



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Philippa Gibbs

*Philippa.Gibbs@bromley.gov.uk*

DIRECT LINE: 020 8461 7638

FAX: 020 8290 0608

DATE: 17 June 2019

## **ADULT CARE AND HEALTH POLICY DEVELOPMENT AND SCRUTINY COMMITTEE**

**Meeting to be held on Tuesday 25 June 2019**

Please see the attached report(s) marked "to follow" on the agenda.

- 9b BUDGET MONITORING 2018/19 (PAGES 3 - 14)**
- 10c DISCHARGE TO ASSESS PILOT EVALUATION (PAGES 15 - 30)**
- 10d GATEWAY REPORT - LEARNING DISABILITY SUPPORTED  
ACCOMMODATION PROCUREMENT STRATEGY (PAGES 31 - 42)**
- 11c JOINT MENTAL HEALTH STRATEGY UPDATE**  
This will be a verbal update
- 14c GATEWAY REPORT - LEARNING DISABILITY SUPPORTED  
ACCOMMODATION PROCUREMENT STRATEGY (TO FOLLOW)**  
(PAGES 43 - 58)

*Copies of the documents referred to above can be obtained from*  
<http://cde.bromley.gov.uk/>

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Report No.  
FSD19066

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** PORTFOLIO HOLDER FOR ADULT CARE AND HEALTH

**Date:** For Pre-Decision Scrutiny by the Adult Care and Health Policy Development and Scrutiny Committee on Tuesday 25<sup>th</sup> June 2019

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** BUDGET MONITORING 2018/19

**Contact Officer:** James Mullender, Head of Finance, Adults, Health & Housing  
Tel: 020 8313 4196 E-mail: James.Mullender@bromley.gov.uk

**Chief Officer:** Director of Adult Social Care

**Ward:** All Wards

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1. Reason for report

- 1.1 This report provides the budget monitoring position for 2019/20 for the Adult Care and Health Portfolio based on activity up to the end of May 2019.
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2. RECOMMENDATION(S)

2.1 The Adult Care and Health PDS Committee is invited to:

- i) Note the projected overspend of £666k on controllable expenditure, based on information as at May 2019;
- ii) Note the full year effect cost pressures of £2,451k in 2020/21 as set out in section 3.5;
- iii) Note the comments of the Director of Adult Social Care in section 3.9; and
- iv) Refer the report to the Portfolio Holder for approval.

2.2 The Adult Care and Health Portfolio Holder is requested to:

- i) Note the projected overspend of £666k on controllable expenditure, based on information as at May 2019; and
- ii) Agree the release of amounts carried forward from 2018/19 as set out in section 3.6.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: None directly arising from this report
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### Corporate Policy

1. Policy Status: Existing Policy: Sound financial management
  2. BBB Priority: Excellent Council Supporting Independence Healthy Bromley
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### Financial

1. Cost of proposal:
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: AC&H Portfolio Budgets
  4. Total current budget for this head: £72.3m
  5. Source of funding: AC&H approved budget
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### Personnel

1. Number of staff (current and additional): 349 Full time equivalent
  2. If from existing staff resources, number of staff hours: Not applicable
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### Legal

1. Legal Requirement: Statutory Requirement: The statutory duties relating to financial reporting are covered within the Local Government Act 1972; the Local Government Finance Act 1998; the Accounts and Audit Regulations 1996; the Local Government Act 2000 and the Local Government Act 2002
  2. Call-in: Applicable
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### Procurement

1. Summary of Procurement Implications: Not Applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The 2019/20 budget reflects the financial impact of the Council's strategies, service plans etc. which impact on all of the Council's customers (including council tax payers) and users of the services
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

**3.1** The 2019/20 projected outturn for the Adult Care and Health Portfolio is detailed in Appendix 1A, broken down over each division within the service. Appendix 1B gives explanatory notes on the movements in each service. The current position is a projected overspend of £666k on the controllable budget, and some of the main variances are highlighted below.

**3.2** Senior officers meet on a regular basis to scrutinise and challenge the expenditure position and formulate management action to address any issues.

#### **3.3 Adult Social Care**

**3.3.1** Overall the position for Adult Social Care is a projected £686k overspend. The main reasons for this are:

Assessment and Care Management - £590k overspend (net of £850k Better Care Fund allocation for Discharge to Assess)

**3.3.2** Assessment and Care Management is currently estimated to overspend by £590k. This is mainly due to Placements and Domiciliary Care/Direct Payments for 65+ where client numbers are currently above the budgeted figure, and budgeted savings from Reablement and the Discharge to Assess (D2A) scheme not being achieved. The overspend is partly offset by projected underspends on the costs of the D2A scheme and Day Care.

**3.3.3** As set out in the D2A report elsewhere on the agenda, it is recommended that the service be continued for a further year and funded by the Better Care Fund. The continued service will be revised based on lessons learnt from the pilot, particularly around the time taken to undertake the long term assessments.

Learning Disabilities - £460k overspend

**3.3.4** The overspend in Learning Disabilities is currently projected to be £460k. This is based on actual information received on placements, which has seen an increase over the last few months of new and increased packages of care above that assumed in the growth forecast.

Mental Health - £424k overspend

**3.3.5** Projected spend on mental health placements is an overspend of £424k, mainly as a result of new clients and increased packages of care, and less clients moving on to either a reduced package, or to independent living.

Better Care Fund (BCF) – Protection of social care - £470k underspend

**3.3.6** Elements of the BCF are allocated to the protection of social care. This funding can be used flexibly. There have been underspends in some areas of the budget that are allocated BCF funding. As a result of this, the surplus funding has been reallocated to areas within Adult Social Care. This has resulted in a one off reduction in expenditure of £470k for Adult Social Care as the grant now covers the spend.

#### **3.4 Public Health**

**3.4.1** The current variation in Public Health is a net nil. There is an in year overspend of £540k, mainly due to savings not yet being identified to offset the reduction in grant for 2019/20. If this is unable to be addressed during the year, the overspend at year-end can be funded from Public Health grant underspends carried forward from previous years, which currently total £1,779k, as set out in paragraph 3.6.3.

### **3.5 FULL YEAR EFFECT GOING INTO 2020/21**

- 3.5.1 The cost pressures identified in section 3 above are projected to impact in 2020/21 by £2,451k. Further growth of £2,431k for Adult Social Care has been assumed in the financial forecast (net of mitigation, and excluding the fall-out of Improved Better Care Fund (IBCF) funding); however, given the Council's "budget gap", which is projected to increase to around £32m by 2022/23, these growth items are currently unfunded.

### **3.6 AGREEMENT TO RELEASE OF AMOUNTS CARRIED FORWARD FROM 2018/19 BY THE PORTFOLIO HOLDER**

#### Better Care Fund – Dr £58k & Cr £58k

- 3.6.1 2018/19 was the fourth full year of operation for the Better Care Fund (BCF). Some BCF allocations, including those for reablement and resilience, were not fully spent by 31<sup>st</sup> March 2019 and underspends are required to be carried forward for spending on BCF activities in 2019/20. This funding will be allocated to agreed projects together with new BCF funding for 2019/20.

#### Improved Better Care Fund (IBCF) - Dr £3,967k & Cr £3,967k

- 3.6.2 Underspends in IBCF funding totalling £3,172k were carried forward to 2018/19, partly because allocations were agreed relatively late in the financial year. In addition, £795k of the £5,376k allocation for 2018/19 was not spent, resulting in a total of £3,967k carried forward. Underspends can be carried forward to support expenditure in future years and spending commitments are in place.

#### Public Health Grant - Dr £1,779k & Cr £1,779k

- 3.6.3 Public Health Grant underspent by £141k in 2014/15, £152k in 2015/16, £330k in 2016/17, and £395k in 2017/18. This total balance of £1,018k was carried forward to 2018/19 to fund public health initiatives in accordance with the terms of the grant. However it was not required in 2018/19 as there was a further underspend of £761k. This cumulative balance was carried forward to fund public health initiatives that may be required in 2019/20.

- 3.6.4 It is requested that the Portfolio Holder agree to release the three items of funding above.

### **3.7 SUMMARY OF CARE PACKAGES**

- 3.7.1 As requested at the last meeting of the Adult Care & Health PDS Committee, a summary of the projections for care packages in Adult Social Care is provided in Appendix 3.

### **3.8 MODELLING OF FUTURE ADULT SOCIAL CARE COSTS**

- 3.8.1 At its meeting on 21<sup>st</sup> November 2018, in considering the budget monitoring report, the Adult Care & Health PDS Committee requested that work be undertaken to identify whether a more effective modelling tool was available to project the future costs relating to the provision of adult social care.

- 3.8.2 In terms of budget monitoring projections, in particular relating to the transition of child to adult social care, it is believed that projections based on detailed information on individual clients is the most effective way of projecting costs over the short to medium term. There is a degree of uncertainty around certain aspects of the information from children's services, such as start dates e.g. if a new placement needs to be found once they have left school/college, or the exact level of support that will be continue to be provided, so the budget monitoring projections include a "probability factor", which is based on experience in recent years between the

projections for new starts and actual care packages agreed. For less volatile budgets such as older person's domiciliary care, projections are made at a client level, but new starts are assumed at average levels of support, hourly rate, client contributions etc.

- 3.8.3 For longer term projections i.e. for the four year financial forecast, it may be more appropriate to use more general modelling techniques to estimate future growth in demand/changes in net costs and the impact of other trends. The Association of Directors of Adult Social Services (ADASS) are currently completing work on a model of care costs, and although elements are due to be rolled out later this year, it won't be fully live until next financial year. There doesn't appear to be any other specific tools for modelling future adult social care costs at present.
- 3.8.4 Until the ADASS model is available, where relevant, long-term projections will reflect local demographic projections from the Joint Strategic Needs Assessment, as well as wider projections/trend analysis/research e.g. from the Office of National Statistics, Chartered Institute of Public Finance and Accountancy, ADASS, and the Personal Social Services Research Unit at the London School of Economics. Where available and relevant, this will be combined with detailed client level information to produce growth estimates for future years.

