

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

Date: **Meeting Date – PDS 24 November 2020**

Decision Type: Non-Urgent Executive Key

Title: **LEARNING DISABILITY COMMUNITY PROVISION GATEWAY REPORT**

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 (also known as Certitude) to provide learning disability 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 A Gateway report seeking agreement to the commencement of a procurement process in relation to the supported living element of the Southside contract was approved by the Leader in September 2020 and this service is currently out to tender. In parallel with this, work has progressed to determine options in relation to learning disability community day and respite services.
- 1.3 The current contract value of the day and respite elements is approximately £1.74m and £0.56m pa respectively, therefore the commencement of tendering as set out in this paper requires Leader agreement.
- 1.4 This report advises members on the outcomes of the work to determine future models for learning disability day and respite provision and seeks approval to commence procurement to ensure continuity of service provision in relation to respite and to minimise service interruption in relation to day services.

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 position in relation to learning disability community services.
- ii) Approve the proposed move to spot procurement and direct payments for people requiring day activities who are not dependent upon building-based provision from April 2021.
- iii) Approve the immediate commencement of tendering in relation to the learning disability day service for people with complex needs requiring a building-based service to ensure the minimum possible interruption in service from April 2021, for a proposed three year contract with the option to extend for up to a further two years at an estimated value of £800k per annum (estimated whole life value of £4m).
- iv) In accordance with 13.1 of the Council's Contract Procedure Rules, approve the progression of a direct negotiated contract award process to enable the uninterrupted provision of respite services and proposed service changes at 118 Widmore Road with an estimated contract value of £562k per annum.

Impact on Vulnerable Adults and Children

1. Summary of Impact: To ensure the continued provision of statutory services to adults with learning disabilities 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 £2.4m per annum
 2. Ongoing costs: Recurring Cost £2.4m per annum
 3. Budget head/performance centre: Learning Disabilities
 4. Total current budget for this head: £2,303k pa (Current cost)
 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
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not applicable
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Procurement

1. Summary of Procurement Implications:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 250
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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 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 A Gateway report seeking agreement to the commencement of a procurement process in relation to the supported living element of the Southside contract was approved by the Leader in September and this service is currently out to tender. In parallel, work has progressed to determine options in relation to learning disability community day and respite services.
- 3.3 The Council has intended to modernise its learning disability day service provision for some time. The November 2019 Executive report set out its intentions to determine modernisation over a 2-year period and then procure it. As detailed above and as referenced in previous papers, in light of the reduced period of contract extension, the Council has revised its plans to procure a more modern offer from April 2021 that will provide the conditions and capacity to continue modernisation.
- 3.4 Modernisation of day services will ensure personalisation and give choice and control to the people who access them. Modernised services will follow a strengths-based approach that would ensure there is greater visibility of people with learning disabilities within the community and gives everybody the opportunity to benefit from projects such as the opening of a café that people can enjoy or horticultural projects that may make use of unused land and enable residents to purchase local produce.
- 3.5 The recommendations in relation to day services are in alignment with the change outcomes approved by Executive in 2019 and reflect the vision set out in the Learning Disability Strategy:

“To enable people with Learning Disabilities to live the lives they want, as part of the community, with the right support, at the right time and from the right people”

The Learning Disability Strategy was co-produced with people with learning disabilities, carers and other stakeholders and this resulted in the following key priorities:

- i) Autonomy, Voice and Control
- ii) Relationships and connections
- iii) Education, training and employment
- iv) Being active and well
- v) Right support at the right time

These priorities have informed the commissioning proposals set out in this paper.

4. SUMMARY OF THE BUSINESS CASE

- i) This business case is split between the two main elements of learning disability community provision: day and respite services. The business case proposes options to deliver more innovative provision that is aligned with the Council’s original vision and is in accordance with the visions and objectives within the Learning Disability Strategy.

