

**Decision Maker:** EXECUTIVE

**Date:** For Pre-Decision Scrutiny by the Adult Care and Health Policy Development and Scrutiny Committee on Wednesday 21<sup>st</sup> November 2018

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** PROCEEDING TO PROCUREMENT (GATEWAY 1): MENTAL HEALTH FLEXIBLE SUPPORT SERVICE

**Contact Officer:** Colin Lusted, Strategic Commissioner  
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**Chief Officer:** Ade Adetosoye, Deputy Chief Executive and Executive Director: ECBS

**Ward:** Not Applicable

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## 1. REASON FOR REPORT

- 1.1 The contract for Mental Health Flexible Support Services expires 30<sup>th</sup> September 2019. There are no further options to extend the current contract which has an annual value of £0.401m and cumulative spend over the life of the contract to 30<sup>th</sup> September 2019 of approx. £2.935m and therefore procurement options must be explored to determine how relevant needs will be met from 1<sup>st</sup> October 2019.
- 1.2 As the value of the new contract is expected to exceed £1M, this report seeks Executive approval to commence the procurement of services in alignment with the LBB Commissioning Plan and the Joint CCG Mental Health Strategy.
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## 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 tendering of the Mental Health Flexible Support service on a part fixed (block) / part variable hours basis with one provider (Option 3 detailed at 4.2.4) to meet the current and future needs of people requiring flexible mental health support within the community and which are aligned with the LBB Commissioning Plan and the Joint CCG Mental Health Strategy; and,
  - ii) Approve that, in the event Option 1 (Develop a framework of providers as detailed at 4.2.2) is established through market engagement activity as the best option, the decision to procure on this basis is delegated to the Chief Officer in consultation with the Portfolio Holder for Adult Care and Health.

## Impact on Vulnerable Adults and Children

1. Summary of Impact: To ensure people with significant mental health illness are supported to remain living in the community and are able to avoid the need for intensive, high cost services.
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## Corporate Policy

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

1. Cost of proposal: Estimated cost £0.401m
  2. Ongoing costs: Recurring cost.
  3. Budget head/performance centre: 821 500 3614 & 821 600 3614
  4. Total current budget for this head: £0.544m
  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 @ 20 hours per annum for monitoring
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## Legal

1. Legal Requirement: Statutory requirement.
  2. Call-in: Applicable: Executive decision
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 84
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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 current Mental Health Flexible Support Service (MHFSS) is a specialist service for adults with mental ill health that supports their independence and resettlement in the community following hospital discharge through the provision of floating support. It aims to move mental health service users away from reliance on hospital and residential care towards more cost effective services such as supported accommodation through targeted support to enable independent living.
- 3.2 The MHFSS ensures the Council meets its duties under the Care Act 2014, where there is a requirement that people will be supported to remain living within the community and it also enables the Council to be compliant with the Mental Health Act 1983 in relation to hospital discharges. The key objective is to provide an effective, timely and flexible response to the needs of service users to enable their rehabilitation and wellbeing.
- 3.3 Referrals into the service are agreed by the Mental Health Practice Review Group (PRG) and are reviewed at a minimum of 6 monthly intervals by the service user's care coordinator.
- 3.4 The MHFSS requires a skilled workforce providing practical and emotional support who are trained to understand the complexities of people with mental health illness. Support may range from assistance with bill paying to providing emotional support and guidance to people with significant mental health conditions. Outcomes from this type of intervention can include:
- Support that avoids a person making multiple calls to emergency services
  - Assistance to ensure their vulnerability does not result in them becoming prey to others and becoming victims or perpetrators in criminal activity
  - Providing support to avoid dependency on drugs or alcohol
  - Assisting them to gain acceptance and maintain relationships with others in the community such as neighbours
  - Working with landlords and organisations such as banks and utility companies to ensure people do not fall into debt and become homeless

On occasions, floating support workers may provide personal care but their skill set and the training they receive is far beyond that which a conventional domiciliary care provider would be required to deliver.

- 3.5 The existing MHFSS contract has been in place with Heritage Care since 2012 and will expire on 30 September 2019. There are no further options to extend the contract and so a procurement exercise must be undertaken to ensure ongoing provision.
- 3.6 The Council has developed a MH Commissioning Plan and has worked with the CCG to develop a joint Mental Health Strategy. The Commissioning Plan considers the financial pressures faced by the service and has influenced the proposed commissioning intentions in relation to this service.
- 3.7 This report seeks Executive approval to progress the procurement of services to meet the current and future needs of people requiring flexible mental health support

within the community and which are aligned with the LBB Commissioning Plan and the Joint CCG Mental Health Strategy.

