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**Decision Maker:** PORTFOLIO HOLDER FOR CARE SERVICES

**For pre-decision scrutiny by ADULT CARE AND HEALTH POLICY DEVELOPMENT AND SCRUTINY COMMITTEE.**

**Date:** Tuesday November 19<sup>th</sup> 2019

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

**Title:** ANNUAL QUALITY MONITORING REPORT – DOMICILIARY CARE

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**Chief Officer:** Director of Adult Services, People Department.

**Ward:** Borough wide

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1. Reason for report

The Contract Compliance Team closely monitors and reviews the performance of Domiciliary Care Agencies used by Bromley Council to support people living in the community. The team uses intelligence gathered from monitoring visits, CQC reports, quality reviews with Service Users, safeguarding alerts, complaints and information from other professional partners. This annual quality report details the performance of agencies working in Bromley during 2018/19 and sets out the work undertaken by the Contract Compliance Team to improve standards of care delivered to people living in the community.

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2. **RECOMMENDATION(S)**

2.1 The Adult Care and Health Policy Development and Scrutiny Committee is asked to consider the report and note the action taken to ensure that Providers maintain and improve the quality of services provided.

2.2 The Adult Care and Health Policy Development and Scrutiny Committee is asked to agree that the following providers be added to the current framework of domiciliary care providers.

- **Care World Agency Ltd**
- **Eminent Domiciliary Care Agency**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Domiciliary care services in the community enable adults to remain in their own homes and maintain independence for as long as possible. The Contract Compliance Team works to ensure the best possible service is delivered to users safely in their homes.
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## Corporate Policy

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

1. Cost of proposal: It is not possible to estimate specific spend with the two providers being added to the framework. Hourly rates are broadly in line with other framework providers, so should be cost neutral.
  2. Ongoing costs: As above.
  3. Budget head/performance centre: Various Domiciliary Care budgets across People department
  4. Total current budget for this head: £12.1m
  5. Source of funding: Existing revenue budget 2019/20
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## Personnel

1. Number of staff (current and additional): 1.7 Contract Compliance Officers, a.7 Quality and Performance Officer, supported by Team Leader and Head of Contract Compliance and Monitoring.
  2. If from existing staff resources, number of staff hours:
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## Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Applicable:
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## Procurement

1. Summary of Procurement Implications: Please refer to paragraph 7
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Approximately 1850 users at any one time.
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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 vision of the People Department is “to work together with agency partners, to ensure that every resident in Bromley needing our support has the right help at the right time to keep them safe and to meet their needs, so that they achieve, thrive and reach their full potential.” The work of the Contract Compliance Team is key to achieving this vision for vulnerable people living in the community.
- 3.2 The Council commissions Domiciliary Care for eligible Service Users living in the community. The Council set up a framework of Providers in August 2012 in order to commission care at guaranteed prices from a selected group of Providers whose quality is assured. There are 17 agencies currently on the framework and their contracts have been extended until August 2021. Spot Providers are commissioned to pick up care packages that the framework Providers are unable to accept. Contracts with the spot providers will also cease in August 2021. A new service model has been developed to replace the current arrangements for procurement of domiciliary care which is set out in detail elsewhere on this agenda.
- 3.3 In order to ensure that demand for domiciliary care can be met until the end of the current contract it is proposed to move some spot providers onto the framework as set out in Recommendation 2. This arrangement benefits the Council because the rates are controlled within the Council’s guideline prices and benefits the Providers because they are offered the opportunity to pick up more care packages. The agencies proposed are rated good by CQC, have been working with the Council in excess of a year and have demonstrated the willingness to co-operate with the quality assurance process. They are already caring for a number of Bromley residents.
- 3.4 Contract monitoring is carried out using a locally developed Quality Assurance Framework (QAF). Officers visit each provider’s registered office annually and complete a QAF report (see Appendix 1). The provider is given an opportunity to comment on the report, and then the Compliance Officer agrees an action plan with them to address any issues with timescales for delivery. Progress against the action plan is reviewed during the year. As part of the QAF process the Contract Compliance Team also visits Service Users in their homes to gain views about the performance of the provider and to undertake spot checks on the quality of the care plans, care logs and risk assessments in the home. Officers also observe the quality and safety of the environment. Information from these visits is fed into the overall QAF process, so any issues identified can be followed up at the provider’s office. For example, Officers can check if complaints by service users made have been recorded formally and acted upon.
- 3.5 The Contract Compliance Officers inspect a sample of care worker and service user files during monitoring visits; they will ensure they check the files of particular of Service Users who have made complaints, or care workers where concerns have been identified, or the induction plans for those who are new to the service.
- 3.6 The aim of the work of the Contract Compliance Team is to ensure that Service Users receive a Good standard of service from well trained and compassionate carers. If the Contract Compliance Team identifies that the service being delivered by an agency does not meet the Council’s required standard or the agency does not progress their action plan the team takes one of the following actions depending on the severity of the concerns:
- Meeting to review concerns with service Providers and agree time scales for remedy.
  - Enforce a temporary suspension of new packages pending improvement
  - Issue a Default notice with a timescale to remedy the problems identified.

