

HSU



STRATEGIC INNOVATION & PEER LEARNING
In housing, health, care and support

TOOLKIT

AN INTEGRATED FRAMEWORK

Tool Kit for Integrating Care and Support using a Framework Agreement



1. Introduction

Individuals in receipt of care and support services can receive services through different pathways, from several providers and with large variations in costs. For instance an older person can receive a number of different services to help them live independently, which could be more effectively delivered an integrated package using a single provider. These services may include housing support through Supporting People, personal care based on a FACS assessment and day opportunities. There is therefore a compelling argument for authorities to integrate the commissioning, procurement and delivery of care and support services.

This toolkit sets out how local authorities can use a framework agreement to integrate care and support services as well as manage the provider market more effectively. A framework agreement is not the only approach that can be adopted and authorities need to consider which method of procurement they want to adopt. Many of the issues outlined in this report are applicable to any method of procurement.

The toolkit is focused on the procurement of care and support services for the main care client groups i.e. older people, people with learning disabilities, people with mental health problems and people with physical and sensory disabilities, and does not cover the use of framework agreements for socially excluded groups. The toolkit only covers care and support services to help people live independently in the community and not residential or nursing care.

2. Using a Framework Agreement

The 2006 EU Regulations define a framework agreement as “*an agreement or other arrangement between one or more contracting authorities and one or more economic operators, which establishes the terms under which the economic operator will enter into one or more contracts with a contracting authority in the period during which the framework applies*”. A framework agreement sets out the terms in relation to price and quality, which allow an authority to call off (or procure) services without needing to go back out to open competition.

The main reason for an authority to use a framework agreement for care and support services is to obtain good prices for high quality services, which can be procured without going through a cumbersome tendering process. Essentially the authority will be able to establish a select list of suppliers for care and support services, which can be used when required. Furthermore there is no obligation on the authority to buy anything through the framework agreement, which means that the authority is not tied to the framework and can use it where it provides value for money, but go elsewhere if required.

A framework agreement can have a term of up to four years. During this period authorities can call off care and support services as required without having to re-advertise the procurement or go through a full tender process.

Options for a framework agreement

- **A single authority framework agreement**
This involves a single authority tendering for a framework
- **A joint authority framework agreement**
This involves more than one authority tendering for a framework
- **A lead authority framework agreement**
This involves one or more authorities acting as a lead with other authorities having access to the framework agreement through an access agreement.

3. What are the benefits?

There are considerable benefits to using a framework agreement for care and support services. These can be summarised as follows for each of the key stakeholders:

The authority:

- Reduction of procurement costs for the authorities as the process of tendering for a framework agreement will only have to be carried out once every four years;
- A fast and efficient response when procuring services as these can be called off almost immediately;
- Flexible approach to the use of contracts, by either using a spot, block or variable volume contract;
- Coverage of all geographical areas as providers are under an obligation to supply services;
- Greater flexibility as services do not have to be procured through the framework agreement and can be procured outside of it, if necessary;
- Greater clarity about price and quality as these will be set out in the framework.

Individuals who use the services:

- A choice of providers where an individual receives a personal budget;
- A fast response where a service is needed straightaway;
- Reassurance about quality as providers have been assessed for quality at tender stage;
- Competitive prices which means that an individual can potentially receive more for their personal budget than would otherwise be the case;
- A focus on the outcomes that an individual wishes to achieve rather on what is provided.

Providers:

- Reduction to the costs of tendering as a full tender only has to be submitted once (for the framework agreement) and not every time a service is required;
- Being selected as a preferred supplier of services, which will provide potential business opportunities;

- An opportunity to be rewarded for delivering quality services at the right price, by being awarded more business;
- A simple and cost effective process of calling off services from providers, either without competition or by mini-competition;
- An opportunity to submit innovate proposals through the mini-competition process;
- An opportunity to form mutually beneficial partnerships with other providers and to extend the scope of services that are provided.

4. The Legal Context

The EU Public Procurement Directives set out the legal framework for the procurement of goods and services by public authorities, where the estimated value of a contract falls above the relevant EU thresholds. New public procurement Directives were agreed by the EU for framework agreements and were implemented from January 2006.

Service contracts are divided into two categories:

- **Part A** – to which the full rules apply
- **Part B** – where the only obligations relate to technical specifications and post award information and there are no requirements for contracts to be advertised in the Official Journal of the European Union.