#### **4. SUMMARY OF THE BUSINESS CASE**

##### **4.1 SERVICE PROFILE/DATA ANALYSIS**

4.1.1 The MHFSS contract with Heritage Care commenced in 2012 and will expire on 30 September 2019. There are no further options to extend the contract and procurement should be undertaken in consideration of the LBB Commissioning Plan and the Joint CCG Mental Health Strategy.

4.1.2 The contract was initially let on a block basis for 500 hours per week but this was reduced to 470 hours per week from April 2014 when 49 of the 470 hours were ring-fenced for specialist support workers to provide intensive 1:1 to people with particular MH needs using guidance from clinicians.

4.1.3 The existing contract is banded upon the needs category of the people receiving services, with rates dependent upon the number of hours each person receives.

Type of needs	No. of hours PW Needed by Client
Low	1 – 5 hours per week
Medium	6 – 10 hours per week
High	Over 10 hours per week

4.1.4 The contract provides support to people to enable them to live in the community without going into crisis and requiring more intensive and expensive services. This includes people who have recently developed mental health problems as well as those who have a long history of drug and alcohol abuse or diagnosed mental health conditions such as schizophrenia, personality disorder and depression.

4.1.5 During the early part of 2017/18 there was a reduction in usage against the block contract although this subsequently increased. The reduction resulted from the combination of a high number of service users successfully moving on from the service and/or having their hours reduced as their mental health improved whilst there was also a reduction in the number of new referrals from care management.

4.1.6 With increased focus from the Director of Adult Care Services at MH PRG's, support was redirected to the block contract to maximise utilisation and reduce less cost effective specialist placements. Although utilisation improved, commissioners negotiated a move to a 'payment for hours used' basis to remove risk in relation to any future underutilisation, this was implemented from 1 October 2018 and will remain in place until contract end on 30 September 2019.

4.1.7 The budget for the whole area is approximately £0.544m per annum for all providers, with spend forecast to outturn in 2018/19 at £0.401m for this contract following the move to a 'payment for hours used' basis. The renegotiated rates with the existing provider (Heritage Care) are known to be competitive as a benchmarking exercise was recently undertaken.

4.1.8 The LBB Commissioning Plan and Joint CCG Mental Health Strategy are aligned with national direction in that there is a greater emphasis on community based provision. There are national drivers within the Care Act and from the NHS England to reduce the reliance upon long term provision with a requirement to focus upon:

- Reablement & rehabilitation
- Prevention
- Commissioning local, community based provision
- Returning people placed out of area to local provision by 2021

4.1.9 The LBB Commissioning Plan, with input from the Joint Strategic Needs Analysis (JSNA), identified that approximately 39,500 people in Bromley have a mental health problem with 2,598 having a severe mental illness and 37,063 suffering from depression, the third highest level of recorded depression in London. Bromley's population is set to grow by around 10% over the next 10 years with at least a proportional increase in mental health problems.

4.1.10 In consideration of current and future demand and the future direction and strategies relating to the provision of local, community based services, it is proposed to undertake scoping to identify the most suitable option that ensures the Council can meet demand at the lowest level of risk and at best value.

## **4.2 OPTIONS APPRAISAL**

4.2.1 The following options are being considered in relation to the MHFSS:

4.2.2 Option 1 - Develop a framework of providers

Providers of mental health community support will be invited to submit bids and hourly rates to join a framework of providers within Bromley. The process will require their bids to demonstrate that they are capable of meeting the specification to provide services in Bromley and explain how the services will be supported and managed. The providers would need to achieve quality scoring above a threshold in order to join the framework. Market scoping undertaken recently has identified that providers capable of providing this support are very limited in Bromley. It would be necessary to develop the market to make this option work and this may include engaging with the Third Sector to see if they would be keen to develop a suitable service.

4.2.3 Option 2 - Purchase services on a spot basis

Services would be purchased on a spot basis. Market scoping undertaken recently has identified that providers of this specialist type of support are very limited in Bromley. It would be necessary to develop the market to make this option work and if providers were required to invest in setting up services locally it is likely they would expect some assurance of work to justify their set up costs.

4.2.4 Option 3 - Tender MHFSS on a block basis with one provider.

Tendering for the MHFSS would be undertaken on a part fixed (block) basis with a guaranteed core number of hours and the option to purchase additional hours at a rate stated within the bid. This option would require market development (in light of recent market scoping). The number of hours included within the block would need to be carefully set so that fluctuations in demand did not pose a financial risk to the Council through underutilisation but the attraction of a guaranteed core level of income drives competitive pricing. The number of hours in the block will be determined through historical and projected usage (informed by the MH Strategy) combined with market engagement. The block (or fixed) part of the contract would ensure the provider is able to recover their core costs whilst committing to meet additional demand at an agreed rate.

