

Decision Maker: EXECUTIVE

With pre-decision scrutiny from Adult Care & Health Policy Development and Scrutiny Committee on 9 September 2021

Date: 22 September 2021

Decision Type: Non-Urgent Executive Key

Title: LEARNING DISABILITY SUPPORTED LIVING 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 5 separate contracts with specialist learning disability providers to provide care and support into 16 supported living properties within the Borough. A Gateway report, setting out the strategy for undertaking the reprocurement of these services was agreed at Executive on 27 November 2019.
 - 1.2 This report details the outcome of the procurement process and seeks Executive approval for the award of contracts for the 4 Lots to the providers detailed in the Part Two report for a period of 5 years with the option to extend for a further period of 3 years. The estimated total cost of the awards over the full 8-year term (excluding inflationary increases and fluctuations due to individual client need) are detailed in the Part Two report. Contracts will commence on 25 January 2022.
 - 1.3 The report should be read in conjunction with the Part Two report 'Learning Disability Supported Living 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 Executive is recommended to:

- i) Award the contract for the provision of supported living services to the providers detailed in the Part Two report with estimated annual / whole life values (excluding inflationary increases and fluctuations due to individual client need) for each Lot as also detailed in the Part Two report.**

- ii) Delegate to the Director of Adult Social Care, Education, Care & Health Services, in consultation with the Portfolio Holder for Adult Care and Health Services, the Assistant Director Governance & Contracts, the Director of Finance and the Director of Corporate Services, authorisation to exercise the 3 year extension period.**

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: Further Details: Please refer to the Part Two report.
 2. Ongoing costs: Recurring Cost Please refer to the Part Two report.
 3. Budget head/performance centre: Learning Disabilities
 4. Total current budget for this head: £18.0m per annum
 5. Source of funding: Existing revenue budget, client contributions
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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: Applicable
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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): 78
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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 5 separate contracts with specialist providers to provide care and support to 78 people with learning disabilities living in 16 supported living schemes within the Borough. The contracts have been in place with the current providers for between 4 and 8 years. A Gateway report, setting out the strategy for undertaking the reprocurement of these services, was agreed at Executive on 27 November 2019. It was intended for the procurement process to take place during 2020 but the pandemic precluded the procurement taking place. Chief Officer agreement (in consultation with the Portfolio Holder) to delay the procurement in accordance with report CSD20062 (Covid 19: Procurement Implications) was given in September 2020 to extend the contracts for 9 months to 24 January 2022 and enable the reprocurement of these services.
- 3.2 The 78 people living in these services have tenancies with a Registered Social Landlord. The Council retains sole nomination rights into these properties which are a mix of houses and self-contained flats. The contracts relate to the provision of care and support which may include 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
- 3.3 The services are monitored regularly by the Council's monitoring officers and Quality Checkers. Contract management meetings take place at least annually using feedback from the monitoring officers (who use the Council's Quality Assurance Framework) and the Quality Checkers. In addition, the attached Key Performance Indicators and Service Outcomes (please see Appendix 2) form part of the Contract / Service Specification and will be used by commissioners to monitor performance.
- 3.4 The people living in these properties have a right of tenure and many tenants have lived in their homes for more than 10 years. People living in supported living have greater independence, choice and control over their lives when compared to living in a care home. 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 only.
- 3.5 The Lots are comprised of the supported living schemes set out in the Part Two report.
- 3.6 For this tender, the current 5 contracts have been condensed into 4 Lots with the intention of awarding 4 separate contracts (1 per Lot) to maintain a range of local providers. Subject to award, providers will be notified in mid-October, with contract mobilisation taking place over a 3-month period with commencement on 25 January 2022. Service users are aware that the retendering of services is taking place and for the majority of them, this will have happened at least twice before while they have lived in their homes. Most service users will not experience significant change should a different provider be awarded the contract as staff tend to transfer to new providers under TUPE arrangements.

4. CONTRACT AWARD RECOMMENDATION

4.1 Recommended Provider(s):

Please refer to the Part Two report.

4.2 Estimated Contract Value (annual and whole life):

Please refer to the Part Two report.

4.3 Other Associated Costs:

Please refer to the Part Two report.

4.4 **Proposed Contract Period:** 5 years with commencement on 25 January 2022 – 24 January 2027, with a further period of up to 3 years commencing 25 January 2027 – 24 January 2030 (8 years in total).

4.5 The 2-stage tender process was undertaken in accordance with contract procedure rules and in consultation with the Contracts Team using the online tendering system Pro-contract. Bids were evaluated during the initial stage 1 process with qualifying bids taken through to Stage 2. The Stage 2 process included interviewing each bidder in relation to their written submissions. The tenders were evaluated with the Council's usual 60% price / 40% quality split, with the results analysed using the CIPFA model. The scoring summaries for each Lot are detailed in the Part Two report at Appendix 1.

