



**Executive  
26 May 2009**

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

Wards Affected:  
None

**Authority to Award the Direct Payments Support and  
Advice Service Contract**

Forward Plan Ref: H&CC--08/09-33

**Not for publication**

**Appendix 3 of this Report is not for publication**

**1.0 Summary**

- 1.1 This report requests authority to award a contract as required by Contract Standing Order No. 89. This report summarises the process undertaken in tendering the contract for the provision of Direct Payments Support and Advice Service and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded. It outlines the changes in service provision and the transfer of funding required to implement the Direct Payments service.

**2.0 Recommendations**

- 2.1 That the Executive award the contract for the provision of Direct Payments Support and Advice Service to Penderels Trust for a term of 3 years commencing on 1 July 2009 with an option to extend the contract for a further two-year period.

**3.0 Detail**

**3.1 Policy Background**

Direct Payments form part of the government's strategy to empower service users, carers and their families to exercise increased choice, control and

independence. They offer flexibility in how services are designed, developed and delivered, in order that individuals have greater independence and are able to make their own decisions about how, when and who delivers their care and/or support.

- 3.2 The Community Care (Direct Payments) Act 1996 and the Carers and Disabled Children Act 2000, gave local authorities the power to make direct monetary payments to some service users in lieu of social care services. Direct Payments are paid to individuals who have been assessed as needing services and are willing and able to manage them (with or without assistance). This means locally that they must meet Brent's Fair Access to Care Criteria whereby users must have critical or substantial needs. Individuals are provided a sum of money sufficient to secure the services they have been assessed as needing.
- 3.3 The Health and Social Care Act 2001 repealed the previous legislation and makes it a duty, in certain circumstances, for local authorities to make Direct Payments to anyone who is eligible. It confirms the principles of independence, choice and flexibility as paramount in the way that individuals' needs are met. Direct Payments can therefore provide the opportunity to create innovative care packages with high levels of individual choice. Indeed a number of service users currently in receipt of Direct Payments have commented positively on the way that having services provided through this mechanism has enabled them to exercise greater choice and control over the services they receive. They have also remarked upon the importance of the support service in enabling them to manage the services and they also value opportunities for peer support as provided through the user group established under the current contract.
- 3.4 The Governments Green Paper "Independence, Choice and Wellbeing" 2005 made a commitment to further introduce Self Directed support, widening the choice and control over care, particularly for groups who may not want or be able to manage a Direct Payment. The concept of Individual Budgets was introduced and piloted. All local authorities are now expected to implement Individual Budgets, with Direct Payments being one option within an Individual Budget. Accelerating the number of people in receipt of Direct Payments (and Individual Budgets) is central to our Adult Social Care Transformation programme, enabling us to deliver more personalised services to people who need social care services.
- 3.5 From 2009 our performance on this Self Directed Support agenda will be measured through National Performance Indicator 130 (also a Local Area Agreement PI) which measures both Direct Payments and our gradual introduction of the more flexible and wider ranging Individual Budgets. We have set ourselves tough targets to double the number of people in receipt of Self Directed Support by 2011. This contract will provide essential support to service users with the issues of choosing support providers and managing personal assistants to help us meet these targets.

### ***Current Contract***

- 3.6 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 1<sup>st</sup> April 2004 with an option to extend for a further year. The contract included practical training and support on establishing personal care arrangements, recruiting carers and advice on payroll and financial management. The contractor was also required to work closely with Council's care managers to actively promote and raise the profile for the service within Brent.
- 3.7 The contract was extended on 1<sup>st</sup> April 2007 for one year, to expire on 31<sup>st</sup> March 2008. The Executive of 8 October 2007 approved a further extension until 31 March 2009.
- 3.8 The contract was further extended for a period of 3 months, with the approval of the Executive of 16 February 2009, with the expiry date of 30 June 2009. The reason for requesting this new extension was due to procurement process for the new contract taking longer than originally intended as tenderers had taken different approaches to pricing. As a result Officers could not effectively evaluate the pricing schedules and hence determine the cost of the service. Officers sought clarification from tenderers and requested tenderers to submit a revised pricing schedule with clear instructions for the schedules to be completed in the format produced by the Council.
- 3.9 The services to be provided under the proposed new contract will comprise:
- Personnel Services, which will include providing practical support to users on recruitment of Personal Assistants, assisting with job descriptions, advertisement and interviews, and assisting users to identify the training needs of Personal Assistants and provide awareness sessions on how to be a good employer.
  - Payroll Services, i.e. assisting and supporting users to set up their own Payroll system including keeping records, and ensuring the completion and return of Inland Revenue Forms/correspondence.
  - Information and Advice, which is to be provided to the Council, service users, and external organisations on all matters relating to Direct Payments.
  - Staff Training, which will entail providing Direct Payments Awareness Training to Care Managers within Housing and Community Care and Children's Services.
  - Promotional and Development Services, which will involve working with the Council in actively promoting and raising the profile of Direct Payments within the Borough.
  - User/Peer Support Group, which requires the creation of a network for new and existing users to meet and discuss issues relating to the service.

