
Decision Maker: **LEADER**
With pre-decision scrutiny from Adult Care and Health Policy Development and Scrutiny Committee

Date: **September 2020**

Decision Type: Urgent Executive Key

Title: **GATEWAY REPORT FOR LD SUPPORTED LIVING SERVICES**

Contact Officer: Colin Lusted, Head of Complex & Long Term Commissioning
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Chief Officer: Kim Carey Interim Director of Adult Services

Ward: All Wards

1. Reason for report

- 1.1 The Council has a contract in place with the Southside Partnership to provide Learning Disability (LD) supported living and community based day and respite services. Executive approval was obtained in November 2019 to extend the contract for a period of up to 2 years from 1 October 2020 to 30 September 2022. The Council was unable to reach mutual terms to extend the contract as originally intended and subsequent negotiation has resulted in a 6 month extension of the contract to 31 March 2021.
- 1.2 The Council is undertaking a review that will determine the future direction of LD day and respite provision; a report detailing the outcome of the review will be presented to Executive by December 2020.
- 1.3 The current value of the supported living element of the contract is £1,390k pa. With the intention to award the new contract for an initial period of 5 years, with the option to extend for 2 further periods of 2 years each, the contract value over the full term is estimated to be £12,510k and requires Leader approval to commence the tender process.
- 1.4 This urgent report seeks Leader approval to commence the tender of the supported living element of the Southside Partnership contract to ensure the continued provision of care and support into the homes of people with learning disabilities from 1 April 2021.

2. **RECOMMENDATION(S)**

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

2.2 The Leader is recommended to:

- i) Note the situation in relation to the Southside Partnership LD Contract.
- ii) Approve the immediate commencement of tendering in relation to the supported living services that form part of the Southside Partnership contract to ensure the ongoing provision of care and support services from 1 April 2021.
- iii) On the grounds of urgency and in accordance with 3.2 in the Contract Procedure Rules, approve that the award of the contract be undertaken by the Leader in consultation with the Portfolio Holder, following the agreement of Chief Officers.

Impact on Vulnerable Adults and Children

1. Summary of Impact: To ensure the continued provision of statutory services to adults with LD living in Bromley.
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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: £1,390k pa (current cost)
 2. Ongoing costs: Recurring Cost: £1,390k pa (current cost)
 3. Budget head/performance centre: Learning Disabilities
 4. Total current budget for this head: £1,395k
 5. Source of funding: Existing revenue budget
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Personnel

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

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Further Details Progression sought on grounds of urgency.
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Procurement

1. Summary of Procurement Implications:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 35
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Ward Councillor Views

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

3. COMMENTARY

- 3.1 The Council has a contract in place with the Southside Partnership to provide Learning Disability (LD) supported living and community-based day and respite services. Executive approval was obtained in November 2019 to extend the contract for a period of up to 2 years from 1 October 2020 to 30 September 2022. The Council was unable to reach mutually agreeable terms to extend the contract as originally intended and subsequent negotiation has resulted in a 6-month extension of the contract to 31 March 2021.
- 3.2 The Council is undertaking a review that will determine the future direction of LD day and respite provision; a report detailing the outcome of the review will be presented to Executive by December 2020. There is no immediate requirement to undertake a review of the supported living services.
- 3.3 The current value of the supported living element of the contract is £1,390k pa. With the intention to award the new contract for an initial period of 5 years, with the option to extend for 2 further periods of 2 years each, the contract value over the full term is estimated to be £12,510k and requires Leader approval to commence the tender process.
- 3.4 The contract encompasses 9 properties, supporting 35 clients. All of the properties are managed by housing associations, with the care and support provided by the Southside Partnership via this contract. The Council must identify a suitable provider to continue the provision of care and support from 1 April 2021.
- 3.5 This report seeks Leader approval to immediately commence a tender of the supported living services as detailed above.

4. SUMMARY OF THE BUSINESS CASE

- i) This business case considers how the Council should continue to commission the supported living services that are currently provided by the Southside Partnership.