### **3.9 COMMENTS FROM THE DIRECTOR OF ADULT SOCIAL CARE**

- 3.9.1 As has been highlighted, the budget for Adult Social Care is currently projected to overspend, in large part due to savings identified not being currently delivered. Robust monitoring of all spend is in place and I am developing, with the senior team, a series of deliverable management actions for this financial year. Action has already been put in place to reduce the ongoing pressure coming from the Discharge to Assess service, which is a major pressure point for the service.
- 3.9.2 Work has begun to reduce reliance on short term and agency staff to enable the service to improve delivery and provide consistent and good practice with an established staff group. This will be backed by regular financial and performance scrutiny where managers will be held to account on a monthly basis.

## **4. POLICY IMPLICATIONS**

- 4.1 The Resources Portfolio Plan includes the aim of effective monitoring and control of expenditure within budget and includes the target that each service department will spend within its own budget.
- 4.2 Bromley's Best Value Performance Plan "Making a Difference" refers to the Council's intention to remain amongst the lowest Council Tax levels in outer London and the importance of greater focus on priorities.
- 4.3 The four year financial forecast report highlights the financial pressures facing the Council. It remains imperative that strict budgetary control continues to be exercised in 2019/20 to minimise the risk of compounding financial pressures in future years.
- 4.4 Chief Officers and Departmental Heads of Finance are continuing to place emphasis on the need for strict compliance with the Council's budgetary control and monitoring arrangements.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 A detailed breakdown of the projected outturn by service area is shown in appendix 1A with explanatory notes in appendix 1B. Appendix 2 shows the latest full year effects. Appendix 3 provides a summary of Adult Social Care care packages. Other financial implications are contained in the body of this report and Appendix 1B provides more detailed notes on the major services.

- 5.2 Overall the current overspend position stands at £666k (£2,451k overspend full year effect). The majority of the full year effect has been included as growth in the financial forecast; however due to the Council’s “budget-gap”, this is currently unfunded.
- 5.3 Costs attributable to individual services have been classified as “controllable” and “non-controllable” in Appendix 1. Budget holders have full responsibility for those budgets classified as “controllable” as any variations relate to those factors over which the budget holder has, in general, direct control. “Non-controllable” budgets are those which are managed outside of individual budget holder’s service and, as such, cannot be directly influenced by the budget holder in the shorter term. These include, for example, building maintenance costs and property rents which are managed by the Property Division but are allocated within individual departmental/portfolio budgets to reflect the full cost of the service. As such, any variations arising are shown as “non-controllable” within services but “controllable” within the Resources Portfolio. Other examples include cross departmental recharges and capital financing costs. This approach, which is reflected in financial monitoring reports to budget holders, should ensure clearer accountability by identifying variations within the service that controls financial performance. Members should specifically refer to the “controllable” budget variations relating to portfolios in considering financial performance.

<b>Non-Applicable Sections:</b>	Legal, Personnel and Procurement Implications
Background Documents: (Access via Contact Officer)	2019/20 Budget Monitoring files in ECHS Finance Section

## Adult Care and Health Portfolio Budget Monitoring Summary

2018/19 Actuals £'000	Division Service Areas	2019/20 Original Budget £'000	2019/20 Latest Approved £'000	2019/20 Projected Outturn £'000	Variation £'000	Notes	Variation Last Reported £'000	Full Year Effect £'000
<b>EDUCATION CARE &amp; HEALTH SERVICES DEPARTMENT</b>								
<b>Adult Social Care</b>								
23,299	Assessment and Care Management	21,381	21,996	23,436	1,440	1	0	1,507
	- Better Care Fund - Discharge to Assess			Cr 850	Cr 850	2		
139	Direct Services	160	160	160	0		0	0
103	Quality Assurance & Safeguarding	195	195	195	0		0	0
34,198	Learning Disabilities	35,089	35,089	35,549	460	3	0	912
6,416	Mental Health	6,554	6,554	6,978	424	4	0	502
Cr 677	Better Care Funding - Protection of Social Care	0	0	Cr 470	Cr 470	5	0	Cr 470
Cr 1,190	Winter Pressures Grant	0	0	0	0		0	0
	National Living Wage	1,500	318	0	Cr 318	6		
<b>62,288</b>		<b>64,879</b>	<b>64,312</b>	<b>64,998</b>	<b>686</b>		<b>0</b>	<b>2,451</b>
<b>Programmes</b>								
2,316	Programmes Team	2,558	2,558	2,558	0		0	0
	Information & Early Intervention							
932	- Net Expenditure	1,148	1,148	1,148	0		0	0
Cr 932	- Recharge to Better Care Fund	Cr 1,148	Cr 1,148	Cr 1,148	0		0	0
<b>Better Care Fund</b>								
22,377	- Expenditure	21,025	21,083	21,083	0		0	0
Cr 22,469	- Income	Cr 21,085	Cr 21,143	Cr 21,143	0	7	0	0
<b>Improved Better Care Fund</b>								
8,548	- Expenditure	8,570	10,970	10,970	0		0	0
Cr 8,548	- Income	Cr 9,070	Cr 11,470	Cr 11,470	0	8	0	0
<b>NHS Support for Social Care</b>								
1,100	- Expenditure	0	0	0	0		0	0
Cr 1,100	- Income	0	0	0	0		0	0
<b>2,224</b>		<b>1,998</b>	<b>1,998</b>	<b>1,998</b>	<b>0</b>		<b>0</b>	<b>0</b>
<b>Strategy, Performance &amp; Engagement</b>								
355	Learning & Development	382	382	382	0		0	0
2,091	Strategy, Performance & Engagement	2,386	2,327	2,307	Cr 20	9	0	0
<b>2,446</b>		<b>2,768</b>	<b>2,709</b>	<b>2,689</b>	<b>Cr 20</b>		<b>0</b>	<b>0</b>
<b>Public Health</b>								
14,764	Public Health	14,872	16,651	16,651	0		0	0
Cr 14,708	Public Health - Grant Income	Cr 15,012	Cr 16,791	Cr 16,791	0		0	0
<b>56</b>		<b>Cr 140</b>	<b>Cr 140</b>	<b>Cr 140</b>	<b>0</b>		<b>0</b>	<b>0</b>
<b>67,014</b>	<b>TOTAL CONTROLLABLE ADULT CARE &amp; HEALTH</b>	<b>69,505</b>	<b>68,879</b>	<b>69,545</b>	<b>666</b>		<b>0</b>	<b>2,451</b>
1,673	<b>TOTAL NON CONTROLLABLE</b>	1,097	1,097	1,093	Cr 4		0	0
2,271	<b>TOTAL EXCLUDED RECHARGES</b>	2,362	2,362	2,362	0		0	0
<b>70,958</b>	<b>TOTAL ADULT CARE &amp; HEALTH PORTFOLIO</b>	<b>72,964</b>	<b>72,338</b>	<b>73,000</b>	<b>662</b>		<b>0</b>	<b>2,451</b>

## Reconciliation of Latest Approved Budget

£'000

## 2019/20 Original Budget

72,964

## Carry forwards requests

## Better Care Fund

- expenditure

58

- income

Cr

58

## Improved Better Care Fund

- expenditure

3,967

- income

Cr

3,967

## Public Health Grant

- expenditure

1,779

- income

Cr

1,779

## Other:

Business Support posts transferred to Corporate Services

Cr

59

Return of 2018/19 National Living Wage Funding to Contingency

Cr

567

## Latest Approved Budget for 2019/20

72,338

**REASONS FOR VARIATIONS****1. Assessment and Care Management - Dr £1,440k**

The overspend in Assessment and Care Management can be analysed as follows:

	<u>Current</u> <u>Variation</u> £'000
<u>Physical Support / Sensory Support / Memory &amp; Cognition</u>	
<b>Services for 65 +</b>	
- Placements	480
- Domiciliary Care / Direct Payments	1,894
	<u>2,374</u>
<b>Services for 18 - 64</b>	
- Placements	235
- Domiciliary Care / Direct Payments	Cr 19
	<u>216</u>
<b>Other</b>	
- Day Care	Cr 550
- D2A	Cr 600
	<u>Cr 1,150</u>
	<u>1,440</u>

The 2019/20 budget includes funding for the full year effect of the 2018/19 overspend, less savings agreed as part of management action to reduce this overspend.

**Services for 65+ - Dr £2,374k**

Numbers in residential, nursing care and shared lives placements continue to be above the budget provision of 414 places, currently by 20 with an overspend being projected of £480k for the year. Although the full year effect of the 2018/19 overspend was funded in the 2019/20 budget, this was offset by savings of £561k expected from continuation of the Discharge to Assess (D2A) service. This however has not realised the savings to the extent that were expected, and is the subject of a report elsewhere on the agenda.

The overall position on the domiciliary care and direct payments budgets is a projected overspend of £1,894k, mainly as a result of the savings of included in the 2019/20 budget not being achieved. Savings from reablement account for £400k, with a further £1,308k to come from D2A. As mentioned above the savings from D2A have not been realised as expected, leading to a substantial projected overspend on the budget.

**Services for 18-64+ - Dr £216k**

Placements for 18-64 age group are projected to overspend by £235k this year based on current service user numbers which are 7 above the budgeted number of 43. The main pressure area relates to clients with a primary support reason (PSR) of Physical Support where the actual number of 30 is 5 above the budget provision, accounting for £220k of the overspend.

The overall position on the domiciliary care and direct payments budgets is an underspend of £19k. Domiciliary care is currently projected to underspend by £109k and direct payments to overspend by £90k.

**Day Care Services - Cr £550k**

Day Care services continue to show reduced use of the service with low numbers compared to the budget provision. Additionally as mentioned last year contracts with some providers for the provision of transport to their centres ended, with the main Greenwich Services Plus (GSP) transport contract taking on these clients. This has resulted in a current projected underspend of £550k.

**Discharge to Assess (D2A) - Cr £600k**

In July 2018 the Executive agreed to continue the Discharge to Assess (D2A) pilot for a further year, the outcome of which is reported elsewhere on the agenda. Staffing costs for the service as well as packages of care provided under the D2A scheme are projected to cost £850k this year against the budget provision of £1,450k, which reflects a part-year effect of a reduction in time spent in the D2A service as referred to in the report. Any savings arising from this would show under the appropriate care package heading (ie placements or domiciliary care/direct payments), so are already included in the projections shown above.

**2. Better Care Funding - Discharge to Assess - Cr £850k**

As referred to in note 1 above, the savings from D2A have not materialised as expected. The D2A report elsewhere on the agenda requests that the service is funded from the Better Care Fund for 2019/20.