### ***The Tender Process***

- 3.10 The Executive approved the invitation of tenders for the provision of a direct payments support and advice service at the meeting of the Executive of 8 October 2007.

- 3.11 The new contract will be let for a period of 3 years (with the ability to extend said contract for a maximum of 2 more years).
- 3.12 The process used by Officers for this procurement was a two stage tender process in accordance with the Council's Contract Standing Orders and Contract Management Guidelines. The two stage tender process allowed Officers to eliminate unsuitable contractors at the pre-qualifying stage.

### **Stage One – Shortlisting of Interested Contractors**

- 3.13 Advertisements were placed in the trade press, national, local newspapers and the Council's external website on 11<sup>th</sup> August 2008 to seek initial expressions of interest which elicited ten initial enquires. The Council's standard pre-qualifying questionnaire (PQQ), an information pack containing the outline service and tender approach were sent out and all ten organisations returned the questionnaires.
- 3.14 Short listing was carried out on the basis of the contractors' financial viability, probity, and technical ability which included a consideration of health and safety, quality assurance, equal opportunities and disabilities awareness and sensitivities and five organisations were assessed as achieving relevant standards and were invited to tender.

### **Stage Two – Invitation to Tender and Evaluation of Tenders**

- 3.15 The five shortlisted organisations were invited to tender on 24 October 2008. The tendering instructions stated that the contract would be awarded on the basis of the most economically advantageous offer to the Council and that in evaluating tenders, the Council would have regard to the following criteria and sub-criteria together with weightings (weightings are detailed in brackets):
- Financial competitiveness and affordability (40%)
  - Ability to meet the requirements of the service specification:
    - ability to meet service targets (4%)
    - information, support and advice to service users (4%)
    - ability to assist service users to set up and manager their own direct payment and moving them to independence (5%)
    - ability to build links and communicate with the Council and other stakeholders (4%)
    - ability to promote and increase take-up of direct payments (4%)
    - accessibility including drop-in facilities (4%)
  - Staff recruitment, induction, training supervision and equalities issues (3%)
  - Administration practices and record keeping (2%)
  - Adherence to procedures (2.5%)
  - Customer Care (2.5%)
  - Quality system in operation (2%)
  - Business continuity arrangements (1%)
  - Complaints handling (2.5%)
  - Best Value considerations (2.5%)
  - Implementation Plan (7.5%)

- Human resources including the ability to facilitate continuity of care, availability and extent of staff skills (2%)
  - Diversity of staff and cultural sensitivity and equalities in service delivery (4%)
  - Proposals for innovation in service delivery (3.5%).
- 3.16 All Tenderers were provided with a listing of Method Statement questions covering the practical and technical aspects of service provision. Tenderers were requested to respond to said questions and include all the relevant reference material to support any responses made.
- 3.17 All tenders had to be submitted no later than 1200 hrs on 3 December 2008. 3 tenders were received which were opened on 3 December 2008.

