

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 05 September 2023

TITLE	Adult Social Care Single Commissioning Framework	
Ward(s)	All	
Author: Richard Hills	Job title: Deputy Director Adult Commissioning	
Cabinet lead: Cllr Helen Holland – Cabinet Member for Adult Social Care and the Integrated Care System	Executive Director lead: Hugh Evans, Executive Director: Adults and Communities.	
Proposal origin: BCC Staff		
Decision maker: Cabinet Member Decision forum: Cabinet		
<p>Purpose of Report: To seek authorisation to procure and purchase care and support for the majority of Adult Social Care (ASC) long term care services from a new single Adult Social Care Commissioning Framework, including spot and block purchasing that may incur costs higher than the Key Decision threshold during the life of the service users' placements or community package. To seek permission to extend/continue to use existing framework agreements where required for 6-12 months as per the details set out in this report. To address shortcomings in legacy contracts. To seek permission for BCC Childrens Commissioning and Bristol, North Somerset and South Gloucestershire (BNSSG) commissioners (primarily from the Integrated Care Board) to be named on the Single Framework to encourage joint commissioning and shared use of framework rates where applicable. To explore alternative delivery models to improve commercial viability of contracts.</p>		
<p>Evidence Base</p> <p>1. Background</p> <p>1.1. In March 2023 ASC brought a paper to Cabinet providing early information about the development of a single commissioning framework for the purchasing and provision of the majority of Adult Social Care services. In that same paper Cabinet approved three contract extensions enabling them to meet the timeline of the proposed new framework being introduced.</p> <p>1.2. In February 2023, the BCC Corporate Leadership Board (CLB) approved a mandate for a project to support ASC to develop a Full Business Case (FBC) for proceeding with the proposed single framework.</p> <p>1.3. This FBC has now been developed and was approved by the ASC Transformation Programme Board on 8th August 2023. ASC is now seeking permission from Cabinet to tender for and implement the new single framework in line with the Business Case.</p> <p>1.4. The ASC Single Commissioning Framework project is funded within the 'Managing Supply' workstream of the Adult Social Care Transformation Programme, for which Cabinet approved the funding in June 2023.</p> <p>2. Why is ASC seeking to move to a Single Framework?</p>		

- 2.1. Adult Social Care commissioning is the process of analysing, planning, co-designing, procuring, and reviewing care services that meet the unmet care and support needs of individuals and communities, whilst achieving best value for money and complying with statutory legislation and duties. Bristol City Council has a duty under the Care Act (2014) to shape a sustainable and sufficient local care market and promote individual wellbeing.
- 2.2. There is an immediate need to accelerate the transformation of Adult Social Care by improving the supply of personalised services that meet people's needs, and to continue to take opportunities to maintain and improve wellbeing and independence.
- 2.3. Adult Social Care currently purchases care from c.480 care providers at any one time, at a market value of c.£195m per annum. This is the council's largest single area of General Fund commitment. The Adult Social Care purchasing budget continues to come under strain and has started recent financial years with an immediate overspend. There are further significant savings (£4m) to be delivered by ASC in 2023/24, as the overspend is forecast to be c.£12m. The service must focus on ensuring every spend decision is meeting a person's eligible unmet care needs in the most cost-effective way.
- 2.4. The current four historic ASC purchasing frameworks and standalone contracts are restrictive, time-consuming to administer. They are inconsistent in structure, terms and conditions and approach to financial rates and uplifts. As these frameworks come to an end (end March 2024) there is an opportunity for the service to introduce a new, more flexible purchasing mechanism that will enable more innovative and integrated commissioning and provide a platform for consistent pricing of services and improve financial control.
- 2.5. The commissioning service also needs to establish more robust and resilient supply in certain parts of the market. Supply has been a real challenge in areas of the market delivering support for complex learning disability, mental health, and complex dementia. Working with quality local providers over the longer-term, commissioners will utilise the new framework to fill these long-standing gaps in supply. Commissioners will need to look at alternatives to spot-purchasing care that gives the best providers more certainty to encourage them to invest over the longer term in the right workforce and the right outcomes for residents.
- 2.6. Having one framework allows for providers to be commissioned under one consistent set of terms and conditions. One overarching specialisation, setting out the council's requirements for our care market, will help to promote and maximise people's independence wherever possible.
- 2.7. A single framework reduces administrative burdens on care providers, many of which are small, local operators, while continuing to meet our financial and procurement duties and ensuring quality of care through one Quality Assurance Framework (QAF).
- 2.8. The framework gives ASC a mechanism to buy efficiently from the market, but it places no obligation on the council, or any other named commissioners on the framework, that they have to commit to any level of spend. It simply sets up a mechanism through which services can be purchased when required.
- 2.9. The framework will be a tool to enable the achievement of ASC transformation and savings targets to control unit price, reduce the amount of off-framework higher cost placements and packages, and bring Bristol back in line with other comparable authorities.
- 2.10. For a more detailed account of why ASC is recommending this approach to the commissioning of adult social care in Bristol please refer to Appendix A.