4.1 SERVICE PROFILE/DATA ANALYSIS

4.1.1 Day Services

- 4.1.1.1 The Council provides day services for approximately 200 people with a learning disability. The services are provided to people aged from 18 to over 80 with needs ranging from moderate to profound and multiple disabilities. The current services are predominantly delivered within the Astley Day Centre (Astley), a traditional day centre, with some additional community provision delivered from the Cotmandene and Kentwood hubs.
- 4.1.1.2 In recent years the services have proved to be less attractive, particularly in relation to younger people moving through transition into adult services and there has been a move towards alternative, more innovative community-based services outside of the Southside contract, where there is a focus upon independence, skills development, employment and community engagement.
- 4.1.1.3 Key findings from the co-production that was undertaken whilst drafting the Learning Disability Strategy as well as subsequent service analysis, benchmarking and market analysis during the last few months are:
- a) The age range of people receiving services at Astley is very wide and this has a negative impact upon providing suitable personalised services and choice; this is a factor in young people not wishing to use them.
 - b) Astley, as the main facility, is accommodating a wide range of needs, from those who are ambulant to people who are dependent upon bespoke wheelchairs and double handed personal care and those who may challenge services.
 - c) The opportunities for skills training, employment and attendance at leisure venues within the community needs improvement; this is a priority within the Learning Disability Strategy and central to the modernisation of day services where people would have choice and control in what they do.
 - d) There is a continuing requirement for building-based day activities for those with profound and multiple learning disabilities and for those with behaviours that challenge. This is backed up by research undertaken with other London boroughs who have similarly recognised the need for this type of day provision.
 - e) Of the 200 people attending day services, approximately 150 people are expected to benefit from community-based services with around 50 people currently needing building-based provision.
 - f) For people needing day activities but not necessarily building based provision, other boroughs have introduced a range of providers to ensure a menu of community-based options that can be spot procured by the Council or by service users via direct payments.
 - g) The aspirations of younger people have moved on and they expect day opportunities to enable them to be part of the community and offer skills that will help them be more independent and give them more opportunity for employment.
- 4.1.1.4 The current annual expenditure in relation to day services as part of the Southside contract is £1,741k pa. The Council additionally funds 1:1 staff to accompany some of the more profoundly disabled service users attending Astley as well as providing direct payments for people to access existing community services outside of the block contract, these are estimated to cost an additional £500k - £600k pa.
- 4.1.1.5 In consideration of the Learning Disability Strategy, analysis of the current service, service user needs, benchmarking and best practice elsewhere, it is proposed that the Council progresses to a mixed model of future learning disability day provision comprising:
- a) Building based day activities for those with complex needs, approx. 25% (50) of current users
 - b) Development of community-based services for the remaining 75% (150) of current users
- 4.1.1.6 It has taken some months to undertake the analysis of current services and determine the most appropriate future provision of learning disability day services in Bromley. As a result of the Council being unable to reach mutually acceptable terms with Southside, it was only possible to negotiate a 6-month rather than a 2-year extension. Members are asked to note that there is a challenging timeline to ensure service continuity in relation to building-based day services for people with complex needs which are proposed to be commissioned using a full tender process. Subject to

member approval to the proposals in this paper, it might prove to be necessary to spot procure interim services for people with complex needs during the short period of service closure between April 2021 and the commencement of the new contract. This would not be an issue in relation to people with more moderate needs whose day activities will be spot procured or purchased using direct payments.

4.1.2 Respite

- 4.1.2.1 The Council operates a 12-bed registered respite facility at 118 Widmore Road. It provides both planned and emergency respite with approx. 50 people using it for planned respite purposes. The Council also provides respite provision to some families via Shared Lives carers and through people buying respite via direct payments. Carers play a significant role in Bromley in caring for their family members with learning disabilities and the Council's recognises the importance of supporting carers through the provision of respite.
- 4.1.2.2 The Council spends £562k pa on respite provision at 118 Widmore Road plus additional respite expenditure on direct payments and Shared Lives provision.
- 4.1.2.2 The respite service at 118 Widmore Road has been at capacity at weekends but suffered from low occupation Monday - Thursday. The Council had anticipated this when it originally contracted with Southside as only 7 beds were block purchased, with the option to spot purchase up to 5 more. Despite this, utilisation has been poor, making unit cost expensive and this has been compounded by younger service users not seeing 118 Widmore as somewhere they wanted to stay. As well as planned respite, 118 Widmore provides emergency respite in the event of service breakdown or a family carer going into crisis.
- 4.1.2.3 Covid-19 has had a big impact upon families going into crisis, this is partly due to the necessary closure of Bromley's learning disability day services and planned respite provision. Because of the pandemic, 118 Widmore Road is now at 75% capacity with emergency respite cases and new safeguarding cases continue to emerge. With the pandemic potentially worsening over the winter period and day services remaining closed, 118 Widmore Road is expected to be a key emergency respite resource into April 2021.
- 4.1.2.4 In light of the pandemic, the uninterrupted provision of emergency respite at 118 Widmore is essential; to ensure this is possible it is proposed to enter into a direct negotiated award of a contract in accordance with Regulation 32 of the Public Contracts Regulations 2015. The negotiated tender will be for a contract for the minimum period necessary to attract provider interest and this is currently estimated at between 1 and 2 years. The contract specification will be drafted to ensure better use of the building, with a requirement to provide 'drop-in' respite (so family carers can go shopping, see a film etc.).
- 4.2.2.5 Future respite provision will be considered over the lifespan of the new contract and will include consultation in relation to any proposals made.