***Evaluation process***

- 3.18 The tender evaluation was carried out by a panel of officers from Brent Council's Housing and Community Care Department and Children and Families Department. An officer from the Procurement and Risk Management Unit also assisted with the evaluation process.
- 3.19 Of the three tenders received, only two tenders were compliant. The third tender (Tenderer 3) was non-compliant as the organisation did not submit a Performance Bond Undertaking, indicating that it was not their policy to provide Performance Bonds. As any contractor appointed would be holding service users' monies, it was considered essential that the successful contractor have a Performance Bond in place. As a result officers wrote to the said tenderer and informed them that their tender would not be evaluated further due to non-compliance.
- 3.20 As part of the evaluation, site visits and clarificatory interviews took place in two forms:
- 1) Service users and carers  
 A panel of service users and carers (who are currently in receipt of direct payments) took part in the evaluation process. They were assisted by an independent person during the whole process to ensure that their feedback was not influenced by officers of the Council. These service users and carers assisted with the process by:
    - a) speaking with the tenderers' service users and carers about the service they received - this was done during the site visits.
    - b) Interviewing the tenderers to obtain clarification of their tender.
 Prior to the site visits and interviews, a briefing session was held for the service users to inform them of the process and what their role was during the process. Site visits took place on 15 December 2008 and interviews took place on 8 January 2009. Service user and carers views were then fed back to the evaluation panel for consideration.
  - 2) Council Officers  
 Members of the evaluation panel visited the offices of the two tenderers where they were providing a similar direct payments support and

advice service. The purpose was to obtain further details about the tender. These visits took place on the same day as the visits by Brent's service users and carers.

On 8 January 2009 the tender evaluation panel met with tenderers. Tenderers provided a brief introduction in a standard and agreed format and this was followed by a series of questions from panel members regarding the tenders. This clarification assisted with scoring against the evaluation criteria.

- 3.21 Following the site visits, clarificatory interviews and receipt of references, the panel met on 13 January 2009 to finalise it's overall evaluation of the tenders, marking tenders against the evaluation criteria agreed by the Executive on 8 October 2007 (as listed above at paragraph 3.13).
- 3.22 Tenderers submitted a Pricing Schedule which was based on support to be provided to 350 service users during the year, plus 140 new service users in receipt of direct payments for year 1, 170 for year 2 and 190 for year 3. In addition tenderers were asked to provide costings for:
- One-off set up costs
  - Annual overheads
  - Drop-in sessions
  - Third Party Managed Account Service.
- 3.23 As mentioned in paragraph 3.6 above, Officers had to seek further clarification from tenderers as each tenderer had taken a different approach to calculating prices in response to Part 3a (350 current Service Users) and Part 5 (Adherence to procedures) to enable Officers to make a direct comparison.
- 3.24 Both tenderers were asked to clarify their prices for the Managed Account Service (MAS). To ensure that prices could be compared on a like-for-like basis, each tenderer had been asked to complete a further schedule. This schedule sought to capture a series of prices depending on the number of Service Users taking up the MAS Service in each year of the contract.
- 3.25 The new pricing Schedules were evaluated on 17 March 2009 by identifying the costs in each of the three contract years where 25%, 50%, 75% and 100% of Service Users take up of the MAS Service for both agency staff and personal assistant producing four prices for each tenderer. The four prices of each tenderer were scored using a proportional scoring system. The average of each tenderers four scores for the MAS Service were then added to their scores for the 'fixed' price main Advisory and Support Service thereby resulting in a total score for each tenderer.

### **Tender Evaluation Conclusions**

- 3.26 A copy of the evaluation grid used by the panel is attached as Appendix 1 and shows the final scored awarded to each tenderer. A summary of the pricing schedules submitted is attached as Appendix 2. The names of tenderers are contained in Appendix 3.

3.27 It will be noted from the tender evaluation grid at Appendix 1 that Tenderer 1 was the highest scoring tenderer and offered the most economically advantageous offer and officers therefore recommend that Tenderer 1 be awarded the contract. Tenderer 1 is Penderels Trust of Seven Stars Estate, Wheler Road, Whitley, Coventry, CV3 4LB, which is the current service provider.

#### 4.0 Financial Implications

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500,000 shall be referred to the Executive for approval of the award of the contract. Over the life-time of this contract it is estimated that total payments to the contractor will exceed £500,000.

4.2 Officers consider Tenderer 1 to be the most economically advantageous, being not only the lowest priced tender but also taking into account other evaluation criteria approved by the Executive and recommend that Tenderer 1 is awarded this contract.

