



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Adult Social Care, Public Health and Voluntary Sector
Date:	06 October 2023
Classification:	Part Exempt
Title:	Older People's Day Opportunities Preventative Services
Wards Affected:	All
Policy Context:	Fairer Communities
Key Decision:	Yes
Financial Summary:	Five interim short-term direct award contracts totalling £3,612,170.00
Report of:	Bernie Flaherty Deputy Chief Executive and Executive Director for Adult Social Care and Health

1. Executive Summary

- 1.1 The overall aim of the older peoples' day opportunities preventative services is to enable residents, particularly those who are isolated, excluded, and vulnerable, to access services that support them to live independently with improved health and wellbeing.
- 1.2 The services are provided by the charitable/not for profit sector, which provide a range of services and geographic options to support residents to live independently with improved cognitive and physical wellbeing.
- 1.3 The report sets out the rationale for direct awards for five well-established and well-regarded services. This enables the continuity of services for older residents and supports the ambitions of the Fairer Westminster Strategy and the Health and Wellbeing Strategy.
- 1.4 Some of the services have been operating under implied terms since September 2020 and for some since September 2022. The recommended direct awards will reflect the implied term already passed and the remaining time, up to 30 September 2024. Part B: Appendix 1 has full financial and supporting service information.
- 1.5 The maximum aggregate financial value of the direct awards is £3,612,170 and the delay in regularising these contracts has been multifactorial.
- 1.6 Initial delays were due to the pandemic and the need to prioritise support to services and the wider care market. There was then a need to understand service requirements in a post COVID-19 landscape, a challenging financial landscape, and some initial changes in attendance levels. There was a need to understand any permanent changes in appetite from vulnerable adults regarding group- and building-based services prior to awarding contracts.
- 1.7 Further, the Health and Social Care 2022 White Paper raises objectives around shifting away from competition and towards collaboration and partnership with the third sector.
- 1.8 Work has been undertaken to explore how that objective can be achieved, to consider the cost/benefit of procuring these services from the open market and the risk of destabilising existing provision with local charities/not for profit organisations that provide high-performing services that demonstrate good value for money.
- 1.9 There are differing considerations, but this work has concluded that for the long term there is a statutory duty to undertake procurement activity.
- 1.10 This interim direct award period will allow the regularisation of contractual terms whilst a procurement exercise is planned and carried out.

2. Recommendations

2.1 The Cabinet Member for Adult Social Care, Public Health and Voluntary Sector is recommended to approve:

2.1.1 The interim short term direct award contracts for the following services:

	Provider	Provider Category	Service	Direct Award Period	Value of the Direct Award Contract
1	London Care (03117278)	Commercial	Westbourne Dementia Day Service	1.10.2020 – 30.9.2024	£1,782,300.00 (£2,138,760 inc VAT)
2	London Care (03117278)	Commercial	Pullen OP & Dementia Day Service	1.10.2020 – 30.9.2024	£796,728.00 (£956,073.60 inc VAT)
3	Octavia Housing (IP13991R)	Not for profit	Befriending & Outreach	1.10.2022 – 30.9.2024	£258,274.00 (£309,928.80 inc VAT)
4	Open Age (CE002845)	Charity	Community Hubs	1.10.2022 – 30.9.2024	£435,572.00 (£522,686.40 inc VAT)
5	Westway Community Transport (IP27317R)	Charity	Community Transport	1.10.2022 – 30.9.2024	£339,296.00 £407,155.20 (inc VAT)
Total					£3,612,170.00

2.1.2 To waive, as per Part B Appendix 2.1 and 2.2, the requirement under Westminster City Council's Procurement Code to undertake competitive exercises in respect of the services listed above.

3. Reasons for Decision

3.1 Westminster City Council (WCC) has clear duties around service provision and prevention under the Care Act 2014. The Council must provide or arrange services that help prevent people developing needs for care and support or delay people deteriorating such that they would need ongoing care and support.

3.2 The 2022- 2026 Fairer Westminster Strategy commits that "Our council services will be [...] accessible and effective, ensuring people are safe and can get the support they need. Our social care, leisure and public health services, in partnership with the voluntary sector, will help residents to live well for longer in their community." It also specifies the ambition to provide "excellent public health and social care services, and physical activity opportunities that ensure all adults can stay healthy and thrive as they age."

