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<b>Decision Maker:</b>	<b>EXECUTIVE WITH PRE-DECISION SCRUTINY FROM ADULT CARE AND HEALTH SERVICES POLICY DEVELOPMENT AND SCRUTINY COMMITTEE (12 MARCH 2024) AND CHILDREN EDUCATION AND FAMILIES' POLICY DEVELOPMENT AND SCRUTINY COMMITTEE (12 MARCH 2024)</b>		
<b>Date:</b>	<b>27<sup>th</sup> March 2024</b>		
<b>Decision Type:</b>	Non Urgent	Executive	Key
<b>Title:</b>	<b>Permission to commence with the procurement to replenish the Domiciliary Care Patch arrangements.</b>		
<b>Contact Officer:</b>	Channelle Ghania Ali, Integrated Strategic Commissioner E-mail: <a href="mailto:channelle-ghania.ali@bromley.gov.uk">channelle-ghania.ali@bromley.gov.uk</a>		
<b>Chief Officer:</b>	Kim Carey –Director of Adults Social Care Richard Baldwin – Director Childrens Services		
<b>Ward:</b>	All Wards		

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## 1 REASON FOR REPORT

- 1.1 On the 29 June 2021 Executive agreed the award of geographical Patch contracts to deliver domiciliary care services for a up to an eight-year period (5+3 years); that commenced on 28 August 2021 (Report ACH21-031).
- 1.2 The current value of the contract spend is an overall value of £16.4 million per annum. The overall remaining whole life value of £82 million for 2+3 years (both Framework and Patch)
- 1.3 Since the award of the contract, two of the four patches (East and South) have delivered well and have progressed to accept circa 70% of the domiciliary care packages at the end of year two of the eight-year contract. However, because some designated providers have not been able to deliver packages of care (as laid out in detail below (2), The Integrated Commissioning Service is now seeking to replenish the Central Patch with one new provider alongside four back-up providers to be used when required.

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## 2. RECOMMENDATION(S)

- 2.1 The Adult Care and Health Policy Development and Scrutiny Committee and Children Education and Families Policy Development and Scrutiny Committee are asked to review this report and provide comment prior to the report proceeding to Executive for decision.

- 2.2 The Executive is recommended to approve permission to procure up to five new Patch providers, these contracts will run co-terminus with the Patch providers that have been delivering services since 28 August 2021. This action is due to one provider ending their contract. The additional four new providers will replace any providers that are not able to meet the terms of the contract.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Summary of Impact: There is no negative impact. The service supports both the local Corporate Plan priorities and statutory duties to Adult's and Childrens Social Care.
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### Transformation Policy

1. Policy Status: Existing Policy
    - For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence, and making choices.
    - BBB Priority: Supporting Our Children and Young People, Supporting Independence and Healthy Bromley.
    - To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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### Financial

1. Cost of proposal: Up to £16.4m pa for the whole borough (total Dom Care budget).
  2. Ongoing costs for central patch only: approx. £3.5m pa for 2+3 years
  3. Budget head/performance centre: Council Domiciliary Care Budgets
  4. Total current budget for this head: £16.4m
  5. Source of funding: Revenue budget
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### Personnel

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

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

1. Summary of Procurement Implications: This Gateway 0/1 proposes to replenish Patch providers, following a compliant tender process to award contracts for a period up to 5 years.
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### Property

1. Summary of Property Implications: Not applicable
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### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: The patch model addresses carbon reduction by reducing travelling across the borough and concentrating travelling in wards/neighbourhoods.
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All providers are asked to evidence their commitment to considering their supply chain processes to consider carbon reduction.

