

PART 1 – Public

Decision Maker: **Executive**
With pre-decision scrutiny from Adult Care and Health Policy Development and Scrutiny Committee on 19th November 2019

Date: 27th November 2019

Decision Type: Non - Urgent Executive Key

Title: **Gateway Report - Learning Disability Supported Accommodation Procurement Strategy**

Contact Officer: Andrew Royle, Strategic Commissioner, Education, Care & Health Services
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Chief Officer: Kim Carey, Interim Director of Adult Social Care.

Ward: All

1. REASON FOR REPORT

- 1.1 The Council has operated a number of separate contracts with specialist Learning Disability (LD) providers to provide care and support into various LD supported living properties within the Borough. A report was taken to Executive on 10 July 2019 where Executive approved aligning the end dates of the current contracts to April 2021 to support a wider commissioning exercise.
 - 1.2 This report details the strategy for undertaking the major procurement exercise that will see the alignment and restructure of what is currently 5 contracts covering 16 properties providing accommodation based care and support to 78 adults with a learning disability (see Appendix 1 for details of the current contracts and Appendix 2 for the proposed configuration).
 - 1.3 The annual value of the contracts related to the tender is estimated to be £4.7m per annum and £37.4m over the proposed 5+3 year contract term. This report seeks Executive approval to commence the procurement of services in accordance with the arrangements set out in this report and to enable the commencement of new contracts on 25 April 2021.
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2. RECOMMENDATION(S)

- 2.1 **Adult Care and Health PDS Committee is asked to note and comment on the contents of the report.**

2.2 Executive is recommended to:

- i) Agree to proceed to procurement for the above contracts as detailed in this report.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: To ensure ongoing, suitable, community based provision for adults with learning disabilities.

Corporate Policy

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

1. Cost of proposal: £37.4m over 8 years (estimated)
 2. Ongoing costs: Recurring cost. £4.7m per annum (estimated)
 3. Budget head/performance centre: Learning Disabilities – Supported Living
 4. Total current budget for this head: £13.3m
 5. Source of funding: Council's General Fund (within existing budget envelope subject to tender outcome)
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Staff

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours:
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Legal

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

1. Estimated number of users/beneficiaries (current and projected): 78 adults with a learning disability
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 The London Borough of Bromley is committed to providing local quality services for people with learning disabilities so that people can lead full and rewarding lives in the community. This includes ensuring that:

- People receive high quality care, support and treatment in the most appropriate setting
- Services promote independence, where the least restrictive setting is sought and promoted
- The housing and care needs of service users transitioning into adulthood can be met

3.2 “Supported living” is used to describe the arrangement whereby someone who has their own tenancy also has assistance from a “Care and Support” provider to help them live as independently and safely as possible. This could include help with:

- Managing bills and money
- Shopping, cooking and healthy eating
- Learning new skills for independence
- Accessing employment, sports and social activities
- Personal care and well-being
- Managing medication

3.3 Supported living accommodation has been developed in Bromley in order to meet the specific needs of adults with learning and physical disabilities. Supported living is a key resource in meeting the existing and future needs of Bromley’s adult learning disability population and avoiding the need for people to move into residential care. The Council has a statutory duty to meet the needs of service users supported in the schemes as set out in Part 1 of the Care Act ‘General Responsibilities of Local Authorities’.

3.4 Supported Living services provide accommodation via a Registered Social Landlord with the client being a legal tenant. The Council retains sole nomination rights into these properties. On site care & support is provided via a contracted care provider (see **Appendix 1** for details of the contracts in the scope of this report). While clients will require a level of support in order to maintain their wellbeing, support needs vary greatly across the schemes and include challenging behaviour, psychotic behaviour, depression, autism, self-harm, visual impairment, epilepsy, diabetes, cancer, mobility issues (including full wheelchair users) and significant mental health issues which can lead to social isolation and the requirement for emotional and psychological support etc.