5. POLICY CONSIDERATIONS

5.1 The Council's statutory duty under the Care Act 2014 is a 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

5.2 The services being tendered are in alignment with the Council's Building a Better Bromley policy 'Supporting Independence' and reflect the priorities within the Learning Disability Strategy.

6. IT AND GDPR CONSIDERATIONS

6.1 Information governance and security form part of the evaluation process. All of the bidders taken through to Stage 2 of the process were evaluated as being compliant.

7. STRATEGIC PROPERTY

7.1 All of the properties that this procurement relates to are owned by external Registered Social Landlords.

8. PROCUREMENT RULES

8.1 This report seeks to award a Contract for the Provision of Supported Living Services to the Providers detailed in the Part 2 Report for each of the four Lots as detailed in paragraph 3.6 of this report. The Contracts will be for a period of five years with the option to extend for a further period of up to three years. The estimated whole life cost of the proposed contract award for each of the Lots is set out in the Part 2 Report.

8.2 This is a Service and is covered by Schedule 2 of the Public Contract Regulations 2015, and thus the procurement was undertaken in accordance with the 'Light Touch Regime' (LTR) of these Regulations. A summary of the Consensus scores against the quality criteria for each Lot is set out in Appendix 1 of the Part 2 Report.

8.3 The tender process was carried out in line with the requirements of the Public Contract Regulations 2015, and the Council's Contract Procedure Rule 8.2.1.

- 8.4 The Council's requirements for authorising an award of contract are covered in Contract Procedure Rule 16. For Contracts of the values set out in the Part 2 report, the Approval of Executive, following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director of Governance & Contracts, the Director of Corporate Services and the Director of Finance.
- 8.5 In accordance with Contract Procedure Rule 2.1.2, Officers must take all necessary professional advice.
- 8.6 Following the decision, a Find a Tender Award Notice will be issued and, as the Contract values are over £25,000, an award notice will be published on Contracts Finder. A mandatory Standstill Period will be observed in accordance with the Public Contract Regulations 2015.
- 8.7 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 current content.

9. FINANCIAL CONSIDERATIONS

- 9.1 Financial considerations are included in the part 2 report.

10. PERSONNEL CONSIDERATIONS

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

11. LEGAL CONSIDERATIONS

- 11.1 The Council has the power to receive and spend any Government Grant outlined in this report. The Council also has various legal duties and powers under the Care Act 2004 to ensure the continued provision of statutory services to adults with Learning Disability living in Bromley and within the guidance of the Council's 'Building a Better Bromley' policy of 'Supporting Independence', which reflects the priorities within the Learning Disability Strategy. In furtherance of these powers, the Council has the legal power to award and enter into a Contract with the Providers as detailed in Part 2 of the Report for each of the four Lots as referred in paragraph 3.6 of this report and may also provide and commission through the contracts the services outlined in this report.
- 11.2 This Report seeks to approve an award of Contract for the provision of supported living services to the Providers as detailed in Part 2 of the Report. The proposed Contract period is for a duration of 5 years (with commencement from 25.01.22 till 24.01.27), with the option to extend for a further 3 years (commencing from 25.01.27 till 24.01.30 i.e., 8 years in total). The contract's overall whole life cost over the whole life (i.e., total cumulative spend over the eight-year period excluding inflationary increases and fluctuations due to individual client need) is detailed in Part 2 of the Report.
- 11.3 This is a public services/supplies Contract within the meaning of Schedule 3 of the Public Contracts Regulations 2015 (PCR), whereby the Light Touch Regime applies.
- 11.4 In accordance to CPR 8.2.1, the competitive tender process has been undertaken in line with the requirements of the Public Contracts Regulations 2015.
- 11.5 Under the Council's Contract Procedure Rules, the Councils requirement for authorisation of an award of Contract, is in accordance to CPR 16. The decision to commence an award of this value of the Contracts (as detailed in Part 2 of the Report), over the proposed contract period and authorisation for such procurement actions are at the approval of the Executive following Agreement by the Portfolio Holder for Adult Care and Health Services, Chief Officer, Assistant Director of Governance and Contracts, Director of Corporate Services and Director of Finance. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.
- 11.6 As the Contracts hold a threshold value over 25k, a Contract award notice will need to be published via

Contracts Finder within 30 days of awarding the Contracts. According to the Regulations, a Standstill Period will also need to be observed.

11.7 The Contract can be awarded in accordance with the Council's Contract Procedure Rules and the Public Procurement Regulations 2015. Officers should ensure they comply with all Grant conditions.

11.8 This Report is to be read in conjunction with Part Two of the Report.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	ACH19010 Gateway Report - Learning Disability Supported Accommodation Procurement Strategy - 27 November 2019 CSD20062 Covid 19: Procurement Implications - 24 April 2020