Social care services largely fall under Part B, unless an authority decides to voluntarily adopt the Part A process

The OGC has indicated that the 2006 Regulations for framework agreements do not apply in full to Part B services. As a result, the procurement of Part B services under a framework only needs to comply with overriding EU principles of equality of treatment, fairness and transparency in the award process. Although this means that many of the detailed requirements of the Regulations do not apply when commissioning a Part B service, it is good practice to follow the main principles underpinning the 2006 Regulations.

5. Key Considerations

There are a number of key considerations that an authority should set out in their business case for a framework agreement to integrate care and support services. These are as follows:

5.1 Scope

It is essential to define the scope of a framework agreement where the intention is to integrate care and support services. The issues that need to be addressed are as follows:

- Which client groups will be included? Should the framework be focused on a single client group e.g. older people or include all the care client groups?
- What services should be included? Usually a care and support framework will include Supporting People services and personal care services?

- Should the framework agreement encompass other social care services such as day opportunities or mentoring?
- Should specialist services be included? What are specialist services? Are they simply services that involve a more intensive input or do they require specialist knowledge and expertise?

The business case should clearly set out the scope of the framework agreement. There may be some blurring of boundaries, for instance there may be an interface between specialist services that could be outside a framework agreement and services for people with complex needs which could be within scope. In these circumstances the business case needs to clearly set out this interface, which will ultimately need to be tested by the framework agreement itself.

Another important aspect to the scope of the framework agreement is whether it should just apply to the procurement of CQC regulated services or whether it should also apply to unregulated services. CQC regulated services cover those where personal care is provided, either as domiciliary care or where prompting and supervision is part of a community based service. Unregulated services cover those services where individuals require care and support to live independently, but do not require personal care (e.g. peripatetic warden services funded by Supporting People or enabling services funded through Adult Social Care).

5.2 Personal Budgets

Personal budgets can be used for calling off services from a framework agreement and provide individuals with choice. It is important to point out that an individual cannot use a framework agreement to undertake a private purchase (either as a self payer or using a Direct Payment). A framework agreement should only be used where the authority contracts direct with the provider as a public procurement exercise. However, an individual can be given choice where the authority acts as their agent for a Direct Payment (this is explained in more detail in 5.8).

5.3 Assessment of Needs and the RAS

Most existing care and support services are procured separately through different contracts and are subject to different quality and performance systems. In particular there is a significant gulf between Supporting People services, many of which are procured through block contracts, and social care services, many of which are procured on a spot basis. Although a framework agreement can provide the mechanism to procure integrated care and support services, it is necessary to develop an integrated budget and integrated processes to make the procurement process work in practice.

For those individuals that receive services through the care management system it is essential for the assessment and RAS process to include those enabling activities that are delivered through the Supporting People programme. This may not be that difficult to achieve as many authorities' assessment processes already include enabling functions. The adjustments to the assessment and RAS processes will allow personal budgets to be generated that adopt a more holistic approach and effectively combine these revenue streams.

For those outside the care management system a pathway needs to be created through which individuals can be assessed. These assessments could be undertaken by a provider or by a lead agency. Ultimately services can be called off from the framework agreement to meet these needs, although this is more likely to be on a block or cost and volume basis. The framework agreement enables these services to be procured more cost effectively.

5.4 Generic or not

Once the scope of the framework agreement has been defined there is a question about the extent to which it should adopt a generic approach. This essentially involves the framework agreement either being organised on a client group basis or across all care client groups.

A framework agreement can be organised in ‘lots’ (see 5.9 below). This means that there is also an option for a framework agreement to be partly organised on a client group basis and partly on a generic basis. For instance unregulated services could be organised on a client group basis and regulated services as generic services. This is illustrated as follows:

Services	OP	LD	PSD	MH	Generic
Support services (Non CQC regulated)					
Integrated care and support services (CQC regulated)					
Personal care only (CQC regulated)					

The key considerations for organising services on a generic basis are as follows:

- What are the current volumes of services by client group?
- To what extent does the authority want to rationalise the number of providers?
- Is the market able to respond by providing a generic offer?
- Are there risks of creating provider cartels?
- Are providers willing to work as consortia or in sub contracting partnerships?

The rationale for a generic approach is to remove some of the silos that exist in the provision of services to vulnerable people and to make providers work together in partnership.

5.5 Accommodation based services

A considerable volume of Supporting People services are accommodation based. A framework agreement for care and support services can procure the care and support element of an accommodation based service.

