

Decision Maker: Executive

For Pre-Decision Scrutiny by Care Services PDS Committee on:

Date: 23rd June 2015

Decision Type: Non Urgent Executive Key

Title: **DIRECT CARE (LEARNING DISABILITIES) - CONTRACT AWARD**

Contact Officer: Alicia Munday, Programme Manager- Commissioning
Tel: 020 8313 4559 E-mail: Alicia.munday@bromley.gov.uk

Chief Officer: Lorna Blackwood, Assistant Director Commissioning & Partnerships
Tel: 020 8313 4110 E-mail: lorna.blackwood@bromley.gov.uk

Ward: (All Wards);

1. Reason for report

- 1.1 This report follows the Gateway Review (report No CS12060), and the subsequent report on the update on the market testing (report No CS14122).
- 1.2 As part of the agreed Gateway process for determining the method that offers best value and quality for delivering the Adult Social Care Services (Learning Disabilities) in accordance with the Council's Corporate Operating principles, this report provides details of the tender and recommendation for an award of a contract.

2. RECOMMENDATION(S)

- 2.1 **The Care Services PDS Committee is asked to note and comment on the content of this report.**
- 2.2 **Executive is asked to agree the award of the contract for Adult Social Care – Learning Disabilities Services to the Southside Partnership for a period of 5 years from 1 October 2015, with an option to extend for a further period up to, but not exceeding 2 years.**

Corporate Policy

1. Policy Status: Existing Policy: Further Details
 2. BBB Priority: Excellent Council Supporting Independence:
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Financial

1. Cost of proposal: £18,466,000:
 2. Ongoing costs: on going over the life of the 5 year contract:
 3. Budget head/performance centre: 815, 822, 828,
 4. Total current budget for this head: £4,035,159
 5. Source of funding: Revenue Support Grant
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Staff

1. Number of staff (current and additional):110 staff / 72.37 FTE
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected):

Day Opportunities	315
Respite	max of 12 at a time/approx. 54 stays per month
Supported Living	35 tenants
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

BACKGROUND

- 3.1. The Council continues to face a period of unprecedented reduction in public funding, and over the next few years will need to identify further savings in the region of £50million to balance the revenue budget. The Council is responding by reviewing and remodelling services to provide value for money while continuing to deliver its statutory obligations and safeguard vulnerable residents through quality care services.
- 3.2. In line with the Council's corporate operating principles, in July 2013, Executive approved the recommendation to commence market testing the last remaining in house Direct Care Services. This decision was based upon the need to modernise the existing in-house provision as well as to secure the best value for money. The majority of adult social care services are already outsourced.
- 3.3. Following Member approval to commence market testing, the Services were tendered for in 2 lots, Older peoples Services (Lot 1) and Services for Adults with learning Disabilities (Lot 2) for a contract award of 5 years, with an option to extend for a period of up to 2 further years. Given the existing in-house delivery model, potential innovation needed combined with the need to secure best value, the decision was taken to tender the Services through a competitive dialogue process. Competitive dialogue allows the Council to ask suppliers to provide their proposals and solutions for future delivery models, and to negotiate on proposed models until the Council believes a workable solution has been clearly defined and understood by both commissioner and provider.
- 3.4. Following an elective notice for these services published in November 2013, a number of providers were engaged in the process for 2 lots. For various commercial reasons, in February 2015, a decision was taken to not continue with Lot 1. (Report CS14122), the same report also recommended that a preferred provider was confirmed for Lot 2, this was agreed and the team have been working directly with the Southside Partnership (Certitude) throughout April and May.
- 3.5. The Services in Scope of this Lot 2 tender are:
 - Day Opportunities
 - Respite/Short Breaks
 - Supported Living

4. Tender Process

- 4.1. The tender was undertaken using the London Tenders Portal, Pro-Contract, the Council's electronic system. The tender comprised of 4 stages:
 - Stage 1 : Pre-Qualification Questionnaire (PQQ)
 - Stage 2: Invitation to Submit and Outline Proposal
 - Stage 3: Invitation to Submit a Detailed Proposal
 - Stage 4: Invitation for Final Tender

- 4.2. At each of the stages listed, dialogue meetings were held with providers focusing on the content of previous submissions.
- 4.3. 44 Pre-Qualification Questionnaires were returned (for both Lots 1 and Lot2). 11 Providers across both Lots were selected to go through to the next stage of the tender, 6 of which were for the LD services (Lot 2).
- 4.4. Executive's approval to work with the Southside Partnership as a preferred provider has enabled the commissioning team to engage directly with staff and Service users to inform the final tender.
- 4.5. Initial pricing from the Provider, the Southside Partnership had already been submitted, and it was agreed that this mitigated the risk of confirming a preferred provider at this sensitive stage in a tender process. In addition there were a number of advantages of being able to work more openly with the provider and the current service users during the later stages of the tender.