**3. Learning Disabilities (LD) - Dr £460k**

The 2019/20 LD budget includes funding for both the full year effect of the 2018/19 overspend (based on the position at the time the budget was prepared) and 2019/20 anticipated demand-related pressures.

An overspend of £460k is currently anticipated and this is largely the result of recent new and increased care packages outpacing expected growth. Given the early stage in the financial year, and the associated high proportion of the forecast based on future assumptions rather than actual data, this position may change significantly as the year progresses. To avoid overstating projections a 'probability factor' has been applied to future assumptions to reflect experience in previous years. This is on the basis that there tends to be slippage on planned start dates or clients aren't placed as originally expected, however there is a risk attached to this in that the majority of placements may go ahead as planned.

The delivery of a balanced budget position in 2019/20 was dependent on the successful management of continued demand pressures, rigorous gatekeeping and also delivery of 'tail-end' savings from the 'invest to save' work. Current indications are that pressures aren't being contained and the position will continue to be closely scrutinised, with management action taken to mitigate the pressures where possible.

There is a projected overspend on LD Care Management staffing of £60k (net). This arises mainly from the use of agency staff covering vacancies and additional staff brought in to undertake review work. With the introduction of the new recruitment and retention package for qualified care staff in Adult Social Care it is hoped that cost pressures arising from agency staff will reduce as the positive impact of the package starts to take effect.

#### **4. Mental Health (MH) - Dr £424k**

Similar to Learning Disabilities above, the 2019/20 Mental Health budget includes funding for the full year effect of the 2018/19 overspend based on the position at the time the budget was prepared.

An overspend of £424k is currently anticipated in 2019/20 which is a result of new and increased care packages exceeding clients moving on, either to independent living or less intensive care packages. This is not the usual trend for Mental Health and the expected 'move through' is not currently evident. If the current pattern continues budget pressures will increase as the year progresses.

#### **5. Better Care Fund (BCF) - Protection of Social Care Cr £470k**

A number of local authority adult social care services are funded by an element of the Better Care Fund (BCF) set aside to protect social care services. This includes funding previously received under the former Department of Health Social Care Grant.

These services are currently projected to underspend by £470k in 2019/20 and this has been used to offset other budget pressures within social care in line with the intentions of the funding.

#### **6. National Living Wage - Cr £318k**

An amount of £1,500k was allocated in the 2019/20 budget for the impact of National Living Wage. At present it is projected that £318k of this amount will not be required; however it should be noted that negotiations are still ongoing with some providers over the increase in rates for 2019/20.

#### **7. Better Care Fund (BCF) - Nil Variation**

Other than variations on the protection of social care element, any underspends on Better Care Fund budgets will be carried forward for spending in future years under the pooled budget arrangement with Bromley CCG.

#### **8. Improved Better Care Fund (IBCF) - Nil Variation**

The total amount of funding in 2019/20 is as follows:

	£'000
2019/20 IBCF allocation - recurrent	4,636
2019/20 IBCF allocation - non-recurrent (year 3)	1,677
2019/20 Winter Pressures Grant	1,190
Carry forward from previous years	3,967
	11,470

Of the above amount, £500k is held within the Council's central contingency and the balance is within ECHS budgets.

#### **9. Strategy, Performance & Engagement Division - Cr £20k**

An underspend of £20k is anticipated on the Strategy, Performance & Engagement Division. This principally relates to underspends on central departmental running expenses budgets.

#### **Waiver of Financial Regulations**

The Council's Contract Procedure Rules state that where the value of a contract exceeds £50k and is to be exempt from the normal requirement to obtain competitive quotations the Chief Officer has to obtain the agreement of the Director of Corporate Services, the Director of Finance and the Director of Commissioning and (where over £100,000) approval of the Portfolio Holder and report use of this exemption to Audit Sub-Committee bi-annually.

Since the last report to the Executive, 5 waivers for Adult placements have been agreed for between £50k and £100k and 1 for more than £100k.

#### **Virements Approved to date under Director's Delegated Powers**

Details of virements actioned by Chief Officers under delegated authority under the Financial Regulations "Scheme of Virement" will be included in financial monitoring reports to the Portfolio Holder. Since the last report to Executive, one virement has been agreed for the funding of 2 posts within Adult Social Care.

Description	2019/20 Latest Approved Budget £'000	Variation To 2019/20 Budget £'000	Potential Impact in 2020/21
Assessment and Care Management	21,996	1,440	The full year effect (FYE) of the current overspend is estimated at Dr £1,507k. Of this amount £801k relates to residential and nursing home placements and £1,856k to domiciliary care / direct payments . As mentioned in the budget monitoring note's, the savings in the budget relating to the Discharge to Assess service are not be realised, leading to a significant pressure on the budget. This is based on client numbers as at May 2019. The FYE is reduced by an underspend in day care costs of £550k and Discharge to Assess costs of £600k.
Learning Disabilities - including Care Placements, Transport and Care Management	35,089	460	The FYE is estimated at a net overspend of £912k. Anticipated 2019/20 growth and pressures from 2018/19 were both fully funded in the 2019/20 budget so this pressure is over and above that. The largest contributory factor is new and increased care packages outpacing anticipated growth. At this early stage in the financial year the projections include a number of assumptions so the full year effect position is likely to vary as the year progresses.
Mental Health - Care Placements	6,554	424	Based on current placements, Panel agreements and assumptions there is a full year overspend of £502k anticipated on Mental Health care packages. As with Learning Disabilities above, it is still very early in the year and this position is likely to shift during the year.

**Adult Social Care - Budget Monitoring Summary of Care Packages as at May 2019**

	Latest Approved Budget £'000	Projection £'000	Variation £'000	Number of clients	Variation last reported £'000	No. clients last reported
<b><u>Physical Support, Memory &amp; Cognition, Sensory Support</u></b>						
<b>18-64</b>						
Domiciliary Care	1,418	1,309	Cr 109	120		
Direct Payments	1,567	1,657	90	135		
Residential/Nursing	1,937	2,095	158	43		
Supported Living	195	242	47	4		
Shared Lives	0	30	30	3		
	<b>5,117</b>	<b>5,333</b>	<b>216</b>	<b>305</b>	<b>0</b>	<b>0</b>
<b>65+</b>						
Domiciliary Care	3,010	4,891	1,881	785		
Direct Payments	935	948	13	93		
Extra Care Housing	2,750	2,750	0	218		
Residential/Nursing	10,662	11,109	447	432		
Shared Lives	0	33	33	2		
	<b>17,357</b>	<b>19,731</b>	<b>2,374</b>	<b>1,530</b>	<b>0</b>	<b>0</b>
<b><u>Learning Disabilities</u></b>						
Domiciliary Care	1,391	1,129	Cr 262	66		
Direct Payments	3,500	3,567	67	165		
Supported Living	11,379	11,005	Cr 374	210		
Residential/Nursing	14,683	14,694	11	211		
Shared Lives/Day Care	826	837	11	68		
Former In-House Services	3,894	3,894	0	*		
Future Assumptions		900	900	46		
	<b>35,673</b>	<b>36,026</b>	<b>353</b>	<b>766</b>	<b>0</b>	<b>0</b>
<b><u>Mental Health</u></b>						
Domiciliary Care	518	464	Cr 54	87		
Direct Payments	113	108	Cr 5	6		
Supported Living	599	529	Cr 70	18		
Residential/Nursing	3,572	3,883	311	111		
Future Assumptions		282	282	12		
	<b>4,802</b>	<b>5,266</b>	<b>464</b>	<b>234</b>	<b>0</b>	<b>0</b>
<b><u>All Primary Support Reasons</u></b>						
Domiciliary Care	6,337	7,793	1,456	1,058		
Direct Payments	6,115	6,280	165	399		
Extra Care Housing	2,750	2,750	0	218		
Supported Living	12,173	11,776	Cr 397	232		
Residential/Nursing	30,854	31,781	927	797		
Shared Lives/Day Care	826	900	74	73		
Former In-House Services	3,894	3,894	0	*		
Future Assumptions	0	1,182	1,182	58		
	<b>62,949</b>	<b>66,356</b>	<b>3,407</b>	<b>2,835</b>	<b>0</b>	<b>0</b>

\* Numbers are measured on an incomparable basis (mixture of places and sessions)

**Notes:**

Clients may be counted more than once if they have more than one type of care package

Future assumptions include: outstanding inflationary uplifts; transition clients; increased client needs; packages agreed in principle at Panel; planned client moves; attrition; client contribution uplifts; other potential future costs e.g. Ordinary Residence, CCG funding

All amounts are net of client contributions, joint funding and 3rd party top-ups

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Report No.  
Please obtain  
a report  
number

London Borough of Bromley  
Part One - Public

Agenda  
Item No.

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**Decision Maker:** Executive

**Date:** Adults Pre Decision Scrutiny- 27 June 2019  
Executive – 10 July 2019

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** Bromley's Discharge to Assess Scheme – Outcome of the Pilot

**Contact Officer:** Kim Carey, Interim Director of Adult Social Care  
Tel: 020 8313 4004 E-mail: kim.carey@bromley.gov.uk

**Chief Officer:** Kim Carey, Interim Director of Adult Social Care

**Ward:** All

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## 1. REASON FOR REPORT

- 1.1 To provide an update on the Bromley Discharge to Assess (D2A) scheme that has been operating in pilot form and make recommendations for the future shape and funding of the service
  - 1.2 To seek permission to tender for a D2A Service to run from August 2020 to August 2021.
- 

## 2. RECOMMENDATION(S)

- 2.1 That Executive note the progress on the D2A pilot and the positive outcomes achieved for individuals.
- 2.2 That Executive agree to a one-year continuation of the D2A service, revised in light of learning from the pilot and funded jointly by the Council and the CCG from the Better Care Fund, pending an evaluation of the revised service and longer term recommendations being made to Executive in July 2020.
- 2.3. That Executive agree a tender for the D2A service which will result in the council commissioning a 1 year contract to run from August 2020 to August 2021. However a tender award will be subject to further approval by Executive (March 2020). Additionally the recommendation for award will only be presented if it is also recommended (following the service review in January 2020) that the model should be endorsed.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Positive Impact

## Corporate Policy

1. Policy Status Existing Policy.
  2. BBB Priority: Excellent Council.
- 

## Financial

1. Cost of proposal: <please select> £
  2. Ongoing costs: <please select>.
  3. Budget head/performance centre: BCF Budget Code
  4. Total current budget for this head: £304k in 2018/19
  5. Source of funding: BCF
- 