Authorities can take a number of different approaches to the procurement of the care and support element of an accommodation based service. Some develop a separate ‘lot’ for accommodation based services, on the basis that staff on site will result in a cheaper price due to less travel. Others take the view that all care and

support services should be linked to an individual through a personal budget and where they live is not relevant.

The move towards personal budgets is transforming the concept of accommodation based services. Increasingly authorities are moving away from contracts that link support to accommodation; for instance many are separating support from sheltered housing schemes. Extra care housing can potentially involve a number of different arrangements in relation to the procurement of care and support services, for instance combining core funding with personal budgets. Framework agreements can facilitate these approaches while at the same time provide service users with some choice.

5.6 Sub contracting and consortia

One of the purposes of a framework agreement is to reduce the number of suppliers that an authority deals with. This approach can generate considerable efficiency savings as the authority will have fewer contracts with providers, resulting in lower monitoring costs and reduced transaction costs.

The total number of select providers on a framework agreement will depend on the number of 'lots', the number of zones and whether or not the authority adopts a generic approach. Authorities need to carefully consider the impact on the provider market of their proposed approach, as ultimately they do not want to stifle competition in the long term.

Where an authority decides to adopt a generic approach to a framework agreement, then the impact on the provider market can be mitigated through encouraging providers to form consortia or contracting partnerships. This would require providers to come together to make a generic offer that covered all the care client groups (if the scope of the framework agreement extended to all these client groups). So although a small number of entities may end up being selected for the framework agreement itself, they would each be underpinned by others providers working in partnership, thus increasing the diversity of suppliers.

Encouraging consortia or contracting partnerships requires a considerable level of input from an authority in terms of market engagement. Furthermore providers need to be given more time prior to, or during, the tender process to develop partnership arrangements.

5.7 Targeted Services

The term 'targeted' services is used to define those services that are targeted at particular needs. For Adult Social Care 'targeted' services usually refer to services that can divert people from coming into the care management system in the first place. These services prevent people from requiring statutory services.

In the current economic climate some authorities may take the view that all their resources should be focused on those who are FACS eligible, as these needs are the highest priority for the authority. However other authorities take the view that some individuals need to be diverted from care management system and that in

the long term targeted services could save the authority considerable resources, provided there is clear pathway into these services.

Authorities therefore need to consider whether a framework agreement should include targeted services. Some authorities simply want to develop a framework agreement to procure services for those that are FACS eligible, while others want to develop a more comprehensive framework agreement.

5.8 Choice

A framework agreement for care and support services can build in some choice for individuals in selecting a provider. Ultimately a framework agreement can only provide limited choice as it is based on a select list of suppliers. Where an individual prefers to have a wider range of choice the person can ask for a Direct Payment and purchase services outside of the framework agreement.

A framework agreement for care and support services will need to balance the choice agenda with public procurement rules. When a service is called off from a framework agreement, under public procurement rules, the contract must to be awarded to the most economically advantageous provider. In calling off services factors such as providing more client focused and responsive service can be taken into account.

It is possible to give an individual greater choice over who provides the service where the person elects to have a Direct Payment, where the authority acts as their agent. This approach is outside of public procurement rules as it treated as a private purchase. A framework agreement can be used for this type of purchase where the authority itself enters into a contract with the provider. This means that the local authority would be acting outside of public procurement rules, as an agent, and could deliver greater choice through the framework agreement.

The choice of provider on the framework agreement would have to be affordable to the authority i.e. within a reasonable financial range of an individual's personal budget. Where the individual chooses a provider that is not the most economically advantageous, then the individual will be electing to take a Direct Payment where the authority acts as their agent. It is crucially important that the authority's paper work divides its clients up into those that are taking Direct Payments, on paper at least, and those that are not.

Where an individual does not wish to choose a provider then the authority must select the economically advantageous provider.

5.9 Lots

The development of 'lots' is one of the main methods for managing the call off process from a framework agreement. When an authority calls off services it need only go the relevant lot and not approach all the providers on the framework agreement.

Lots can be organised in a number of a different ways. The following illustrates the possibilities:

- Client group lots;
- Service type lots;
- A combination of client group and service type lots.

The number of lots will depend on the scope of the framework agreement. For instance, if the framework agreement is focused on older people there may only need to be two or three lots. An illustration of lots for a framework agreement for older people is as follows:

Framework Agreement for Older People		
Lot 1	Lot 2	Lot 3
Housing support services (floating support/peripatetic warden)	Combined housing support and care services (linked to extra care housing). CQC regulated	Personal care only. CQC regulated

The above lots are based on the assumption that support services to sheltered housing are to be separated from the bricks and mortar.

