



**Executive**  
12 November 2012

**Report from the Director of  
Adult Social Services and  
Regeneration and Major Projects**

Wards Affected:  
ALL

**Authority to award a framework agreement for Supporting  
People Services**

**Appendices 1, 2, 3, 4 and 5 of this report are “Not for Publication”.**

## **1.0 Summary**

- 1.1 This report requests authority to award a Framework Agreement as required by Contract Standing Order No 88. This report summarises the process undertaken in tendering this Framework Agreement and, following the completion of the evaluation of the tenders, recommends providers to be appointed onto the Framework Agreement and the award of five (5) call-off contracts to the proposed Framework Providers.
- 1.2. This report further requests authority to renew a number of existing contracts for 5 - 9 weeks to ensure planned implementation for the five call-off contracts referred to in Paragraph 1.1.

## **2.0 Recommendations**

- 2.1 That the Executive agrees to appoint to the Framework the providers listed in paragraph 3.27 for Supporting People services for a period of four (4) years.
- 2.2. That the Executives approves to award five (5) call-off contracts to the providers detailed in paragraph 3.32 for a period of two (2) years

followed by discretionary extensions of 1 year plus 1 year (up to a maximum of four [4] years).

- 2.3. The Executive to give approval to an exemption in accordance with Contract Standing Order 84(a) from the usual tendering requirements of Contract Standing Orders to renew the existing 26 Supporting People contracts referred to in paragraph 3.9 for 5 weeks and 9 weeks on the basis of good operational and financial reasons as set out in paragraph 3.9 of this report.

### **3.0 Detail**

#### ***Background***

- 3.1 Supporting People is a national preventative programme administered by local government which aims to enable vulnerable people to live independently in the community through providing housing-related support services. Housing support workers, sheltered housing managers, women's refuge workers, etc. support vulnerable adults to prevent hospital admissions, evictions, mental ill health, homelessness and anti-social behaviour. The budget is additionally utilised to provide a range of non-statutory welfare services including handyperson, accident prevention, and hospital discharge support. The programme provides support to over 3,500 people at any time, through 62 separate contracts, held across 38 providers.
- 3.2 Responsibility for the commissioning of services to provide local housing-related support sits with Brent Council's Adult Social Care (ASC) department. Governance of this service area is maintained jointly by the ASC Departmental Management Team and the Supporting People Commissioning Body.
- 3.3 In Brent, the budget for local Supporting People services in 2012-13 is £9.9m; having been reduced by £1.8m when compared to the 2010-11 budget. These savings of £1.8m have been achieved primarily through negotiations with existing service providers which resulted in reductions to the hourly rate for support in line with benchmarked rates paid across the West London sub-region.
- 3.4 This service area and associated budget are currently subject to the One Council Supporting People Project, which is tasked with delivering further savings of £900k in 2013-14 which is dependent on the successful re-procurement of existing contracts.
- 3.5 On 12<sup>th</sup> March 2012, approval for arrangements to procure Supporting People services for existing contracts terminating in 2012 was granted by the Executive. The Executive authorised Council Officers to extend current contracts to enable the Council to utilise the West London Alliance Supporting People Framework, which at the time of report was

planned to be available from June 2012.

- 3.6 The WLA Framework Agreement, however, was not awarded until September 2012, and the technical facility for boroughs to commence calling contracts off of the WLA Framework is at the time of this report still not yet available to member boroughs.
- 3.7 Having established that the WLA Framework Agreement would not be available to the Council in time to re-procure contracts with imminent expiry dates, officers commenced work to procure a local Framework Agreement in line with approval received from Executive on 12<sup>th</sup> March 2012 to do so. Approval was also given to officers to invite expressions of interest, agree shortlists and invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria.
- 3.8 The estimated timescales for calling off contracts under the WLA Framework was four (4) months, in comparison with the time required to implement the new wave 1 contracts before existing contracts begin to expire (estimated time is 2 months); therefore, re-procurement of the contracts detailed in Appendix 1 through the WLA Framework is no longer a viable option.
- 3.9 To allow sufficient time for implementation of new contracts through the local framework agreement, officers seek approval of a short extension to 26 contracts; 18 for up to 9 weeks and 8 for up to 5 weeks. Details of the contracts are presented in Appendix 1.