- Request a review of current Service Users by Care Services in order to transfer them to an alternative provider
- Remove the Agency from the framework completely or cease to commission new packages if a spot provider.

The Director of Adult Social Care and the Portfolio Holder for Adult Care and Health are kept fully informed of performance issues by regular briefings. The Executive Assistant to the Portfolio Holder also receives monthly updates on the activity of the Contract Compliance Team.

3.7 The regulatory framework covering domiciliary care agencies for adults is the Health and Social Care Act 2008. The Care Quality Commission (Registration) Regulations 2009 and Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 detail the key care standards which Providers must deliver. There are 28 regulations and associated outcomes that are set out in the legislation. The Care Quality Commission (CQC) monitors for compliance against these fundamental standards of quality and safety. The work of the Contract Compliance Officers complements the work of CQC, providing more regular and timely engagement with local providers.

3.8 Table 1 and Chart 1 below show the breakdown of overall CQC ratings for agencies (framework and spot contractors) used by Bromley Council as at October 2019 over the last 4 years. The percentage of Bromley Providers rated Good overall has continued to improve.

Table 1

As at October	Outstanding	Good	Requires Improvement	Inadequate	Not yet rated	Total
2016	0	26 (60%)	9 (21%)	3 (7%)	2 (7%)	43*
2017	0	18 (55%)	9 (27%)	1 (3%)	5 (15%)	33
2018	0	26 (70%)	9 (24%)	1 (3%)	1 (3%)	37
2019	0	32 (82%)	6 (15%)	1 (3%)	0	39

\* this figure includes some agencies delivering one-off packages.

