

London Borough of Bromley

**Report
No.**

PART 1 – PUBLIC

ACH21-014

Decision Maker: **Executive**

**With pre-decision scrutiny from Adult Care & Health Policy
Development and Scrutiny Committee**

Date: **10 February 2021**

Decision Type: Urgent Executive Key

Title: **Learning Disability Respite Contract Award**

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 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 resulted in a 6-month extension of the contract to 31 March 2021.
- 1.2 The respite element of the block contract currently provides 7 beds at the 118 Widmore Road respite service at a cost of £562k per annum, with up to 5 additional beds available for spot purchase from Southside at the service.
- 1.3 A gateway report, setting out the proposed way forward in relation to learning disability community provision was scrutinised by ACH PDS on 24 November 2020 and subsequently received Leader agreement. The report set out proposals in relation to the residential respite service and sought agreement to progress a direct negotiated contract award process to enable the uninterrupted provision of respite services.
- 1.4 In accordance with the Council's financial and contractual requirements, this report sets out the results of the direct negotiated contract award process and seeks Executive agreement to award the contract as set out in Part 2 of this report. The contract is to provide 6 block beds and will commence on 1 April 2021 for a period of 2 years with no options to extend and with a contract value as detailed in the Part 2 version of this report. The option to purchase up to 6 additional beds on a spot basis will be in place to meet peak demand.

- 1.5 The report should be read in conjunction with the Part Two report 'Learning Disability Respite Contract Award'.
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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 Executive is recommended to:

- i) **Award the contract for the provision of 6 block beds at the residential respite service at 118 Widmore Road as detailed in the Part 2 report, commencing on 1 April 2021 for a period of 2 years to 31 March 2023 and with a contract value as detailed in the Part 2 report.**

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: Please refer to the Part 2 report.
 2. Ongoing costs: Recurring Cost: Please refer to the Part 2 report.
 3. Budget head/performance centre: Learning Disabilities
 4. Total current budget for this head: £588k
 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:
 3. Call-in: Further Details: Request call in be waived 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): 50 people
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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 A gateway report, setting out the proposed way forward in relation to learning disability community provision, was scrutinised by ACH PDS on 24 November 2020 and subsequently received Leader agreement. The report advised that the services are provided under a block contract currently operated by Southside Partnership and that the Council was unable to reach mutually acceptable terms to extend the contract for a period of 2 years as was previously intended. There was insufficient time to run a full 2-stage tender process and it was therefore necessary to enter into a direct negotiated award process with a suitable provider, using a 6-month extension period that had been negotiated to 31 March 2021 to ensure the continued provision of the residential respite service that is a key element in meeting service demands resulting from the pandemic.
- 3.2 The Leader approved the commencement of the direct negotiated award process in relation to the residential respite service and this report details the outcome of that process and seeks Executive agreement to the award of the contract as set out in the Part 2 report.

4. DESCRIPTION OF SERVICE AND SUMMARY OF THE BUSINESS CASE

- 4.1 The Council operates a 12-bed registered respite facility at 118 Widmore Road. It provides both planned (although this is currently not available due to the pandemic) and emergency respite with approx. 50 people using it for planned respite purposes. Carers of people with learning disabilities play a significant role in Bromley and the Council recognises the importance of supporting carers through the provision of respite.
- 4.2 The residential respite element of the current Southside Partnership block contract provides for 7 block beds at a cost of £562k per annum with the option to spot procure up to 5 more. Over the past 5 years utilisation of the service has been poor, particularly during Monday – Thursday and this has made the overall unit cost of provision more expensive. For this reason, negotiations with the new provider have included a reduction in the number of block purchase beds to 6 and dialogue in relation to how the service can be made more attractive to younger people with learning disabilities.
- 4.3 Covid-19 has had a major impact upon families with some going into crisis. 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 worsening over the winter period, 118 Widmore Road continues to be a key emergency respite resource and it remains essential that there is uninterrupted provision over the coming months to meet this demand.
- 4.4 The service is registered with CQC and during the last inspection received a 'Good' rating. The service is also monitored by the Council's monitoring officers and Quality Checkers. The services are being delivered to the requirements stipulated in the Council's Quality Assurance Framework.