3. Key information about the proposed new single framework

- 3.1. Subject to Cabinet approval, the proposed new single framework will be procured over Autumn/Winter 2023 and be implemented from February 2024. An open market tender will run for a minimum of six weeks in September/October 2023.
- 3.2. The new framework will consist of eight core accommodation and community services lots, with a ninth 'Innovation' lot, which can be used for creative and innovative commissioning and 'test and learn' pilots. All providers that are successful on joining one or more of the eight core lots will automatically be admitted onto the Innovation Lot. Any proposed innovations will be funded by

either redirection of funds across the existing purchasing budget or specific 'invest to save' business cases that will be approved through the ASC Transformation Programme Board.

- 3.3. The new framework will have a maximum term of ten (10) years. This will be made up of an initial term of four (4) years that can be extended by BCC at its discretion for any period, or periods, up to a maximum of ten years.
- 3.4. Extension periods will be set at two (2) year intervals and commissioning will come back to the relevant committee for approval for each of these possible three extension points over the life of the framework.
- 3.5. Existing clients are at no risk of being moved from their existing provider purely as a result of this new framework starting and previous frameworks expiring. However, ASC commissioning will be encouraging as many existing providers as possible to join the new framework so that contracts can be aligned to the new standardised terms and conditions.
- 3.6. The ambition over time is to have the majority of ASC's purchasing activity from providers operating in the city under one framework. Early indications are that the majority of existing providers have already expressed an interest through the PIN notice that went out in May this year. Where existing providers either choose not to join, or are unsuccessful in joining the new framework, they will not be automatically eligible to receive new work, or any other benefits associated with the new framework.
- 3.7. BCC Procurement and legal have supported ASC commissioning in finding a compliant route for these providers. Legacy contracts (in and out of area) will be kept separate from the new framework. These will be moved across onto a new 'Off Framework' contract which is more compliant than our current off-framework arrangements. This same contract will be used for any new purchases that have to happen (for limited specific reasons only) where the provider is not on the new framework. Further detail is set out in Appendix A (section 3.12)
- 3.8. The Council accepts that not all adult purchasing activity will be on the new framework due to out of area placements, spend downs (where ASC fund the care until the persons money is released, for example through the sale of a house, after which ASC recoups the money that has been spent towards the care to that point) and other scenarios, but ASC anticipates that these will be the exception. It is expected that the number of off-framework providers will decrease over the first twelve months of the framework going live and continue to fall steadily over the maximum ten-year term. This can be tracked under a benefits tracker to monitor the trend.
- 3.9. In applying this approach there has been no requirement to consult existing service users as this is a technical contractual change between the council and its care providers, rather than a change that directly impacts on the care provided to Bristol's residents with eligible needs under the Care Act (2014). No changes to meeting the needs of service users will result directly from this work.
- 3.10. In the course of pre-tender market engagement, a number of providers have drawn attention to an alternative delivery approach being employed by some with other authorities which is aimed at improving the commercial viability of these contracts. As a consequence, preliminary discussions have taken place with external financial and legal advisors familiar with these arrangements to better understand them and how they might benefit the Council, whilst ensuring they do not undermine the procurement process, impact on effective service delivery or expose the Council to unnecessary risk. Further work is required on this, and discussions are ongoing with specialist advisors. However if this approach proves to be workable, the intention would be to build this into the procurement and/or contractual arrangements, subject to suitable due diligence. Cabinet is asked to endorse this approach.