3.5 The properties are specially adapted to meet client needs including, where necessary, a ceiling hoist, bath chair, grab rails and relevant fixtures and fittings to aid mobility, especially when carrying out personal care. Kitchens may be fitted with an adjustable height sink and emergency alarms and equipment to encourage clients to do cooking with supervision as necessary.

3.6 As shown in Appendix 1 the support provided to these 78 clients accounts for around £4.7m per year, an average cost per client of £60k. The total estimated whole life contract value (for the maximum 8 years) of the council’s supported living block contracts is around £37.4m. It is therefore of importance that the Council ensures that it is achieving Value for Money in these services and that service quality remains of a high standard.

- 3.7 Demand for these services is forecast to grow. The continued provision of these services ensures that people are given the opportunity to continue living within the Borough, close to family and other circles of support. Locally commissioned services also allows the Council to monitor the quality of provision, thereby helping to ensure that safeguarding concerns are prevented from arising or resolved in a timely manner. Contract monitoring meetings are held with the providers as well as a mixture of announced and unannounced visits by the Council's Contract Compliance Team.
- 3.8 The contracts referred to in this report relate to the provision of care and support at the schemes. The hours relating to the provision of *core support* are fixed within the contracts but the individual 1:1 support hours are tailored to the assessed needs of each person living in the scheme as assessed by Care Managers in discussion with the provider and client following a Care Act Assessment. The individual support hours can vary dependent upon a person's changing needs. Service users also have the option to purchase their personal support hours from a different provider via a Direct Payment.
- 3.9 This report seeks Executive approval to commence the procurement exercise in relation to the schemes detailed at Appendix 1 with a view to contract commencement on 25 April 2021.

4. SUMMARY OF THE BUSINESS CASE

- 4.1 Appendix 1 summarises the 5 contracts covering 16 properties and enabling the care and support of 78 adults with LD and other disabilities.
- 4.2 The people living in these properties have tenancies with Registered Social Landlords and are able to remain living there if there is a change of care provider as the landlord and support functions are separate. Supported Living is a well-established way of providing care and support to people and enables tenants to claim benefits that relieve the Council from the responsibility for paying for housing, utility and food costs.
- 4.3 Bromley has established nomination rights to a number of bespoke, high quality supported living properties within the Borough. This accommodation is seen as a valuable resource offering future proofed, cost effective provision of a type that is in demand and continues to be commissioned nationally. For these reasons, this paper does not propose options around decommissioning these schemes or changing how they are configured; the focus is on commissioning future care and support into those properties that recognises national best practice and local strategies in relation to LD and the Council's Transformation Agenda.
- 4.4 The report is a Gateway 1 rather than a Gateway 0 as Executive have previously approved (July 2019) the strategy of tendering a large number of supported living schemes via one tender process.
- 4.5 The Council and the CCG are working on the development of a joint commissioning strategy for services for people with LD. The development of the strategy will enable the Council to review levels of current and future needs and demand for services to inform future commissioning intentions.
- 4.6 As part of the tender process we will seek to ensure flexibility in the contracts to incorporate additional schemes if appropriate.