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#### Impact on the Local Economy

1. Summary of Local Economy Implications: Increase the council's commitment to the Social Value Act 2012.
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#### Impact on Health and Wellbeing

1. Summary of Health and Well Being Implications: See section 16 of the report that references the Transformation Bromley Roadmap themes (2019-2023):
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#### Customer Impact

1. Estimated number of users or customers (current and projected): 2000 Adults, 99 Children
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#### Ward Councillor Views

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

### **3. COMMENTARY**

- 3.1. The Care Act 2014 places a duty on the Council to conduct an assessment on a vulnerable person's needs and for the subsequent provision of community services based upon eligible need with a focus on wellbeing and prevention. The Children Act 1989 and the Children and Families Act 2014 place an emphasis on supporting children and young people who have additional needs. Eligibility for domiciliary care services will be based on the assessment and care planning approach detailed in these two Acts.
- 3.2. At the heart of the Council's vision of a good domiciliary care service is strengths-based and outcomes based enabling care and support, which meets the needs and aspirations of people enabling them to live happy and fulfilled lives in their own homes and communities.
- 3.3. The Service Specification focuses upon maintaining or increasing service user independence to have a positive impact on their health and well-being. This is part of a wider programme of work in support of the Council's Adult Social Care Strategy priorities and including the development of our practice of our assessment and care management teams. The strategic intention of the Patch contracts is that these eight providers deliver 60-70% of care packages with additional support given from a framework of providers. This approach allows for the Patch providers to deliver quality services at a scale that also delivers value for money.
- 3.4. Since August 2021, the new Patch model has been implemented and proving to be the best approach of managing the provision of domiciliary care demand. Thus far, the East patch is accepting circa 60% of the packages of care and in year three of the contract the Integrated Commissioning Service is working closely with all three East patch providers to improve this to 70%. The one South patch provider accepts under 70% of the packages of care. The one performing West patch provider has increased their uptake since April 2023, and are now accepting over a third of all packages of care. This uptake of over a third of packages is proportional of the total 60-70% patch allocation for one patch provider.
- 3.5. It is noted that the Patch providers offer competitive rates compared to the framework providers, with average rates being 9% cheaper than the framework providers. This is an important benchmark when establishing the financial benefit of the Patch model.
- 3.6. The circumstances resulting in this request for permission has arisen as one Central Patch provider recently terminated the contract. The reasons to do so focus upon citing their struggle to meet LBB's Quality Standards, despite the generous input from the Quality and Providers Relationship team and the Integrated Commissioning Service. Following this termination, the provider received a CQC inspection rating of 'Requires Improvement' (RI); this rating automatically would result in a suspension of the provider.
- 3.7. To mitigate against the future risk of provider failure due to noncompliance with the quality standards (for example as detailed in 3.6) up to four additional Patch providers are sought. These additional providers would operate as reserves in the event of any of the Patch providers needing to be replaced. There is no guarantee that these additional reserve patch providers will be called upon during the lifetime of this new parallel multi provider patch framework.

#### **Summary of Business Case**

- 3.8. In an earlier Gateway 0/1 27 November 2019 report (ACH 19015) the business case set out the reasons to move from a time/task model of Domiciliary Care to a strength based enabling model to reduce dependency of service users and continue to re-enable individuals to remain

independent in their own homes. The golden thread of this new way of delivering Domiciliary Care services weaves into the council's Transformation strategy.

- 3.9 The initial business case for the Patch model is fully cited in ACH 19015 which specified the ambition to move from the previous Framework contract and spot contracting arrangements, which included numerous providers, to the current position whereby economies of scale deliver improved personalised care for service users, whilst enhancing the quality and choice within the provider market. Patch providers can recruit to and invest in bespoke patch provision, benefiting from the knowledge of greater investment security. The ambition is to deliver 60-70% of packages of care via the Patch with the remaining packages supported via the tendered Framework providers.
- 3.10 The aim of this exercise is to mitigate against the risk of providers being unable to deliver upon the ambition of the patch model as the predominant provider, which impacts on maximising the efficiency and optimising outcomes. Four of the providers will be on standby, should the incumbent providers be unable to deliver the terms of the contract, whilst another will replace the provider that previously handed back their contract.

