are awarded based on options such as;

- Awarding Lead Provider and SPOT Provider contracts – which would encompass having a Lead / Main Provider in each devised contracted area who would be expected to accept the majority of new referrals, with a list of SPOT Providers who would be approached to accept referrals should the Lead / Main Provider be unable to; or
- Establishing preferred Providers in each devised contracted area – with these Providers being approached in the first instance to accept new referrals, with a list of other SPOT Providers still in place.

2.14. It is also proposed that the initial tender exercise will encompass the awarding of contracts through evaluating bids based on an assessment on Quality and Social Value (for example 95% Quality and 5% Social Value), with price not being a contributory factor in evaluations as the price (typically the hourly rate paid) will be set by Sefton. Therefore, contracts such as Lead / Main Provider contracts (should that contracting model be agreed) will be awarded to the bidder/s who demonstrate the highest quality/social value submission. This will benefit Sefton by ensuring that there is a primary focus on commissioning the highest quality services, which in turn will benefit Service Users. It is recommended that decisions on the evaluation criteria be delegated to the Director of Social Care and Health in consultation with the Cabinet Member – Adult Social Care, to also ensure that the quality criteria and questions tenderers are asked to respond to, are based on ensuring that future services meet Adult Social Care requirements.

2.15. For the initial exercise to establish the new PDPS and award contracts, it is also proposed that delegated authority is given to the Director of Social Care and Health in consultation with the Cabinet Member – Adult Social Care to award contracts for;

1. **Lead / Main Providers** – should that contracting model be agreed and the awarding of contracts also delegated authority to award any permitted extensions to those contracts;
2. **SPOT Providers** – including that for current SPOT Providers that meet the criteria for the new PDPS then the authority includes the ability to direct award contracts to them; and
3. **Non-PDPS Providers** – explore (subject to following procurement guidelines) whether there is scope to direct award contracts to Providers that are currently delivering services for the Council who are not registered on the current PDPS, but who apply, and are accepted onto, the new local PDPS.

2.16. The above approach relating to any new SPOT provider contracts is recommended as it will seek to ensure that there is a minimal disruption for Service Users and Provider Staff and so that service continuity can be maintained and there is reduced disruption to a care market that is facing significant issues and which Sefton seeks to stabilise as much as possible.

3. Operational Approach

- 3.1. As previously, outlined it is proposed that the new framework is established for up to a ten-year period, with the first task being to conduct a procurement exercise to establish it and award initial Lead and SPOT contracts.
- 3.2. Going forward it is proposed that the new model is used as the principal mechanism to commission and contract for Domiciliary care services, but it also has the potential to be used for wider commissioning activities such as the for the commission of other services such as those currently commissioned by Partners such as Health and Children's services.
- 3.3. It is also proposed that it is utilised as a commissioning route to secure any additional services to support with wider Health and Social Care system issues. For example, to secure additional capacity during periods such as during winter pressures where there is a need to ensure timely hospital discharges.
- 3.4. It is anticipated that the framework will be periodically refreshed to attract new Providers into the Sefton market to ensure sufficient service provision and a Provider base that supports Service User choice, and which reacts to other issues such as any Providers seeking to withdraw from the Sefton market.
- 3.5. It is therefore recommended that throughout the lifecycle of the new PDPS delegated authority is given the Executive Director of Adult Social Care and Health in consultation with the Cabinet Member Adult Social Care to make decisions on periodic refreshing of the model, to attract new Provider applications onto it, and to then make decisions on the awarding of contracts and any subsequent permitted extensions within them, to successful new applicants.

4. Conclusions

- 4.1. The above recommendations have been submitted in order to seek to establish a new procurement approach to support the Council in meeting the needs of Sefton residents and in addition ensure that the domiciliary care market is sustainable and offers sufficiency of provision to meet emerging demands and pressures.
- 4.2. Commissioners will have the ability to identify sustainable and quality provision, monitor the effectiveness of this provision and work with providers to support current workforce and retention issues.
- 4.3. Therefore, the procurement exercise and new contracting and service delivery arrangements will continue to have the key focus of supporting vulnerable people in Sefton, but will also have an increased focus on supporting the Provider market and Staff delivering services.