

	<b>Decision for Cabinet Member for Adult Social Care</b>
	<b>Report from the Strategic Director, Community Wellbeing</b>
<b>Approval to waive Contract Standing Orders to permit procurement of rehabilitation beds through a direct award</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non-Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Tom Shakespeare Director of Health and Social Care Integration Email: <a href="mailto:Tom.Shakespeare@brent.gov.uk">Tom.Shakespeare@brent.gov.uk</a>

## 1. Purpose of the Report

- 1.1. The Council has very recently agreed terms for extending the s75 Agreement in respect of the Better Care Fund with Brent Clinical Commissioning Group. As a part of this s 75 Agreement there is the addition of the provision of rehabilitation beds and packages of care as part of the CCG minimum contribution to the Better Care Fund, which will be provided by the local authority.
- 1.2. The purpose of this report is to seek member approval to waive Contract Standing Orders to enable a direct award of a contract for rehabilitation services. The case for direct award, as opposed to a full tender process, is set out in the detail below.

## 2.0 Recommendation(s)

That the Cabinet Member for Adult Social Care having consulted with the Leader:

- 2.1. Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for rehabilitation services for a period of 12 months in accordance with paragraph 13 of Part 3 of the Constitution.

### **3.0 Detail**

- 3.1 Integration of health and social care services and joint working has been a national and local priority for some time, during which the Council has worked together with CNWL and Brent Clinical Commissioning Group (CCG) to provide a range of integrated and / or commissioned services. Following the introduction of the National Health Service Act 2006 this co-operation has been pursuant to s75 of that Act.
- 3.2 The Better Care Fund (BCF) aims to support closer integration between health and social care. Cabinet at its meeting in June 2015 gave approval to enter into an agreement pursuant to s75 of the National Health Service Act 2006 (a “s75 Agreement”) in respect of the Better Care Fund with the CCG and pool funds for one year. Subsequently, Cabinet in November 2016 approved entry into a longer term s75 Agreement.
- 3.3 The funding for the BCF s75 Agreement is negotiated on an annual basis with the CCG and subject to agreement, the s75 Agreement extended. There has been delay this year in the publication of national guidance regarding the BCF. Such guidance informs discussions with the CCG regarding the s75 Agreement. As a result of the delay in publishing the BCF national guidance, the Council has only recently been able to conclude negotiations with the CCG regarding funding and Officers are in the process of extending the s75 Agreement.
- 3.4 One element of the extended s75 Agreement is the new addition of the provision of rehabilitation beds and packages of care as part of the CCG minimum contribution to the Better Care Fund. This will be provided from the pooled budget by the Council.
- 3.5 The requirement for rehabilitation services relates to 35 CCG commissioned beds in Central Middlesex Hospital that were decommissioned by Central North West London Trust in the run up to the start of Covid-19 pandemic. The provision of the rehabilitation beds is critical as the health and care system prepares for Winter pressures, and the potential second wave of Covid-19, to ensure there is sufficient capacity in the system to support timely hospital discharge. Failure to procure the beds would have a significant detrimental impact on the system’s resilience to cope with any increased pressure.
- 3.6 The Council and CCG have determined that 20 rehabilitation beds need to be urgently procured for a period of 12 months within Brent to support timely and organised discharge of patients before the expected second wave of Covid-19. Officers do not consider that there is time to invite tenders for a contract for rehabilitation beds and wish therefore to proceed with the direct award of a

contract. Officers have made enquiries and have identified only one provider in Brent that is capable of providing 20 beds with the level of care required for the rehabilitation beds. Officers therefore seek an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for rehabilitation beds, thus enabling the direct award of a contract for 20 rehabilitation beds for 12 months.

#### **4.0 Financial Implications**

- 4.1 Of the 20 beds that are being procured from Birchwood Grange, 19 will be provided as a block contract, procured by the Council from 1 November 2020 to 31 October 2021. The total cost of provision of the 19 beds for this period is £1,094,704 and Brent CCG agrees to fund this sum through the s75 BCF Agreement.
- 4.2 £35,000 of additional funding will be provided from Brent CCG to the Council over the same time period, to cover the spot purchase of one additional bed, should this be required when all 19 block purchased beds have been filled.
- 4.3 In addition, there is £416,000 additional funding for packages of care for people in receipt of rehab at home. This will be brokered by the local authority on behalf of the Brent CCG.
- 4.4 The funding transfer from the Brent CCG to the Council for both the block and spot purchased beds and the packages of care will be charged pro rata in two periods: 1 Nov 2020- 31 March 2021 and 1 April 2021—31 October 2021.
- 4.5 The council and Brent CCG will jointly monitor the usage of the beds, packages of care and the number of days of additional spot purchased bed. Any over or underspend will be reconciled both at the 20-21 financial year-end and at the end of the 12 month contract. Any additional unforeseen costs associated with the beds or the delivery of the rehab service will be the responsibility of Brent CCG

#### **5.0 Legal Implications**

- 5.1 In accordance with paragraph 13 of Part 3 of Brent's Constitution, the Leader has delegated certain functions to Cabinet members to be exercised within their portfolio area in consultation with the Leader. This delegation includes agreement of waivers of Contract Standing Orders for Medium and High Value Contracts.
- 5.2 The services Officers are proposing to procure are valued at c. £1M over the contract term and the proposed contract is thus classified as a Medium Value Contract under Contract Standing Orders. Contract Standing Orders provide that a Medium Value Contract should be procured by way of a tender process but for the reasons detailed in the body of the report, Officers do not consider it is possible to procure the contract by way of a tender process.
- 5.3 The value of the services Officers are proposing to procure is in excess of the Public Contracts Regulations 2015 ("PCR 2015) threshold of £663,540 for Schedule 3 services. The services are therefore subject to the requirements of the PCR 2015 applicable to Schedule 3 services, to include competitive procurement. Based on the information contained in Section 3, it is

considered that the Council could rely on Regulation 32(2)(c) of the PCR 2015 which permits the use of the negotiated procedure without prior publication (i.e. a direct award) in circumstances of extreme urgency brought about by events unforeseeable by the contracting authority.

- 5.4 In reaching any decision to waive Contract Standing Orders, the Cabinet Member in consultation with the Leader should have regard to the reasons Officers have set out in Section 3 of the report.

## **6.0 Equality Implications**

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 Brent Health and Wellbeing Board has been consulted in relation to the Better Care Fund

## **8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 This service is a new service and there are no implications for Council staff arising from directly awarding the contract.

**Report sign off:**

**PHIL PORTER**  
**Strategic Director, Community Wellbeing**