4.2 OPTIONS APPRAISAL

4.2.1 Day services

4.2.1.1 Option 1 – Mixed future provision (Preferred Option)

- 4.2.1.2 Option 1 is based upon the proposal identified at 4.1.1.5 above. Future provision would be based upon people's needs and whether they were assessed to require a building-based day provision, or their needs could be better met within the community. Assistance would be provided for people to transfer to community-based services.

4.2.1.3 For people who are assessed to benefit from community-based services, they would receive services from a variety of providers. The services would either be spot purchased by the Council or people will be supported to obtain direct payments and use these to purchase them themselves. Commissioners have engaged with the market to scope new providers to work in Bromley as well as discuss opportunities with existing providers to further develop their current provision to meet this demand. As the provision will be spot purchased or purchased directly by people using direct payments, no procurement process is necessary and the commissioning emphasis will be upon attracting sufficient providers and services before April 2021. An action plan is being drawn up to ensure care management is geared up to assess and support service users as they transition to accessing community day provision.

4.2.1.4 For people assessed as requiring a building-based service, a full tender process will be undertaken to identify a suitable provider. This will be a competitive tender process, based upon a block contract to provide services for a specific number of people on a daily basis, with a requirement for pricing for additional services users. The tender would:

- a) Be based upon the usual 60% price / 40% quality basis
- b) Be let on the basis that the provider operates the service at the Astley Day Centre (which is suitably equipped) and they will enter into a lease with the Council at no cost to them; this lease will mirror the current arrangements with the Southside contract.
- c) Not include use of the existing community hubs at Cotmandene and Kentwood. Subject to the outcomes of the market engagement described at 4.2.1.3 above, the hubs may be released back to the Council for alternative use.

The timeline for the tender is set out below at 6.4 and would commence immediately following Leader agreement.

4.2.1.5 The timeline identifies that it might prove to be necessary to spot procure interim services for people with complex needs during the short period of service closure between April 2021 and the commencement of the new contract. This would not be an issue in relation to people with more moderate needs whose day activities will be spot procured or purchased using direct payments.

4.2.1.6 Option 2 – seek to extend the existing contract with Southside (Option ruled out)

There are 2 potential sub options with this:

- a) Extend the whole day services element of the block contract as it currently operates
- b) Extend an element of the current block contract with Southside that would enable the provision of services to those with complex needs at Astley day centre

4.2.1.7 Option 2 a) - to extend the existing provision as it currently operates is being ruled out as it does not move the provision of day services in Bromley forward in accordance with the Learning Disability Strategy.

Option 2 b) has advantages in that the provider is in place, they are currently operating under a lease at Astley and there would not be a requirement for a tender process which means there would not be an interruption in day service provision for people with complex needs.

In light of the Council being unable to reach mutually agreeable terms to extend the current contract for the intended 2 years, it is currently unclear whether agreeable terms could be achieved with Southside. For this reason, this option is ruled out.

4.2.1.8 Option 3 – Undertake a full tender process to identify a provider to take on the full remit of learning disability day services as they are currently contracted with Southside and commission them with a requirement to subsequently modernise services in accordance with the Learning Disability Strategy. (Option ruled out)

This Option is ruled out as it delays the modernisation of day services.

4.2.2 Respite

4.2.3 Option 1 – Direct Negotiated Award to ensure uninterrupted provision at 118 Widmore Road (Preferred Option)

4.2.3.1 The respite provision at 118 Widmore Road must be uninterrupted from April 2021 for the reasons set out at 4.1.2.4 above and responsive to the unforeseen increase of emergency respite resulting from the impact of the pandemic on family carers. A direct negotiated tender process, as per Regulation 32 of the Public Contract Regulations 2015, for a short term contract will allow the Council to immediately engage with suitable providers with the flexibility to negotiate in order to facilitate completion of terms and award of contract within the time available. This will reduce the risk of a break in provision which could lead to potential loss of service for existing clients as well as being unable to respond to emergency respite needs.