- 3.3 The Draft Bi-borough Health and Wellbeing Strategy 2023- 2033 has ambitions around delivering better health and wellbeing for all and a focus on prevention and early intervention (“being active is one way people can improve their physical and mental health and wellbeing. Not only does physical activity improve mental wellbeing [...] it also enables people to meet others” reducing risks of social isolation). Another key ambition is “residents are supported to live as independently as possible”.
- 3.4 These older people’s day opportunities preventative services are required to meet the statutory duties as well as the aims and objectives of the Council.

4. Background, including Policy Context

- 4.1 All the services are targeted at supporting older residents’ physical and cognitive wellbeing, reducing isolation and loneliness. The services help prevent needs or prevent further needs, and support residents to maximise their independence. Isolation, loneliness, lack of activity are major risk factors for residents’ health and wellbeing, and age exacerbates this.
- 4.2 The pandemic created distinct health and wellbeing challenges, exacerbated other health and wellbeing issues, and left many older residents deconditioned with reduced physical and psychological wellbeing.
- 4.3 Community trust, which long established organisations have built, has helped residents to (re-)engage and start rebuilding resilience and new social connections.
- 4.4 The services support a range of needs. For example, the hubs are “open access” to older residents within the community, and the day centres are for residents with more complex needs who typically require practical and/or personal care to engage in the service offer.
- 4.5 Similarly, the geographic patches of the services differ in response to need, such as older residents’ preferences for services that are close to home given increased mobility challenges and reduced confidence with age. This is the case generally, and particularly when they are in less familiar parts of the borough, including after sunset.
- 4.6 All the services add value by providing advice and guidance, helping and signposting residents into other services according to their needs, and escalating any safeguarding concerns and/ or unmet health and care needs to statutory agencies.

5. Options, analysis and proposals

- 5.1 In determining the recommendations for the service contract, four key options have been considered:

1.	End Service Provision	Not recommended	<ul style="list-style-type: none"> The Council has duties under the Care Act 2014 and ambitions under its Council Plan and Health and Wellbeing Strategy to prevent/ prevent the further deterioration of needs.
2.	Direct Payments <ul style="list-style-type: none"> Give Customers a direct payment to purchase their own services 	Not recommended	<ul style="list-style-type: none"> Some of these services are open access services to prevent Adult Social Care (ASC)-eligible needs from developing. Many of the residents attending these services are not eligible for direct payments. Some of the services are for those with ASC assessed needs. Social workers co-produce care and support plans with residents and, as relevant their carers. Direct payments are typically the first option explored. Commissioned services are for those not wishing or not able to work with a direct payment.
3.	Procurement <ul style="list-style-type: none"> Undertake a competitive market exercise to procure new services. 	Not viable as an immediate option	<ul style="list-style-type: none"> This cannot immediately regularise the contractual status. An effective procurement exercise takes time. This cannot be rushed, not least as many of the incumbent providers are small local charities who will need time to enable them to participate in any procurement exercise.
4.	Direct Awards <ul style="list-style-type: none"> Short term direct aware of contracts to ensure market sustainability. 	Recommended	<ul style="list-style-type: none"> This option enables immediate service stability and continuity. These are well regarded services deemed to provide good value for money. This option provides time for an effective procurement exercise. It will help maximise the opportunities for shaping new services and harnessing new technology to identify efficiencies and/ or service improvements. It will enable a fair and considerate procurement exercise that is mindful of the third sector.

6. Legal Implications

Below threshold

- 6.1 Contracts for the below services fall under the Light Touch Regime of the Public Contract Regulations 2015 (“PCR”). The value of the contracts listed below are respectively below the threshold for Light Touch services and therefore there are limited implications under the PCR that apply to these awards.
- 6.2 The Council is required to publish a contract award notice in accordance with Regulation 112 of the PCR.
- 6.3 The Council can use the long-form services terms and conditions for these awards. The commencement dates of the contracts should be backdated to

01/10/2020 or as relevant 01/10/2022 to cover the 'implied terms' period. This will provide the parties with express protection for this period.

- 6.4 The Council is required to comply with its internal Procurement Code which requires the Council, in respect of awards of this value to request a minimum of five tenders and to use Cap E Sourcing.
- 6.5 A waiver of these requirements has been sought.
- 6.6 The waiver must be approved by Director of Commercial Partnerships (or deputy) and the appropriate Executive Leadership team member following a recommendation to approve from Commercial Gateway Review Board (CGRB).
- 6.7 The award of contracts of this value has been approved by the appropriate Executive Leadership Team member following CGRB endorsement.