#### 4.2.5 Option 4 – Decommission the Service.

Decommissioning the service is not a viable option as there is an existing need that the Council has a statutory duty to meet by way of this type of support; national direction and strategies are also moving towards prevention and meeting people's MH support needs locally within the community. There is an ongoing and potentially growing need for this type of support.

### 4.3 PREFERRED OPTION

4.3.1 As explained at 4.4 below, in view of the current situation in Bromley, unless commissioners undertake market engagement, the pool of viable providers will be limited. It is therefore proposed that market engagement is undertaken to develop competition for this specialist service within Bromley.

4.3.2 It is recommended that, following market engagement, procurement will be undertaken in accordance with Option 3, with the contract awarded to a single provider on a part fixed (block hours), part variable hours basis. The number of hours contained within the block element will be determined through market engagement and analysis of historic and projected demand and will be incorporated into the tender specification. There would be a requirement to submit bids that detail the cost of providing the fixed (block) hours and the hourly cost of providing additional hours that would fluctuate according to demand.

4.3.3 In the event that the market engagement activity identifies a suitable number of providers to be part of a framework of MHFSS providers at competitive rates, Option 1 may be progressed. In the event that Option 1 is believed to be the best option, the decision to progress procurement on that basis will be delegated to the Chief Officer in consultation with the Portfolio Holder.

4.3.4 Option 2 is discounted because spot procurement will necessitate significant market development in Bromley. Commissioning on a spot basis is unlikely to attract new provider investment given the lack of assurance regarding volumes and this potentially puts the Council at risk from a very limited number of providers being able to profit from the lack of competition.

### 4.4 MARKET CONSIDERATIONS

4.4.1 Market scoping has been undertaken by contacting care providers to determine the opportunity to spot purchase specialist mental health floating support services. There is currently only one provider who is able to deliver this type of specialist MH service in Bromley.

4.4.2 People with MH requirements can be challenging to support as they have complex needs and care staff must be well trained and possess particular skills to engage successfully. It is important for the provider to have a local base to interact with care coordinators and to be skilled in the provision of MH services. The scoping identified that there were no local providers of specialist MH services in Bromley other than the existing provider. A high degree of market engagement will be necessary to attract specialist providers into Bromley and develop the market to stimulate competition.

## 5. STAKEHOLDER ENGAGEMENT

- 5.1 Heritage Care merged with Community Options approximately 3 years ago. Community Options are responsible for providing MH support into the specialist accommodation services commissioned by the CCG and into which the Council places people on a spot basis.
- 5.2 Heritage Care also provide services into Registered Social Landlord properties within Bromley utilising some of the MHFSS hours. The LBB Housing Needs Team, RSLs and their tenants will also need to be consulted in the event of a change of provider.
- 5.3 Heritage Care is an external organisation and so there is no direct impact upon the Council's infrastructure.

## 6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 The following table details the proposed elements of the procurement process:

**Timetable for MHFSS Provider Engagement & Tendering**

<b>Activity</b>	<b>From</b>	<b>To</b>
Provider engagement (3 months)	05/11/2018	01/02/2019
Delegated procurement decision	04/02/2019	15/02/2019
Spec. writing	18/02/2019	01/03/2019
Tender Period (PQQ and ITT combined)	11/03/2019	22/04/2019
Tender Close		22/04/2019
Tender Evaluation & Interviews	24/04/2019	10/05/2019
SMT Presentation (Award)		22/05/2019
DLT Presentation (Award)		29/05/2019
Commissioning Board (Award)		06/06/2019
PDS (Award)		Early July
Executive Approval (Award)		Mid July
Notification & Mobilisation	01/08/2019	30/09/2019
<b>Commencement</b>		<b>01/10/2019</b>

- 6.2 The first 3 months will focus upon market engagement and will influence the procurement option that would be followed (see 4.3.2 above).
- 6.3 The existing specification will be enhanced following market engagement and in consideration of the LBB Commissioning Plan, the Joint CCG MH Strategy and national direction. The specification will include a focus upon prevention. Key Performance Indicators will include statistical data returns as well as outcome based measures such as:
- The number of people in the last 3 months whose needs have reduced to the point where their package of care has also reduced
  - The number of people no longer requiring support over the last 3 months
  - The number of people who have required no increase in services over the last 3 months since preventative support was introduced

The Key Performance Indicators and outcome based measures will be refined during the market engagement period with input from providers, other local authorities (sharing of best practice), professionals and service users before being incorporated into the specification that will be used for tendering.