## Staff

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

## Legal

1. Legal Requirement: Non Statutory
  2. Call-in: <please select>
- 

## Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? No Portfolio Holder Consulted
2. Summary of Ward Councillors comments: NA

### **3. COMMENTARY**

#### **Summary**

- 3.1 The Care Act requires local authorities and partners to ensure that people do not remain in hospital when they no longer require hospital based care. While avoiding Delayed Transfers of Care (DToC) is an increasingly familiar priority for local authorities working with health partners, the negative impact upon service users is at the heart of the issue. As noted in the 2014 National Audit of Intermediary Care “a wait of more than two days negates the additional benefit of intermediate care and seven days is associated with a 10% decline in muscle strength”. For the frail and elderly leaving hospital, this can have a significant reduction in ongoing independence and levels of care required from families and carers as well as services provided by local authorities.
- 3.2 Reducing DToC is a national priority and as a result a number of High Impact Change Model Measures were introduced as part of the Better Care Fund (BCF). Discharge to Assess was a key measure which local authorities and health partners are required to explore.
- 3.3 In Bromley, the Discharge to Assess (D2A) pilot was established in order to transform out of hospital assessment and support processes for people with on-going care and support needs. Discharge to Assess enables a person to leave hospital with immediate wrap around care and support in the community, reducing their length of hospital stay. The assessment of their long term care and support needs is undertaken at home or in a community setting rather than in hospital, as can often be the case. Evidence suggests that assessing people in hospital results in an over prescribing of on-going care and support needs. Assessing at home, can result in significant reductions in levels of on-going care and support and improved independence.
- 3.4 The pilot also sought to reduce delayed transfers of care (DToC) and the impact prolonged hospital stay has on frail and elderly individuals including reduction in muscle mass and physical ability as well as mental and emotional decline.
- 3.5 The D2A service has had a number of positive impacts on individuals and has been shown to make a marked improvement on the Delayed Transfer of Care (DToC) figures for Bromley. In terms of total delays across health and social care, Bromley now has the lowest number of DToC – and therefore the highest performance – amongst comparator local authorities, significantly outstripping the average performance across London and England as a whole.
- 3.6 The pilot has been helpful in identifying areas to improve efficiency further and these are already being implemented by management.
- 3.7 If approved, the revised service will be evaluated with longer term recommendations being made to members in March 2020. The alternative is to terminate the service which will not only impact negatively upon Bromley’s DToC performance but will potentially have a considerable impact upon residents leaving hospital. In addition to this following Executive approval the service will be exposed to competition via a tender, resulting in an interim contract that will run from August 2020 to August 2021. A parallel domiciliary care tender will ensure that any longer term arrangements are facilitated via the new domiciliary care model.

#### **Background**

- 3.8 Bromley’s D2A service was initially approved in 2017 for 6 months with an extended pilot agreed in 2018 funded from the Better Care Fund. This report draws on data from the extended pilot which ran fully from September 2018 to April 2019.
- 3.9 The D2A service offers four pathways that can be used as appropriate to help people reduce unnecessary stays in hospital and be assessed in a community setting. The pathways are:

#### **Pathway 1**

Returning Home with Package of Domiciliary Care for a) new clients and b) existing LBB clients

### **Pathway 2a/b**

Temporary residential or nursing placement

### **Pathway 2c**

Temporary step down to Extra Care Housing (ECH)

### **Pathway 3**

More complex cases where a nursing home is the outcome and health funded Continuing Health Care is likely

### **Pathway 4**

Approved for Reablement and either a) straight home from hospital with Reablement service or b) initial “bridging” is required with D2A/dom care until Reablement is available

3.10 The previous report to Executive requesting an extension of the pilot made a number of specific recommendations as next steps:

- **Governance**

- a. Recruit a Project Manager to support the extension of the pilot

- b. Set up a D2A Programme Board chaired by the Director of Commissioning and Director of Adult Social Care to scope and undertake a robust options appraisal

- **Evaluation**

- a. Allow the D2A Programme Board to evaluate the pilot and to understand the options associated with mainstreaming D2A activity within the council

- b. To validate the savings assumptions that D2A would result in a £419k saving from 2019/20

3.11 The extended pilot also sought to test out a **trusted assessor model**, where assessments are carried out by one borough on behalf of another borough and passed for agreement to the home borough for funding. This model is well tested across the country and has been found to save on extensive travel time as staff no longer need to travel to see clients placed away from the local base.

### **Outcomes delivery 1 - Governance**

3.12 A project manager was appointed in September 2018 and the D2A Programme Board was established, reviewing all aspects of the D2A service from September 18 to April 19.

3.13 In the latter part of the review, the Programme Board has been co-chaired by the Managing Director of the BCCG and the Interim Director of Adult Social Care. Specific workstreams were established to review elements of the D2A programme including the service specification, finance, commissioning and HR.

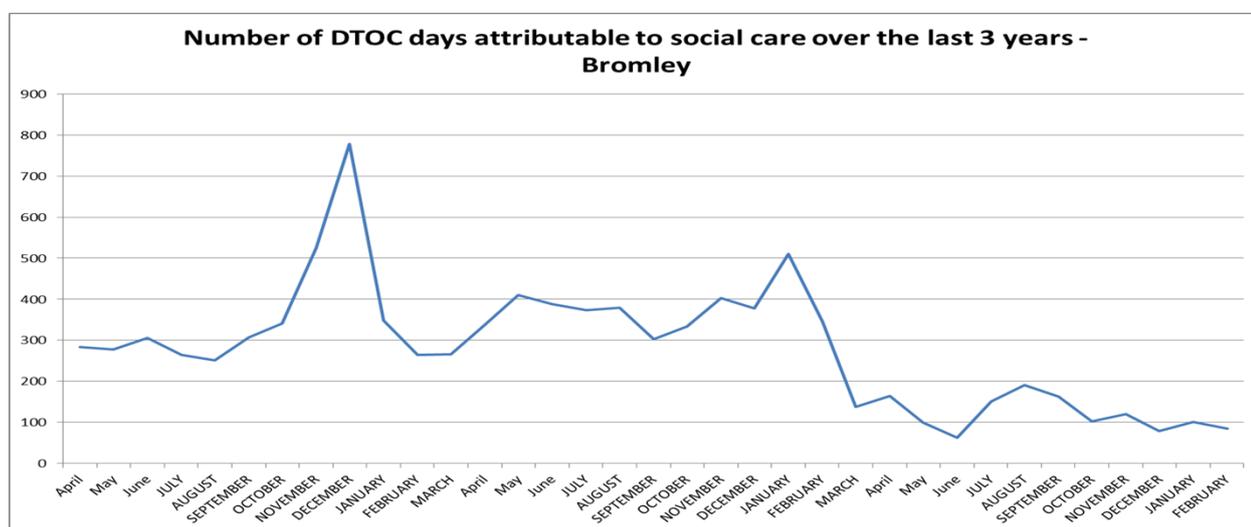
### **Outcomes delivery 2 – Evaluation and Options Appraisal**

- 3.14 There were 754 D2A episodes of care relating to 621 service users with 58.7% of service users being over the age of 85.
- 3.15 The majority of service provision was domiciliary care as the service user returned home. The domiciliary care agency utilised was required to respond to requests for service provision within 4 hours; this requirement ensuring that the cost of the service was higher than standard dom care.

Reducing Delayed Transfers of Care - DToC

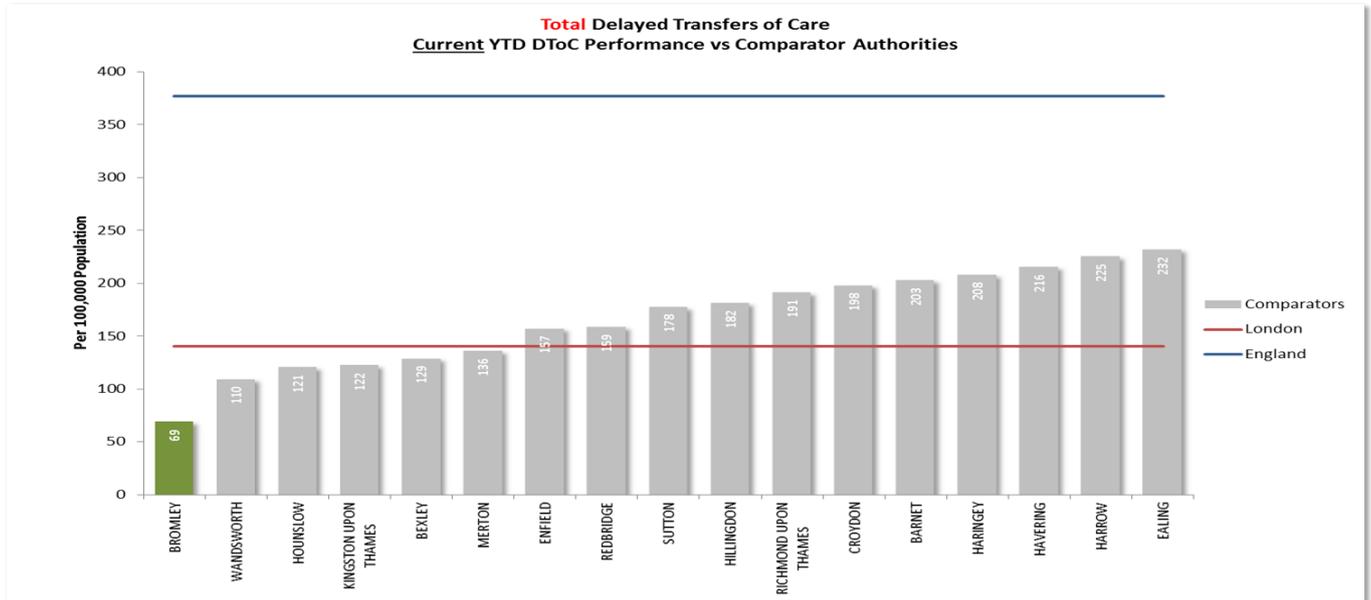
- 3.16 A key objective of D2A from a Health and Social Care systems perspective is to drive down delays in discharge from hospital.
- 3.17 The total number of DToC for 2018/19 is 1425. For all delays the figure has reduced drastically by 4,358 days when comparing the 2018/19 figure with that from 16/17.
- 3.18 The chart below presents DToCs where the delay is attributable to social care over the last 3 years. Overall there has been a reduction since a spike in December 2016. The rate has dropped substantially over the period of the extended pilot.

