

Decision Maker: EXECUTIVE

Date: For Pre-Decision Scrutiny by the Adult Care and Health Policy
Development and Scrutiny Committee on Wednesday 19th September
2018

Decision Type: Non-Urgent Executive Key

Title: GATEWAY 1 MEMBERS REPORT: PROCUREMENT
STRATEGY FOR SUPPORTED LIVING SERVICE AT
JOHNSON COURT

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Ward: Borough-wide

1. REASON FOR REPORT

- 1.1 The Council has a contract in place for Supported Living for seven Adults with a Learning Disability at Johnson Court. The current contract has been in place, delivered by Sanctuary Home Care Ltd, from 14 January 2013 and is due to end on 13 January 2020 with no further extension options available.
- 1.2 There is an ongoing need for Supported Living services, both for existing and new clients, and this report details the procurement strategy for the retendering of the Johnson Court scheme.

2. RECOMMENDATIONS

- 2.1 The Adult Care and Health PDS Committee is asked to note and comment on the contents of this report prior to Council's Executive being requested to:
 - i) Approve the commencement of the retendering for this service, in accordance with the Council's Financial and Contract Procedure Rules, for a new five year contract, with the option to extend for up to a further two years. The retendered contract is planned to commence from 14 January 2020 at an estimated annual value as indicated in Section 6.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Supporting Independence.
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Financial

1. Cost of proposal: Estimated cost £343K per annum
 2. Ongoing costs: Recurring cost. £343K per annum (estimated)
 3. Budget head/performance centre: 819 *** 3618 (Learning Disabilities Services – Supported Living)
 4. Total current budget for this head: £12,523,990
 5. Source of funding: Council's General Fund (within existing budget envelope)
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Staff

1. Number of staff (current and additional): Not Applicable
 2. If from existing staff resources, number of staff hours: Contract Compliance Officer @14 hours per annum for monitoring
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is applicable: Executive decision
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 7 Adults with a Learning Disability
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Ward Councillor Views

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

3. COMMENTARY

- 3.1 The Council has a contract in place for Supported Living for seven Adults with a Learning Disability at Johnson Court. The current contract has been in place, delivered by Sanctuary Home Care Ltd, from 14 January 2013 and is due to end on 13 January 2020 with no further extension options available. The contract was originally awarded, via competitive tender, with an estimated annual value of £113k. Actual annual spend is determined by the assessed needs of the individual clients placed and the contract has had consistent actual annual expenditure in excess of £300k, with £343k estimated for 2018/19.
- 3.2 Supported living is used to describe the arrangement whereby someone who already has, or who wants their own tenancy or own home, also has support from a “Care and Support” provider to help them live as independently and safely as possible. They will receive support and help with any aspects that are required to live an ordinary life as possible, this could be help with:
- Managing bills and money
 - Cooking and healthy eating
 - Getting a job
 - Shopping
 - Learning new skills for independence
 - Personal care and well-being
 - Managing medication
 - Accessing employment, sports and social activities
- 3.3 The Johnson Court service was developed to meet the specific needs of adults with learning and physical disabilities and comprises of 8 flats over two floors, with access to both floors externally, by ramp & steps, internally by stairs or lift. All of the flats are wheelchair accessible and one flat is used as a provider support flat.
- 3.4 The tender relates to the entire provision of service at the scheme. The hours relating to the provision of core support are normally fixed but the individual 1:1 support hours are tailored to the assessed needs of each person living in the scheme. The individual support hours can vary dependent upon a person’s changing needs or when a new service user with different needs moves into the scheme. Service users have the option to purchase their personal support hours from a different provider.
- 3.5 The support provision for Johnson Court was tendered prior to the scheme opening in 2013 and Sanctuary has provided the support since that date.
- 3.6 Monitoring officers carry out audits based on emerging issues relating to local or national priorities – for example number of clients attending Annual Health Checks which is a CCG KPI. There are also periodic meetings with the provider and a mixture of announced and unannounced visits by the Council’s contract monitoring staff; the resulting reports are discussed at provider meetings. Key performance indicators will be updated for the proposed new tender as a result of ongoing contract monitoring and management experience.
- 3.7 The service was inspected by the CQC on 13 December 2016 and received a rating of Good. The most recent Council monitoring visit was carried out in March 2018 and concluded that *“the service has a stable management and staff team who know the tenants well. This is a well-run service. The tenants we spoke to were happy and enjoyed living there. They have a range of activities which are accessed either independently or with support. The flats are well maintained and reflect their personalities. In the past year one tenant has moved out and another is planning to*

move in. Tenants have monthly meetings and are supported to have control and independence.”