Chart 1

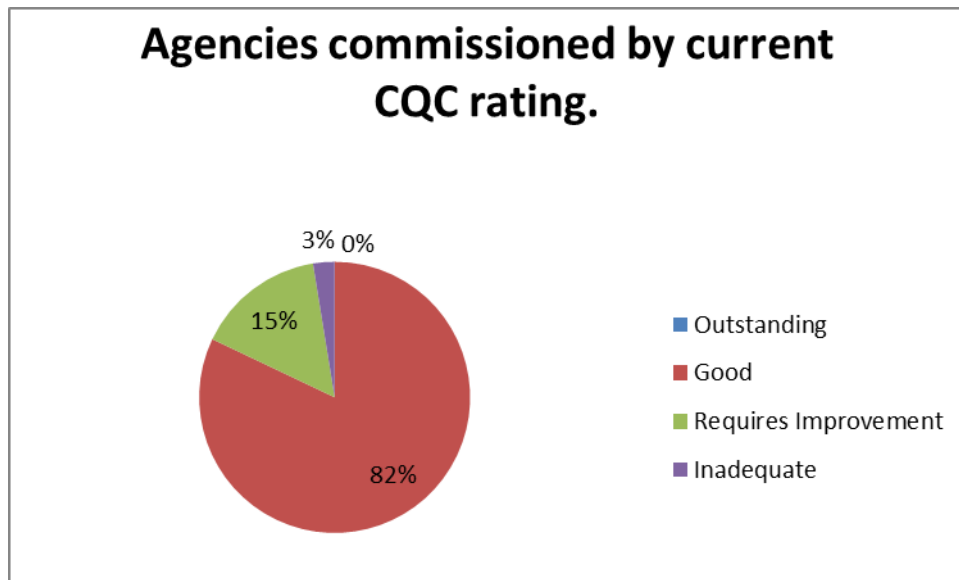
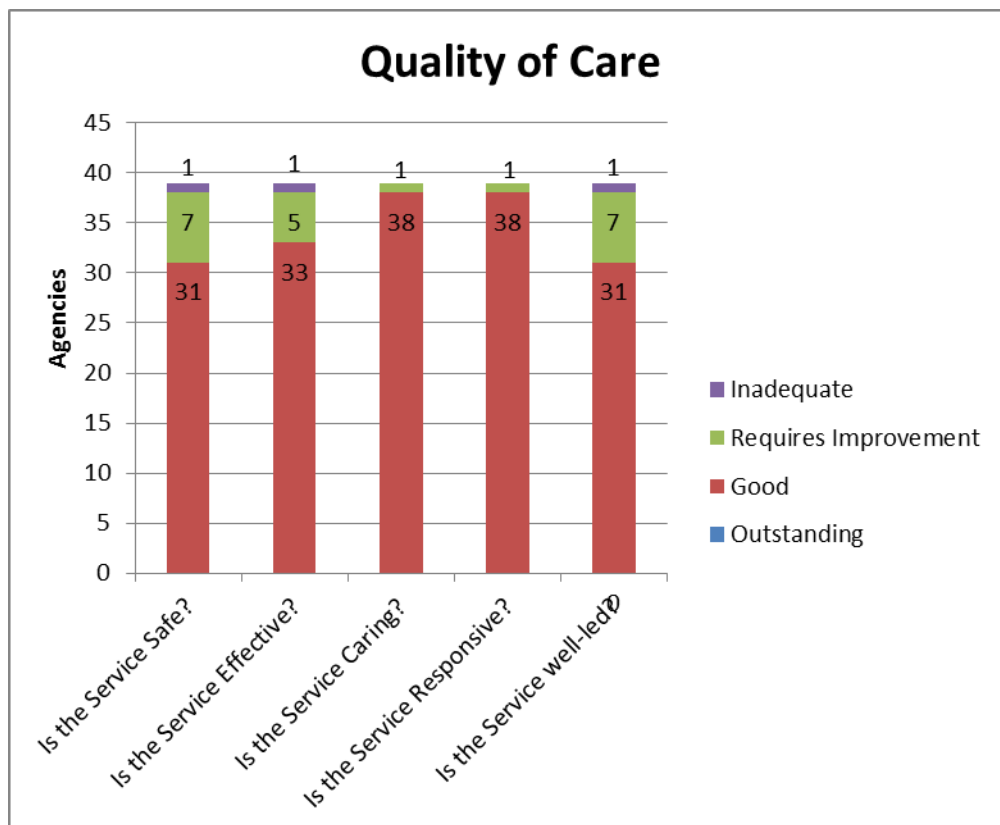


Chart 2 displays the full range of ratings by the CQC five key lines of enquiry. This indicates that most agencies are rated Good for Caring and Responsive, whereas improvements are required for Effective, Safe and Well Led.

Chart 2



3.9 The common areas in which agencies need to strengthen their practice are undertaking risk assessments, assisting with medication, and auditing their own services. Officers developed