5 CONTRACT AWARD RECOMMENDATION

- 5.1 **Recommended Provider** – Please see the Part 2 report.
- 5.2 **Estimated Contract Value (annual and whole life)** – Please see the Part 2 report.
- 5.2 **Other Associated Costs** – None
- 5.3 **Proposed Contract Period** – Two years
- 5.4 The commentary at 3.1 above details the reduced timeframe available to commission a new provider for the residential respite service. To ensure continued and uninterrupted service provision, a direct negotiated award process has been progressed with guidance from colleagues in Governance & Contracts and Legal Services in accordance with the recommendations set out in the Leader report ACH20-072, scrutinised by ACH PDS on 24 November 2020.

- 5.5 The Direct Negotiated Award process has been undertaken under Regulation 32 (2) (c) of the Public Contracts Regulations 2015 and a Regulation 84 report has been completed in accordance with the requirements.
- 5.6 In accordance with regulation 32, it was necessary to identify suitable providers. This is a well-developed market but it was necessary to identify providers with the right experience and ideally operating within South East London as this would benefit smoother mobilisation. Neighbouring Boroughs were contacted to understand which providers were running respite services in their areas and if they were satisfied with their services. The Council also approached providers currently operating services in Bromley. As a result of this research 9 providers were contacted to determine their interest in providing building-based respite at 118 Widmore Road from April 2021. Due to COVID-19 restrictions, discussions took place by telephone and interested providers completed a proforma to allow the Council to understand the provision they could offer. The information collected was used to identify the most suitable provider with which to enter into detailed negotiations.
- 5.7 The Part 2 version of this report gives details of the providers who were contacted.
- 5.8 Negotiation has taken place with the provider as detailed in the Part 2 report over the past few weeks and the information they have provided has been analysed; they have been evaluated as meeting Bromley's requirements in relation to both financial sustainability and information security (GDPR). There has been dialogue in relation to how they will deliver the respite service and Bromley's contractual and specification requirements have been discussed and agreed, including contract monitoring and the delivery of the KPI's attached at Appendix 1.
- 5.9 In accordance with the requirements of the Direct Negotiated Award Process, the proposed contract award is for the shortest period of time that was viable for the providers. Over the 2-year contract term, a full review of the learning disability respite offer in Bromley will be undertaken and the results brought back to Members for consideration with sufficient time to undertake a full tender process prior to 31 March 2023.
- 5.10 The Part 2 version of this report gives details of the cost of the new contract.

6 MARKET CONSIDERATIONS

- 6.1 The Council has followed a Direct Negotiated Award process for reasons of urgency as detailed above. The Council engaged with local providers as well as those providing services in neighbouring boroughs to identify those with the necessary experience and resources to mobilise the contract within the required timescale.
- 6.2 Commissioners are mindful that the service has not been subject to a full competitive tender process, the short-term contract will enable a full review of learning disability respite provision in Bromley and the recommissioning of respite services over the next 2 years.

7. STAKEHOLDER ENGAGEMENT

- 7.1 Commissioners have engaged with the Strategic Property Team in relation to the occupation of the building which is owned by the Council. The occupation and repair arrangements with the proposed provider will mirror those currently in place with the Southside Partnership.
- 7.2 Stakeholder engagement has taken place with carers and they welcome the continued provision of respite at 118 Widmore Road (pandemic permitting) whilst a full review is undertaken, with their engagement, in relation to Bromley's future respite offer for people with learning disabilities.

8. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 8.1 The proposed contract award should not result in any significant change as the existing staff at the service will TUPE transfer to the new provider. The review of future respite provision will ensure that appropriate assessments are undertaken.

9. POLICY CONSIDERATIONS

- 9.1 The Council's statutory duty under the Care Act 2014 includes 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

- 9.2 The respite service is in alignment with the Council's Building a Better Bromley policy 'Supporting Independence' as it enables people to remain living with their family in the community.

10. IT AND GDPR CONSIDERATIONS

- 10.1 A satisfactory evaluation of the proposed provider's information governance and security procedures formed part of the evaluation process.

