

Decision Maker: EXECUTIVE
WITH PRE-DECISION SCRUTINY FROM THE ADULT CARE AND HEALTH
POLICY DEVELOPMENT AND SCRUTINY COMMITTEE (12th March 2024)

Date: 27th March 2024

Decision Type: Non-Urgent Executive Key

Title: CONTRACT AWARD - RESIDENTIAL HOME CARE FOR OLDER PEOPLE BLOCK
CONTRACT.

Contact Officer: Agnes Olagunju: Strategic Commissioner: Extra Care and Care Home
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Chief Officer: Kim Carey: Director of Adult Social Care

Ward: Borough wide

1. REASON FOR REPORT

- 1.1 This report seeks approval for the award of a residential home care block contract for 20 Bromley based beds to the provider named in the accompanying Part 2 report.
 - 1.2 The block contract will result in the Council securing access to more in borough residential care provision and will also support achievement of medium-term financial savings targets with regards to managing the market more efficiently.
 - 1.3 The proposed arrangements will yield efficiencies in commissioning costs by continuing to secure a reduced purchasing rate per placement through a block contract as compared to existing spot placement rates and help to manage the increasing pressure of seeking and finding suitable placement in Bromley.
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2. RECOMMENDATION(S)

- 2.1 Adult Care and Health PDS Committee is asked to note and comment on the contents of this report.
- 2.2 Executive is recommended to:

- 2.2.1 Approve award of the Residential Care Services block contract as set out in the accompanying Part 2 report, the block contract being for 20 beds for a two-year contract commencing 1 April 2024 with the option to extend for up to a further two years.
- 2.2.2 Approve delegated authority to the Director of Adult Social Care, subject to agreement with the Portfolio Holder, the Assistant Director Governance & Contracts, the Director of Finance and Director of Corporate Services, to apply the two-year extension option.

Impact on Vulnerable Adults and Children

1. Summary of Impact: To ensure ongoing, suitable residential care provision for adults who require residential care.
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Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority
 - i. For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence, and making choices.
 - ii. To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: Estimated Cost: See part two
 2. Ongoing costs: Recurring Cost see part two report
 3. Budget head/performance centre: Adult Social Care-
 4. Total current budget for this head: £
 5. Source of funding: ACS
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Personnel

1. Number of staff (current and additional): Not Applicable
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable:
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Procurement

1. Summary of Procurement Implications: The contract was awarded in compliance with the Council's Contract Procedure Rules and the Public Contract Regulations 2015.
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Property

1. Summary of Property Implications: N/A
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications:
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Impact on the Local Economy

1. Summary of Local Economy Implications: Spending on in-borough placements supports in-borough employment opportunities and delivery of social value that residents can benefit from.
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Impact on Health and Wellbeing

1. Summary of Health and Well Being Implications:
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Customer Impact

1. Estimated number of users or customers (current and projected): Estimated number of users/beneficiaries (current and projected): Approximately 20 individuals aged over 65 based on the assumption that they live at the setting for a year.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 There is an urgent and ongoing need to improve the range of options in the London Borough of Bromley (LBB) and ensure residents needing residential care support from the Council have access to a regular supply of residential care beds. The closure of Rowena House, a 22-bed residential unit has created additional pressure on Adult Social Care (ASC) to find suitable accommodation-based care in the borough and replace the reducing number of beds in Bromley. It is therefore proposed that the Council enters a block contract with the provider detailed in the accompanying Part 2 report.
- 3.2 The provider is a registered residential care home in Bromley. Bromley council has historically had a spot placement arrangement with the home which involved brokerage team having to arrange a different price for each placement.
- 3.3. Many placements are commissioned on a spot purchase basis, and this limits capacity. To increase capacity the Council is keen to have a mixed economy of spot and block purchase arrangements in place. The proposal set in this report is to enter a new block contract which will help to meet the increasing need for residential care placement and to ensure best value in commissioning this provision.
- 3.4 Bromley Council currently funds, via a block contract arrangement, 70 beds for nursing care home provision with Mission Care but requires reliable access to a greater supply of residential care beds. This report seeks approval for the expansion of residential bed provision to appropriately meet local demand and ensure that a new contract is in place to achieve savings in relation to spot provision.