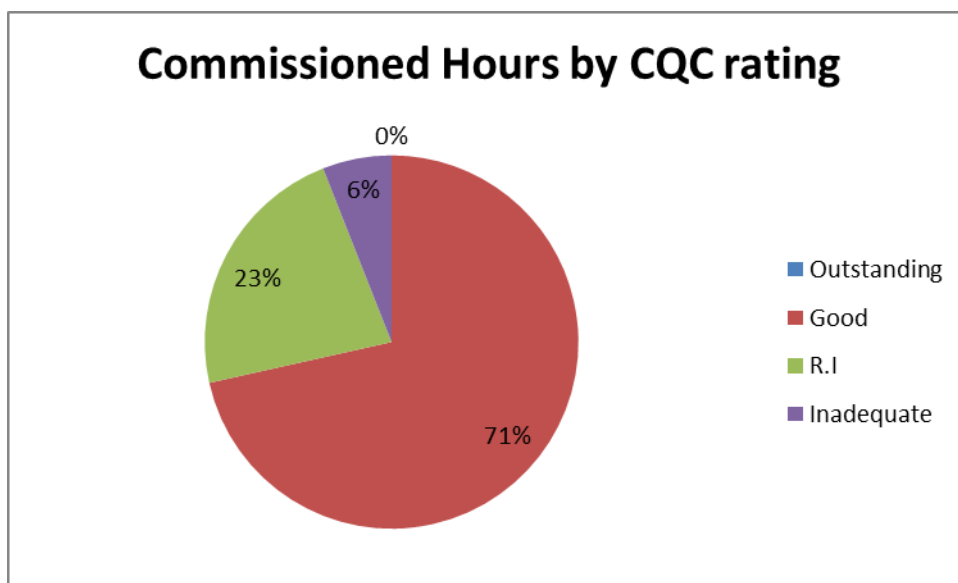
and shared a best practice template for risk assessments with providers which was well received. Officers have observed improvements in practice in this area.

3.10 In order to improve the delivery of medication NICE have published guidelines for agencies to follow. Contract Compliance officers undertake very detailed reviews of medication records in the agency offices and services users' homes and provide feedback on this to the Providers in order that they can improve the service delivered. The Contract Compliance officers are well versed in the guidance and support providers to implement this. Bromley CCG currently employs a part time pharmaceutical adviser who attends the quarterly Domiciliary Care Forum in order to provide additional support to providers.

3.11 The rating for well-led is affected by the agency's ability to pick up their own errors through supervision, spot checks and auditing. Agencies need to demonstrate that they identify issues and ensure that they are dealt with ensuring that lessons are learned and that these are communicated to staff to improve future service. Contract Compliance officers have observed audit functions in all agencies, and will follow this through to ensure that this becomes embedded.

Chart 3 below shows the split of the number of hours commissioned weekly by CQC rating. The majority of care hours in Bromley are delivered by agencies rated Good.

**Chart 3**



3.12 The Council does not place new care packages with Providers rated less than Good by the CQC. During the November 2018 to October 2019 period covered by this report a number of Providers have been inspected by CQC resulting in a change of ratings. The frequency of CQC inspections depends on previous performance. If an agency is rated Good it might be 2 years between inspections, however if concerns are raised by a local authority or the public, or there is an unexpectedly high level of accident / incident alerts to the CQC the inspection may be brought forward. If the rating is Requires Improvement the next inspection will generally take place within a year.

3.13 Local Providers are well aware of the new policy requirement. As there is an immediate impact on Providers, they have an incentive to complete their action plans urgently.



- 3.14 The Council has contracted with some additional spot agencies rated Good by CQC in order to meet demand for domiciliary care coming from the acute hospital and the community.

### **The Council's contribution to Improving Performance**

- 3.15 The Council runs a well-attended quarterly domiciliary care forum. The programme this year has included updates on Risk assessments and mitigating risks, Safeguarding principles, Management of Diabetes, recruitment and selection, CQC reporting requirements for accident and incidents, safe management of medication.
- 3.16 The Council continues to fund free safeguarding training for all Providers. The Council's Learning and Development team also works with a consortium of Providers who plan and commission a range of training courses. Providers make a small financial contribution towards the cost of this training. However, due to the rapid turnover in staff and the need to complete induction and training of new staff quickly Providers also have to fund their own training programmes, using online as well as classroom training.
- 3.17 Bromley's Workforce Development Team has recently developed a successful initiative "Wake Up to Care" to assist with the recruiting and professional training of staff for Care Homes. Plans are in development to replicate this initiative with the domiciliary care work force, as the programme greatly assists providers with recruiting and retain suitably skilled and motivated staff.
- 3.18 There is a growing demand for the supply of domiciliary care services within Bromley and this is being addressed through the programmed to retender care in the home. The Council regularly engages with current and potential suppliers to maintain an awareness of capacity in the market. The re-tendering exercise will mitigate issues relating to travel, recruitment and retention, and seek to embed a re-ablement approach across the market. It is not expected that Brexit will have an impact on staff recruitment and retention.