11. PROCUREMENT RULES

- 11.1 This report seeks to award the Contract for Learning Disability Respite Service at 118 Widmore Road, Bromley to the Provider set out in the Part 2 report for a period of two years. The estimated annual and whole life costs of the proposed contract are set out in the Part 2 report.
- 11.2 Health, social and related services are covered by Schedule 3 of the Public Contract Regulations 2015, and thus the contract for Learning Disability Respite Services were subject to the application of the Light Touch Regime (LTR) of the Regulations.
- 11.3 Officers ensured that there was a process in place to select the Provider as set out in Paragraph 5.6 of this report. The Provider was selected following a Direct Negotiated Procedure without prior publication under the grounds of urgency as permitted under Regulation 32 (2) (c) of the Public Contract Regulations 2015.
- 11.4 The action is permissible under the general waiver power of the Council (CPR 3.1). The 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.
- 11.5 Following the decision, an Award Notice will be issued via Find a Tender, and as the Contract Value is over £25,000, an award notice will be published on Contracts Finder.
- 11.6 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.
- 11.7 In accordance with CPR 2.1.2, Officer must take all necessary professional advice.

12. FINANCIAL CONSIDERATIONS

- 12.1 Financial considerations are included in the Part 2 report.

13. PERSONNEL CONSIDERATIONS

- 13.1 There are no direct personnel considerations for the Council to consider.

14. LEGAL CONSIDERATIONS

- 14.1 Officers have consulted legal services and appropriate contract terms are being drafted.
- 14.2 Decision makers must be satisfied that the Council is making this direct award due to unforeseen circumstances outside the Council's control for the purposes of regulation 32 (2) (C). Due to the short-term nature of this contract and the fact the Council is looking to recommission the respite provision the likelihood of a challenge resulting from the direct award of this contract is extremely low.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	Learning Disability Community Provision Gateway Report ACH20-072.

APPENDIX 1

SERVICE KEY PERFORMANCE INDICATORS & TARGETS

	KPI	Target	Monitoring Method
1	Every referral will be accepted by the Provider, as per the terms of the contract.	100% mandatory	Quarterly Contract monitoring report
2	Every referral to be assessed by the Provider	100% mandatory	Quarterly Contract monitoring report
4	% of Service Users with an up-to-date Service User centred support plan reflective of current needs and outcomes which is reviewed at least quarterly or following a serious incident	100% mandatory	Quarterly Contract monitoring report / Contract Compliance Visit (snapshot)
5	Service User is supported to engage with activities including employment, volunteering and training	100%	Quarterly Contract monitoring report
6	Services to deliver outcomes that enable Service Users to progress, to maintain, gain or regain independence or to access community support.	100%	Quarterly Contract monitoring report / Contract Compliance Visit (snapshot)
7	% of Service Users who are being supported with activities to keep service users active and well, maintaining physical and mental health	100%	Quarterly Contract monitoring report / Contract Compliance Visit (snapshot)
8	Service Users know how they are being supported	100%	Quarterly Contract monitoring report / Contract Compliance Visit (snapshot)
10	Carers are supported so they can balance their caring roles and maintain their desired quality of life.	100%	Quarterly Contract monitoring report
11	The proportion of carers who report that they have been included or consulted in discussions about the person they care for	100%	Quarterly Contract monitoring report
12	% of staff team to be permanent	80%	Quarterly

	KPI	Target	Monitoring Method
			Contract monitoring report
13	That KPI scores in the Quality Assessment Framework (QAF) achieve at least Level B or above	100%	Contract compliance visit
14	% of agency staff by hours per quarter	No more than 10% of establishment hours	Quarterly Contract monitoring report
15	% staff vacancies expressed as hours	<16%	Quarterly Contract monitoring report
16	% of staff receiving mandatory refresher training	95%	Contract compliance visit
17	% of appropriately trained and assessed as competent staff available to meet the health and medication needs of the Service Users, 24/7	100% of time	Contract compliance visit
18	Ensure that all safeguarding and serious incidents are reported in accordance with national and local guidance.	100% mandatory	Quarterly Contract monitoring report
19	Ensure that all safeguarding and serious incidents are reported within 24 hours to the Contract Monitoring Team	100% mandatory	Quarterly Contract monitoring report
20	Level of Service User their family and/or their representatives' satisfaction with the service as reflected in the Annual Survey. The survey to include section on 'What Works and Even Better If' to evidence service improvement linked to feedback	>90% satisfied	Contract monitoring report – annual survey
22	Communication passport in place and reviewed	100%	Quarterly Contract monitoring report / Contract Compliance Visit (snapshot)
23	Number of complaints resolved to the satisfaction of the complainant	95%	Quarterly Contract monitoring report
24	Compliance with Deprivation of Liberty guidance & Procedures/ Liberty Protection Safeguards (LPS)	100%	Contract compliance visit