4.2.3.2 The direct negotiated tender process would commence immediately following Leader approval. It would take place in accordance with the timeline set out at 6.4 below.

4.2.3.3 It is expected that the contract to provide services at 118 Widmore Road under a direct negotiated process is likely to run for ideally one year or a maximum of two years. This will ensure that a full competitive tender for the requirement is carried out at the earliest possible opportunity whilst recognising that a minimum contract period is necessary to attract sufficient interest for the interim negotiated contract.

4.2.3.4 A service specification is being written for the proposed service over this period. The specification will ensure continued service provision and aim to maximise use of the building by requiring the new provider to develop a 'drop-in' respite element (so family carers can go shopping, see a film etc.).

4.2.3.5 The contract will incorporate a block bed provision as well as the option to purchase additional beds and drop in respite. It is proposed that the provider would occupy 118 Widmore Road, which is owned by the Council, using a lease on a free of charge basis; this is the same arrangement that is currently in place with Southside.

4.2.3.6 The contract will be negotiated with establishment of the block contract cost, the spot cost of additional respite and assurances in relation to quality will be incorporated into KPI's and monitoring arrangements.

4.2.4 Option 2 – Extend the current contract with the Southside Partnership (Option ruled out)

4.2.4.1 The proposal would require the Council and Southside to agree an extension on this element of the contract for a period of up to 18 months. The Council would require the revised specification, enabling greater utilisation of the building, to be delivered over this term and this would be achieved via a contract variation.

4.2.4.2 This option has advantages in that the provider is in place and there would not be a requirement for a negotiated tender process, this would make implementation of the new specification more straightforward. However, in light of the Council being unable to reach mutually agreeable terms to extend the current contract for the intended 2 years, it is currently unclear whether suitable terms could be achieved with Southside. For this reason, this option is ruled out.

4.2.5 Option 3 – Move to meeting respite needs using a range of options (Option ruled out)

4.2.5.1 The Council has been scoping alternative types of respite provision that could be purchased using spot and direct payment arrangements; these would include:

- a) Additional use of Shared Lives carers to provide respite
- b) Procuring spot provision of planned and emergency respite from residential care providers and specialist respite providers
- c) Identifying providers who offer respite (dependent upon service user needs) in community settings such as hotels
- d) Provision of respite in the family home
- e) Providing people with direct payments so they could purchase their own services

4.2.5.2 The arrangements above would potentially have resulted in 118 Widmore Road no longer being required for learning disability respite purposes. There would need to be consultation in relation to this proposal and the demands upon 118 Widmore Road in relation to emergency residential respite due to Covid-19 means that the continued operation of the service has become a key element in the Council's response to the pandemic for people with learning disabilities.

4.2.5.3 The unforeseen demands upon emergency residential respite provision mean that this option has been ruled out.

4.2.6 Option 4 – Undertake a full competitive tender for the provision (Option ruled out)

4.2.6.1 This option is not recommended for the following reasons:

- a) There is a high risk that the tender could not be completed in time to enable uninterrupted service provision.
- b) In the event the tender was unsuccessful, there would be insufficient time to make alternative arrangements and it would not be possible to continue the provision of services for emergency residential respite.
- c) The commissioning approach in relation to respite for learning disability services is to be determined and this would be best enabled by commissioning an interim contract

4.2.6.2 For the reasons detailed above; this option has been ruled out.

4.3 PREFERRED OPTIONS - RATIONALE

4.3.1 Day Services

4.3.1.1 Option 1, Mixed future provision with a full tender process to secure a complex needs building based provider is the preferred option.

4.3.1.2 This option is preferred because it would enable the Council to progress the modernisation of day activities in accordance with the vision and priorities set out in the Learning Disability Strategy. This option would also take into account the issues identified by the Astley Carers Forum, young adults with learning disabilities electing to use alternative day provision and the information obtained through data and service analysis.

4.3.1.3 Option 1 supports a strengths and outcomes-based approach that would include skills training and employment; this has been introduced by some existing Bromley providers over recent years and is popular amongst younger service users. The mixed model, recognising an ongoing need for building based provision for those with complex needs, acknowledges the concerns of carers in Bromley and follows similar approaches that have been adopted in other London boroughs.