Chart 1. Number of DToC days attributable to Social Care



- 3.19 The following chart looks at the total DToC by comparator group and those attributable to social care by comparator group for 2018/19. In order to make the data directly comparable the information is presented as a rate per 100,000 of the populations. Bromley has the lowest level of total DToCs, and is mid-range when looking at those attributable to social care but still remaining below the London average.

Chart 2. Total DToC days per 100,000 by comparator group



### Service User Satisfaction

3.20 While successful from a health and social care systems perspective, the evaluation of D2A also explored the success or otherwise from a service user perspective. Two user satisfaction surveys were completed with people who received support through the D2A process.

- One survey was aimed at those who had just left hospital and was designed to pick up on the discharge process and the package of care they were receiving under D2A.
- The second survey took place after the social care assessment, looking at the package of care supplied under D2A but also the assessment process and service user involvement in the process.

3.21 The age range was mostly people in their 80's with the youngest respondent being 63 and the oldest 95. All respondents were chosen from Pathway 1 – those who had returned home - as the pilot survey was conducted as a telephone interview. The focus of both surveys was to ask open ended questions in order to understand the experience of the D2A service from a service user's point of view.

- Many respondents shared the sentiment that they were glad to be home and settling back into a routine. Many said they had wanted to leave the hospital after being there for some time.
- When asked about the discharge process only a few participants faced delays (involving hospital transport). 88% of respondents left hospital with medication, none of them however reported a delayed discharge due to medication. 88% also said that they were given a discharge letter when they left.
- Respondents were asked to rate their care package out of 10. The majority (75%) scored 7 and above. No one scored their care lower than 5.

- Service users were satisfied with the level of involvement in their care. Most of the participants said that they have felt involved with their care, both directly themselves and indirectly through their family members.

### **Outcomes delivery 3 - Trusted Assessor model**

- 3.22 The trusted assessor work within Bromley's Transfer of Care Bureau (TOC) was not successful. The plan was that the Trust employ discharge coordinators who would take on the hospital assessment. This was not achieved to a good standard and resulted in increased amounts of complaints to social care before being ceased.
- 3.23 Negotiations took place in January 2019 to begin a D2A Trusted Assessor programme across two boroughs with residents of Croydon at PRUH being assessed by Bromley LA and vice versa for Bromley Residents at Croydon Hospital. The pilot for this was due to begin in February but was put on hold by Croydon. Discussions are now progressing to set up the pilot. A memorandum of understanding has been drafted and this is in the process of being finalised.
- 3.24 A similar programme is in the process of being established with Lewisham due to the high numbers of Bromley Residents conveyed to Lewisham Hospital.
- 3.25 The trusted assessor aspect of D2A will therefore require further evaluation once these pilots have had time to become established.

### **Overall Evaluation of D2A Pilot**

- 3.26 The impact upon DTOC performance has been significant as detailed above. The impact upon service users has been positive with hundreds of Bromley's most vulnerable residents being able to leave hospital without delay and return to a community setting. While it is still too early to understand the longer term impact upon service users and their required use of statutory care services, it is clear that a D2A service should be recommended for continuation.
- 3.27 As previously identified in their report, the pilot has been able to identify areas for improvement moving forwards. The anticipated turnaround time for someone leaving hospital with a D2A package and having an assessment for an on-going service should have been 72 hours. Subject to the arrangements for setting up an on-going service (if required), this should have meant that no one utilised a D2A service for more than 2 weeks. In reality, the average time a service user was longer than this due to the increased demand put on an already busy hospital team. Should Executive agree the recommendations of this report, officers will be looking to refocus the work of the hospital based team, including looking at the potential to increase staffing on a short term basis to keep pace with the increased demand. The cost of this will be offset in part by the savings made and any additional funding will be drawn from the Better Care Fund in the short term.
- 3.28 The envisaged D2A model was for service users to be assisted in leaving hospital via a variety of pathways as outlined earlier in the report. In reality, the vast majority of D2A interventions were for service users to return to their home with D2A domiciliary care immediately in place. 93% of D2A interventions were of this nature. The remaining pathways were not fully utilised within the pilot due to capacity issues within the D2A team and within the council's reablement function. Should Executive approve the continuation of a discharge to assess model, officers will address these capacity issues as highlighted above as well as seek to establish formal arrangements with care home providers. Early discussion with providers has proven positive with a number now prepared to discuss how they could offer support that can be delivered quickly and focus on reablement. This was not the case when the service was originally set

up. Procurement of both these elements will enable the council to continue a discharge to assess service for the next 12 months, subject to Executive evaluation in July 2020. There is also the potential for the council's and health's reablement teams (Pathway 4) to be considered to a much greater extent.

- 3.29 Issues of sustainability will also need to be addressed, particularly Pathway 1 involving service users returning home with a short period of service from a D2A dom care provider. Although essentially a standard domiciliary care service, a D2A dom care provider is expected to have a much faster response and mobilisation (4 hours) for clients leaving hospital. This tends to make the service more demanding for providers and thereby reduces interest as well as increase costs. To date, these services have been provided by a single provider contracted by the BCCG in 2017. Engagement with the providers on the Council's domiciliary care framework had previously led to little interest being expressed due to the responsiveness required. However, other providers are now showing greater interest in delivering to this requirement. This is being actively addressed in the planning discussions with providers around the future tendering of domiciliary care provision. The current contractual arrangements pose a risk – there needs to be a wider number of providers involved in order to help ensure the ongoing sustainability of the service. In addition, the current provider is commissioned by the CCG and is not compliant with LBB's quality standards as it has been rated Requires Improvement by the CQC. In order to reduce risk, the council's contract compliance team has been actively working with the provider to improve the areas of service identified by the CQC.
- 3.30 Lessons learned during the bedding in period of the pilot scheme are being enacted. Should Executive approve the recommendations of this report, officers will undertake a formal procurement exercise in order to ensure that a sustainable and cost effective set of providers are in place to deliver the service.

## **4. SUMMARY OF THE BUSINESS CASE**

- i) The D2A service has had a number of positive impacts on individuals and has been shown to make a marked improvement on the Delayed Transfer of Care (DToC) figures for Bromley. In terms of total delays across health and social care, Bromley now has the lowest number of DToC – and therefore the highest performance – amongst comparator local authorities, significantly outstripping the average performance across London and England as a whole.
- ii) The pilot has been helpful in identifying areas to improve service delivery further and these are already being implemented by management
- iii) If approved, the revised service will be evaluated with longer term recommendations being made to members in March 2020. The alternative is to terminate the service which will not only impact negatively upon Bromley's DToC performance but will potentially have a considerable impact upon residents leaving hospital. In addition to this following Executive approval the service will be exposed to competition via a tender, resulting in an interim contract that will run from August 2020 to August 2021. A parallel domiciliary care tender will ensure that any longer term arrangements are facilitated via the new domiciliary care model

### **4.1 SERVICE PROFILE/DATA ANALYSIS**

- 4.1.1 Detailed in section 3 above.

### **4.2 OPTIONS APPRAISAL**

- 4.2.1 **Option 1 - Discontinue the service.**

While the council will no longer bear the cost of the D2A service, there is the strong likelihood of the reduction in Bromley's DTOC performance and the potential for the council to be charged for any social care delayed discharges. More importantly, service users will face the potential for unnecessary stays in hospital with the outcome of reduced independence and wellbeing.

#### 4.2.2 **Option 2 - Continue the service as is.**

This will incur additional costs and is not recommended for the reasons outlined in this report.

#### 4.2.3 **Option 3 - Continue with a revised service**

Continue to provide the service but with a revised model, using the learning from the pilot – particularly by reducing delays in conducting the longer term assessment; identifying longer term providers via a competitive tender to support people discharged home in need of a package of support and extending the in-house reablement offer for service users leaving hospital.

### 4.3 **PREFERRED OPTION**

4.3.1 The preferred option is Option 3, which is to continue with the revised service. Additionally this option will enable us to consider the longer term options and evolve the preferred model.

4.3.2 It is intended that the Domiciliary Care service is tendered due the current contracts expiring in August 2021. The proposed new model will incorporate D2A and which will be delivered by several providers, who will be specifically commissioned to deliver services to meet the needs of service users in allocated geographic zones. It is not feasible to extend the current D2A commissioned provider up until August 2021, due to the interim CCG contract being time limited (linked to the duration of the pilot). Additionally, the provider has not provided a service which would justify a waiver to the procurement regulations. Consequently, the council is required to expose the service to competition.

4.3.3 The estimated annual value of the contract is £1m. Based on this the following procurement timeline would need to be applied:

Procurement/Tender Phase	July 19 - January 2020
Internal Approval and Clearance (up to Executive)	January 2020 – March 2020
Award, Mobilisation and Go Live	April 2020 – August 2020
New D2A Contract	August 2020 – August 2021

### 4.4 **MARKET CONSIDERATIONS**

4.4.1 Engagement with domiciliary care market providers took place in both 2017 and 2018 with the intention of identifying providers that could deliver a D2A service. Key points arising from the engagement were:

- Providers were generally reluctant to change from the tried and tested model of dom care support
- Due to the ongoing (and national) issues concerning the lack of available carers/staff to undertake additional work, providers had specific concerns about the requirement for an almost immediate response
- Providers stated they would require guaranteed hours in order to fund and sustain investment in staffing to support a D2A model

- 4.4.2 Based on benchmarking with other local authorities, there are a range of providers that could deliver a D2A model. Additionally, at least two of the current Framework providers have stated that they will be able to deliver the D2A model as long as guaranteed hours are provided.
- 4.4.3 In the longer term, as part of the procurement of all domiciliary care services due to take place in 2020, the council will be able to include a D2A service within the overall requirements of Bromley's domiciliary care contract and ask for delivery from a range of providers across the borough. The tender will be informed by an Equalities Impact Assessment and will seek to promote social value and provider sustainability (incorporating models that promote SME's).

## **5. STAKEHOLDER ENGAGEMENT**

- 5.1 Please refer to the evaluation section of this report which provides a summary of two user satisfaction surveys of people who received support through the D2A service.