4. Facilitating joint commissioning opportunities

- 4.1. ASC has invited commissioners from BCC Childrens Commissioning, the Bristol, North Somerset and South Gloucestershire Integrated Care Board (BNSSG ICB), North Somerset Council and South Gloucestershire Council to be named on the framework to allow for them to buy from the same framework as Bristol, at the same rates, where it makes sense for all parties to align what they are purchasing from the local care market.
- 4.2. On 26th July 2023, the Director of Nursing confirmed the ICB's agreement to be named on our framework. Conversations with North Somerset Council and South Gloucestershire Council are

currently ongoing. The ICB currently spends around £30m a year on CHC placements and packages and a percentage of this could move across to being purchased from this framework over time.

- 4.3. BCC Children’s Commissioning envisage potentially purchasing services using a select number of framework Lots, at an anticipated approximate spend of 2m per annum.
- 4.4. For more detail on these plans to facilitate joint and integrated commissioning opportunities please refer to section 3.7 of Appendix A.

5. Framework Financials and Costings

- 5.1. Total ASC spend over ten years based upon current commissioned spend with the care market could amount to as much as £2,000m (perhaps increasing to c.£2,320m if ICB partners and BCC Childrens Commissioning choose to buy some of their care from the framework).
- 5.2. The new framework offers opportunities at scale to provide market certainty helping to retain a viable market for social care providers. Written into the contracts will be periodic overall cost reviews that where circumstances allow can provide for cost uplifts which aim to stay in line within national market conditions where funding arrangements allow it. Therefore, these values could increase further subject to cost reviews.

Duration of the ASC Single Framework	Anticipated BCC spend against framework based on current spend with the Care Market (£)*	Potential Integrated Care Board Spend (£)* <i>Indicative only based on ICB annual £30m p.a. spend with care market</i>	Potential spend from BCC Children’s Commissioning (based on approximate £2m p.a. spend)*	Approximate total potential Framework spend*
Initial 4 year commitment (Feb2024-Feb2028)	800m	120m	8m	928m
February 2028 – February 2030	400m	60m	4m	464m
February 2030 – February 2032	400m	60m	4m	464m
February 2032– February 2034	400m	60m	4m	464m
Possible Total spend if all extensions are approved over 10 years.	2000m	300m	20m	2320m

**Note these totals do not include any allowance for applied inflationary or annual provider uplifts.*

- 5.3. The spend against the new framework when it goes live in February 2024 will not represent new financial burdens placed on the council. Instead, it’s a new administrative vehicle through which the BCC Brokerage Team can buy long term care for Care Act-eligible clients compliantly. Rather than buy the same services across four frameworks and other standalone contracts, the vast majority of BCC ASC purchasing spend will be through spot-purchasing and block call-offs from this new single framework, working with the providers who have qualified to get on to it.
- 5.4. Via this paper the service is asking for approval for the initial four-year framework spend only. ASC will return to the relevant committee for extensions approvals, and to report on spend from the framework up to that point, at the three, five, seven and nine year junctures of the maximum ten year term.

6. Purchasing from the new Framework

- 6.1. In January 2023 Cabinet authorised ASC, under the delegated authority of Executive Director: Adults and Communities, in consultation with the Cabinet Member for Adult Social Care and the Integrated Care System to undertake the spot purchasing of Residential and Nursing Care and supported accommodation statutory placements (and relevant combined packages featuring other care types) above the key decision threshold, until 31 March 2024 to align with the expiry of the current contractual frameworks.
- 6.2. In this paper, ASC is asking for this delegated authority to the Executive Director of Adults and Communities to be extended and widened out to include all spot and block purchasing from the new

framework for spend including sums above the Key Decision threshold. This will enable the service to implement purchasing from the new framework in the most administratively efficient way, targeting the areas where supply is most challenging.