### **Service Profile / Data Analysis / Specification**

- 3.11 The average demand for domiciliary care, post covid, is recorded as high as two thousand packages of care per week. There is a growing demand for Domiciliary Care with children with an average of ninety-nine children per week.
- 3.12 The older population, over sixty-five, will continue to increase. The JSNA (2017) projects the local over 65 years population as 18% in 2022 and growing to 19% by 2027. The JSNA (updated 2021) projects an over sixty-five population as 20% of the total population by 2031.
- 3.13 With reference to Children and Young people (CYP) there are ninety-nine children and young people in receipt of a domiciliary care package. Currently with an estimated cost for 2023/24 at £2.4m.
- 3.14 The 2021 JSNA cites the Northwest and Northeast of Bromley as having the highest levels of deprivation which includes the wards of Mottingham & Chislehurst (Central patch) and Crystal Palace, Penge & Cator (West patch). These levels of deprivation will in turn have an impact on demand for older people requiring Domiciliary Care; thus, the established link between poverty and ill health may well intensify the Domiciliary Care demand during this Domiciliary Care strategy.
- 3.15 Earlier evidencing of this increasing demand was reported to the PDS 24 January 2023 (ACH23-003) for example the turnover for Discharge to Assess service users has increased in all patches and the hospital has incrementally increased the weekend discharges as the 7-day hospital discharge becomes business as usual.
- 3.16 The Year 1 and 2 spend upon Domiciliary Care £15.7 million and £19.1 million. The Year 2 increase can be attributed to the 10% uplift that providers were awarded due to the position of the national economy.

### **Options Appraisal**

#### **Option 1: Replenish the relevant patches. (Preferred Option)**

- 3.17 The aim of the commissioning strategy has been to increase the uptake of the Patches accepting 60/70% of the work and the framework the remaining 30/40%.

3.18 The Patch model has greater capacity to realise the purpose of the initial Transformation Strategy of decreasing spend whilst the aging population increases to 20% (1 in 5) of the local population by 2031.

## **Option 2: To not replenish the relevant patch.**

3.19 The option to not replenish the relevant patch will lead to an increase in spend and the framework providers. This will be contrary to the Transformation Strategy and will impact on other initiatives such as the Trusted Assessor model that requires our patches to reduce care packages where it is safe to do so.

### **Preferred Option:**

3.20 It is recommended that the Executive grants permission to tender for new patch providers (replacing providers that end/breach the terms of their contracts) for the following benefits:

- Rationalised market with a core of the most competent providers in the market, to manage current and future demand.
- Working with Patch providers allows for more efficient quality management processes.
- Poor performance is more effectively managed by targeting contract/performance monitoring resources.
- It supports provider efficiencies through reduction in travel time and costs for carers.
- It supports managing the market for both larger and smaller providers, ensuring viability of volume across the market.

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

### **4.1 Estimated Value of Proposed Action:**

The value of the proposed action is the whole life contract value as £82m and in section 13.

### **4.2 Other Associated Costs: NA**

### **4.3 Proposed Contract Period: 2 years with the option to extend for a further period of up to 3 years (5 years in total) from 2023/2029**

### **4.4 Procurement Strategy:**

It is intended that that this will be an open tender as only providers with a Good or above CQC rating are able to apply in accordance with the Executive's decision.

The evaluation methodology includes:

- The Price/Quality adheres to the 60/40 split.
- The pricing evaluation remains as the previous tender: median plus £3.  
Commissioning will attach a pricing schedule which will allow each bidding provider to break down the hourly rate of Domcare across: Direct staff salary; staff cost to employer, overhead contributions, and profit lines.
- Quality evaluation:

Relevant experience:	25%
Provider requirements:	pass / fail
Delivering Services that are Value for Money	25%
Monitoring for Service Improvements	25%
Performance Management & Quality Assurance	25%

Contract conditions include maintaining a Good CQC rating throughout the contract. A less than 'Good' rating will result in suspension where the provider must work with our Quality and provider relations Team on an improvement plan before the suspension can be set aside by the Director of Adult Social Care.