## **4 IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1 The work of the Contract Compliance Team contributes to the safety of vulnerable adults in Bromley.

## **5 FINANCIAL IMPLICATIONS**

- 5.1 It is not possible to estimate the level of spend specifically with the two providers being added to the framework as it will depend upon demand for new packages and provider availability etc. The hourly rates are broadly in line with other framework providers so the proposal will be cost neutral.
- 5.2 It is important to have an active framework available for domiciliary care as spot rates tend to be more expensive.
- 5.3 The table below shows the total expenditure on domiciliary care for the last three financial years and year to date:

	<b>Actual spend £'000</b>
2016/17	11,810
2017/18	12,034
2018/19	12,373
2019/20 to date	7,078

- 5.4 Providers on the framework have experienced price rises due to the further increases in the National Living Wage, pension contributions and CQC fees. Officers have been in negotiations with Providers to address this in order to keep them on the framework and to continue to provide care at quality levels that are expected of them.

## **6 LEGAL IMPLICATIONS**

- 6.1 The Council have the legal power to provide Domiciliary Support services to adults through a contract in support of and to facilitate the Councils various functions under the Care Act 2014.
- 6.2 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 variation to the existing Framework falls above the relevant threshold (£615,278 (even though it is not known the value of future orders at this point) the variation must comply with the Regulations in particular Regulation 72 (see below) which makes provision for modification of a contract or Framework during their term and must also be in compliance with the EU Treaty Principles of Fairness non-discrimination and transparency.
- 6.3 The report recommends adding the providers to the existing Framework as the original number of providers has reduced over the period and officers believe that the addition of providers is desirable for improved service delivery and operation of the Framework.
- 6.4 Regulation 72 sets out a number of circumstances and rules where a variation to the Framework would be compliant with Regulations and would therefore not require a further procurement exercise. The report has explained the reason why the Council requires additional framework providers. Regulation 72 (1) would allow a modification where it has been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which do not alter the overall nature of the contract or the framework agreement. Clause 2.2 of the Framework Agreement states that the council may add new contractors who can meet council standards and replace original contractors. In addition officers have advised the Council will take steps to ensure compliance with the EU Treaty Principles including publication of relevant notices.
- 6.5 The Council's Contract Procedure Rules (CPR 13.1) permit such a variation to the Framework Agreement by way of entering into a new Framework Agreement with each of the approved Providers .Given the difficulty in knowing what orders will be made and the expiry of the Framework Period, it is considered acceptable to use this Member Gateway report to authorise entering into the additional Framework Agreement through the authorisation of the Portfolio holder with the agreement of the Chief Officer, Assistant Director Governance & Contracts, Director of Corporate Services, Director of Finance and evidenced by this Member Gateway Report

## 7 PROCUREMENT IMPLICATIONS

- 7.1 This report requests for a number of spot providers to be added onto the framework in order to maintain and increase the number of providers on the framework, which was originally intended to be c. 30.
- 7.2 The council has reserved the right under 2.2 of the Framework Agreement to add new contractors who can meet the Council's standards to replace original contractors on the framework.
- 7.3 Providers will only be added to the framework, where the Council is satisfied that the Contractor can fulfil its obligations under this Framework Agreement, the Service Contract and Service Specification.
- 7.4 This is an above-threshold light touch service contract.
- 7.5 The relevant notices will be published following approval from the Portfolio Holder.

<b>Non-Applicable Sections:</b>	<b>POLICY IMPLICATIONS / PERSONNEL IMPLICATIONS</b>
Background Documents: (Access via Contact Officer)	