## **6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS**

- 6.1 **Estimated Contract Value** – £1m per annum
- 6.2 **Other Associated Costs** – Nil
- 6.3 **Proposed Contract Period** – 28 August 2020 to 31 August 2021

## **7. SUSTAINABILITY AND IMPACT ASSESSMENTS**

- 7.1 The current arrangement with the D2A dom care provider does pose a risk, not only with the contractual position but also that they are currently the only provider of D2A domiciliary care.

## **8. POLICY CONSIDERATIONS**

- 8.1 The Care Act 2014 - The Act requires local authorities and partners to ensure that people do not remain in hospital when they no longer require hospital based care. While avoiding Delayed Transfers of Care (DTC) is an increasingly familiar priority for local authorities working with health partners, the negative impact upon service users is at the heart of the issue.

## **9. IT AND GDPR CONSIDERATIONS**

- 9.1 There are no IT considerations. GDPR ramifications will be included in any future contract.

## **10. PROCUREMENT RULES**

- 10.1 This report recommends proceeding to procurement for the provision of a discharge to assess service for 1 year (between August 2020 and August 2021) at an estimated value of £1m.
- 10.2 A restricted process is proposed to be used.

- 10.3 Health, social and related services are covered by Schedule 3 of the Public Contracts Regulations 2015, and thus any tender would be subject to the application of the “Light Touch” regime (LTR) under those regulations. Authorities have the flexibility to use any process or procedure they choose to run the procurement, as long as it respects the following obligations:
- i) The tender must be advertised in OJEU and on Contracts Finder.
  - ii) The relevant contract award notices must subsequently be published.
  - iii) The procurement must comply with EU Treaty principles of transparency and equal treatment.
  - iv) The procurement must conform with the information provided in the OJEU advert regarding any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
  - v) Time limits imposed, such as for responding to adverts and tenders, must be reasonable and proportionate. There are no stipulated minimum time periods in the LTR rules, so contracting authorities should use their discretion and judgement on a case by case basis.
- 10.4 The Council’s specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the formal Agreement of the Director of Commissioning, the Director of Corporate Services and the Director of Finance for a procurement of this value.
- 10.5 In compliance with the Council’s Contract Procedure Rules (Rule 3.6.1), this procurement must be carried out using the Council’s e-procurement system.
- 10.6 Further to this, it is proposed that the contract be extended for a duration of 1 year from August 2019 to August 2020. This is a contract held by the CCG, who will need to action the extension in line with the framework of public procurement legislation.
- 10.7 The actions identified in this report are provided for within the Council’s Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## **11. FINANCIAL CONSIDERATIONS**

- 11.1 The original report identified potential net costs of £314k in 2018/19 which was fully funded on a one year basis from BCF monies. The report identified potential ongoing savings of £419k.

The final costs for D2A are outlined in the table below:-

<b>D2A - Overall Financial Summary - 2018/19</b>			
	<b>Annual</b>	<b>Costs/</b>	
	<b>Budget</b>	<b>Savings</b>	<b>Variance</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
<b>Costs</b>		<b>Actuals</b>	
Discharge to Assess Team	300	179	-121
Infrastructure, tracking and evaluation	50	44	-6
Brokers Costs	0	29	29
Domiciliary Care	600	754	154
Long Term Placements	600	91	-509
	1,550	1,097	-453
<b>Savings (based on Dec-18 data)</b>			
Domi Care (Pathway 1)	-872	0	872
- Net savings from no ongoing service	0	-181	-181
- Net savings from ongoing service	0	-72	-72
Resi Care (Pathway 2 & 3)	-374	0	374
- Net savings from no ongoing service	0	-42	-42
- Net savings from ongoing service	0	-41	-41
	-1,246	-336	910
<b>Net Cost / (Saving)</b>	<b>304</b>	<b>761</b>	<b>457</b>

- 11.2 It can be seen that the actual costs were higher than those that were anticipated. Not costed into the original or the actual is the notional saving of £220k for the avoidance of DToC charges of £155 per bed day (figure is based on 1,425 DToC days attributable to Social Care). This is because the charge has never been levied by Health previously although this option could be taken if DToC's increase.
- 11.3 The main reasons for the variance is:-
- i) Costs of the D2A domiciliary care were higher than anticipated with levels of £15.40 for 30 minutes and £16.70 for an hour visit, being considerably higher than the ordinary domiciliary care rates.
  - ii) D2A Packages of care on Pathway 1 were on average kept for 20 days. The original assumption was that the packages would be for 3 to 5 days maximum. This has occurred as there was insufficient additional reviewing capacity to enable the hospital team to keep pace with additional demand; this is currently being addressed.
  - iii) Pathways 2 and 3 were not fully used.
  - iv) Original savings assumptions were taken from a small sample of client data that was available at the time of the initial pilot. More detailed analysis of clients in the pilot extension has revealed that clients were not as often as predicted leaving without any packages of care, or when leaving with packages of care, these were marginally lower than a traditional route of care.
  - v) Clients were not staying at the level of care for as long as predicted. The current predictions assume a year at these levels, not up to two as initially assumed.
- 11.4 Perhaps the largest reason was the time spent under a D2A package. Using the above analysis, if the packages were delivered differently, the overall cost would be much lower.

## D2A - Overall Financial Summary - 2018/19 - if 3 days max D2A

	<u>Annual</u> <u>Budget</u> £'000	<u>Costs/</u> <u>Savings</u> £'000	<u>Variance</u> £'000
<b>Costs</b>		<b>2019/20 if max 3 day</b>	
Discharge to Assess Team	300	179	-121
Infrastructure, tracking and evaluation	50	44	-6
Brokers Costs	0	29	29
Domiciliary Care	600	112	-488
Long Term Placements	600	91	-509
	1,550	455	-1,095
<b>Savings (based on Dec-18 data)</b>			
Domi Care (Pathway 1)	-872	0	872
- Net savings from no ongoing service	0	-181	-181
- Net savings from ongoing service	0	-72	-72
Resi Care (Pathway 2 & 3)	-374	0	374
- Net savings from no ongoing service	0	-42	-42
- Net savings from ongoing service	0	-41	-41
	-1,246	-336	910
<b>Net Cost / (Saving)</b>	<b>304</b>	<b>119</b>	<b>-185</b>

11.5 Further reductions in costs could be made if lower care rates were able to be negotiated.

11.6 The preferred option in the paper will continue to provide the service and look at ways it can be provided differently. Any additional costs incurred in year could be drawn from one off carried forward Better Care Fund (BCF) grant which could be made available to support this option. The service would need to be closely reviewed as BCF funding could not permanently support this without cutting other areas of BCF spend. The likely costs will be between £119k and £761k (taken from the models above) depending on the speed of the service change. The saving not generated but assumed in the budget of £419k would also need to be drawn from BCF underspends in order to balance the ASC budget. Therefore the potential use of BCF would be between £538k and £1,180k. this would then be reviewed and reported back to the Executive in July 2020.

11.7 The other two options would also not meet the £419k savings target in the 2019/20 budget. In addition discontinuing the service would mean the Council would no longer bear the cost of the D2A service but there will be service implications with the potential of DToC figures increasing. Continuing the service as is (the final option) will incur significant ongoing costs. Although BCF could support this in the short term, permanent funding would have to be found.

## 12. PERSONNEL CONSIDERATIONS

12.1 Originally staff voluntarily transferred into the D2A team, supplemented by some additional temporary resources. Staff were consulted in October 2018 to indicate their preference for remaining in the D2A team or returning to their original posts within the hospital team. New staffing arrangements were subsequently implemented from 26<sup>th</sup> November 2018. There has remained a pressure within the team as it has proved difficult to recruit to the OT position.

## 13. LEGAL CONSIDERATIONS

13.1 The CCG currently hold the contract for the pilot D2A service with the provider. The intention with regards to recommendation 2.2 is that the CCG will also be responsible for the

contractual arrangement for the extension of this service as per the recommendation. Officers should ensure that the CCG contractual arrangements are in place with the provider and compliant with public procurement rules.

13.2 Recommendation 2.3 seeks approval for the Council to carry out a tender exercise for a new contract to run from August 2020 to August 2021. The service is a “light touch” services under the Public Contracts Regulations 2015 and as the contract value is in excess of the relevant threshold will need to be procured in compliance with the Regulations.

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]  (Appendices to be Included)

**OFFICER SIGN OFF SHEET (NOT TO BE INCLUDED WITH PUBLISHED MEMBERS REPORT)**

**Title:**

**Decision:** Gateway Over £500k / Extension Over £100k / Exemption Over £100k / Variation over £100k

**Contact Officer:**

Name

Title

Department

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**AUTHORISATION**

**Agreed by (signature and date):**

\_\_\_\_\_ Date: \_\_\_\_\_

Name Kim Carey  
Budget Holder / Contract Owner  
Title Director Adult Social Care  
Department

\_\_\_\_\_ Date: \_\_\_\_\_

Name  
Lead Commissioner  
Department

\_\_\_\_\_ Date: \_\_\_\_\_

Assistant Director Governance & Contracts

*Required for all proceeding to procurement £100k+ / Extension £50k+ / Exemption £50k+ / Variation £50k+*

\_\_\_\_\_ Date: \_\_\_\_\_

Director of Corporate Services

\_\_\_\_\_ Date: \_\_\_\_\_

Director of Finance

*Required for all proceeding to procurement £100k+ / Extension £50k+ / Exemption £50k+ / Variation £50k+*

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**Approved by (signature and date):**

\_\_\_\_\_ Date: \_\_\_\_\_

Chief Officer

Name

Title

Department

*Required for all extension / exemptions / variations. Required for proceeding to procurement £200k+*

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Report No.  
ECHS19052

London Borough of Bromley

## PART 1

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**Decision Maker:** **Executive**  
**With pre-decision scrutiny from Adult Care and Health Policy Development and Scrutiny Committee on 25<sup>th</sup> June 2019**

**Date:** 10 July 2019

**Decision Type:** Urgent Executive Key

**Title:** **Gateway Report - Learning Disability Supported Accommodation Procurement Strategy**

**Contact Officer:** Paul Feven, Interim Director of Programmes, Education, Care & Health Services  
Tel: 020 8313 4777 E-mail: [paul.feven@bromley.gov.uk](mailto:paul.feven@bromley.gov.uk)

