

5.2 Legal comments for item 6 – Day and Evening Services Framework

The report proposes the establishment of a pseudo DPS/accredited supplier list for the delivery of day and evening care services.

The existing framework is due to expire next year and a new contract is required to ensure continuity of service. It is understood that the framework has not provided sufficient flexibility or capacity for these services and a number of contracts have been place using spot contracts outside of the framework. A more flexible approach to procuring these services is required.

The services fall within the remit of the Light Touch Regime (LTR) in the Public Contracts Regulations which allows the Council to determine the most suitable procedure for awarding contracts, provided that certain regulations are met and the Council ensures continued compliance with the principles of transparency and equal treatment to economic operators. CCS guidance on the LTR identifies that to enable authorities such flexibility, 'pseudo Dynamic purchasing system (DPS)' are often used along with end-user engagement. Given the LTR does not make specific rules with respect to the call-offs of such 'pseudo DPS's', more flexibility is offered when awarding such contracts.

The recommendation in this report to establish a pseudo Dynamic purchasing system (DPS)/ accreditation list is supported on the basis that it would fall within the LTR and it would appear to be the most effective way of allowing the necessary flexibility for service delivery and associated benefits to these service users. In addition, this would reduce the Council's compliance on spot contracts and provide more control over the services delivered and expectations of providers.

The Council must still ensure compliance with the LTR regulatory requirements and in establishing the pseudo DPS/accredited list must clearly state its intentions, expectations and proposed methods at the outset including a clear transition process for service users under the existing framework or spot contract arrangements.

Legal services will continue to advise during the tender process and assist with the establishment of all necessary contractual documentation.

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