4.3.1.4 Spot contracts and direct payments will be used for people who are assessed to benefit from community-based provision. There would not be a contract term as such but ongoing development of local market provision would be dynamic and reflect what people want. It is estimated that expenditure on these services will be approximately £1m pa.

4.3.1.5 The complex needs service will be commissioned for a 3-year period with an option to extend for a further 2 years. The value of this contract is estimated to be £0.8m pa with a value of approx. £4m over the contract term. Please be advised that the current contract values reflect rates that have been in place for 5 years and there have been newly introduced financial pressures in relation to the national minimum wage, employer's pension contributions and the apprenticeship levy.

4.3.1.6 It is anticipated that TUPE will apply in relation to the complex needs service and the staff may transfer to the new provider, some of the transferring staff are expected to be ex-Council staff on the Local Government Pension Scheme (LGPS) which could make the tender process more complex.

4.3.2 Respite Service

4.3.2.1 Option 1 – Direct Negotiated Award to ensure uninterrupted provision at 118 Widmore Road is the preferred option.

4.3.2.2 This option will enable the uninterrupted provision of emergency respite at 118 Widmore Road. The service specification will be revised to ensure improved utilisation of the building including a drop in respite option for carers in the Borough. The contract will be in place for between 1 and 2 years and during this time the delivery of planned and emergency respite will be monitored. Service monitoring and feedback from service users and their families will influence the specification for the full tender that will replace the direct negotiated contract.

4.3.2.3 The current contract with Southside has an annual value of £562k pa. The negotiated tender will be for a period of 1 to 2 years and with an estimated value of between £562k and £1,124k. Please be advised that the current contract values reflect rates that have been in place for 5 years and there have been newly introduced financial pressures in relation to the national minimum wage, employer's pension contributions and the apprenticeship levy.

4.3.2.4 It is anticipated that TUPE will apply in relation to the respite service and the staff may transfer to the new provider, some of the transferring staff are expected to be ex-Council staff on the LGPS which could make the negotiation process more complex.

4.4 MARKET CONSIDERATIONS

4.4.1 Day Services

4.4.1.1 Commissioners have been engaging with providers of learning disability day services over the past few months to gather information on how they deliver services in Bromley and in neighbouring boroughs and to scope their interest and ability to provide services in Bromley. The Council's engagement has resulted in:

- Engagement with 10 providers:
 - 7 currently provide services in Bromley
 - 3 currently operate in neighbouring boroughs
- 9 of the providers engaged with are keen to provide the type of services proposed in this paper within Bromley
- All 9 of the providers would be willing to provide the community-based services purchased on a spot basis by the Council or directly from service users via Direct Payments giving a menu of options for service users to choose from
- 4 of the providers would be keen to provide services to people with complex needs

4.4.1.2 Over the last few years, local providers such as Bromley Mencap and Choice Support have established community-based services that are of interest to younger people and aim to equip people with skills and support them into employment. An example of this is the Gate Lodge in Norman Park where service users learn to work in a café, repair bicycles and gain gardening skills. Providers working

outside of the Borough have been keen to share information on the services they provide elsewhere. Providers have given presentations to family carers and commissioners in virtual meetings and attendees have been able to ask questions regarding their existing provision and the services they would potentially offer in Bromley.

4.4.1.3 Market engagement has identified a range of providers who are keen to develop and provide a menu of services that focus upon people being supported to access activities and support within the community. These objectives are in alignment with the vision and priorities set out in the Learning Disability Strategy.

4.4.2 Respite

4.4.2.1 Commissioners have contacted a variety of providers who specialise in providing respite to the families of people with learning disabilities; this has included providers who could potentially take on the service at 118 Widmore Road. Initial contact suggests that providers would be interested in negotiating a contract in Bromley providing the terms are acceptable.