Where the scope covers a number of client groups then there could be several lots e.g. learning disability, mental health, physical and sensory disability and older people. The lots can also be broken up by service type e.g. personal care, housing support and integrated services.

Adopting a generic approach reduces the number of lots and could potentially result in simply having a single ‘care and support’ lot. There are risks to the provider market with such an approach and an alternative is to create generic ‘lots’ by service type for instance:

- Community based support services (unregulated);
- Regulated community based support services;
- Personal care.

There is an issue about how many providers should be selected within each lot. This will depend on a number of factors including:

- Whether call off for the lot is mainly by mini-competition or without competition. Where the call off is mainly without competition then fewer providers should be required.
- Extending choice. There should be a least three providers within each ‘lot’ to provide individuals with choice.
- Managing the mini-competition process. There needs to be sufficient providers within the ‘lot’ to generate a competitive process, but not so many that the mini-competition becomes onerous to assess.

The total number of providers that are placed on a framework agreement will largely depends on the authority’s market position statement and whether it wishes to substantially reduce the number of providers. The number of providers on a framework agreement is directly related to the number of ‘lots’. The greater the number of ‘lots’ then it is more likely that there will be a greater number of

providers on the framework agreement. It is important to note that some providers will wish to work across more than one lot.

5.10 Zones

The creation of zones is an important method for managing the framework agreement, particularly across a large geographical area. Zones allow providers to work in particular areas rather than across the whole authority, giving greater opportunities to smaller locally based providers. Zones also allow a greater diversity of providers, as each zone effectively creates a select list of suppliers (although some providers may also work across a number of zones).

The number of zones within an authority will depend on factors such size of the authority, the number of lots and administrative arrangements for delivering services. In defining zones authorities need to consider:

- How existing services are delivered to the client groups
- Future arrangements including GP commissioning areas
- The need to be co-terminous with district boundaries or groups of districts, particularly where housing also needs to be delivered
- Urban and rural issues, for instance there may be a need to break up a large rural area.

There may be no requirement for a unitary authority to create zones at all, while a large county council may need to have several zones.

6. The Tender Process

Authorities generally adopt the restricted tender procedure for a framework agreement for care and support. This process involves providers completing a Pre Qualification Questionnaire (PQQ), followed by an Invitation to Tender (ITT) for those organisations that are short listed.

The outcome of the tender process will result in a select list of suppliers for each 'lot' within the framework agreement, with prices based on the terms set out in the tender documentation. The tender process simply involves selecting the suppliers, rather than contracting for services. The procurement and contracting of services is a separate process undertaken under the call off arrangements.

There are a number of considerations to the tendering for a framework agreement for care and support services, which are set out below.

6.1 Weightings between quality and price

Authorities need to make a decision about weighting the tender evaluation between quality and price. It is important to remember that the weightings between quality and price can change at call off stage, so authorities can use the initial tender process to ensure that providers achieve a level of quality. At this stage most authorities have a weighting to quality of about 50 to 60 percent.

In the current economic climate some authorities take the view that tenders should be entirely weighted to price, on the basis that they wish to maximise savings. There are considerable risks to this approach as providers can be appointed that are unable to deliver the requirements of the authority. Using CQC registration as an indicator of quality provides no assessment of deliverability.

6.2 Service Specification

The service specification needs cover the requirements of each ‘lot’ within the framework agreement. Rather than developing separate service specifications the best approach is to produce a common service specification that covers the requirements of all the ‘lots’ and separate schedules specific to each ‘lot’.

Increasingly authorities are basing their service specification on outcomes rather than processes or minimum service standards.

6.3 Award criteria

The award criteria for the framework need to be agreed as well as any sub-criteria. The scoring for quality needs to be apportioned between each award criterion as illustrated below:

	Criteria	Weighting
1.	Delivery	20%
3.	Quality Performance and Outcomes	20%
4.	Technical Merit	25%
5.	Added value	10%
6.	Partnership Working	25%

6.4 Method statement

The method statement is derived from the award criteria. Essentially the method statement involves asking questions about how providers are going to delivery the services. These questions are then evaluated at tender assessment stage.