- 4.7 The Council will use the development of the strategy to explore the following areas and inform the service specification for tendering of these services:
- Collaborative working with Public Health, the CCG and providers to ensure services will meet future needs
 - Service user experience by exploring “strength based” approaches to practice and service provision to promote the development individual’s skills and reduce reliance on statutory services
 - Using Direct Payments to develop more choice and control over personalised service provision
 - Value for money through benchmarking Bromley’s services against comparator boroughs
- 4.8 The Transformation Programme was launched in 2019 to develop, coordinate and manage transformation activity across the Council and ensure that service improvements and savings are delivered in line with the Medium Term Financial Plan. In the main this will focus on service redesign to ensure future service growth is contained within the overall resources available.
- 4.9 One of the seven work streams of the Programme will focus on Adult Social Care (ASC) including: a) Mental Health, b) Learning Disabilities, c) Older People. Within the ASC work stream, officers will review the current and future needs of people with learning disabilities including the range of support available to promote independence and future commissioning requirements. This will be conducted within a framework of strategic principles including:
- **Outcome-based:** Resources must be directed to and focused on the key priorities for the Council and its strategic objectives. Activities undertaken by the Council must be aligned to delivering local outcomes for individuals and communities.
 - **Co-design and delivery of services with communities:** Services should be designed and delivered with and not for communities, identifying and recognising the knowledge, skills and experience which already exists and can be developed and deployed for local benefit.
 - **Alternative delivery models:** The Programme must consider the best and most sustainable option for each service, reflecting local circumstances and market forces.
 - **Early intervention and prevention:** Supporting people early and effectively to prevent longer-term needs is a key principle. All the evidence suggests that the capability to intervene early in partnership with other agencies drastically reduces long term demand for high cost services. Service transformation needs to address and implement effective mechanisms that reduce long-term dependency on Council services.
 - **Sustainability:** The Council must live within its financial means both in the short term and the longer term. Service transformation and redesign must deliver new sustainable service models.
 - **Invest to save opportunities:** Work streams must look to see whether savings could be achieved through ‘invest to save’ opportunities.
 - **Technology and digital delivery models:** Wherever possible technology must be

considered to either support better or replace traditional service delivery models. The expectation of residents and the need to reduce transactional costs must be a prime consideration when designing sustainable services.

- 4.10 As part of the tender preparation work, a co-produced service specification is being drafted that will reinforce the above principles.
- 4.11 The specification will incorporate Key Performance Indicators that are aligned with the Council's priorities and will form a key element of performance monitoring. Performance monitoring of these services will be backed up with service user engagement via the Quality Checkers Team.

5. SERVICE PROFILE/DATA ANALYSIS

- 5.1 A detailed analysis of children and young people in the education system in Bromley (2018) identified that of the 2,187 Children & young people with EHC plans:
- 578 are diagnosed with Autism
 - 8 with Profound and multiple Learning Difficulties
 - 104 with Severe Learning Difficulties
 - 216 with Social, Emotional and Mental Health
- 5.2 The needs of children and young people aged under 18 in Bromley are representative of the national picture. Demand for learning disability services is increasing nationally. A narrow estimate of the number of school children nationally (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.
- 5.3 The equivalent figure in 2004 was 49,300. 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 also have complex needs due to there being some important gaps in School Census data.
- 5.4 The potential demands coming through from under 18 services are expected to be significant well into the future. Continued delivery of these schemes will support the Council in meeting its statutory duties against a backdrop of both increasing numbers and an increase in the needs of clients entering adult services.
- 5.5 In recognition of these demand-related pressures on the Learning Disabilities budget, arising mainly from transition clients and increased client needs, an additional £847k was allocated in the 2019/20 budget to fund Learning Disabilities growth pressures.

6 MARKET CONSIDERATIONS

- 6.1 There is a strong and stable market for the provision of supported living services. Due to market consolidation over the recent years, most bidders are regional or national third sector organisations with whom the Council is familiar.

6.2 The tendering of a large proportion of the Council's supported living schemes will stimulate market engagement. The revised commissioning approach resulting from the LD Strategy and ASC transformation programme will be incorporated into the specification. Not only will this allow any market issues to be reflected in the tender but it will facilitate relationships between SME/VCSE's and other providers to possibly explore joint tendering opportunities etc.

7. STAKEHOLDER ENGAGEMENT

7.1 Quality Checkers, the user led monitoring group, engage with service users within Bromley's supported living schemes as part of the regular monitoring regime. This ensures that the user's voice is heard throughout the life of the contract. Service users will be engaged in the development of outcomes for Supported Living services.

7.2 Engagement with family members/advocates of the service users will also occur to ensure that they are fully aware of the activity being undertaken and the timeline of decisions and there will be opportunity to participate in the tender process.

7.3 The new service specification is in the process of being co-produced with users of the service and will be further informed by market feedback as well as the LBB Transformation Plan and the LD Strategy. Best practice from other local authorities will also be incorporated. The specification will detail requirements in relation to compliance with statutory areas such as GDPR as well as including a focus upon prevention and outcomes that deliver positive service change.