The provider must work with the joint Patch provider in accepting 60/70% of the packages of care for patch, otherwise this can lead to contract breach if remedying action fails.

The provider must always comply with the contract monitoring process.

- 4.5 The estimated timeline for this procurement is set out below:

Market Engagement	Feb/Mar 24
Issue Tender Documents	Mar/April 24
Evaluate Tender Returns	April/May 24
Award Contracts	June/July 24
Mobilisation	July/Aug 24
Contract Commencement	August 24

## **5. MARKET CONSIDERATIONS / IMPACT ON LOCAL ECONOMY**

- 5.1 The current market position is that within Bromley 30 providers have registered offices within the borough. Other local authorities have a similar saturation. However, by developing the tender model, whereby the aim is to work with Patch providers across four localities supported by 31 Framework providers, we have managed the hourly rates whilst improving the stability for residents, agencies, and their workforce.
- 5.2 The wider (non-commissioned) market includes providers that are rated below the council's 'good' threshold and/or some providers are yet to be inspected. The Bromley approach seeks to maximise quality standards.

## **6. SOCIAL VALUE, CARBON REDUCTION AND LOCAL / NATIONAL PRIORITIES**

- 6.1 Social Value Act 2012 has been considered in the original tender process for contract Award in 2021. All applicants were asked to demonstrate how they intend to meet the Social Value workstreams, such as employment opportunities and environmental carbon off-setting practices. In Year two, we have begun to review the Social Value workstreams of all Patch providers and those Framework providers that have a spend of £125k pa.
- 6.2 All submissions from potential providers will need to demonstrate a commitment to Social Value and upon the contract award will be monitored on this, as is the case with the current commissioned cohort.

## **7. STAKEHOLDER ENGAGEMENT**

- 7.1 The commissioning team works closely with the placements team, care management and the quality provider relationships officers to ensure that service needs are reflected into the commissioning approach and the on-going contract management approach with domiciliary care providers.



- 7.2 Care managers and social workers collate feedback on how providers are delivering on the objectives set out in the service users support plan which in turn informs progress on the outcomes that are reviewed as part of the social work review.

## **8. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN) AND CUSTOMER IMPACT**

- 8.1 A full Equality Impact Assessment has been completed as part of the tender process in 2019/20. We do not feel it is necessary to revisit this exercise as the new service model will continue to ensure the Council provides its duties in meeting Adults and Children needs as set out in the Care Act 2014. It will aim to improve on the current offer by providing better outcomes for residents and ensuring a more effective way of procuring the service.

## **9. TRANSFORMATION/POLICY IMPLICATIONS**

- 9.1 As above in 3.9 the strategic mapping of Strengths Based Domiciliary care supported by the Patch model can be traced to the Transformation priorities:
- i. Deliver efficiencies to help reduce the Council's budget gap.
  - ii. Prioritise the health, safety, and wellbeing of our residents.

## **10. IT AND GDPR CONSIDERATIONS**

- 10.1 The Council, as part of its on-going commitment and sustaining a progressive approach to data protection and information management, requires the following be considered and evidenced:
- Privacy By design – the Council shall undertake a Data Protection Impact Assessment and manage all residual risk.
  - The Council must ensure that the contract and any information sharing agreements have robust clauses relating to data management.
  - The Council must ensure that there is an appropriate exit strategy in relation to information retention requirements and transfer with the incumbent provider where necessary.