4.3 Affordability of the Contract has been assessed on the basis of the cost of:

- Advice and Support to 140 new Service Users in year 1; 170 new Service Users in year 2 and 190 new Services Users in year 3
- Managed Service to Service Users employing Agency staff to deliver their care.
- Managed Service to Service Users employing their own Personal Assistants to deliver their care.

4.4 Penderels Trust provided the lowest priced tender and was assessed as the best contractor in terms of meeting the other evaluation criteria. The costs of Penderels Trust for year 1 are set out in the table below. It is assumed that 140 new clients will start on a DP in the first year. The price tendered by Penderels Trust is for a successful take-up of a DP: they will bear the cost of clients who are referred to them but don't start a DP.

Tier >	A	B	C
New clients	140	170	190
Unit cost	£444	£444	£444
Cost of new clients getting support	£62,160	£75,480	£84,360

Assumptions are made about the number of clients who will be referred for a Managed Service. Numbers referred will be carefully managed to control costs. The tender prices for the 2 types of Managed Service are summarised in the table below:

#### Managed Service - Agency Staff

Tender Price	£3,600	£7,200	£10,313
Average number of clients	12.5	25	37.5

Unit cost	£288	£288	£275
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**Managed Service - Personal Assistants**

Tender Price	£9,375	£18,750	£27,000
Average number of clients	12.5	25	37.5
Unit cost	£750	£750	£720

Targeting clients who cannot manage their financial affairs or who encounter problems will target the service at those most in need and enable the service to stay within budget.

4.5 In 2008/09 payments to Penderels Trust totalled £128,737. However, under the existing contract Penderels are paid for abortive work (referrals that don't result in a DP starting). The unit cost of the existing contract is £426 per referral. So although the tendered price is higher, because it is for a successful start of a DP the overall cost of the basic service is expected to be lower.

4.6 It is proposed to fund the cost of this contract from the budgets for care purchasing. A client who switched from homecare to a DP saves the department £3.68 per hour. However, DPs have 2 fixed costs of:

- Payment to Penderels in year 1 of £444
- Cost of staff who monitor compliance with DP rules £254 pa

These fixed costs means that the saving is greater for larger care packages compared with smaller care packages. For an average homecare client (receiving 10 hours of homecare per week) switching to a DP the net saving for the council in the first year is £1,216 and for one of the clients who received a homecare package in the 10% most expensive (36 hours per week on average) the net saving in the first year is £6,163. Given the intention to target clients with above average care packages for switching, it is assumed that the saving from switching in the first year is £2,000. The table below sets out these assumptions.

**Totals**

Basic Penderels Trust Contract	£62,160	£75,480	£84,360
Managed Service - Agency Staff	£3,600	£7,200	£10,313
Managed Service - Personal Assistants	£9,375	£18,750	£27,000
Total payments to Penderels	£75,135	£101,430	£121,673
Existing cost of Penderels Trust contract	-£128,737	-£128,737	-£128,737
Savings for 2009/10 Budget agreed	£200,000	£200,000	£200,000
Savings from switching - £2,000	-£280,000	-£340,000	-£380,000
Total estimated savings	-£133,602	-£167,307	-£187,064



In practice it will not be possible to tier new DPs and Managed Service clients into 3 tiers. The number of Managed Service clients could be higher than in column 1. If they were at the level in column 3, but with only 140 people switching to a DP the saving would be reduced to £109,000 in the first year.

4.7 This table shows that (because the DP hourly rate is lower) it is cheaper to provide a client with an hour of DP than one hour of homecare. The hourly cost of homecare for 2008/09 has not yet been calculated, and the rate for 2009/10 has to be estimated based on recent inflation.

4.8 However, only a minority of DP clients switch to a DP from homecare: most DP clients have not previously had homecare. Therefore the only way to monitor the achievement of savings from more clients taking up DP with fewer clients receiving homecare is to compare the average cost of the two types of package. This is done monthly in order to monitor the savings and this demonstrates that the savings assumed in the model used here are being achieved.

4.9 Based on the assumptions set out above, the cost of the new contract together with the achievement of the budgeted saving of £200,000 can be funded from the existing care purchasing budget.