7.4 Key Performance Indicators and Outcomes will include statistical data returns that underpin contract monitoring as well as reflecting priorities that have been gathered during the Co-production work in relation to the LD Strategy such as:

- Community integration
- Friendship and Socialisation
- Engendering peer support
- Empowerment
- Developing skills
- Ensuring a sense of purpose
- Being listened to

7.5 On completion of the service specification, it will be shared with stakeholders to ensure they are agreeable to the KPI's and Outcome based measures that will have resulted from the co-production process. Service users will also be involved in the tender evaluation and will be asking providers questions as part of the interview process.

8. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

8.1 Estimated Total Contract Values – £37.6m including the value of the 3 year extension.

8.2 Assessment of the market, including detailed analysis of cost composition obtained through recent tender exercises; show that the prices obtained by the Council for these contracts were extremely competitive when they were awarded 5 years ago.

8.3 Cost pressures on social care providers have increased significantly in this time period with a rise in CQC registration costs, the apprenticeship levy, increased pension contributions, National Minimum Wage increases, including continued uncertainty of the impact of HMRC and legal advice on the sleep in issue and overall cost of living increases.

8.4 As such it is anticipated that the prices tendered by providers in future procurements may increase, reflective of the current economic and funding environment.

8.5 **Proposed Contract Period** – 5 years with an up to 3 year extension

25th April 2021 to 24th April 2026 (5 year initial term)

25th April 2026 to 24th April 2029 (up to 3 year extension period)

The procurement timeline will be as follows:

Pre-tender activity including stakeholder and market engagement	Completing January 2020
Issue Invitation to Tender	February 2020
Tender Return Stage 1	March 2020
Tender Return Stage 2	July 2020
Marking and interviews	July/August 2020
PDS & Exec Reporting	November 2020
Contracts commence	25 th April 2021

8.6 The 16 schemes will be split into 4 Lots as detailed at **Appendix 2**. The Lots comprise groups of schemes that are broadly aligned with the existing contractual configurations that have worked well. This will ensure reduced disruption and anxiety for service users and the staff working in those schemes when the new contracts are implemented (as well as reducing the cost and complexity of managing potential TUPE arrangements) with care staff and local management being more likely to remain.

8.7 The Council has a Duty under the Care Act to ensure services are sustainable; the Council also has a role in supporting and managing the market. Whilst it is possible that more financially competitive bid(s) may be achieved by allowing providers to be awarded contracts for more than one Lot, thereby maximising provider economies of scale, this strategy presents an unacceptable level of risk to the Council in the event of provider failure and/or major performance issues; as well as being a potential risk to the overall sustainability of the provider market. It is therefore proposed to limit contract award to a maximum of 1 Lot per provider with the expected outcome of award of contracts to four different providers.

8.8 To facilitate the arrangements above:

1. Providers will be asked to submit a bid for each Lot that they are interested in.
2. Providers must submit a separate bid for each Lot that is uniquely tailored to the cost of providing care in it and, in relation to quality, is specific to fulfilling the service specification that recognises the needs of the people living in the associated schemes.
3. Providers will be advised that they will be awarded a maximum of 1 Lot
4. Each Lot will be individually assessed in accordance with the CIPFA model, 60% Price and 40% quality.

5. Providers will be required to rank their preference for providing each of the Lots they have submitted bids for. In the event of a provider achieving the highest score in more than 1 Lot, they will be awarded the Lot based upon their ranked preference.
6. The Council will reserve the right to award more than one Lot to a provider only where there are no other acceptable bids within an individual Lot.

9. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 9.1 As part of the tender there is a requirement for providers 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.

10. POLICY CONSIDERATIONS

- 10.1 The Council has a statutory duty under the Care Act 2014 in relation to the procurement and delivery of these services.
- 10.2 The Care Act (2014) guidance states that:
 - Local authorities should consider the contract arrangements they make with providers to deliver services, including the range of block contracts, framework agreements, spot contracting or 'any qualified provider' approaches, to ensure that the approaches chosen do not have negative impacts on the sustainability, sufficiency, quality, diversity and value for money of the market as a whole – the pool of providers able to deliver services of appropriate quality.