### ***The tender process***

- 3.10 The proposed Framework Agreement is proposed to be awarded using the London Borough of Brent's Framework Agreement terms and call-off terms and conditions for Supporting People services for a period of four (4) years. The Framework Agreement procurement documentation detailed that it would be created with the following Lots:
  - Lot 1 - Accommodation based services
  - Lot 2 – Floating support based services
  - Lot 3 - Accident prevention and handyperson services (Single Provider Framework)
  - Lot 4 - Social activity co-ordination services (Single Provider Framework)

Furthermore Lot 1 and 2 would include the following Service Types

- Mental Health
- Learning Disability
- Physical Disability + Sensory Impairment

- Older People (includes community alarm and Hospital Discharge)
- Offenders (including ex-offenders)
- Substance Misuse (including recovering substance misuse)
- Domestic Violence
- Families
- Teenage Parents
- HIV
- Single Homeless and single homeless with complex needs

3.11 Advertisements were placed on the London Borough of Brent's website, the trade press and the local paper, the week commencing 11<sup>th</sup> June 2012 to seek initial expressions of interest from, which elicited 60 initial enquires.

3.12 A Pre Qualification Questionnaire (PQQ), Memorandum of Information (MOI) containing an outline of the specifications and the Evaluation Methodology were available for interested providers to download direct from the Brent website and subsequently 33 submissions were returned completed. One provider submitted their PQQ after the submission time; officers did not accept this submission to proceed to evaluation and informed the provider of this decision.

3.13 Appendix 2 details all submissions received on time including which Lot or Lots the providers applied for including any consortia and subcontracting information.

3.14 An evaluation panel consisting of representation from Adult Social Services, Procurement, Finance and Service Users was established to undertake the tender evaluation process. The PQQ's were evaluated in accordance with the evaluation methodology sent to providers. The evaluation process consisted of the following 3 stages:

- Stage 1 - A preliminary compliance review to ensure all PQQ's received were compliant.
- Stage 2 – Full evaluation, assessed provider's professional conduct, financial viability, technical ability and experience. Providers were required, (in accordance with the evaluation methodology), to pass all questions which have a pass/fail criteria, score a minimum of 1 out of 4 possible marks for all scored questions and achieve 50% for the overall quality score to be considered eligible for progressing to the shortlisting stage. Scored questions were evaluated using the score parameters detailed in table 1 below:

*Table 1.*

| Assessment | Score |
|------------|-------|
|------------|-------|

| Assessment   | Score |
|--|-------|
| Deficient – Response to the question (or an implicit requirement) significantly deficient or no response received. | 0     |
| Limited – Limited information provided, or a response that is inadequate or only partially addresses the question. | 1     |
| Acceptable – An acceptable response submitted in terms of the level of detail, accuracy and relevance.             | 2     |
| Comprehensive – A comprehensive response submitted in terms of detail and relevance.                               | 3     |
| Superior – As Comprehensive, but to a significantly better degree.   | 4     |

Upon completion of the evaluation a moderation exercise was carried out and final scores agreed. This ensured that average scores were not influenced by disparate marks from any member of the evaluation panel.

- Stage 3 – Shortlisting providers to Invitation to Tender (ITT) stage

3.15 The following providers (referred to by their PQQ IDs) failed stage 1:

- Provider with PQQ ID 7 by not responding to Section L1 where providers were required to response to L1.1, L1.2 and L1.3 if they were applying for Lot 1 or Lot 2.

3.16 The following providers failed stage 2:

- PQQ ID 24 by failing a pass or fail criteria within section H as part of the full evaluation stage.
- PQQ ID 23 by scoring less than 50% for the overall quality score and by scoring less than 1 mark for questions G5, L1.1, L1.3 and L3.1.
- PQQ ID 6 by scoring less than 50% for the overall quality score.
- PQQ ID 3a (Consortia Lead) by scoring less than 50% for the overall quality score.
- PQQ ID 15 for Lot 4 by scoring less than 50% for the overall quality scores for their submission as part of the full evaluation stage.

3.17 The following providers passed the requirements of stage 1 and 2 and proceeded to stage 3 of the PQQ process:

- The Riverside Group Limited
- Broadway Homelessness and Support

- Royal Mencap Society
- Thames Reach Housing Association (Consortia - lead)
- Hestia Housing & Support
- Notting Hill Housing Trust
- Elders Voice (Sole)
- Innisfree Housing Association (Sole)
- Apna Ghar Housing Association (Sub-contracting)
- Apna Ghar Housing Association (Sole)
- Metropolitan Support Trust
- Cricklewood Homeless Concern (only Lot 1 and 2)
- Central & North West London NHS Foundation Trust
- Look Ahead Housing and Care Ltd (sub-contracting)
- Sanctuary Support Living
- The Salvation Army Trustee Company
- Support for Living (Consortia Lead)
- Single Homeless project (SHP)
- St Mungo Community Housing Association Ltd
- Salvation Army housing Association
- Willow Housing and Care
- Action on Hearing Loss
- Genesis (sole)
- Origin Housing
- Equinox
- Brent Mencap
- Genesis Housing Association (sub contracting)
- Elders Voice (sub-contracting)