3.8 For this service and all future Supported Living contracts it will be a stipulation that each scheme, or group of schemes, be registered individually with CQC. This is a model that many providers are already moving to and if a service were to fail a CQC inspection it means that remedial action can be focused in on very specific actions rather than across a large geographical area.

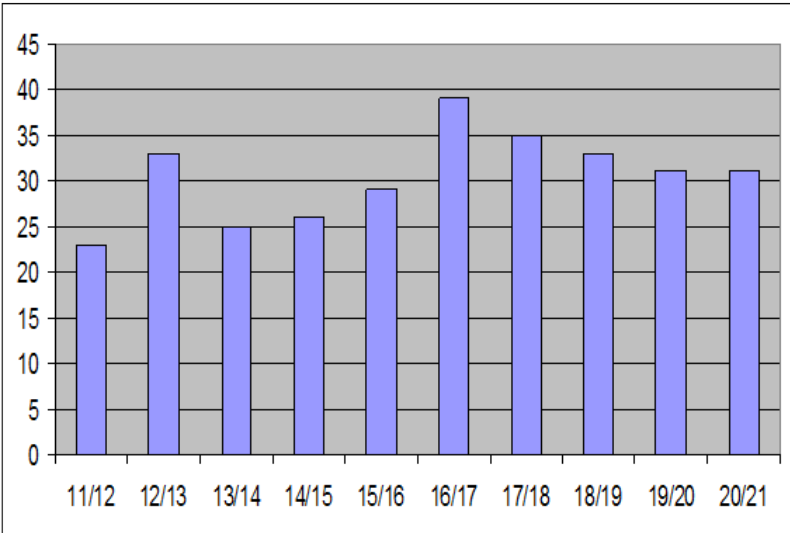
4. SUMMARY OF THE BUSINESS CASE

- i) Continuing delivery of this, and other Supported Living schemes, provides a value for money means of delivering support to clients within their own tenancies, as opposed to being placed in residential care. The Supported Living model also affords a greater degree of choice and control for the clients enabling strength based model of support that is both flexible and cost effective in meeting needs.
- ii) Johnson Court forms part of the 155 Supported Living places within the Borough – demand for these service is forecast to continue. Continued provision of these services ensures that people are given the opportunity to continue living within their own borough close to family and other circles of support. Locally commissioned provision also allows us to monitor the quality of service provision on a planned and ‘without warning’ basis, thereby helping in ensuring that safeguarding concerns are either raised in a timely manner or prevented from arising.
- iii) Supporting Living contracts have recently been rationalised through the grouping of schemes into single tenders, reducing the number of contracts from eight to six. It is not proposed to group this scheme with other Supported Living schemes due for retender at this time due to the risks of provider monopolisation and provider failure for very high value contracts.
- iv) This scheme was reviewed under the Learning Disability efficiency programme and as a consequence client care packages were reassessed resulting in efficiencies to the contract price and a £17k per annum reduction was achieved.

4.1 SERVICE PROFILE/DATA ANALYSIS

4.1.1 Analysis of local data in 2010 compares with the national trend as shown in the graphic below.

Table 1: Numbers of YP with disabilities in Bromley reaching 18 by calendar year



4.1.2 Detailed analysis of children and young people in the education system in Bromley (2018) identified that of the 2187 children & young people with EHC plans:

- 578 with Autism
- 8 with Profound and multiple Learning Difficulties
- 104 with Severe Learning Difficulties
- 216 with Social, Emotional and Mental Health

4.1.3 As can be seen the potential demands coming through from under 18 services is expected to be significant well into the future.

4.1.4 Demand for learning disability services is increasing nationally and locally. A narrow estimate of the number of school children nationally (broadly, aged 5-16 years) with complex needs is 73,000, made up of:

- 10,900 children with profound and multiple learning difficulties
- 32,300 children with severe learning difficulties
- 27,500 children with autistic spectrum disorders in special schools
- 2,300 children with multi-sensory impairments.

The equivalent figure in 2004 was 49,300.

4.1.5 This suggests that the number of school children with complex needs in schools in England may have risen by nearly 50 per cent in just over a decade. The actual number is higher, as children with other primary needs may have complex needs and because there are some important gaps in School Census data.

4.1.6 Therefore the projections of future demand indicate that this scheme, particularly because of its all wheelchair accessibility, will be required for the foreseeable future and will support the Council in meeting its statutory duties.

4.2 OPTIONS APPRAISAL

4.2.1 The following options have been considered at this time:

4.2.2 **Tender the scheme on an individual basis 'as is'**. Whilst it is usual practice for schemes to be grouped together for tendering purposes this practice will preclude smaller businesses from tendering due to the financial capacity test. Retaining Johnson Court as a single service tender allows smaller organisations to tender and provides for movement within the local market. This commissioning approach will also support the Council's Key Priority of encouraging and supporting business.