Summary of Business Case

- 3.5 Bromley has a large care home market with 36 care homes of which 15 care homes providing registered residential care beds to over 65's. The homes range in ownership from small or medium sized businesses to national business and charities. The Council is ambitious about commissioning high quality cost effective residential care home provision to meet the needs of residents who cannot remain in their own homes or in other care accommodation-based services.
- 3.6 Most Bromley residents requiring a Council funded placements want to remain living in the borough and close to family and friends. The demand for residential beds from self-funding residents and from neighbouring councils exceeds capacity and this has led to an increase in the number of spot purchase both in and out of borough usually at much higher cost. In 2022/203 we paid on average £738.00 for residential in borough and £1011.00 for out of borough placements. This has increased in 2023/2024 to £1,158.75 residential in-borough and £1,016.67 residential out of borough.
- 3.7 The increased cost of placements has been driven by market forces which includes the significant number of luxury homes in Bromley which are aimed at the self-funders with cost ranging from £1400- £2300 per week way above the council publicised weekly cost of £711.00 for residential care and £737.00 for residential dementia care.
- 3.8 In addition to self-funders, Bromley faces competition from other local authorities who, due to limited provision in their boroughs, are willing to pay much higher rates than Bromley council.
- 3.9 Although there are 36 Care Homes in Bromley of which 18 are residential homes, there has been very limited interest from providers in previous open tenders to secure additional blocks

bed including recent exercise in October 2023: with the same two providers engaging with the process.

Spot Market Testing

- 3.10 The last procurement exercise for block winter beds met with very limited success as less than a handful of providers expressed interest in the delivery the required beds. Commissioners engaged with providers to get feedback on the reasons why they did not take part in the tender exercise. The brokerage team has also been collating information on why care homes, when approached for a placement, have said 'no' although the NHS capacity tracker shows that they have vacancies. The reasons stated by providers included:
- Their business model was to cater for mostly self-funders as they are leisure settings.
 - The pricing of the block contract is not as economical advantageous to them as their cost for the services they provide is at the top end of the market.
 - The cost paid by the council is much lower than their weekly rate.
 - Other Local authorities place at a higher rate than Bromley.
 - While block offers guaranteed income, it also tied them to a fixed rate that does not allow them to take advantage of any increase in prices or the increasing competition between commissioners looking for placement.
 - The block contract is only advantageous if it allows for above inflation annual increase, so it allows for the ever-increasing cost of delivering service.
 - Spot placements leave them free to take the most advantageous offer for any vacancy.
- 3.11 Commissioners have had to consider other approaches as soft market testing shows the need to be innovative. These have included direct discussion with individual care homes, including new care homes to discuss the possibility of block beds on short to medium term.
- 3.12 To ensure that the council secures good quality services at a fair price, Commissioners are negotiating directly with care home providers who already have residents under spot placement arrangements to explore if they would consider block contract for specific number of beds. While this approach is much more time consuming than an open procurement it allows the Council to steadily increase the number of residential beds available to Council funded residents in the borough and develop effective partnerships.
- 3.13 Under Regulation 32 of the Public Contract Regulations 2015, a negotiated direct award may be made where the services can only be supplied by a particular economic operator where competition is absent for technical reasons, and no reasonable alternative or substitute exists, if that the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

Specifics of the Contract

- 3.14 Discussion with the provider named in the Part Two report has been successful and they have agreed to enter a block contract with Bromley council for the provision of 20 beds, of which 50% will be for complex residential care beds. The contract applies to residents who are already in the home, this reduces the risk of voids but also allows the Council to pilot and develop a model that allows for different payment structure based on residents need.
- 3.15 This agreement is beneficial to the council who is seeking to increase the availability of in-borough commissioned provision through this approach to ensure that:

- There is a reduction in the number of spot placements, which will secure placements for local people against competing demand from other boroughs, this should not create any voids.
 - Residents are enabled to stay close to home, their loved ones, and professional support.
 - Better value for money is being achieved; our local arrangements represent good value for money when compared with out of borough purchased provision the costs of which can vary greatly and supports long-term financial stability.
 - Block contracts facilitate development of long-term relationships with providers and offer mutually beneficial stability for the local care market.
- 3.16 New pricing has been negotiated with the provider in line with our local cost model for older people care homes, which aim to pay a sustainable rate to providers. The block contract represent value for money when compared to the current payment for spot placements as shown in the table set out in the accompanying Part 2 report.
- 3.17 Void rates under the current block with Mission Care arrangements for long term placement is good, operating at under 5%. Work is underway within the brokerage and commissioning service to tighten up our void management processes.
- 3.18 Service outcomes will include both 'qualitative' and 'quantitative' performance indicators. The provider will be required to keep records of all performance activity. There will be periodic contract monitoring meetings which will focus on performance, outcomes and problem solving any structural and systemic or operational issues. The Service will be subject to regular reviews and adjustments, including to eligibility criteria, which can be made by mutual agreement based on the needs of the local population.

Service Profile / Data Analysis / Specification.

- 3.19 The Service is for the provision of residential care for older people over the age of 65 including those with dementia, adults with a physical disability, and adults with mental ill-health. The purpose of the Service is to provide suitable accommodation to eligible adults in line with the Home's CQC registration.
- 3.20 Currently an estimated 37% of Bromley people requiring residential beds are placed out borough. In 2022/23, 29% of people were placed out of borough as opposed to Bromley, which was their preference, but in the absence of local services this was not an option.
- 3.21 Around 90%+ of placements are for very older adults, who are living with multiple and complex conditions and who conditions deteriorate even further once in the residential home. There is the need to develop a model that both secures placement but also supports them to stay at the care home if their needs become complex instead of the current practice of looking for a new home when their needs become more complex which can be within a year of moving into the home.
- 3.22 To ensure that Bromley fully utilises the beds and supports people with more complex care needs, the negotiation with the provider has considered the following factors:
- A detailed assessment of the cost of a bed
 - Bed numbers to be covered by any contract.
 - The ratio of beds for standard and complex care: this reduces the risk of failed referrals or the need to find move-on placements.
 - The mix of complexity of need of the residents
 - Required standards for service delivery set to be set out in the service specification.

Options Appraisal

The strategic objective of the procurement exercise is to purchase good quality beds situated within the borough of Bromley that provide value for money and supports the local market. Several options have been considered which are summarised below (including the recommended option):

Do Nothing

Doing nothing is not an option as this means taking no action to increase or change the capacity in the care home market and rely on market forces to provide the increased beds and quality of care required by demographic and social policy changes. This means the Council will carry on purchasing beds on an individual basis buying only what is needed when it is needed. Doing nothing would also mean the Council having to either pay an increased spot rate to the provider and it does not address the council's priorities and challenges nor contributes to planning services to meet future need. There is the real risk that these 20 beds could purchase by a neighbouring local authority.

Open Tender

The other option would be for the Council to establish the new block contract via an open tender process. This has not been pursued for the following reasons mentioned in 3.10. As the Council is keen to increase the number of block bed so it can discharge its statutory duties there is no realistic alternative to awarding the contract to the provider named in the Part 2 report while it continues to engage with the market with the long-term goal of more successful open tender in future.

Preferred Option

The preferred option is to enter into a block contract the provider named in the Part 2 report in order to reduce the general shortage and demand for local residential beds across Bromley.

4. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

4.1 Estimated Value of Proposed Action:

Please refer to the Part 2 Report.

4.2 Other Associated Costs: N/A

4.3 Proposed Contract Period:

Commencing 1st of April 2024 and expiring on 31st March 2026 with the option to extend for a further period of up to two years from 1st April 2026 to 31st March 2028. A spot contract will be put in place once the 20 beds are occupied, and placement is still required.

4.4 Procurement Strategy:

In compliance with Regulation 32 of the Public Contract Regulations 2015, following engagement with other providers in the market, it is proposed to award the contract for to the provider set out in the Part 2 report.

5. MARKET CONSIDERATIONS / IMPACT ON LOCAL ECONOMY

- 5.1 In the past it has been difficult to put this type of block arrangement in place with the local residential care home providers. Therefore, this is an opportunity the Council would like to exercise.
- 5.2 Benchmarking and discussions with other local authorities demonstrates that the Council has negotiated a good rate for the 20 beds with a medium-term block contract and spot purchasing arrangement. The limited number of beds available, has led to higher placement fees and Commissioners have secured a competitive rate with the Provider.

6. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN) AND CUSTOMER IMPACT

- 6.1 Age and Disability are “protected characteristics” under the Equality Act 2010 and the outcome of the Council’s proposed procurement plans will particularly benefit older people and those living with very complex conditions.
- 6.2 The contract is for a service specifically for older residents in the borough (65+). It is intended to have a positive impact on this group by offering care home placements to those with complex needs who can no longer live at home. Such services are for some of the most vulnerable in our communities and by accessing them people can expect to:
- improve their quality of life.
 - reduce their risk of social isolation and exclusion.
 - reduce their risk of harm.
- 6.3 For all the other protected characteristics, the contract is deemed to be equality neutral in the category as all groups are treated with equality of opportunity by the service.

7. TRANSFORMATION/POLICY IMPLICATIONS

- 7.1 The Care Act 2014 requires local authorities to help develop a market, which delivers a wide range of sustainable high-quality care and support services that will be available to their communities. The Care Act also requires that local authorities assess need and ensure services arranged can meet those needs.

8. IT AND GDPR CONSIDERATIONS

- 8.1 The existing spot arrangement requires the provider to operate in accordance with the requirements of GDPR legislation and this will continue under the block contract arrangement.

9. PROCUREMENT CONSIDERATIONS

- 9.1 This report seeks to award a contract for the provision of a block contract for 20 residential care home beds to the provider detailed in the Part 2 Report. The Contract will commence on 1st April 2024 for a period of two years with the option to extend for a further period of two years until 31st March 2028.
- 9.2 This is a Service contract. Commissioners have undertaken discussions with providers in the market who are able to offer this service, but the provider named in Part 2 report was the only provider who responded positively and was able to provide the number of beds required by the Council on a block contract basis. As the value of the proposed contract is above the thresholds set out in Part 2 of the Public Contract Regulations, the justification cited at section 3, is permissible under Regulation 32 of the Regulations.

9.3 The rationale and actions taken are set out in section 3 of this report.

9.4 The actions are 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 13.1 with the need to obtain the Approval of Executive following Agreement by the Portfolio Holder, Chief Officer, the Assistant Director Governance & Contracts, the Director of Corporate Services and the Director of Finance for a contract of this value.

9.5 In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

9.6 As the value of the proposed contract is over £30k including VAT, an award notice will be published on Contracts Finder and Find A Tender.

9.7 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.

10. FINANCIAL CONSIDERATIONS

10.1 See accompanying Part 2 report.

11. PERSONNEL CONSIDERATIONS

11.1 There are no staffing implications for Bromley Council as all staff will be employed by the provider.

12. LEGAL CONSIDERATIONS

12.1 This report requests Members award a block contract for the provision of Residential Care Services to the provider named in the Part 2 report for the purchase of 20 block residential care beds at the location cited in part two, for an initial period of 2 years from 1st April 2024 with the option to extend for a further period of up to two years, at the cost set out in the part two report.

12.2 The Council has a general statutory duty under the Care Act 2014 to provide care assessments and meet these resulting assessed needs by providing care and support for adults aged 65 and over.

12.3 These residential care services are defined as services under the "light touch regime" as set out in Regulations 74 to 77 of the Public Contracts Regulations 2015 (the Regulations). As the value of these services are above the current financial threshold of £663,540 then, in the first instance, they should be competitively tendered in accord with the light touch regime. For reasons explained in this report, officers wish to use the derogation provided by Regulation 32 of the Regulations which states that, "*where the ...services can be supplied only by a particular economic operator for any of the following reasons... competition is absent for technical reasons... where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.*" The technical reason that competition appears to be absent is that there are no other providers that can supply twenty residential places on a block contract basis as evidenced by soft market testing.

12.4 In accordance with Contract Procedure Rule 13, only the Executive can approve the award of a contract over one million pounds via exemption from competition.

13. IMPACT ON HEALTH AND WELLBING

- 13.1 The recommendation is in alignment with the Council's vision of support people to stay close to their community for as long as possible, ensuring that they continue to with access to local services that enhances their wellbeing, and support choice and promotes dignity.

Non-Applicable Headings:	Social Value, Carbon Reduction and Local Priorities Stakeholder Engagement Strategic Property Considerations Ward Councilor Views
Background Documents: (Access via Contact Officer)	N/A