5. STAKEHOLDER ENGAGEMENT

- 5.1 Significant co-production went into the Learning Disability Strategy and the proposals set out in this paper are in alignment with the vision and priorities within the Strategy. The first Learning Disability Partnership Board, which oversees the delivery of the Learning Disability Strategy, recently took place. A workgroup, that will report to the Board, is to be formed to help ensure the delivery of future day services is in accordance with the Strategy. The Learning Disability Partnership Board includes membership of service users and carers along with key voluntary sector and NHS representatives.
- 5.2 There has been some engagement with service users and their carers in relation to the current contract and the introduction of new providers. Commissioners have attended the Astley Carers Forum for some years and members of the Forum have been involved in the presentations described at 4.4.1.2 above. Further engagements with service users and carers will include input on standards and outcomes for service specifications and participation in the selection of the successful providers. The Learning Disability Partnership Board is to have an active role in concluding these procurement arrangements.
- 5.3 A service user survey has been drafted in 'easy read' and is currently out with service users; this will be used to improve our understanding of the activities that people want. It will guide commissioners and providers on the types of community-based provision that is wanted in Bromley as well as the type of sessions and activities that people with complex needs would benefit from in the buildings-based service. One of the outcomes from this procurement is that service users will be able to influence their service and support through having greater choice and control over their day activities and how they receive them.
- 5.2 Engagement with Valuation & Estates has commenced in relation to the future lease arrangements at Astley and 118 Widmore Road so that the Heads of Terms can be drafted and included within the specifications.
- 5.3 There will also be engagement with Finance and associated teams to ensure the payment processes in relation to the proposed services are in place prior to service commencement.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

6.1 Estimated Contract Value – Day Services

- a) Community Provision (estimated, based upon current contract value and expected number of suitable service users) £1m pa – via a mix of spot procurement and direct payments.
- b) Building based provision (estimated, based upon current contract value and expected number of suitable service users) £0.8m pa over 5 years (3 + 2) = £4m.

Respite

Based upon existing contract value £562k pa over 1 – 2 years (£562k - £1,024k)

6.2 Other Associated Costs –

6.3 Proposed Contract Period –

- a) Community based day services - spot procurement/DP's
- b) Building based complex needs service 5 (3+2) years
- c) Respite - 1 – 2 years (direct negotiated award)

6.4 The following table sets out the main tasks within the Project Plan:

1. Day Services (Community Based)	Start	Finish
Market scoping	August 20	March 21
Specification Writing	November 20	February 21
Service user engagement	September 20	March 21
Service user reviews and option clarification	December 20	April 21
2. Day Services Building Based		
Market Scoping	August 20	December 20
Service User Engagement	September 20	March 21
Obtain TUPE data		November 20
Specification Writing / Tender Information		November 20
Obtain draft lease for tender spec.		November 20
PDS / Leader decision		November 20
Final Sign off & review of tender documents		December 20
Tender Process	December 20	January 21
Evaluation & Provider Interviews		January 21
Moderation & Consensus		February 21
Leader decision on award		February 21
Standstill		March 21
Award		March 21
Interim Replacement Complex Services	April 21	May 21
Mobilisation		April 21
Contract Start		May 21
3. Respite Services		
Market scoping	November 20	December 20
Service User Engagement	September 20	March 21
Obtain TUPE data		November 20
Specification Writing / Tender Information		November 20
Obtain draft lease for tender spec.		November 20
PDS / Leader decision		November 20
Final Sign off & review of tender documents		December 20
Negotiated Tender Process	December 20	February 21

Contract Award & Standstill		February 21
Leader decision on award		February 21
Mobilisation		March 21
Implementation		April 21

6.5 It is recognised that this is a large project, working to an ambitious timescale. Additional resources have been brought in to support this work.

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 The proposals detailed above are intended to promote the integration of people with learning disabilities in the community. There is an emphasis upon skills development and employment with a desire to facilitate local growth and engagement within the community. An example is the community provision at the Gate Lodge in Norman Park where service users have developed skills that are of benefit to the local community. People enjoy the opportunity to have a coffee whilst in the park or hire or buy a bicycle that has been donated by members of the public rather than being scrapped. The Gate Lodge was derelict for several years and is a good example of what can be achieved with the right support, it is something that has benefited the wider community, not only those with a learning disability.
- 7.2 Existing and newly introduced (to Bromley) providers of learning disability day activities will be required to develop additional schemes that have a similar positive impact upon Bromley's wider population. The skills that people with learning disabilities learn will enable them to seek meaningful employment in their local communities and enable the wider integration of people with learning disabilities.
- 7.3 Equality Impact Assessments in relation to this work are being undertaken.

8. POLICY CONSIDERATIONS

- 8.1 The Council's statutory duty under the Care Act 2014 is in relation to the procurement and delivery of these services to ensure people's needs are met.

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 contracts will also require full compliance with GDPR legislation.