- 6.3. ASC brokerage will start spot-purchasing care arrangements below the key decision threshold from the framework immediately from its commencement date, and it is expected that the first block contract arrangements will start to take place from March 2024. Brokerage work within the financial and procurement regulations and seek financial authorisation and sign off from the appropriate level as set out in our financial regulations. The initial focus will be on complex Learning Disability and Autism, applying the work of the new joint integrated Learning Disability and Autism commissioning team for ICB and BCC, funded through the Section 256 Transforming Care fund and hosted by Bristol City Council.
- 6.4. To mitigate the risk of there being any unforeseen delay in the new framework going live and/or there not being enough providers joining certain lots on the new framework from the first round of open market tendering, it is imperative that ASC can extend or continue to purchase new individual care and support from eight existing framework contracts, and one concession agreement, for a short amount of time. This will also support ASC to ensure that purchasing of services from the new framework is done in a strategically planned way that prioritises areas where the council is currently paying above national benchmarked unit prices and will minimise unnecessarily administrative and resource burdens on the ASC commissioning team and the provider market.
- 6.5. For some of these contracts there is no provision for a further extension. It may therefore be necessary to negotiate short term extensions with providers in situations where the Council procurement rules would otherwise require a competition.
- 6.6. Contract extensions may not need to occur. Any contract extensions or continued use of contracts for new purchases that does occur will be for as minimal a period as possible. Most would be for a maximum of four to six months, and two for a maximum of twelve months.
- 6.7. The total value of contract extensions ASC seeks to be authorised should this be needed is £11,161,004.
- 6.8. For more detail, by contract, on the anticipated length of extension/continued use and anticipated value of that extension/continued use please refer to Appendix A (section 3.11).

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Authorises the Executive Director: Adults and Communities in consultation with the Cabinet Member for Adult Social Care and the Integrated Care System:
 - a) To procure and award a Single Adult Social Care Commissioning Framework within the maximum budget envelope of £2320m (£2020m BCC Spend) across a maximum of ten years, to be managed within approved budget limits for each service area using the framework as outlined in this report.
 - b) To award care contracts utilising the single framework, including block call-off arrangements where supply in the market is restricted and spot-purchasing is not delivering a sustainable marketplace.
 - c) To spot and block-purchase for services from all lots from the framework, above the Key Decision threshold during the life of the service user's placement or community package.
 - d) To implement short contract extensions and/or allow continued purchase of new individual care and support from eight existing framework contracts and one existing concession agreement, as set out in this report, for up to maximum of up to six months (bar two contracts which may be extended for up to twelve months) and up to a maximum total value of £11,161,004, to bring relevant existing contracts into alignment with the single framework purchasing plan.
 - e) To enable BCC Childrens Commissioning and BNSSG commissioners (primarily from the Integrated Care Board) to be named on the Single Framework, if approved by their own executive board, to encourage joint commissioning where appropriate and shared use of framework rates.
 - f) To transfer all existing providers with current placements that do not join the new framework to a new 'off framework' contract – "Existing Legacy Social Care Providers Contract".
 - g) To contract with all out of area providers that do not join the framework via a new contract – "Bespoke and out of area Contract".

h) To explore alternative delivery models proposed by providers and, subject to the approval of the S151 Officer and Director of Legal Services, look to accommodate these within the current procurement exercise, where possible, or otherwise implement these on a case by case basis.

2. The Cabinet notes that:

- a) An update report and request for approval to extend the term of the new framework will be brought to the relevant committee for authorisation at each of the three, five, seven and nine-year anniversary dates of the commencement date of the framework.
- b) The total annual spend against the single framework by Bristol City Council will be managed within the ASC allocated purchasing budget as set by the relevant committee each financial year.
- c) All call-offs will remain in line with finance and procurement regulations and procedures, and any off-framework spend, required by exception, will follow the council's compliant exception processes and governance.
- d) Spot and block-purchase for services from all lots from the framework below the key decision threshold will continue to be undertaken by brokerage in accordance with the financial regulations.