5. The Services: Current Services and Tender Outcome

Day Opportunities

- 5.1. The Day Opportunities Services essentially provides 2 services; a critical respite function for families and carers that enables them to continue in their caring role, as well as providing opportunities for the service users to obtain valuable independent living skills. It is recognised that the Council's current model is a very traditional Day Centre Service, which is very building based. The Service is currently delivered from 3 key locations, Astley day centre, Kentwood day centre, and Cotmandene day centre. The Service provides for circa 315 clients, who attend an average of 3 days per week.
- 5.2. The Council commenced the modernisation of Day Opportunities Services some time ago, with the closure of the Leeson's centre. Younger service users do not want to attend day centres based in a traditional day centre environment, this was reinforced by the survey that was conducted in February 2015 of current day service users; and the Council looked to Providers to develop a solution to bring in expertise to support the future of community based provision.
- 5.3. The Service needs to offer a more personalised approach promoting training, employment, and building on useful social skills that continues to meet the needs of individuals supporting them to become increasingly independent. The Southside Partnership's offer proposes a review of the service over time, whereby clients will be offered more community based activities, an offer of local support and opportunities that promote independent living skills including a focus on employment and training. The approach would be to move to smaller community based hubs that reduce the need for travel, but also utilise existing community settings. Smaller settings will provide for those service users that find larger settings harder to connect with. The offer includes continuing to provide 3 accessible vehicles to support the service and reduce the reliance on passenger transport services. The transformation of the service is expected to be delivered over the first three years of the contract.

Respite/Short Breaks

- 5.4. The Respite Service is provided from the recently refurbished 118 Widmore Road building that was transferred to the Council from the PCT. The service again provides critical respite that supports carers in their caring role, reducing residential placements. The building has

capacity for up to 12 guests per night, although this capacity is really only reached at weekends. There are approximately 90 Service users utilising the service. The service receives a small income from the selling of some places to Lewisham LA.

5.5. The Southside Partnership offer will include developing the Service into more of a short breaks service, with activities for service users to undertake during their stay including community based activities. The offer also includes the use of a dedicated vehicle to support service user transport whilst staying at the centre. Over time it is anticipated that the centre will become a day service hub, an improved use of an excellent resource especially considering its central location in the Borough.

5.6. The Southside Partnership already run a similar scheme in London, and it was noted during visits how they manage stays of friends and their extensive support for families and service users in the transition from children's services to adult respite. Southside also plan to promote the Service to neighbouring boroughs, and their offer includes guaranteeing an income from this at their risk. The contract monitoring will assure that Bromley clients have primary access.

Supported Living

5.7. The current Services supports 35 clients across 9 different houses to live as independently as possible with support/care staff. The houses are all maintained through Registered Social Landlords. Currently each service user receives 1 day 1:1 support to promote their independent living skills.

5.8. Southside's offer takes on board the complex and differing needs of the service users, whilst undertaking to work and support clients to maximise their independence through improved independent living skills.

5.9. Southside's offer includes access to their specialist communication staff which will be a significant benefit for many service users and their families. The Southside Partnership already successfully manage 3 supported living schemes in Bromley.

Overall

5.10. In addition to the separate Service considerations, the offer from the Southside Partnership includes supporting the levels of transformation that is required in these services in order to make them sustainable for the future. If these Services are not awarded, the Council will need to consider a substantial investment programme in the Services in order to equip them to meet with future demand and need.

5.11. Taking into account the cost and quality benefit of working with the Provider it is therefore recommended to award all 3 Services to the Southside Partnership for a period of 5 years from the 1 October 2015, with an option to extend for further period up to, but not exceeding 2 years.

