



Executive
16th February 2009

**Report from the Director of
Housing and Community Care**

Wards Affected:
None

**Extension of Contract with Penderels Trust for a Direct
Payments Support and Advice Service Contract**

Forward Plan Ref: H&CC-08/09-25

1.0 Summary

- 1.1 This report requests approval for the extension of the Council's existing Direct Payments Support and Advice Service contract with Penderels Trust.

2.0 Recommendations

- 2.1 That the Executive note the delay in the procurement process for the new Direct Payments Support and Advice Service Contract.
- 2.2 That the Executive authorise the extension of the current contract with Penderels Trust for a further three months from 1st April 2009 until 30th June 2009.

3.0 Detail

Current Contract

- 3.1 In July 2003 the Council agreed to award the current Direct Payments Support and Advice Service contract to Penderels Trust. The contract was for a period of 3 years commencing on 1st April 2004 with an option to extend for a further year. The contract includes practical training and support to those service users who want to set up their own care arrangements, about establishing personal care arrangements, recruiting carers and advice on payroll and

financial management. The contractor also works closely with Council's care managers to actively promote and raise the profile for the service within Brent.

- 3.2 The contract was extended on 1st April 2007 for one year under delegated powers and was due to expire on 31st March 2008. For reasons detailed in the report to the Executive of 8 October 2007, a re-tendering exercise had not taken place and therefore the contract was extended under delegated powers for a further year until 31st March 2009, as noted in the Executive report of 8 October 2007, to allow time to re-tender the service.
- 3.3 The process of re-tendering the service commenced in July 2008. Officers are now in the final stages of evaluating the tenders and were due to report back to the Executive with a recommendation to award the contract on 16 February 2009.
- 3.4 Five organisations were invited to tender and the submission date for the tenders was 12pm on 3 December 2008. Three tenders were received. As per the Council's Contract Standing Orders, all organisations invited to tender were asked to submit a signed Performance Bond Undertaking. The Performance Bond is considered particularly important for this contract given that the appointed contractor will be responsible for administering the Managed Account Service which forms part of the overall requirement, i.e. will have direct access to money belonging to service users.
- 3.5 A number of organisations invited to tender advised Council Officers they were having issues with the wording of the Performance Bond Undertaking. One of the Tenderer's bank requested a minor change in the wording of the Undertaking which Officers accommodated upon advice from the Council's Legal Services. To ensure fairness to all organisations invited to Tender Officers then had to formally write to all three tenderers advising them of the minor change to the wording of the Undertaking that had been agreed to and requesting they re-submit their Bond Undertaking as per the Council's Instructions. Tenderers were given an extension to the 17th December 2008 to submit the Bond Undertaking.
- 3.6 The evaluation panel met on 13 January 2009 after members of the evaluation panel performed site visits and interviewed the tenderers. During the evaluation process, the panel felt that further clarification should be sought from tenderers as they had taken a differing approach to the completion of some aspects of the Pricing Schedule. This was due to Tenderers interpreting the information provided by the Council in different ways. Council Officers accept that there may have been some ambiguity in the information provided and accordingly clarification is necessary to ensure that the tenders can be evaluated on a like-for-like basis.
- 3.7 Upon advice from the Council's Legal Services, Officers have formally requested tenderers re-submit clarified pricing schedules by 30 January 2009. Re-submission of the pricing schedules will allow members of the evaluation panel to sufficiently evaluate the tenders in terms of the 'Affordability and Best Value Considerations'.

- 3.10 As a result of the delay caused by the need to seek clarification on pricing, Officers are unable to make a decision on the award of contract in time to seek approval of award for the Executive Meeting of the 16 February 2009. The option of reporting to the Executive on the 16 March 2009 with a contract start date of the 1st April 2009 has been considered but it is felt that this will not allow sufficient time for a new contractor to take over the current service if the current contractor was not successful.
- 3.11 In order to ensure that the best support service available to perform the new contract, it is considered sensible and appropriate to extend the existing contract for a further three months.
- 3.12 To cover the period between 1st April 2009 and 30th June 2009 we propose to further extend the existing contract with Penderels Trust, and during the extension period Officers will be able to complete the re-tendering exercise for the new contract. The price which will apply for the services during the extension are to be confirmed but provisionally it is expected to be at the price agreed for the year 1 April 2008 to 31st March 2009. Officers will be negotiating for a lower price per head as volume increases.
- 3.13 Officers are of the opinion that the current contractor is providing a satisfactory service and they will continue to monitor the performance of the current contract through regular meetings with the contractor. Officers will also ensure that this information is fed back to the department-wide Direct Payments Steering Group chaired by the Assistant Director for Community Care.

4.0 Financial Implications

- 4.1 For the period that the last extension period, i.e. the financial year 2008/09, the Department has set a target of a minimum of 320 users on Direct Payments. To achieve this target the cost of providing the service will increase, and based on the current unit cost, the approximate cost of the extension will be £147,840.
- 4.2 Officers estimate that the cost of the new three month extension period will be £36,960. This cost will be funded from existing resources.

5.0 Legal Implications

- 5.1 The extension of the current contract with Penderels Trust from the 1st April 2008 to the 31st March 2009 was granted under the powers delegated to officers under paragraph 2.5 of Part 4 of the Constitution and Contract Standing Order 112. Any further extension of the Contract will require the approval of the Executive.

- 5.2 Legal advice has been given that this further extension will not be in breach of the European Procurement Legislation, and it will not substantially alter the terms and conditions of the contract.
- 5.3 This Service is a Part B service under the Public Contracts Regulations (“The EU Regulations”). As such the procurement of this service is not subject to the full application of the EU Regulations but is still subject to the overriding obligations of fairness and transparency.
- 5.4 Once the tendering process has been completed Officers will report back to the Executive in accordance with Contract Standing Orders to inform the Executive of the tender process undertaken and to recommend contract award as appropriate.

6.0 Diversity Implications

- 6.1 An Equality Impact Assessment to examine the take up of Direct Payments showed significant numbers of people from the Black and Minority Ethnic communities were using the service. This showed the services were being used by a wide range of users that reflected the ethnic, gender and disability make up of the borough.
- 6.2 All Community Care Contracts currently require providers of health, social care and housing support services to deliver services which are:
- culturally sensitive by providing cultural awareness training for all staff, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
 - able to provide support and advice to service users with disabilities, parents/carers of children and young people with disabilities and older people; and
 - able to provide training for all staff in areas that will raise awareness of issues faced by vulnerable people from different ethnic groups.
- 6.3 During the three month extension period, Officers will continue to require the current provider to deliver the service in this way. The provider will be monitored to ensure they are complying with these requirements through checking of their records, regular review of services provided to individual service users where feedback will be sought from service users, monthly monitoring meetings and provision of quarterly performance information to the Council.

7.0 Staffing Implications

- 7.1 This service is currently provided by external providers and a further extension of three months will not raise any implications for Council staff.

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