4.1 SERVICE PROFILE/DATA ANALYSIS

- 4.1.1 This contract covers the provision of care and support for 35 clients at 9 properties. The annual contract value is £1,390k.

The term "Supported living" is used to describe the arrangement where someone has their own tenancy with a housing provider and also has assistance from a care and support provider to help them live as independently and safely as possible. This could be assistance 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

- 4.1.2 The 35 people living in these services have tenancies with a Registered Social Landlord. The Council retains sole nomination rights into these 9 properties which are a mix of semi-detached and detached houses. They are all converted from general needs housing with varying levels of suitability for people with a learning disability. A review will be undertaken to determine whether some of these properties could be updated or potentially exchanged for

more accessible accommodation; this would be a long-term piece of work and will be undertaken in the future.

- 4.1.3 The services are monitored regularly by the Council's monitoring officers and Quality Checkers. There are no outstanding issues and the services are being delivered to the requirements stipulated in the Council's Quality Assurance Framework.
- 4.1.4 The people living in these properties have a right of tenure and several tenants have lived in them for more than 20 years. The supported living model of care has been adopted by councils nationally and, when compared with registered care services, is a cost effective way of meeting needs; this is due to housing and general living costs being met by welfare benefits with the Council being responsible for the cost of care and support.

4.2 OPTIONS APPRAISAL

- 4.2.1 There is an ongoing requirement for the supported living services detailed above; they provide a cost-effective way of meeting needs and enable the statutory provision of services into these people's homes. There are currently no other suitable alternatives and options therefore centre upon how the Council continues to ensure the provision of these services from April 2021. Potential options are:
 - i) Immediately commence a competitive tender process to find a suitable provider for these services.
 - ii) Enter negotiations with the current provider, Southside Partnership, to determine if it would be possible to extend these services for a period to enable them to be tendered in parallel with a number of other supported living services during 2021.
- 4.2.2 In relation to option i). The Council currently contracts with several specialist LD providers who are expected to be interested in bidding for these services. There are other specialist LD providers who are also expected to submit bids as previous tenders of supported living services in Bromley have attracted a high level of bids.
- 4.2.3 In relation to Option ii), the Council undertook detailed negotiations with Southside Partnership in relation to extending the existing block contract for (up to) the permissible 2-year term. The Council was unable to agree acceptable terms with Southside Partnership and this resulted in the short term, 6-month extension to 31 March 2021. In light of this situation, option ii) is not recommended.

4.3 PREFERRED OPTION

- 4.3.1 The immediate commencement of a competitive tender process (Option i) is recommended. The recommendation is based upon the supported living services being regarded as relatively straightforward and being the typical 'core provision' of specialist LD providers. It is expected that these services will generate several competitive bids from providers who can deliver the required quality standards.
- 4.3.2 It is proposed to award the contract for an initial 5 year term with options to extend the contract for up to 2 periods of 2 years each, making 9 years in total with a contract value of £12,510k (based upon current contract values). If the review referenced at 4.1.2 above results in service changes, these will be managed by way of contract variations.

4.4 MARKET CONSIDERATIONS

- 4.4.1 There is a strong and stable market for the provision of supported living services. Due to market consolidation over recent years, most bidders are regional or national third sector organisations with whom the Council is familiar.
- 4.4.2 The supported living schemes in this tender were previously operated by the Council. The staff transferred under TUPE arrangements to Southside Partnership, retaining their Council terms and conditions, including their access to the Local Government Pension Scheme. It is expected that TUPE will apply in relation to this tender and therefore Members should be mindful that providers may factor any associated risk this into their bids.
- 4.4.3 Members should also be mindful of the government’s intentions in relation to the National Living Wage and the recent impacts of the apprenticeship levy and increased employer’s pension contributions that have added to provider’s costs since this contract was first let. In consideration of these factors, it is proposed that the tender will be undertaken on a 2-year fixed price basis with subsequent increases dependent upon any specific factors driven by central government plus a normal inflation-based increase using published inflationary indices.