**Chief Officer:** Kim Carey, Interim Director of Adult Social Care.

**Ward:** All

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### 1. REASON FOR REPORT

- 1.1 The Council currently has 7 block contracts for supported living services for adults with a learning disability (LD). These contracts are held with 5 providers offering care and support provision at 26 accommodation schemes for 125 service users.
- 1.2 Two developments taking place in 2019 suggest the need for a revised procurement plan for LD supported accommodation.
- 1.3 Firstly, the Council's Transformation Board has launched a programme of activity designed to review the Council's offer as well as explore options for greater effectiveness and efficiency. This includes a work stream on services for people with learning disability in order to ensure the Council has a sustainable direction of travel for the provision of care and support including supported accommodation schemes.
- 1.4 Secondly, the Council and the CCG will be developing a Learning Disability Strategy during 2019, intended for approval in October 2019 following extensive consultation with service users, carers, families and stakeholders. The development of the strategy will include:
- A review of existing supported accommodation and exploration of Bromley's future needs
  - A review of the model of care and support provided within the supported accommodation offer

- Exploration of other types of support including the provision of extra care housing and support to people living in the community outside of specialist forms of accommodation
- 1.5 With this context, this report recommends that the timescale for procurement related to LD supported living accommodation is adjusted in order to reflect the direction of travel recommended by the Transformation Board and the LD Strategy.
- 1.6 This proposal requires a review of decisions made by the Executive in October 2018. Two of the Council's supported living contracts – with Sanctuary Home Care Ltd regarding Johnson Court (contract #218) and with Avenues regarding a range of schemes at 213 Widmore Road, Swingfield Court, Lancaster House, Goldsmiths Close and Amplio Road (contract #221) - were the subject of Executive discussion in October 2018. These contracts are due to expire in January 2020. Executive agreed to proceed with tendering for these two services. It is imperative that the Council is able to redesign the specification for these services in line with the recommendations and direction of travel of the ASC Transformation Board and LD Strategy. Due to this, Executive is recommended to approve rescheduling procurement for these two contracts and awarding two short contracts to the existing providers.
- 1.7 This would provide an opportunity to align most of Bromley's supported living contracts to end during 2021 ensuring that the commissioning and procurement of these contracts can be in line with the direction of travel established this year.

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## 2. RECOMMENDATION(S)

2.1 Adult Care and Health PDS is asked to note and comment on the contents of the report.

2.2 Executive is recommended to:

- i) Agree not to proceed to procurement for the above contracts to allow them to be included in a wider commissioning exercise for Supported Living contracts.
- ii) Grant an exemption from procurement and award a new contract with Sanctuary Care (#218) for 15 months from 14th January 2020 to 24 April 2021.
- iii) Grant an exemption from procurement and award a new contract with Avenues (#221) for 15 months from 12th January 2020 to 24 April 2021.

## Impact on Vulnerable Adults and Children

1. Summary of Impact:

### Corporate Policy

1. Policy Status: Existing Policy.
  2. BBB Priority: Supporting Independence
- 

### Financial

1. Cost of proposal: See Part Two of this Report
  2. Ongoing costs: Recurring cost. See Part two of this Report
  3. Budget head/performance centre: Learning Disabilities – Supported Living
  4. Total current budget for this head: £13,972k
  5. Source of funding: Council's General Fund (within existing budget envelope)
- 

### Staff

1. Number of staff (current and additional): N/A
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory requirement
  2. Call-in: Call-in is applicable
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 39 adults with a learning disability
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 The London Borough of Bromley is committed to providing local quality services for people with learning disabilities so that people can lead full and rewarding lives in the community. This includes ensuring that:
- People receive high quality care, support and treatment in the most appropriate setting
  - Services promote independence, where the least restrictive setting is sought and promoted
  - The housing and care needs of service users transitioning into adulthood can be met
- 3.2 “Supported living” is used to describe the arrangement whereby someone who has their own tenancy also has assistance from a “Care and Support” provider to help them live as independently and safely as possible. This could be help with:
- Managing bills and money
  - Shopping, cooking and healthy eating
  - Learning new skills for independence
  - Accessing employment, sports and social activities
  - Personal care and well-being
  - Managing medication
- 3.3 Supported living accommodation has been developed in Bromley in order to meet the specific needs of adults with learning and physical disabilities. Supported living is a key resource in meeting the existing and future needs of Bromley’s adult learning disability population and avoiding the need for people to move into residential care. The Council has a statutory duty to meet the needs of service users supported in the schemes as set out in Part 1 of the Care Act ‘General Responsibilities of Local Authorities’.
- 3.4 Supported Living services provide accommodation via a Registered Social Landlord with the client being a legal tenant. The Council retains sole nomination rights into these properties. On site care & support is provided via a contracted care provider. While clients will require a level of support in order to maintain their wellbeing, support needs vary greatly across the schemes and include challenging behaviour, psychotic behaviour, depression, autism, self-harm, visual impairment, epilepsy, diabetes, cancer, mobility issues (including full wheelchair users), significant mental health issues leading to social isolation, emotional and psychological support etc.
- 3.5 The properties are specially adapted to meet client needs including, where necessary, ceiling hoist, bath chair, grab rails and relevant fixtures and fittings to aid mobility, especially when carrying out personal care. Kitchens are fitted with lowered sink, emergency alarm and equipment to encourage clients to do cooking with supervision as necessary.
- 3.6 Demand for these services is forecast to grow. The continued provision of these services ensures that people are given the opportunity to continue living within the borough, close to family and other circles of support. Locally commissioned services also allows us to monitor the quality of provision, thereby helping to ensure that safeguarding concerns are prevented from arising or resolved in a timely manner. Contract monitoring meetings are held with the providers as well as a mixture of announced and unannounced visits by the Council’s Contract Compliance Team.

- 3.7 The contracts referred to in this report relate to the provision of care and support at the schemes. The hours relating to the provision of *core support* are fixed within the contracts but the individual 1:1 support hours are tailored to the assessed needs of each person living in the scheme as assessed by Care Managers in discussion with the provider and client following a Care Act Assessment. The individual support hours can vary dependent upon a person's changing needs. Service users also have the option to purchase their personal support hours from a different provider via a Direct Payment.

#### **4. SUMMARY OF THE BUSINESS CASE**

- 4.1. This report focuses on two of the contracts within the Council's portfolio of supported living services.
- 4.2 The contract with Sanctuary Homecare Ltd has been in place since 14 January 2013 and is due to end on 13 January 2020 with no further extension options. This contract provides provision for the care and support of 7 clients with a learning disability at Johnson Court.
- 4.3 Johnson Court was visited by the Council's monitoring officers in October 2018 and concluded that the service has a stable management and staff team who know the tenants well
- 4.4 The contract with Avenues has been in place since 12 January 2015 and is due to end on 11 January 2020 with no further extension options. This contract provides provision for the care and support of 32 clients with a learning disability at 213 Widmore Road, Swingfield Court, Lancaster House, Goldsmiths Close and Amplio Road.
- 4.5 All of the 5 Avenues schemes have been visited in the past 5 months by officers and Quality Checkers. Monitoring reports identify that the services are stable and delivering to the requirements stipulated in the Council's Quality Assurance Framework.
- 4.6 In October 2018 the Executive agreed to proceed to procurement for these two contracts. This report recommends an amended strategy for commissioning and procurement of these schemes in light of two key developments underway in 2019.

##### Key Development 1: Development of an Integrated Strategy for People with Learning Disability

- 4.7 The Council and the CCG have agreed this year to proceed with the development of a joint commissioning strategy for services for people with learning disability (all-ages). The development of the strategy will enable the Council to review levels of current and future needs and demand for services to inform future commissioning intentions.
- 4.8 Work has now commenced on the new strategy which will be available for member discussion in October 2019 following extensive consultation with service users, carers, families and stakeholders. An action plan including short, medium and long-term commitments will be also be made available following the development of the strategy.

- 4.9 The Council will be exploring a range of issues related to learning disabilities services:
- Local landscape and service accessibility
    - Working in collaboration with Public Health and the CGG to understand the current and future level of demand for services
    - Working collectively with provider organisations to ensure the delivery of high quality care that meet the increasing demand for service provision
    - Ensuring robust pathways for individuals to access the right service at the right time and in the right environment to meet their needs
    - Ensuring provision provides high quality provision (both in delivery and material) with a skilled workforce to safeguard individuals
    - Ensuring providers are best placed to meet the changing needs of individuals in terms of skills, knowledge and capabilities
  - Service user experience
    - Exploring “strength based” approaches to practice and service provision to promote the development individual’s skills and reduce reliance on statutory services
    - Using Direct Payments to have more choice and control over personalised service provision
  - Value for money
    - Ensuring the Council is achieving value for money to ensure we can continue to meet the increasing demand for services
    - Benchmark our services against comparator boroughs
    - Managing the increasing demand for complex services

4.10 In order to achieve this, the Council will review a number of key elements of provision including the support provided to residents (and informal carers) who are diagnosed with a learning disability and how our partners and providers can work with us to deliver these services. Outputs from the strategy will therefore include:

- A review of existing supported accommodation and exploration of Bromley’s future needs
- A review of the model of care and support provided within the supported accommodation offer
- Exploration of other types of support including the provision of extra care housing and support to people living in the community outside of specialist forms of accommodation

#### Key Development 2 - The Council’s Transformation Programme

4.11 The Transformation Programme was launched in 2019 to develop, coordinate and manage transformation activity across the Council and ensure that service improvements and savings are delivered in line with Medium Term Financial Plan. In the main this will focus on service redesign to ensure future service growth is contained within the overall resources available. Key objectives of the Transformation Programme are to:

- Facilitate and support the Council in effecting organisational transformation to help reduce the budget gap.
- Oversee the delivery of the mitigating options outlined in the service commissioning plans
- Oversee the proposals offered by work stream transformation boards and ensure that a consistent and coherent corporate approach is adopted
- Oversee the process of ensuring that impact assessments of proposals are undertaken and that engagement with the community is undertaken at the appropriate time

4.12 One of the seven work streams of the Programme will focus on Adult Social Care (ASC) including: a) Mental Health, b) Learning Disabilities, c) Older People. Within the ASC work stream, officers will review the current and future needs of people with learning disabilities including the range of support available to promote independence and future commissioning requirements. This will be conducted within a framework of strategic principles including:

- **Outcome-based:** Resources must be directed to and focused on the key priorities for the Council and its strategic objectives. Activities undertaken by the Council must be aligned to delivering local outcomes for individuals and communities.
- **Co-design and delivery of services with communities:** Services should be designed and delivered with and not for communities, identifying and recognising the knowledge, skills and experience which already exists and can be developed and deployed for local benefit.
- **Alternative delivery models:** The Programme must consider the best and most sustainable option for each service, reflecting local circumstances and market forces.
- **Early intervention and prevention:** Supporting people early and effectively to prevent longer-term needs is a key principle. All the evidence suggests that the capability to intervene early in partnership with other agencies drastically reduces long term demand for high cost services. Service transformation needs to address and implement effective mechanisms that reduce long-term dependency on Council services.
- **Sustainability:** The Council must live within its financial means both in the short term and the longer term. Service transformation and redesign must deliver new sustainable service models.
- **Invest to save opportunities:** Work streams must look to see whether savings could be achieved through ‘invest to save’ opportunities.
- **Technology and digital delivery models:** Wherever possible technology must be considered to either support better or replace traditional service delivery models. The expectation of residents and the need to reduce transactional costs must be a prime consideration when designing sustainable services.