Next Stages

5.12. As part of the implementation and transformation process, consideration will be given to the resourcing requirements to ensure a smooth transition of Services. This is likely to be from care management and the strategic commissioning team within Education, Care and Health Services.

5.13. Contract monitoring and performance management will fall under the contracts and compliance team within Education Care and Health Services, and provision for this has been allowed within the financial resources (see Part 2 report).

Risk Management

5.14. The recommended tender provides a fixed price for the entirety of services, includes a significant investment in transport as well as service transformation. However, the Council and Southside Partnership would agree an open book accounting policy to ensure key milestones in investment and transformation have been met by the end of the contract. The Provider has also agreed to work with the Council to negotiate a spot purchasing arrangement during the contract. This will give the Council and service users increased flexibility over time, whilst assuring the investment needed is made.

6. POLICY IMPLICATIONS

6.1. All of the services considered for award support the Council's aim to help people maximise their independence and be able to live as independently as possible in the community. The services provide direct support to service users as well as carers, a key feature of the Care Act. The provision of Services by whoever is best placed to deliver quality and value for money continues to be in accordance with Council's Corporate Operating Principles.

7. FINANCIAL IMPLICATIONS

7.1. The results of the analysis of the Tender received has resulted in a recommendation being made to award the contract for LD Direct Care Services to Southside Partnership delivering an in year saving of circa £30k for 2015-16 (part year), and an average saving of over £250k per annum thereafter.

7.2. The Tender is able to subsume a small increase in demand for day activities, as it is anticipated that there is likely to be an increase rather a decrease in community based support as bed based care is reduced over time. Any decrease in demand will be dealt with as part of the overall annual review of the contract.

7.3. The financial details are included in the report of the same name contained in PART 2 of this agenda.

8. LEGAL IMPLICATIONS

8.1. This procurement has been undertaken as a residual Part B Service, under the Public Contracts Regulations 2006. It has been undertaken having regard to the need for a fair, transparent and compliant procurement exercise and has complied with Council Financial Regulations. The Public Contract Regulations 2015 replaced the 2006 regulations and apply to procurements after 26 February 2015. However by virtue of regulation 118 the 2015 regulations do not apply where a contract award procedure has commenced prior to that date as is the case here. Therefore the recent change in the law does not affect this procurement and any contract award. Should the contract be awarded then any modifications which may be required in the future would be subject to the 2015 and not the 2006 regulations.

8.2. The project team are mindful that at the later stages the Council was working with one provider in a final tender submission, and the Council's duty to demonstrate value for money. By receiving initial costings from the Provider prior to them being a preferred bidder, the project team are satisfied this has been successfully completed.

8.3. It is not anticipated that any award of contract will result in any changes to the level of service to individuals as this is determined by Care Management and not by the Provider. Having completed an initial stage 1 screening of the Equality Impact Assessment, there are no identifiable negative impacts on equality of opportunity. The stage 1 document is available upon request from the contact officer.

9. PERSONNEL IMPLICATIONS

- 9.1. The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended (2014) will apply to these proposals. There are approximately 90 staff working across the Direct care Learning Disabilities Services who it is proposed would TUPE across to the Southside Partnership if Members agree to the proposals within this report. There are an additional 20 casual staff currently employed across the Services. The posts affected are set out in Appendix 1.
- 9.2. As indicated in previous reports informal consultation with staff and their representatives around market testing these services has been ongoing since 2011 following the publication of the departmental Business Plan which outlined the services identified for market testing.
- 9.3. Following the Executive's approval to commence market testing of these services, and the subsequent issuing of the elective notice, staff and representatives including trade unions were invited to attend briefing sessions with the Assistant Director for Care Services in November 2013. Concerns from staff at this stage were around how the Council would assure quality of any contracted provision. Staff were assured that the evaluation process would, as indicated in Appendix 2, take into account both costs and quality.
- 9.4. Staff have been engaged throughout the process of market testing, to the extent that commercial sensitivities has made this permissible. This included opportunities to feed into the process with representatives' panels and staff seminars. These were underutilised by staff as a means of engagement, although those that attended felt they were positive. Comments from staff at the events were reflected during dialogue meetings with Providers.
- 9.5. Following the Executive's approval of a Preferred Provider at its meeting in February 2015 staff have had opportunities to attend meetings with Southside Partnership, the Preferred Provider to find out more about them as an organisation and meet with their strategic leadership team.
- 9.6. Formal consultation with staff and their representatives on the proposals outlined in this report commenced on 26th May and ends on 9 July 2015. A summary of the main points raised during the consultation process and management response is provided in Appendix 3. Any responses received after the publication of this report will be communicated to the Committee at the meeting.
- 9.7. Should the proposed transfer be agreed then a further period of consultation on the detailed transfer proposals would take place with staff and their representatives in accordance with employment legislation and the Council's Managing Change procedures. This will enable staff to explore in more detail the impact of the transfer on their employment situation.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Gateway Review (report No CS12060)