Above threshold

- 6.8 The value of the contracts listed below are respectively above the threshold for light touch services and therefore the full implications of the light touch regime within the PCR will apply to these awards.
- 6.9 Further legal guidance is available in Part B: Appendix 3

Above Threshold				
1	London Care	Westbourne Dementia Day Service	1.10.2020 – 30.9.2024	£1,782,300.00 (exc. VAT)
2	London Care	Pullen OP & Dementia Day Service	1.10.2020 – 30.9.2024	£796,728.00 (exc. VAT)

7. Financial implications

- 7.1 The service cost of these proposals can be contained within existing ASC and Public Health budgets.
- 7.2 The costs have been informed by 2022/23 contract prices, or in the case of Westbourne Dementia Day Service (an activity-based contract), the service budget.
- 7.3 The cost to the Council could potentially increase by inflation if increases are agreed. Inflationary increases will be met from inflation provision.

8. IT Implications

- 8.1 Each of the providers will be processing and storing resident data in order to deliver the required services and provide performance intelligence.

- 8.2 The providers are directly responsible for processing their client data. Whilst the usual caveats around data security apply, each provider will need to demonstrate compliance as separate legal entities. To that extent there are no data protection implications for the Council with respect to the award of contract.
- 8.3 The providers are incumbent providers and were required to submit GDPR compliancy documentation as part of a Council exercise in May 2018 and are required to maintain GDPR compliancy as per contractual terms and national legislative requirements.
- 8.4 All providers will be required to undertake/refresh the Information Security Questionnaire (ISQ) as part of the subsequent formal procurement exercise or sooner if required.

9. Property Implications

- 9.1 Westbourne Dementia Day Centre and Pullen Older Person and Dementia Day Centre are both leased to London Care from the Council to deliver the services. Leases will need to be extended to run co-terminus with the service contract and granted outside the provisions of the Landlord and Tenant Act 1954.
- 9.2 Ongoing dialogue will continue between Adult Social Care, Housing and Corporate Property teams when planning procurement activity for longer term use to ensure that appropriate property solutions are provided as necessary.
- 9.3 For those services that are run from buildings not owned or maintained by the Council, it is recommended that, as a matter of good practice, service providers be asked to provide copy documentation to confirm that those premises are compliant and suitable for service delivery.

10. Responsible Procurement

Sustainable employment

- 10.1 Providers are London Living Wage Employers, and discussions are underway with each provider about how their individual contracts support other areas such as training and development opportunities, staff retention, staff recruited from the borough, modern slavery awareness and timely payments.

Digital Inclusion

- 10.2 Older people are among the most digitally excluded within society, there are conversations with each of the providers as to what they can do to support the digital inclusion agenda and/or how they can harness digital opportunities whilst ensuring inclusion for those not able/not wishing to digitally engage. Each provider's actions depend on the nature and scale of the contract. For

2023/24, each provider has been asked to share an action plan that demonstrates what they intend to do.

Community Wellbeing

- 10.3 These services all have social value and add to community wellbeing, through working with other community organisations to provide wider benefits. For example, the day services are working with the Police and London Fire Brigade to raise awareness of preventing crime and improving safety in the home. These actions can reduce the number of incidents, support the wider service infrastructure, and improve residents' outcomes.

The Environment

- 10.4 Key conversations focussed on how providers are implementing the waste hierarchy¹, food for life² (if involved in catering), and carbon reduction³ and if/what awareness raising is being undertaken with users of services on these agendas.
- 10.5 Providers are asked to specify what is within their gift given there are cost implications and infection control requirements which do not always easily support this agenda.
- 10.6 The providers have been made aware of Westminster City Council's ethical procurement policy and that WCC contractors will be required to subscribe to the supplier charter.

11. Equalities Implications

- 11.1 The Council has statutory duties in meeting the needs of adults. All residents receiving care and support services have protected characteristics as defined under equalities legislation, such as age and/or disability and other factors like faith, ethnicity and sexuality.
- 11.2 The continued provision of services supports the equalities agenda. Whilst the proposal and award request relates to service continuity, 'continuous improvement' is also fundamental to all services and relevant opportunities are sought to promote the wellbeing of individuals in line with their choices and preferences and to reach more at-risk vulnerable adults.
- 11.3 The planned longer-term procurement exercise will be subject to a full equality impact assessment.