## 5. SERVICE PROFILE/DATA ANALYSIS

5.1 Detailed analysis of children and young people in the education system in Bromley (2018) identified that of the 2187 Children & young people with EHC plans:

- 578 with Autism
- 8 with Profound and multiple Learning Difficulties

- 104 with Severe Learning Difficulties
- 216 with Social, Emotional and Mental Health

5.2 As can be seen the potential demands coming through from under 18 services is expected to be significant well into the future. Demand for learning disability services is increasing nationally and locally. A narrow estimate of the number of school children nationally (broadly, aged 5-16 years) with complex needs is 73,000, made up of:

- 10,900 children with profound and multiple learning difficulties
- 32,300 children with severe learning difficulties
- 27,500 children with autistic spectrum disorders in special schools
- 2,300 children with multi-sensory impairments.

5.3 The equivalent figure in 2004 was 49,300. This suggests that the number of school children with complex needs in schools in England may have risen by nearly 50 per cent in just over a decade. The actual number is higher, as children with other primary needs may have complex needs and because there are some important gaps in School Census data.

5.4 The potential demands coming through from under 18 services are expected to be significant well into the future. Continued delivery of these schemes will support the Council in meeting its statutory duties against a backdrop of both increasing numbers and an increase in the needs of clients entering adult services.

## 6. OPTIONS APPRAISAL

### **Option 1: Award two short term contracts to enable procurement to be undertaken in 2020 following the Transformaion Board review of supported living**

6.1 In addition to the main drivers outlined earlier in this report, rescheduling the procurement for these two contracts provides an opportunity to align Bromley's supported living contracts so that they end during 2021 ensuring that the commissioning and procurement of all contracts can be in line with the direction of travel established this year.

6.2 It is expected that the procurement timeline will be as follows:

Pre-tender activity	Throughout 2019
Issue Invitation to Tender	January 2020
Tender Return Stage 1	February 2020
Tender Return Stage 2	June 2020
Marking and interviews	June/July 2020
PDS & Exec Reporting	September/October 2020
Contracts commence	April 2021

6.3 A report detailing the procurement strategy encompassing 5 Supported Living contracts will be presented to Executive in October 2019 for consideration and approval.

## **7 Option 2: Procuring the two supported living contracts in 2019 prior to the Transformation Board Review**

- 7.1 This option would entail losing the opportunity to fundamentally review the commissioning of supported living in light of the LD Strategy and the ASC transformation programme.
- 7.2 Procurement for the two contracts would proceed in 2019, requiring the Executive to grant an exemption for six months to enable the contracts to commence from July 2020.

## **8 PREFERRED OPTION**

- 8.1 Members are recommended to reschedule procurement of the two LD schemes as outlined in Option 1.
- 8.2 Sanctuary Care and Avenues have both confirmed their willingness to continue the contracts beyond January 2020.

## **9 MARKET CONSIDERATIONS**

- 9.1 There is a strong and stable market for the provision of supported living services. Due to market consolidation over the recent years, most bidders are regional or national third sector organisations with whom the Council is familiar.
- 9.2 The proposed exemptions will enable market engagement in light of a reviewed commissioning approach as part of the LD Strategy and ASC transformation programme. Not only will this allow any market issues to be reflected in the tender but will facilitate relationships between SME/VCSE's and other providers to possibly explore joint tendering opportunities etc.

## **9. STAKEHOLDER ENGAGEMENT**

- 9.1 Quality Checkers, the user led monitoring group, engage with service users within our supported living schemes as part of the regular monitoring regime. This ensures that the user's voice is heard throughout the life of the contract. Service users will further input into the development of outcomes being developed for Supported Living services.
- 9.2 This engagement will also support and inform the stakeholder engagement element of the learning disability strategy.
- 9.3 Engagement with family members/advocates of the service users will also occur to ensure that they are fully aware of the activity being undertaken and the timeline of decisions.

## **10. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS**

- 10.1 Assessment of the market, including detailed analysis of cost composition obtained through recent tender exercises; show that the prices obtained by the Council for these contracts were extremely competitive when they were awarded 5 years ago.

- 10.2 Cost pressures on social care providers have increased significantly in this time period with a rise in CQC registration costs, the apprenticeship levy, increased pension contributions, National Minimum Wage increases, including continued uncertainty of the impact of HMRC and legal advice on the sleep in issue and overall cost of living increases.

### **Proposed Contract Period –**

Contract (#218) with Sanctuary Care from 14th January 2020 to 24 April 2021.

Contract (#221) with Avenues from 12th January 2020 to 24 April 2021.

## **11. SUSTAINABILITY AND IMPACT ASSESSMENTS**

- 11.1 As part of the future tender there is a requirement for providers to address how they would meet social, economic and environmental considerations through the delivery of the services. These areas can cover such activities as local recruitment policies, procuring goods and services from local businesses, fundraising activities on behalf of local and national charities.

## **12. POLICY CONSIDERATIONS**

- 12.1 The Council's statutory duty under the Care Act 2014 is the consideration in relation to the procurement and delivery of these services.

- 12.2 The Care Act (2014) guidance states that:

- Local authorities should consider the contract arrangements they make with providers to deliver services, including the range of block contracts, framework agreements, spot contracting or 'any qualified provider' approaches, to ensure that the approaches chosen do not have negative impacts on the sustainability, sufficiency, quality, diversity and value for money of the market as a whole – the pool of providers able to deliver services of appropriate quality.

## **13. IT AND GDPR CONSIDERATIONS**

- 13.1 In consultation with the Information Assurance Officer a Data Protection Impact Assessment will be carried out through all stages of any procurement.

## **14. PROCUREMENT RULES**

- 14.1 This report seeks an exemption from tendering to award further contracts to Avenues and Sanctuary Care for a period of 15 months. The Contract with Avenues will commence on 13<sup>th</sup> January 2020 and the Contract with Sanctuary Care will commence on 15<sup>th</sup> January 2020.

- 14.2 Subject to compliance with Regulation 72 of the Public Contract Regulations 2015, the Council's requirements for authorising a further exemption from tendering is covered in Contract Procedure Rule 13.1. For a Contract covering the cumulative spend of these Contracts, the Approval of the Portfolio Holder must be obtained following agreement by the Director of Commissioning, Director of Corporate

Services, Director of Finance and Executive Director of Adult Social Care.

- 14.3 Following Approval, the extension must be applied via a suitable Change Control Notice, or similar, agreed with the Provider.
- 14.4 The actions identified in this report are provided for within the Council's Contract Procedure Rule, and the proposed actions can be completed in compliance with their content.

## **15. FINANCIAL CONSIDERATIONS**

- 15.1 The budget for these contract is contained within the overall budget for Learning Disabilities Supported Living schemes, which totals £13.9m in 2019/20.

## **16. LEGAL CONSIDERATIONS**

- 16.1 The Council have the legal power to secure supported living services for adults with Learning Disability through a contract in support of and to facilitate the Councils various functions under the Care Act 2014.
- 16.2 A contract for the purchase of these services is a public contract under the light touch category within the meaning of the Public Contracts Regulations 2015 (the Regulations). As the value of proposed extension for Sanctuary falls above the relevant threshold (£615,278) a full EU light touch procurement would be required as new contract .The value of the proposed extension for Avenues is below the threshold and would require the Council to carry out a procurement exercise which is in compliance with the EU Treaty Principles of Fairness non-discrimination and transparency. However because the proposal is to extend existing contracts the aggregate value of each proposed extension together with the value of the existing contract would each fall above the relevant threshold (£615,278) and a full EU light touch procurement would be required subject to Regulation 72 (see below) which makes for provision for modification of a contract during their term.
- 16.3 The report recommends variation by way of extensions to the existing contracts with Sanctuary Care and with Avenues. Under the general law parties to a contract may agree to vary and extend a contract .However insofar as the Council is concerned the variation must not amount to a material change within the meaning of the Regulations and law.
- 16.4 Regulation 72 sets out a number of circumstances and rules where a variation by way of an extension would be compliant with Regulations and would therefore not require a further procurement exercise. The report has explained the reason why the Council require these contract extensions which centre on the strategic decision to review service provision and delivery across the whole service area including the benefit of aligning procurement activity. These circumstances would seem to be sensible and satisfy a number of the circumstances set out in Regulation 72 (1) (c) and (e). Regulation 72 (1) (c) would permit modification where the need was brought about by circumstances which a diligent contracting authority could not have foreseen; does not alter the overall nature of the contract and would not increase by more than 50% of the value of the original contract . This ground would appear to

have met. Regulation 72 (1) (e) would permit modifications irrespective of their value where they are not substantial as defined. It is arguable that the proposed extensions are not substantial. As a modification under Regulation 72 (1) (c) would require publication of a notice officers may think it sensible to rely on the changes as not being material (Regulation 72 (8))

- 16.5 The Council’s Contract Procedure Rules (CPR 13.1) permit such a variation by way of an exemption and provides that authorisation for an exemption above £1M is with the Executive with the agreement of the Chief Officer, Director of Corporate Commissioning, Director of Corporate Services, Director of Finance and the Portfolio Holder and evidenced by this Member Gateway Report

<b>Non-Applicable Sections:</b>	<b>[ PERSONNEL CONSIDERATIONS]</b>
Background Documents: (Access via Contact Officer)	

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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