Appendix 1 The posts affected by the award of services:

Post Number	Job Title	Grade	Number of staff	Number of staff (FTE)
Respite/Short Breaks				
3437	Short Breaks Manager	BR10+2	1	1
13915	Assistant Officer in Charge	BR9+2	1	1
3406/3408/3409/3410/3412/3413/3454/12955/12957/3471	Support Worker (including Support Worker Nights)	BR7+2	10	6.9
14082	Careworker	BAND4 (NHS)	1	1
Sub Total			13	9.9
Supported Living				
10294	Group Manager	MG6	1	1
3420/3451/3452	Team Manager	BR9+2	3	3
3414/3438/3444/3421/3422/3426/3427/3475/3489/3431/3460/3486/3488/3455/3458/3459/3462/3463/3478	Support Worker (including Support Worker Nights)	BR7+2	19	17.2
3415	Administrative Officer	BR5	1	1
14086	Careworker	BAND4 (NHS)	1	1
	Bank Carers	BR5	20	N/A
	Supported Living Casual Cover Post	BR5	1	N/A
Sub Total			46	23.2
Day Opportunities				
	LD Day Services Manager	BR14	1	1
	Senior Day Opportunities Officer	BR9	4	3.08
	Day Opportunities Officer	BR7	20	17.38
	Day Opportunities Assistant	BR4	6	5
	Senior Trainer	BRBD5 (NHS)	4	4
	Trainer	BRBD4 (NHS)	7	5.2
	Lunchtime Helper	BR3	2	0.42
	Caretaker	BR5	1	1
	Assistant Caretaker	BR2	1	0.56
	Cook	BR4	1	0.69
	Kitchen Assistant	BR1	2	0.55
	Domestic Cleaner	BR1	2	0.39
Sub Total			51	39.27
Overall Total			110	72.37

Appendix 2 Quality Matrix used for scoring the tender:

1. Evaluation Criteria

1.1. The Solutions are evaluated on the basis of the most economically advantageous Solution for the Council having regard to the general criteria set out below:

- Financial - 60%
- Quality/Technical – 40%

1.2. The Quality/Technical element representing 40% of the evaluation score is further broken down as follows:

Proposed Solution	60%
Quality Monitoring Strategies	20%
Promoting Independence	15%
Impact of Contract Amendments	5%

1.3. Each area identified in the evaluation criteria will be scored out of 10. The appropriate weighting will then be applied. A minimum score of 6 must be awarded for each element.

Appendix 3 Comments during consultation

Staff were informed by the Assistant Director of Adult Social Care on the 26th May that there would be a recommendation to the Executive on the 15th July to award the services in scope of this tender to The Southside Partnership.

1. Staff Comments – formally received

1.1. Will there be any voluntary redundancies?

At this stage the Council is unable to comment on any potential redundancies that the Provider would be proposing. In the event that the Southside Partnership were to be awarded the contract they would be required to consult on their proposed measures and staffing structures.

1.2. Will TUPE apply to all posts listed?

It is anticipated that TUPE would be applicable to those posts listed in the consultation documentation (as set out in Appendix 1)

2. Service user comments – informally received

2.1. Services Users would like more interesting and varied activities

The Southside Partnership would respond to this by working with service users to determine what activities meet their needs as well as their interests.

2.2. Service users would like different activities at lunchtime/different opportunities

2.3. The Southside Partnership hold a variety of events, including their working together for change events that bring together service users and wider stakeholders to determine how best to plan support that meets and interests.

2.4. Services Users are concerned about accessibility to other venues if Astley closes

Ensuring services and facilities are accessible is a key support need, and new or existing facilities will be assessed for this.