11. IT AND GDPR CONSIDERATIONS

- 11.1 In consultation with the Information Assurance Officer a Data Protection Impact Assessment will be carried out through all stages of any procurement

12. PROCUREMENT RULES

- 12.1 This report seeks authority from Executive following scrutiny by Adult Care & Health PDS to proceed with the procurement of supported living services as detailed in Part 4 of this report.
- 12.2 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 be 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 contracting/responding to the authority; and the award procedure to be applied;

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.

12.3 In compliance with the Council's Contract Procedure Rules 3.6.1, this procurement must be carried out using the Council's e-procurement.

12.4 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.

13. FINANCIAL CONSIDERATIONS

13.1 The estimated value of the proposed contracts is £4.7m per annum, giving an estimated whole life value of £37.4m over the maximum 8 years as set out in the table below:

	Estimated full year cost £'000	Estimated cost (5 years) £'000	Estimated cost (8 years) £'000
109 & 111 Masons Hill, 18 & 19 Century Way	1,058	5,290	8,464
Coppice, Spinney & the Glade 173 & 182 Crofton Road, 26 Devonshire Rd	1,026	5,130	8,208
Johnson Court 213 Widmore Road, Lancaster House, Amplio House, Swingfield Court & Goldsmiths Close	780	3,900	6,240
	343	1,715	2,744
	1,474	7,370	11,792
	4,681	23,405	37,448

13.2 Although the contracts are mainly of a block nature, the actual costs will vary as a result of the specific needs of individual service users.

13.3 The budget for these schemes is contained within the overall budget for Learning Disabilities Supported Living schemes, which totals £13.3m in 2019/20.

13.4 The Council's four year financial forecast currently includes growth in Learning Disabilities budgets of over £6m by 2022/23. However, the budget gap is projected to have increased to around £32m in the same time, so this growth is currently unfunded, and the service transformation detailed in section 4.8 will be considered within that context.

14. LEGAL CONSIDERATIONS

14.1 The Council have the legal power to secure supported living services for adults with Learning Disability through a contract in support of and to facilitate the Councils various functions under the Care Act 2014.

14.2 A contract for the purchase of these services is a public contract under the light touch category within the meaning of the Public Contracts Regulations 2015. As the value of the contracts under the proposed procurement falls above the relevant threshold (£615,278) a full EU light touch procurement would be required.

14.3 The Council's Contract Procedure Rules (CPR 5.4) states that where the value of the intended arrangement is £1,000,000 or more the Executive will be Formally Consulted on the intended action to commence the procurement and contracting arrangements, having submitted for consideration a formal Gateway Review, covering as appropriate, the matters identified in this report .

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	Appendix 1 – Table of Current Contracts ECHS19052 – Executive Report 10 July 2019

Current Supported Living Contracts Aligned to April 2021 End Date

Contract ID	Schemes	No. of clients	Provider	Contract start	Annual value £'000
2592	109 & 111 Masons Hill 18 & 19 Century Way	16	CMG	1.7.17	1,058
348	Coppice Spinney The Glade	11	Outward	28.11.16	1,026
222	173 & 182 Crofton Road 26 Devonshire Rd	12	Certitude	25.4.16	780
218	Johnson Court	7	Sanctuary	14.1.13	343
221	213 Widmore Road Lancaster House Amplio House Swingfield Court Goldsmiths Close	32	Avenues	12.1.15	1,474
Totals:		78			4,681

Proposed Supported Living Contracts Lots

Lot Number	Schemes	No. of clients	Current Contract Annual value £'000
1	109 & 111 Masons Hill 18 & 19 Century Way	16	1,058
2	Coppice Spinney The Glade	11	1,026
3	173 & 182 Crofton Road 26 Devonshire Rd Johnson Court	19	1,123
4	213 Widmore Road Lancaster House Amplio House Swingfield Court Goldsmiths Close	32	1,474
		78	4,681