Possible draft text/questions for use by members who have LAs or CCGs wanting to use DPS systems which may help in responding to LAs and CCGs.

Adoption of the Dynamic Purchasing System (DPS) to Procure Individual Packages of Care

- Reducing people to commodities and auctioning them to the lowest bidder is not the vison we should have for our older people and working age adults with learning disabilities.
- There should not be an expectation placed on families to top up prices that are artificially low and not based on the actual costs of care because on a case by case basis a price can be offered at a minimal or negative margin which does nothing to ensure the sustainability of care services.
- The link to the Crown Commercial Services Guidance on The Public Contract Regulations 2015 and Dynamic Purchasing Systems 2015 is below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560265/Guidance_on_Dynamic_Purchasing_System_-_Oct_16.pdf

Under the FAQs on page 6 of this document the first question asks:

"*Q. The DPS is to be used for "commonly used purchases…generally available on the market". What does this mean?*"

The response states that this is not defined. However, it adds:

"…*The DPS will normally be* ***suitable for largely "off-the-shelf" requirements*** *which can be closely specified in advance. One-off, or heavily bespoke and / or highly complex requirements are unlikely to be suitable…".*

[our emphasis added] Clearly the question is whether or not the types of contracts which the Council/CCG intends to let under this DPS are largely *"off the shelf*". This seems highly unlikely to apply to care services given the complexities of the services that will be covered.

- Has the Council/CCG asked other local authorities/CCGs that have used a DPS what their experience is of successful placements. It is our understanding that in at least one trial the system was aborted.

- Ask what assessment XXXX Council/CCG has undertaken of the risks to the sustainability of the local market and the ongoing care of people from such an approach to ensure the ongoing care for people is not compromised. Ask if they have reviewed the number of care providers that have left the market place in the past couple of years.

- Ask how will short notice emergency mini tenders be run if homes are not able to respond quickly to the bid or find subsequently on face to face assessment to check they can meet needs, that the pen portrait of the individuals care needs does not accurately relate to the actual need? All that happens is that the assessments and admission process is lengthened, potentially hospital beds are blocked and both the purchaser and providers start to distrust the system.

- What are the implications for individual choice of accommodation of the DPS? Is it the case that once a 'winning' bid is selected individuals have no choice unless the resident/their family can afford a top up for a different placement? A real choice would allow the resident to choose any home whose bid was within the council's indicative budget without need of a top up. Providers will not be aware of the indicative budget at any point in the bidding process. Ask the LA/CCG to supply a copy of their Care Planning/Assessment Tool and also the format of the proposed "pen portrait" to see how that reflects the Care Act Guidance and the need for a personalised approach to choice of accommodation.

- What is the % split between quality versus price in the selection of bids and what is the rationale for that? How will the LA/CCG recognise providers who are shown to have invested in a higher quality service? Will homes judged by the CQC as being 'good' be treated in the same way as a home which 'requires improvement'?

- How XXXX LA/CCG has been engaging with providers with the development of the proposals for the DPS? Ask for examples of how views of providers have directly changed the council's proposal from its original to current form.

In summary Care England believes that where price is the main driver of winning business, the market is incentivised to lower costs so as to enter the lowest possible bids. The inevitable impact of such an approach is to lower price and with it quality the exact opposite of what a LA market shaping duties are meant to achieve, a vibrant and diverse market giving people real choice. Providers wishing to invest in their business would over time be driven out of the market and new entrants will not be attracted. We would suggest this will in time reduce the choice of providers.

Please send any comments/feedback on the application of local DPS systems to info@careengland.org.uk