2.5. Service users would like to go out from the day centres more

The Southside Partnership's offer would respond to this by ensuring that community activities are maximised wherever possible, and supporting people in the community.

2.6. Service users have asked about paying to come to Astley

This is part of a charging policy that is determined by the Council and not affected by this tender, or award of this work.

2.7. Service users have said that clean environments are important for them

This is important to both the Council and the preferred Provider, environments are a consideration in contract monitoring also.

3. Parents/Carers comments/questions – formally received

3.1. Is it your intention to keep a building based Day Service Facility?

The council has for a long time made it clear that it is our intention to move towards more modern community based activities. That is not to say that we will not have building based activities, but they are likely to be more like the hubs of Cotmandene and Kentwood in the future rather than large underutilised facilities like Astley. Any potential closure of Astley would be subject to a consultation and suitable alternative activities being available.

The Council is aware of the limitations of the Astley building and the significant investment the building needs, however, these factors should not be a driving factor for the current services to remain as they are, whether that is keeping Astley as a day centre or not in the future

3.2. Certitude (Southside Partnership), having not run or have any previous knowledge/experience in running a Day Service, what is your criteria/agenda for doing this?

The Southside Partnership (Certitude) have gone through a rigorous quality assurance process to get to this point of the tender, including commissioners visiting their Services and meeting with existing Service users, parents and carers. The tender process is robust in it is assessment of Provider experience as is the Council's continuing monitoring of provider services.

3.3. Certitude (Southside Partnership), will be responsible for the welfare, care and support of some of the most vulnerable adults with complex needs, your website clearly states when advertising for Staff "no previous experience necessary" .How are you intending to address the needs of clients, which maybe health issues, breathing problems, toileting, feeding to name but a few where prior knowledge of individual needs is paramount to their welfare, care and support?

It would be inappropriate for the Council to comment on an organisations recruitment processes. However the Council can confirm that it asked all Providers in scope of this tender to submit details of how they approach staff training and support creating local employment opportunities where appropriate and possible, and that tenders were scored on aspects of this. It is important to note, that whilst there may be some roles where this applies, it is not a 'blanket' approach to all roles.

The Council has a robust quality assurance programme to ensure Providers they engage with and contract with are able to meet the needs of Service users.

3.4. Are you intending to introduce any supported employment to day services?

The Council asked for a Provider to deliver a holistic range of Services, including supporting clients with employment skills and independent living skills. This will not be a replacement of other Services, but a new modernised approach to support clients' needs.

3.5. As well as social sessions are you intending to introduce any life skill sessions as our sons and daughters need these and can still be taught them?

The Council would like parents, carers and service users to know that a key criteria to this tender was the provider demonstrating how they support clients independence. Supporting people to live as independently as possible is a key value of the Council and we expect any provider we contract with to work to achieve this.

3.6. Can you tell us a bit more about the hubs in the community, where will they be, how many people will be in them etc.?

Any hubs that are established will be done in conjunction with the Council and will be based around need. The numbers of people each hub can support is likely to differ, but we are not anticipating any decreases in services, rather a contract will make for an increased provision.

3.7. Are you looking to employ more staff, alongside the continuity of existing staff?

Staffing must always be balanced between the needs of the clients and the resources available. The Council looks at staffing of providers as part of its quality assurance of contracted services.

3.8. Will the hours that clients attend day services change?

If Service users want to undertake different activities that meet their eligible un-met needs, yes their hours may change. Please note, it is not Providers that assess needs, but care managers.

3.9. Can Certitude (Southside Partnership), tell us what activities they are going to introduce that can help our relatives now and in the future?

This cannot be responded to as the Council has not awarded these Services to the Southside Partnership (Certitude), however, parents and cares may like to view the Southside Partnership website to explore the kinds of activities they support people in services they currently deliver.

3.10. How are you going to fill the gap caused by the closure of Shaw Trust and Thyme Out?

Thyme Out was not a Social Care Services Project and whilst we recognise some clients were making use of this programme, this was never regarded as Service in the same way as Shaw Trust or Day Opportunities.

With regards to Shaw Trust, all clients along with their parents/carers have been offered 1:1 meetings with Council representatives to discuss their individual options.