4.2.3 **Decommissioning of the service** would be inappropriate given the projected level of demand as identified in Section 4.1. Also the clients living in Johnson Court would still require their needs to be met under the Care Act 2014. Moving them to alternative services would be difficult as they are legal tenants in their own right and would require the resident clients to be moved to other similar, and likely to be more expensive, care services. The building itself is also bespoke built and represents a valuable asset to the Council.

4.2.4 **Group the scheme with other services**. The only other group of services being coterminous with Johnson Court are the 5 Supported Living schemes delivered by Avenues. Inclusion of this scheme in that lot would increase it beyond a financial level

that officers feel would be appropriate as it would have a combined value of at least £13.5 million over the contract life. The consolidation of so many of our services with one provider would risk a monopoly being created within the borough which could potentially weaken the Council's position. If combined with the other coterminous schemes delivered by Avenues it would amount to over 25% of our supported living placements being delivered by one provider. The Care Act states that 'Local authorities must facilitate markets that offer a diverse range of high-quality and appropriate services.' A single service tender would allow the Council to evidence meeting this requirement as well as testing the market for new or smaller entrants.

4.3 PREFERRED OPTION

4.3.1 It is proposed to tender Johnson Court as in individual service for a five year term, with the option for a 2 year extension. This would make the total value of the contract approximately £2,402,260 on current cost, with an estimated annual value of £343,180.

4.4 MARKET CONSIDERATIONS

4.4.1 There is a strong and stable market for the provision of supported living services. The previous tender exercises for similar schemes returned 20 tender submissions. Due to market consolidation over the recent years most bidders are regional or national third sector organisations with whom we are familiar with.

4.4.2 As a consequence no special considerations need to be given to the market at this time in relation to the tendering of these schemes.

4.4.3 Assessment of the market, including detailed analysis of cost composition obtained through recent tender exercises; show that the prices obtained by the Council are extremely competitive and that the Council is unlikely to obtain any cost reduction seen in the previous tender exercise for these services without significantly compromising the quality and sustainability of the services.

4.4.4 Officers therefore anticipate a strong market interest in this tender as has been evidenced by previous tenders of a similar nature and provider feedback, particularly from those providers who do not yet have a presence in the Borough.

5. STAKEHOLDER ENGAGEMENT

5.1 Quality Checkers, the user led monitoring group, engage with service users within our supported living schemes prior to tendering in order to ascertain their views and what is important to them in a provider of services. A Quality Checker representative is also on the interview panel to ensure that the voice of service users is represented.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

6.1 Estimated Contract Value – £2,402,260 for 5+2 (estimated annual value £343,180).

6.2 **Other Associated Costs** – None

6.3 Proposed Contract Period – 5 years with a 2 year extension commencing 14 January 2020

- 6.4 A detailed service specification will specify the requirements to the provider and the outcomes for the people they support. The specification will be based upon best practice, experience gained through years of contract monitoring and the guidance in the Care Act 2014. A copy of the contract, that has been developed over a number of years and which incorporates the Council's legal and financial requirements, is included as part of the tender information so that prospective bidders are fully aware of their responsibilities.
- 6.5 The Key Performance Indicators in the current specification will be reviewed will likely include Clients with an up to date person centred support plan and Clients who have had an Annual Health Check amongst others. The KPI review will be subject to a sign off process with Chief Officers in ECHS, including the Director of Adult Social Care. The performance of the provider will also be monitored against the delivery of a set of measurable outcomes focused on the achievement of greater independence for service users and linked to the areas referred to in paras 3.2 of this report.
- 6.6 Current Key Performance Indicators that the contract operates under are:

KPI	Target	Monitoring Method
Percentage of staff team to be permanent	75%	Quarterly Monitoring Report
Agency Staff	No more than 10% of Staff team to be agency	Quarterly Monitoring Report
Percentage of staff receiving mandatory refresher training	95%	Contract Compliance Visit
Percentage of appropriately trained and assessed as competent staff available to meet the health and medication needs of the client's 24/7	100% of the time.	Contract Compliance Visit
Ensure that all safeguarding and serious incidents are reported in accordance with national and local guidance	100% compliant	Quarterly Monitoring Report
Level of client satisfaction that reflects the local issues and service.	90% satisfied	Annual Satisfaction Survey

- 6.7 Tenders will be awarded on the basis of price (60%) and how bidders have answered and evidenced their responses against award criteria (40%). The award criteria will include:

- The tenderer's financial resources and fiscal structure to implement and deliver the contract over the full term
- Their strategy to implement the contract
- Recruitment, Training and Workforce Development
- Quality assurance of outcomes including measurement and monitoring processes
- How the tenderer meets complex needs through Person Centred Support
- How the tenderer, through its safeguarding policy will keep tenants safe and how they will manage risk across the services
- How the tenderer will comply with GDPR in relation to the delivery of the contract

6.8 The indicative procurement timeline will be:

Issue Invitation to Tender	January 2019
Tender Return Stage 1	February 2019
Tender Return Stage 2	May 2019
Marking and interviews	June 2019
PDS & Exec Reporting	September 2019

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

7.1 As part of the written response tenderers are required to address how they would meet social, economic and environmental considerations through the delivery of the services. These areas can cover such activities as local recruitment policies, procuring goods and services from local businesses, fundraising activities on behalf of local and national charities.

8. POLICY CONSIDERATIONS

8.1 The Council's statutory duty under the Care Act 2014 is the consideration in relation to the procurement and delivery of these services.

9. FINANCIAL CONSIDERATIONS

9.1 The actual spend and estimated spend for the last three years to 2018/19 is detailed in the table below.

Johnson Court	
<u>Year</u>	<u>Spend</u>
	<u>£'000</u>
2016/17	308
2017/18	326
2018/19 (est)	343

9.2 Funding is available within the current ECHS budgets to contain the costs of this contract.

9.3 The contract is estimated to be in the region of £343k per annum (£2,402k over the whole life of the contract). The actual contract may vary due to the number of service users and their particular needs. This is managed within the overall Supported Living budget of £12.5m.

10. IT AND GDPR CONSIDERATIONS

10.1 In consultation with the Information Assurance Officer a Data Protection Impact Assessment will be carried out throughout all stages of this procurement.

11. PROCUREMENT RULES

11.1 The Tender process will be undertaken in accordance with the Council's Financial Regulations and Contract Procedure Rules and in compliance with the requirements of the Public Contract Regulations 2015.

- 11.2 Health, social care and related services are covered by Schedule 3 of the Public Contracts Regulations 2015, and thus any tender would be subject to the application of the “Light Touch” regime (LTR) under those regulations.
- 11.3 To ensure compliance with the Public Contracts Regulations 2015, the following obligations will be undertaken:
- i) The tender will be advertised in OJEU.
 - ii) A Contract Award Notice must be published in OJEU at the end of the procurement.
 - iii) The procurement will comply with Treaty principles of transparency and equal treatment.
 - iv) The procurement must conform with the information provided in the OJEU advert regarding any conditions for participation; time limits for contacting/responding to the authority; and the award procedure to be applied.
 - v) Time limits imposed, such as for responding to adverts and tenders, will be reasonable and proportionate. There are no stipulated minimum time periods in the LTR rules, so contracting authorities should use their discretion and judgement on a case by case basis.
- 11.4 The tender process will be electronically using the Pro-Contract portal. In line with clause 65(1) of the Public Contracts Regulations 2015, a two stage restricted process will be used to determine the ‘Top 6’ providers who will be taken through to stage 2 of the tender process. These Providers will then undergo further evaluation using a quality (40%) / price (60%) matrix that has been developed over several years.
- 11.5 Quality is scored using award criteria based on how tenderers have answered questions and evidenced their answers, the questions are specific to the needs of the people in the schemes. There is further challenge, to ensure the provider is robust, through the use of interview panels which comprise experienced commissioners and service user representation; this may be a service user living in the scheme or a service user from elsewhere representing the tenant’s views should this be more appropriate.
- 11.6 The outcome from the quality award criteria scoring is weighted and amalgamated with the financial scoring to determine the tenderer providing the best price / quality compromise for the Council. This culminates in a recommendation to award that is presented to Members

12. LEGAL CONSIDERATIONS

- 12.1 The service is a “light touch” services under Schedule 3 of the Public Contracts Regulations 2015 and as the contract value is in excess of the relevant threshold will need to be procured in compliance with the Regulations. Tendering the contract competitively in compliance with the Regulations will also ensure compliance with competition requirements in Rule 8 of the Council’s Contract Procedure Rules.
- 12.2 Prior to going out to tender service Commissioners should have regard to the requirements of the Public Services (Social Value) Act 2012 and consider how this procurement can be used to secure wider social, economic and environmental benefits in the area. Commissioners should also consider the requirements under

TUPE and ensure any relevant employee liability information is collected from the existing provider and passed onto tenderers to inform their bid.

12.3 Commissioners should also consider obligations under the Public Sector Equality Duty pursuant to section 149 of the Equalities Act 2010 and any consultation requirements.

Non-Applicable Sections:	HR Considerations
Background Documents: (Access via Contact Officer)	Not Applicable