5. STAKEHOLDER ENGAGEMENT

- 5.1 A communications plan is being drawn up that will be used to update service users on all aspects of the Southside partnership Contract. Service users will be advised of the tender process and, subject to the limitations brought on by Covid-19, will be invited to be part of the tender evaluation process at the interview stage.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 **Estimated Contract Value** – £12,510k over the proposed 9-year term based upon current contract value.
- 6.2 **Other Associated Costs** –Bond & Pension Costs to be determined and part of the contract
- 6.3 **Proposed Contract Period** – 5 years initial term, extendable for 2 periods of 2 years each, 9 years in total.
- 6.4 The following timeline will be followed in relation to this tender:

Issue Invitation to Tender	September 2020
Combined (Stage 1 & 2 Process) Tender Return Stage	November 2020
Marking and interviews	December 2020
Contract Award	January 2021
Contract implementation	February / March 2021
Contract commencement	1 April 2021

- 6.5 The tender process will be undertaken in accordance with contract procedure rules and in consultation with the Corporate Commissioning Team and Contracts Team. The tender will be evaluated in accordance with the Council’s normal 60% price / 40% quality process.

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 As part of any future tenders there will be 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.

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.

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

- 8.2 The services being tendered are in alignment with the Council's Building a Better Bromley policy 'Supporting Independence'.

9. IT AND GDPR CONSIDERATIONS

- 9.1 In consultation with the Information Assurance Officer a Data Protection Impact Assessment will be carried out through all stages of any procurement. The contract will also require full compliance with GDPR legislation.

10. PROCUREMENT RULES

- 10.1 This report seeks approval to commence the procurement of supported living services for 35 clients for a period of five years with the option to extend for two periods of two years each, 9 years in total at an estimated value of £12,510k.
- 10.2 This is an above EU threshold service contract, falling under the Light Touch Regime or Schedule 3 of the Public Contracts Regulations 2015. A two-stage open process will be used and a timetable for this procurement is included at Section 6 above. The procurement will commence immediately approval is received on the grounds of urgency.
- 10.3 The Council's specific requirements for authorising proceeding to procurement are covered in Rules 1 and 5 of the Contract Procedure Rules with the need to obtain the formal Agreement of Executive, the Assistant Director Governance & Contracts, the Director of Corporate Service, the Director of Finance and the Portfolio Holder for Adult Social Care & Health for a procurement of this value.
- 10.4 In accordance with CPR 2.1, Officers must take all necessary professional advice.
- 10.5 In compliance with the Council's Contract Procedure Rule 3.6.1, this procurement must be carried out using the Council's e-procurement system. The tender opportunity will be published in OJEU and Contracts Finder.
- 10.6 Further this report requests delegated authority for the subsequent award of contract to the Leader in consultation with the Portfolio Holder. The Council's requirements for authorising an award of contract are covered in CPR 16. For a contract of this value, the Approval of the Executive following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance would normally be required.

10.7 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 Based on the current contract value, the estimated cost of the proposed contract is £1,390k per annum, with a whole life value of £12,510k.

11.2 Although Supported Living contracts are mainly of a block nature, the actual costs vary as a result of the specific needs of individual service users; however it is currently expected that the costs will be contained within the budget of £1,395k per annum.

11.3 The spend on the current contract in previous financial years is set out in the table below:

	£'000
2015/16 (part year)	735
2016/17	1,358
2017/18	1,393
2018/19	1,564
2019/20	1,390

12. PERSONNEL CONSIDERATIONS

12.1 There are no personnel implications arising from this report, for any employees of the London Borough of Bromley.

13. LEGAL CONSIDERATIONS

13.1 Officers ought to ensure they have met their obligations under section 5 of the Contract Procedure Rules (Steps Prior To Purchase).

13.2 In particular, Officers ought to work with Procurement and Legal colleagues (1) to select an appropriate procurement route (bearing in mind that this procurement will be subject to the 'light touch' arrangements in the Public Contracts Regulations 2015); and (2) to compile appropriate contractual terms and conditions bearing in mind some of the complexities of this procurement (e.g the prospect that staff of the incumbent provider may have rights under TUPE if there is a service provision change, and that some of those staff members may have LGPS membership).

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]