12. Consultation and Community Engagement

¹ <https://www.gov.uk/government/publications/guidance-on-applying-the-waste-hierarchy>

² <https://www.foodforlife.org.uk/catering/food-for-life-served-here/residential-care/standards-for-residential-care>

³ <https://www.gov.uk/government/publications/procurement-policy-note-0621-taking-account-of-carbon-reduction-plans-in-the-procurement-of-major-government-contracts>

- 12.1 A formal consultation exercise was undertaken in 2019 and in 2021 to understand community requirements for older people's day opportunity services. This has been followed up more recently in 2023 with a range of engagement events with older people. These sessions have been focussed on understanding current service satisfaction, strengths and opportunities. Full details are available in Appendices 1 – 3.
- 12.2 A regular co-design and co-production working group has been functioning with representatives from the incumbent service providers since October 2022. Details are available in Appendix 4.
- 12.3 Members of the Integrated Care Board attended the provider co-design and co-production sessions to explore synergies, opportunities and any impacts of change on the whole health and care system.
- 12.4 The engagement events have all focussed on what is working well, future opportunities and challenges to determine the priority areas for the whole system and its partners from statutory organisation and the third sector.
- 12.5 Key messages from residents are:
- Strong satisfaction with service provision
 - A preference for a mix of 1:1 activity and group activity in a designated group setting
 - A setting designed for older people to drop in for a cuppa and conversation and meet people
 - Indoor exercise opportunities
- 12.6 This intelligence, layered with activity information, has informed immediate changes to contract requirements and will inform future commissioning and re-procurement activity.

Contact for enquiries:

Sharon Thurley, Chief Strategist, Adult Social Care and Health

APPENDICES

Appendix 1 Community Consultation 2019
Appendix 2 Community Consultation 2021
Appendix 3 Community Consultation 2022 - 2023
Appendix 4 Provider Consultation 2022- 2023

The following appendices are exempt from disclosure on the grounds that:

- (i) They contain information relating to the financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972,
- (ii) They contain information in respect of which a claim to legal professional privilege could be maintained in legal proceedings under paragraph 5 of Schedule 12A of the Local Government Act 1972; (iii) and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Appendix 5 Financial Breakdown
Appendix 6a Waiver (under £1.5m)
Appendix 6b Waiver (over £1.5m)
Appendix 7 Legal Comments
Appendix 8 Procurement Comments

Mandatory clearance requirements for all Key and Executive Decision reports

- Procurement SR
- Property: IM
- Finance: ZN
- Legal: AC

For completion by the **Cabinet Member for Adult Social Care, Public Health and Voluntary Sector**

Declaration of Interest

I have no interest to declare in respect of this report

Signed: N. Butler-Thalassis Date: 06 October 2023

NAME: **Councillor Nafsika Butler-Thalassis**

State nature of interest if any:

(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Older People's Day Opportunities Preventative Services** and reject any alternative options which are referred to but not recommended.

Signed: N. Butler-Thalassis

Cabinet Member for Adult Social Care, Public Health and Voluntary Sector

Date: 06 October 2023

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Other Implications

1. Resources Implications
2. Business Plan Implications
3. Risk Management Implications

The below summarises the key risks and issues. Additional information is available in Part B: Appendix 4.

Risk	Mitigation	RAG
1. Direct Awards	Short term contracts. Future market opportunities forthcoming.	
2. Service Quality Issues Reduction in service quality during additional contract life.	The providers are well regarded by the community/users of services and have a track record of delivering to specification.	
3. Value for Money (VFM) The services do not represent value for money.	<p>These services are deemed to represent VFM.</p> <p>Not only is there good performance against the contract specification, but many of the providers also leverage their contract with the Council to raise additional funds, which enables them to provide an enhanced/additional service offer.</p> <p>This provides added value, as residents benefit through the providers' 'charitable' service offers as well as the commissioned service offer.</p> <p>Given Property Implications, TUPE and London Living Wage it is not thought that a procurement exercise will deliver efficiencies.</p>	
4. Provider Failure Provider failure or provider exits market	These are short term contracts. Regular checks and balances are undertaken on the providers.	

<p>5. Increased Costs - Service</p> <p>The profile of residents using the services have been growing in complexity, in addition to the cost-of-living crisis.</p> <p>Providers may need to re-negotiate the contract price.</p>	<p>There is a fundamental requirement to ensure sufficient funding for a safe good quality service.</p> <p>Any request for contract uplift will need to be evidence based and will be scrutinised to determine appropriateness of the request.</p>	
--	--	--

- 4. Health and Wellbeing Impact Assessment including Health and Safety Implications**
- 5. Crime and Disorder Implications**
- 6. Impact on the Environment**
- 7. Equalities Implications – See section 13**
- 8. Staffing Implications – See section 13**
- 9. Human Rights Implications**
- 10. Energy Measure Implications**
- 11. Communications Implications**
- 12. Counter Terrorism and Security Implications – See section 13**

Note to report authors: If there are particularly significant implications in any of the above categories these should be