6.5 Pricing

It is essential for a framework agreement to obtain prices so that value for money can be assessed at tender stage. However this does not mean that the prices always have to be fixed during the term of the framework. For instance the authority may want to take account of inflation and/or allow providers the opportunity to lower their prices.

Prices for a framework agreement for care and support services should generally be based on hourly rates. Most frameworks require an inclusive hourly rate that

covers staff salaries, overheads, travel costs, locum cover etc. This hourly rate usually applies at all times with no variations for weekends or bank holidays. Care and support framework agreements may also ask for supplementary prices, for instance:

- an hourly rate for waking night cover
- a sleeping in allowance

The price at tender stage is very important as it will be used to call off services without competition. The price can also be used to benchmark prices obtained through a mini-competition.

There are a number of considerations around price. These are follows:

- Usually the ITT would ask providers to supply prices for each 'lot' as the specification will be slightly different;
- Where there are zones there is question about whether a single price is required across all zones or there is evidence that prices will vary across zones;
- There is also a question about whether a separate price is required for a large volume of services. It can be argued that tender process itself makes providers submit competitive prices anyway.

6.6 Terms and Conditions

It is essential to establish clear terms and conditions in the tender documentation so that providers can be clear about what prices to submit.

The terms and conditions cover issues such as:

- the term of the agreement
- key principles of the call off process
- placing an obligation on providers to supply services

The terms and conditions govern the framework agreement itself. The call off arrangements involve the authority entering into a contract for services with the provider. The contract for services can be separate from the terms and conditions or can be integrated as part of them.

A framework agreement for care and support services can allow an authority to enter into any type of contract for services. This could be a block, spot or variable volume contract. Where a personal budget is used to call off services then generally a spot contract will be used with the provider. However, where core services are procured (e.g. for an extra care housing scheme) then generally a block, or cost and volume, contract will be used.

Contracting for services under a framework agreement means that where a 'lot' incorporates care and support services then by definition the contract will integrate care and support services.

7. Call off

The call off process is one of the most important aspects of a framework agreement. There are two processes for calling off from the framework agreement, which are:

- Call off without competition;
- Mini-competition.

Call off without competition usually applies where the terms, including price, are clear and the service specification needs no refinement. Mini-competition usually applies where further competition is required because the specification needs to be refined or competition is required in relation to price.

The call off process would normally involve awarding the business to the most economically advantageous provider. If this provider is unable to supply the service then the next most economically advantageous provider is approached and so on.

As framework agreements for care and support services need to take account of the personalisation agenda, and provide choice, individuals can be given choice through using their personal budget (as a Direct Payment where the authority acts as the agent).

7.1 Call off without competition

Call off without competition simply involves using the list of suppliers to contract with the most economically advantageous provider. It is possible to change the weightings used at tender stage between quality and price, but the revised weightings should be set out in the tender documentation to be fair to providers.

This means that at call off stage there can be a higher weighting to price, on the basis that providers have got through a quality assessment at tender stage. This is illustrated as follows:

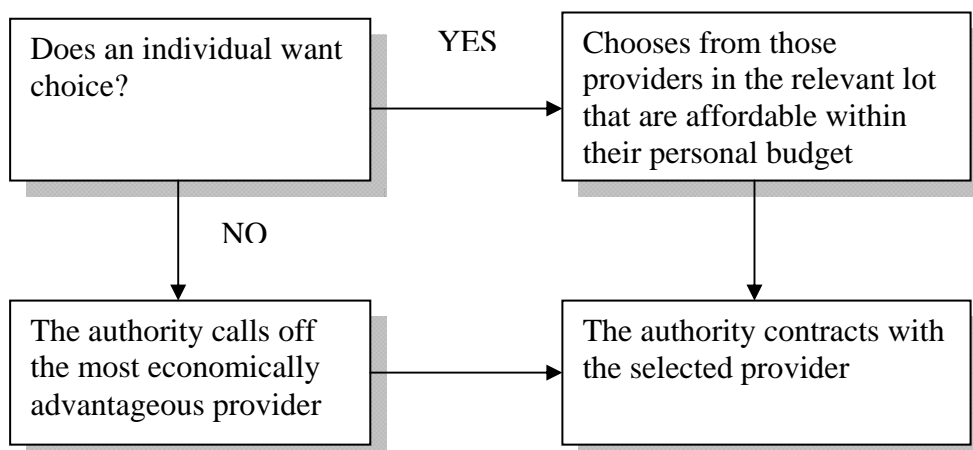
Stages	Award	Weightings
Tender Stage	Quality	60%
	Price	40%
Call off without competition	Quality	10%
	Price	90%