## **5.0 Implication for Service Delivery and Funding Transfer**

5.1 Direct Payments currently represents a large part of the Transformation Agenda in Brent and as such targets have been set to achieve specific outcomes over the next 3 years.

5.2 Our experience of providing a Direct Payments Services demonstrates it improves outcomes for the residents of Brent. A number of service users currently in receipt of Direct Payments have commented positively on the way that having services provided through this mechanism has enabled them to exercise greater choice and control over the services they receive. They have also remarked upon the importance of the support service in enabling them to manage the services and they also value opportunities for peer support as provided through the user group facilitated by the current contractor.

5.3 Also the Direct Payments service is more cost-effective compared with directly funded services particularly where current clients on larger care packages transfer to the Direct Payment Service.

5.4 However, the transition period where users and funds move from homecare to Direct Payments will need to be monitored in order that the potential savings detailed in this report are achieved.

5.5 The financial implications of funding transfer are outlined in Section 4 of this report. We will achieve this funding transfer by:

- Managing the number of referrals for the Managed Account Service
- Target service users on high care package to move to Direct Payments
- Regular and robust contract monitoring

- Identify alternative and cost-effective support services for people on Direct Payments.

## **6.0 Legal Implications**

- 6.1 Direct payments are provided pursuant to the Health and Social Care Act 2001 and the Community Care, Services for Carers and Children's Services (Direct Payment) (England) Regulations 2003.
- 6.2 The Council has the necessary powers to enter into the proposed contract under (amongst other provisions) the Chronically Sick and Disabled Persons Act 1970, and section 2 of the Local Government Act 2000, all in conjunction with section 111 of the Local Government Act 1972.
- 6.3 The estimated value of the new contract over its lifetime exceeds the EU threshold for Services contracts and the nature of these services means that they fall within Part B of the Public Contracts Regulations 2006 ("the EU Regulations"). The procurement of Part B Services contracts is not subject to the full tendering requirements of the EU Regulations although it is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process, including contract award.
- 6.4 In addition, as the estimated value of the contract over its lifetime is in excess of £500,000, the procurement and award of the contract is subject to the Council's Contracts Standing Orders in respect of High Value contracts and Financial Regulations.
- 6.4 As the recommendation is to award the contract to Penderels Trust which is the current contractor, there are no implications relating to the Transfer of Employment (Protection of Employment) Regulations 2006 ("TUPE"), nor are there any implications arising from the Code of Practice on Workforce Matters in Local Authority Service Contracts.
- 6.5 Given the contractor will be holding monies on behalf of some service users in a third party managed account, steps have been taken to include provisions in the new contract to protect service users' monies. In addition, the successful contractor will be required to provide a performance bond to help protect service users' monies should there be a breach of contract or should the contractor fail.

## **7.0 Diversity Implications**

- 7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications. However, it should be noted that diversity and equality perspectives were incorporated into both the assessment and evaluation process, with the evaluation panel having regard to diversity and equalities when reviewing the tenders and discussing the tenders with the tenderers during their presentations.

- 7.2 The new contract will require the contractor to deliver services which are culturally sensitive by providing cultural awareness training for all care workers, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent.
- 7.3 The Contractor will be monitored to ensure that they are complying with their requirements through checking of records and service reviews, quarterly monitoring meetings, receipt of feedback from service users (where they are able to give feedback) and the provision of financial returns, etc.
- 8.0 Staffing/Accommodation Implications (if appropriate)**
- 8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the award of the contract.
- 8.2 The staff currently involved in delivering the service has never been local government employees whilst delivering the services and there are no direct pension implications in relation to this group of employees.
- 8.3 As officers are recommending the award of contract to the current provider of domiciliary care services, the application of the Transfer of Undertaking (Protection of Employment) Regulations 2006 will not be an issue.
- 7.4 The new contractor will be required to operate the service from accessible premises situated within the Borough.

### **Background Papers**

Executive Report 8 October 2007 - Extension of Contract with Penderels Trust and Authority to invite Tenders for a Direct Payments Support and Advice Services Contract

Executive Report February 2009 - Extension of Contract with Penderels Trust for a Direct Payments support and Advice Service Contract

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