## **12. PROCUREMENT CONSIDERATIONS**

- 12.1 This report seeks to procure a replacement Patch Provider and four 'reserve' providers to support the Council's Patch Domiciliary Care provision as set out in section 3 of this report. The contract(s) will be for a period of two (2) years with the option to extend for a further period of three (3) years to ensure the provision is co-terminus with the remaining Patch providers. The estimated value of this procurement is £16.4m per annum with an approximate whole life value of £82m.
- 12.2 This is an above threshold contract, covered by Schedule 3 of the Public Contract Regulations 2015. An open process will be used, and a timetable is included at Section 4.2 above.
- 12.3 The Council's specific requirements for authorising proceeding to procurement are covered in Rules 1 and 5 of the Contract Procedure Rules with the need to obtain the formal Approval of Executive following the formal Agreement of the Portfolio Holder, Chief Officer, Assistant

Director Governance and Contracts, Director of Finance and Director of Corporate Services for a procurement of this value.

- 12.4 In accordance with Contract Procedure Rule 2.1.2, Officers must take all necessary professional advice.
- 12.5 In compliance with Contract Procedure Rule 3.6.1, this procurement must be carried out using the Council's e-procurement system.
- 12.6 The actions identified in this report are provided for within the Council's Contract Procedure Rules and the Public Contract Regulations 2015, and the proposed actions can be completed in compliance with their content.

### 13. FINANCIAL CONSIDERATIONS

- 13.1 On 29 June 2021, Executive agreed the award of Patch contracts to deliver Domiciliary Care services for a period of up to eight-years (5+3 years); that commenced on 28 August 2021 (Report ACH21-031). This report now seeks permission to procure up to three new Patch providers, and these contracts will run co-terminus with the Patch providers that have been delivering services since 28 August 2021. This action is due to one provider ending their contract. One of additional four new reserved providers will replace any provider that is not able to meet the terms of the contract. The procurement of the new providers will not, therefore, change the overall value of the framework contract approved in June 2021.
- 13.2 The Domiciliary Care Patch contracts are funded from the revenue budgets for Domiciliary Care. The 2023/24 Domiciliary Care budgets are set out in the table below:

	Adults	D2A	Children's	Total
Expenditure	14,952	387	1,038	16,377
Income*	-5,357	0	0	-5,357
Net	9,595	387	1,038	11,020

\* Note that this is all charging policy income so will include elements of income attributable to other services such as Day Care

### 15. LEGAL CONSIDERATIONS

- 15.1 The Executive Committee is recommended to approve permission to procure up to three new Patch providers to provide domiciliary care to adults and children. It is intended that these contracts will run co-terminus with the Patch providers that began delivering domiciliary services on 28<sup>th</sup> August 2021. This procurement has been required due to one provider terminating their contract. The decision to procure a new provider must be authorised by the Executive, as the estimated value is likely to be more than one million pounds.
- 15.2 The Council is required to provide domiciliary support services to adults and children in furtherance of its statutory duties under the Care Act 2014.
- 15.3 A contract for the purchase of these services is a public contract under Schedule 3 of the Public Contracts Regulations 2015 (the Regulations). As the value of the proposed new procurement is likely to fall above the relevant financial threshold of £663,540 then the services must be procured in accordance with the light touch regime. It is noted that there will be four reserve operators, and

this will need to be managed carefully and clearly documented as to how this will work in the tender documents.

## 16. IMPACT ON HEALTH AND WELLBEING

- 16.1 The newly commissioned domiciliary care services supports the Council's key priorities within the Transformation Bromley Roadmap themes (2019-2023):
- Priority One: Safeguarding
  - Priority Three: Life chances, resilience, and wellbeing
  - Priority Five: Integrated health and social care
  - Priority Six: Ensuring efficiency and effectiveness.
- 16.2 A strategic approach to replenishing domiciliary care will ensure that the service delivery aligns to the current and developing wider health and social care pathways as part of our integrated commissioning arrangements alongside the ICB.

<b>Non-Applicable Headings:</b>	Strategic Property Considerations (11) Personal considerations (14)
Background Documents: (Access via Contact Officer)	NA