The call off can either be based on the number of hours required for an individual e.g. 12 hours personal care a week, or on the volume of service required e.g. a contract for 500 hours of personal care a week

Where an individual uses their personal budget as a Direct Payment (where the authority acts as the agent) to call off services without competition then they should be able to choose any provider within the financial range of their personal budget. This is illustrated as follows:

Providers	Ranked	Personal Budget Choice
Supported Living	1	Yes
Care and Support Ltd	2	Yes
Independent Future	3	Yes
Holistic Support	4	Outside of financial range

The process is illustrated as follows:



7.2 Mini-competition

Call off by mini-competition will apply where the service required needs to be refined, or where there needs to be further competition on price. For instance, a mini-competition can be undertaken to seek proposals from a provider on how they can most effectively meet an individual's outcomes statement, within the personal budget. The providers would submit their proposals and price (if different from the personal budget), which would be assessed by the authority. This process is particularly relevant for people with more complex needs.

Mini-competition will also apply where competition is required to bid for a service by volume (e.g. a targeted service) or where a new price is required (e.g. a TUPE price).

The weightings between quality and price can be changed for each mini-competition, provided that the intention to do so was published in the tender for the framework agreement. When inviting providers to a mini-competition, authorities should set out the revised weightings. This is illustrated below:

Stages	Award	Weightings
Tender Stage	Quality	60%
	Price	40%
Mini-competition	Quality	40%
	Price	60%

Individuals can still have choice within the financial range of their personal budget as illustrated below:

Providers	Mini-competition ranking	Personal Budget Choice
Supported Living	3	Yes
Care and Support Ltd	4	Outside of financial range
Independent Future	1	Yes
Holistic Support	2	Yes

7.3 Managing the market

One of the concerns about call off without competition is that it can concentrate services in the hands of a single provider, should individuals not exercise choice. This is a particular risk for older people who may prefer the local authority to choose the provider, in which case the authority is obliged to accept the most economically advantageous provider.

However, it is legitimate for an authority to adopt a market management policy to ensure that a provider monopoly is not created, as this could affect the viability of other providers and prices in the long term. Any market management policy must be fair to all providers and must also be affordable to the authority.

Therefore an authority can adopt an approach to market management which either caps the share of the market by a provider (where the authority calls off services) or rotates the use of providers (again where the authority calls off services). The providers that are used by the authority must be affordable i.e. within a price range. Also a market management policy must not restrict choice for an individual with a personal budget; in other words if an individual chooses one provider over another then it is their choice.

7.4 Refreshing prices

Authorities can give providers an opportunity to refresh their prices periodically. This may occur where a provider has restructured its staff and can offer a lower price. An authority can invite providers to refresh their prices if it wishes to do so – this means offering providers the opportunity to lower the prices they submitted at tender stage.

This approach is an alternative to the market management approach as refreshing prices can change the ranking of providers for call off without competition. It also gives those providers that were unaffordable the opportunity to become more competitive. This is illustrated below:

Providers	Ranked	Refreshed Ranking	Personal Budget Choice
Supported Living	1	2	Yes
Care and Support Ltd	2	1	Yes
Independent Future	3	4	Yes
Holistic Support	4	3	Yes

7.5 Existing Business

Authorities need to develop a transition plan to implement the framework agreement, particularly in relation to existing business. Authorities are not under an obligation to use a framework agreement and can continue with contracts for existing business if they wish to do so, or adopt other processes for the procurement of services.

Some authorities retain existing business under current contracts as long as the provider has secured a place on the framework and the contract is affordable. On the other hand existing business contracted to unsuccessful providers is usually tendered through the framework agreement based on the transition plan.

It is essential to have a plan about how to treat existing business otherwise there is a risk that the volume of services procured through the framework agreement will be limited, with most investment tied up within existing contracts.

7.6 TUPE

TUPE is likely to apply to existing services that are tendered through the framework agreement where an alternative provider is selected. Generally TUPE should not apply where an individual uses a Direct Payment to procure services.

7.7. IT

To facilitate the call off process authorities need to create an electronic system. Such a system can be integrated into an authority's existing system or standalone as an Excel workbook.

The advice in this toolkit is based on the experience of developing a framework agreement for the integration of care and support in an authority in the South West. Authorities are advised to seek professional advice when developing a framework agreement for care and support, including legal and procurement advice.