10. PROCUREMENT RULES

- 10.1 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

- 10.2 This report seeks to proceed to procurement for an LD day service for people with complex needs for a period of 3 years with a 2-year extension option, at an estimated total value of £4m.
- 10.3 The Council's specific requirements for authorising proceeding to procurement are covered in 1.3 of the Contract Procedure Rules with the need to obtain the Approval of the Executive following Agreement by the Portfolio Holder, the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a procurement of this value.
- 10.4 Further this report seeks to enter into a contract for the provision of emergency respite services at 118 Widmore Road for a period of 1 to 2 years, with an estimated value of between £562k and £1,124k.
- 10.5 This award will make use of the negotiated procedure without prior publication under the grounds of urgency as permitted under Regulation 32 (2) (c) of the Public Contracts Regulations 2015.
- 10.6 This action is permissible under the general waiver power of the Council (CPR 3.1). The Council's specific requirements for authorising an exemption are covered in CPR 13 with the need to obtain the Approval of the Executive following Agreement by the Portfolio Holder, the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a contract of this value.
- 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. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

11. FINANCIAL CONSIDERATIONS

- 11.1 Based on current contract values and assuming 2% inflation per annum, the proposals outlined in the report will result in the procurement of contracts for respite and building based day services totalling an estimated £5.3m over 5 years.
- 11.2 In addition, there will be anticipated spend of around £1m per annum on spot purchasing of community-based day services, resulting in an estimated total cost of £2.4m per annum for all day and respite services as detailed in the table below:

	Contracts			Spot/ DP's	Future provision tbd	Grand total
	Respite	Day svcs - building based	Sub-total	Day svcs - community based	Respite	
	£'000	£'000	£'000	£'000	£'000	£'000
2021/22	562	800	1,362	1,000		2,362
2022/23	573	816	1,389	1,020		2,409
2023/24		832	832	1,040	584	2,456
2024/25		849	849	1,061	596	2,506
2025/26		866	866	1,082	608	2,556
	1,135	4,163	5,298	5,203	1,788	12,289

- 11.3 As set out in paragraph 4.3.2.3, the current contract prices have been fixed for 5 years during which time there have been significant increases in national minimum wage levels and other pressures. As a result, the new contracts could result in increased costs, although it is currently anticipated that the contracts will be contained within existing budgets.

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 This report seeks to proceed to procurement with a Contract in place with Southside (to provide learning disability supported living and community-based day and respite services), for the duration of three years (also holding a two-year extension period). Entering into a Contract at 118 Widmore Road regarding emergency respite services is also sought for a duration of 1 to 2 years for an estimated Contract value ranging from £562k and £1,124k. This action is being taken due to the disruption caused by the Covid 19 pandemic and associated Public Health measures, together with any relevant Government guidance. The contract has an overall whole life cost of the Contract over the whole life of £4m.
- 13.2 This action is permissible under the general waiver power of the Council in accordance to CPR 3.1. Under the Council's Contract Procedure Rules, the Councils requirement for authorisation of an exemption to a Contract, is in accordance to CPR 13. The decision to commence an exemption of this value of the Contract (i.e. £4m over the proposed contract period), must be via the approval the Executive, the Portfolio Holder following Agreement by the Chief Officer, the Assistant Director Governance & Contracts , the Director of Corporate Services and the Director of Finance. In accordance with CPR 2.1.2, all Officers must take all necessary professional advice.
- 13.3 This action is also permissible under the specific requirements for the authorisation to proceed to procurement in accordance to the Council's Contract Procedure Rules i.e. CPR 1.3, whereby the decision to proceed to procurement of this value of the Contract (i.e. £4m over the proposed contract period), must also be via approval of the Executive following Agreement by the Portfolio Holder, the Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance
- 13.4 In accordance to the Contract Procedure Rules i.e. CPR 1.7, the 'Light Touch Regime' also applies, whereby Schedule 3: 'Social and Other Specific Services' of the Public Contract Regulations 2015 (PCR) can also be applied.
- 13.5 Regulation 32 (2) (c) of the Public Contracts Regulations 2015 may be applied in these circumstances. The negotiated procedure without prior publication may be used for public works/supply/services Contracts, due to the unforeseen, increased demand for emergency respite, whereby the time limits for the specific procedures cannot be complied with.
- 13.6 The Contract can be awarded in accordance with the Council's Contract Procedure Rules and the Public Procurement Regulations 2015.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	ACH20 – 061 GATEWAY REPORT FOR LD SUPPORTED LIVING SERVICES