Corporate Strategy alignment:

- 1. Health, Care and Wellbeing (HCW1); The provision of care and support within Extra Care Housing contributes to Bristol City Council's priority to support people to be as resilient and independent as possible, developing their assets to live fulfilling lives.
- 2. Homes and Communities (HC1); The provision of care and support within Extra Care Housing to Bristol City Council's priority to support older and/or more vulnerable people to remain as independent as possible within their communities.

City Benefits:

The provision of good quality, inclusive care and support services that meet people's identified needs, will contribute to equality of opportunity in supporting older and disabled people to live independently.

Consultation Details:

No formal public consultation is required for procurement of the new framework, however Adult Social Care has been undertaking a high level of engagement with its providers, and the people who draw on ASC care and support, in regards to this proposal with a largely positive response. Some formal consultation will be required prior to specific block contract call-offs as part of implementation of the framework. This consultation is scheduled to happen between October and December 2023.

Background Documents:

- 1) [2023-01-24 Adult care package funding final.pdf \(bristol.gov.uk\)](#)
- 2) [Pathway to Single Framework Cabinet Paper](#)
- 3) [Final Decision pathway Report Adult Social Care Transformation 6th June Cabinet v4dm comments 003.pdf \(bristol.gov.uk\)](#)

Revenue Cost	£2020m BCC spend over 10 years, (£2320m including potential ICB spend). (Any uplift variations will be according to contract)	Source of Revenue Funding	ASC Spend: General Fund, ASC purchasing budget. Childrens Commissioning spend: General Fund, Children's Services Revenue Budgets.
Capital Cost	N/A	Source of Capital Funding	Not applicable
One off cost <input type="checkbox"/> Ongoing cost <input checked="" type="checkbox"/>		Saving Proposal <input type="checkbox"/> Income generation proposal <input type="checkbox"/>	

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice: This report sets out proposals to create a new single adult care services framework. It will in the

main, be recommissioning existing services and has no guaranteed minimum spend. Any new spend, or changes to health and care services, brought through the innovation or other lots, will need to be fully funded from existing financial allocations and governance processes applied. The estimated BCC spend over the maximum ten-year term (if extensions are invoked), based on 2023/24 spend levels, is c.£2.02bn and should be managed within approved budget limits.

Should partner organisations decide to join the framework, then this would need to go through partner organisation governance processes and spend could rise to £2.32bn.

Finance Business Partner: Denise Hunt 18 August 2023

This a complicated procurement exercise, setting up a large framework with a significant number of lots, anticipating that suppliers will bid for various combinations of these lots, thus requiring many framework agreements, and subsequent call-off contracts. This is a high number of agreements to be put in place in a relatively short timeframe, especially as tendering for block contract call-offs will also commence in March 2024. The nature of the services enables the Council to run a Light Touch Regime Procurement exercise, which permits BCC to procure an open framework for ten years. This also allows new providers to join from time to time, subject to meeting the relevant requirements. The alternative delivery models being explored raise complex legal, finance and procurement issues, which will need to be carefully considered to ensure that they do no compromise effective service delivery, nor undermine the procurement process; or expose the Council to any unnecessary risk.

Legal Team Leader: Eric Andrews, Legal Services, 23 August 2023

3. Implications on IT: IT are supportive and available to aid in progressing relevant work and can be engaged through the existing work request process.

IT Team Leader:

Alex Simpson, Lead Enterprise Architect, 12 July 2023

4. HR Advice The report is seeking approval to procure and implement a new Single ASC Framework from February 2024 and for delegated authority to extend any relevant contracts that expire during the remainder of 2023/24 for up to a maximum of six months to give time to align with the new Lots on the Single Framework. There are no significant HR implications arising from this report for Bristol City Council Employees.

HR Partner: Lorna Laing, 03 July 2023

EDM Sign-off	Hugh Evans, Executive Director Adults and Communities	19th July 2023
Cabinet Member sign-off	Cllr Helen Holland, Cabinet Member for Adult Social Care and the Integrated Care System	24 July 2023
For Key Decisions - Mayor's Office sign-off	Mayor's Office	7 th August 2023

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO

Appendix I – Exempt Information	No
Appendix J – HR advice	NO
Appendix K – ICT	NO
Appendix L – Procurement	NO