- 6.4 The tender will determine the suitability (against the spec. and in relation to quality) of bidders for inclusion on a framework (Option 1) and will include pricing or it will determine suitability (against the spec. and in relation to quality) and pricing to undertake all MHFSS provision (Option 3).
- 6.5 The tender process will be compliant with the all national and local procedure rules. Questions will enable effective scoring in relation to quality and will focus upon the provider demonstrating their ability and experience in undertaking this type of work and explaining how they would meet the requirements of the outcomes based measures.
- 6.6 There will be engagement with stakeholders during the process and service users will form part of the interview panel with bidders.
- 6.7 The timescales will allow for contract mobilisation in the event that TUPE applies.
- 6.8 The existing contract value of £0.401m pa provides a benchmark and it is envisaged that a 5 year contract at current levels of usage is likely to result in a total contract value of approximately £2m. Mental health strategies are moving services towards a local, community based approach with prevention as a key element. It is probable that there will be growth in the provision of community based specialist MH support above existing levels and therefore the specification and financial bid summaries will require bidders to provide competitive pricing that acknowledges volume growth. The growth in volume and associated costs would be met through a reduced dependence on other MH commissioned services such as residential placements and budgets would be moved across.
- 6.9 It is proposed that the contract(s) (depending upon option) would be let for a period of 5 years on a 3 + 2 basis, with authority to extend the additional 2 years, delegated to the Chief Officer in consultation with the Portfolio Holder.

## **7. SUSTAINABILITY AND IMPACT ASSESSMENTS**

- 7.1 There are no sustainability related issues that would result from the recommendation within the paper.

## **8. POLICY CONSIDERATIONS**

- 8.1 The provision of the MHFSS is in accordance with the Care Act 2014. The provision of specialist MH floating support within the community is a fundamental element of community based services detailed within the Care Act.
- 8.2 The Building a Better Bromley principles underpin the strategy and look to enable people within their communities. Community based specialist provision is in alignment with this goal.

## **9. IT AND GDPR CONSIDERATIONS**

- 9.1 The service specification will include the standard wording and expectations upon providers in relation to IT and GDPR by the Council.



## 10. PROCUREMENT RULES

- 10.1 This report seeks to proceed to procurement for Mental Health Flexible Support Services, making use of either Option 1 or Option 3 outlined above in 4.3 following a period of market engagement. The preliminary engagement can be conducted in compliance with the Council's Contract Procedure Rules (CPR 9).
- 10.2 Health, social 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. Authorities have the flexibility to use any process or procedure they choose to run the procurement, as long as it respects the following obligations:
- i) The tender must be advertised in OJEU and on Contracts Finder;
  - ii) The relevant contract award notices must subsequently be published;
  - iii) The procurement must comply with EU 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; and,
  - v) Time limits imposed, such as for responding to adverts and tenders, must 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.
- 10.3 In compliance with the Council's Contract Procedure Rules (Rule 3.6.1), any subsequent procurement must be carried out using the Council's e-procurement system.
- 10.4 The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## 11. FINANCIAL CONSIDERATIONS

- 11.1 The estimated spend on the current contract is detailed in the table below

	<b>£'000</b>
2012/13 (6 months)	190
2013/14	415
2014/15	507
2015/16	378
2016/17	448
2017/18	396
2018/19 (est)	401
2019/20 (est) (6 months)	200
	<b>2,935</b>

- 11.2 The current outturn is estimated at £0.401m per annum. This can move up or down according to need and client numbers.

11.3 The proposed contract is estimated on this basis. A five year contract would have a cumulative value of £2.005m.

11.4 Funding is available within existing budgets to support the contract going forward.

## 12. PERSONNEL CONSIDERATIONS

12.1 The service is commissioned externally and so there are no personnel considerations.

## 13. LEGAL CONSIDERATIONS

13.1 The services identified in the report are subject to the “light touch regime” as detailed on the Public Contract Regs 2015. A light touch tender process must comply with the principles of transparency, equal treatment and allow the council to take in to account the need to ensure quality, continuity, affordability, accessibility, availability and the comprehensiveness of the services, together with the involvement and empowerment of user.

13.2 All contracts awarded under the light touch regime must also comply with the principles of Reg 76 eg equal treatment.

13.3 Under Reg 40 of the Public Contract Regulations 2015, preliminary market consultations are permitted and are to be carried out in a fair and open manner. The Council also needs to be alert to Reg 41 to ensure that it does not act in an anti-competitive manner and that a future tenderer is not disadvantaged because they either did or did not participate in the preliminary market consultations. The tender process and documentation must be open, fair and treat all equally.

13.4 If it is decided that a framework arrangement is the chosen option ( Option 1) then a framework must be set up in accordance with the requirements of Reg 33 e.g. no longer than 4 years , suitable terms and conditions for use. Legal Services should be consulted to ensure that suitable contract documentation is drafted in a timely fashion.

<b>Non-Applicable Sections:</b>	Not Applicable.
Background Documents: (Access via Contact Officer)	Not Applicable.