- 3.18 In accordance with the evaluation Methodology the top 15 ranked providers would be invited to tender for Lot 1 and Lot 2, subject to a minimum of 5 of those providers identifying in their PQQ submission that they can provide services in a particular service type(s), and the top 4 ranked providers would be invited to tender for Lot 3 and Lot 4.
- 3.19 The ranking for all Lots is presented in Appendix 3 and 6, the top ranked providers are highlighted in green. Officers reviewed the top 15 providers for Lot 1 and Lot 2 and concluded there was a minimum of 5 providers identified in the PQQ submission that can provide services to service types, therefore no additional providers were required to be shortlisted to ITT stage.
- 3.20 All providers were informed of the outcome of the PQQ stage and successful providers were issued with Invitation to Tender (ITT) documentation.
- 3.21 The ITT stated that the Framework Agreement would be awarded on the basis of the most economically advantageous offer based upon price and quality, with 60% of weighted marks allocated to price on a formula driven proportionately marked basis, and 40% against quality.

### 3.22 The quality evaluation process consisted of 3 stages:

- Stage 1 - A preliminary compliance review to ensure all ITT's received were compliant, including if all the required method statement questions had been answered
- Stage 2 - Full evaluation for Lot 1 and lot 2 consisted of following 3 steps.

a) Step 1: This stage assessed provider's responses to method statement questions with the following criteria and weightings:

#### For Lot 1

- Achieving outcomes (weighting 10%)
- Working together (weighting 4%)
- Giving individuals choice and control (weighting 5%)
- Creating a positive environment (weighting 8%)
- Providing a flexible and efficient night support services (weighting 4%)
- Ensuring evictions/abandonments and unplanned moves are reduced to a minimum (weighting 5%)
- Engaging with the local community (weighting 4%)

#### For Lot 2

- Achieving outcomes (weighting 17%)
- Working together (weighting 6%)
- Giving individuals choice and control (weighting 12%)
- Creating a positive environment (weighting 5%)

Questions were scored using the scoring parameters detailed in Table 1. Providers were required to, in accordance with the evaluation methodology, score a minimum of 1 out of 4 possible marks for all scored questions and achieve 50% for the overall quality score to be considered eligible for progressing to the shortlisting step.

b) Step 2

Consisted of a price evaluation where the service type price submitted by each Provider was entered into a price evaluation matrix. The price evaluation matrix was used to calculate an average price across all service types for each Provider. The lowest single price for each service type was then automatically selected to be invited to the ranking stage for each service type in each lot. The price evaluation matrix then ranked Providers by average price, per service type, per Lot, ranking the lowest average price as 1 and so forth. The five lowest ranked Providers, following the price ranking were excluded from the process and not invited to the ranking stage. The Evaluation Panel reviewed the outcome of this

stage of the process to confirm that each service type had a minimum of 4 Providers from the list of shortlisted Providers. Providers who passed step 2 of the ITT shortlisting stage were progressed to the ranking stage.

- Stage 2 – Full evaluation for Lot 3 and lot 4 consisted of assessing providers responses to method statement questions with the following criteria and weightings:
  - Achieving outcomes (weighting 25%)
  - Working together (weighting 5%)
  - Giving individuals choice and control (weighting 5%)
  - Creating a positive environment (weighting 5%)

Questions were scored using the scoring parameters detailed in Table 1. Providers were required to, in accordance with the evaluation methodology, score a minimum of 1 out of 4 possible marks for all scored questions and achieve 50% (20% or more of the overall 40%) for the overall quality score to be considered eligible for progressing to the ranking stage. Subject to meeting this requirement providers scores for quality is added to the price score. The price score is calculated by formula that awards scores proportionate to the competitiveness of the price submitted.

- Stage 3 – Selection of providers to be awarded onto the Framework Agreement for lots 1 to 4. In accordance with the evaluation methodology, award onto the framework will be compliant with paragraph 3.22b for Lots 1 and 2. The top ranking provider is to be appointed onto the Framework for both lots 3 and 4.

### ***Evaluation process***

3.23 The tender evaluation was carried out by a panel of officers from Adult Social Services and two service users.

3.24 All tenders had to be submitted no later than 11am on the 21<sup>st</sup> September 2012. Tenders were opened on the 21<sup>st</sup> September 2012 with 16 submissions being received on time and 1 submission being received at 12:30pm on the 21<sup>st</sup> September 2012 resulting in this submission being rejected and not progressing to the evaluation stage, the provider has been informed.

3.25 For all lots, all providers satisfied the requirements of Stage 1.

3.26 For lots 1, the following providers failed Step 1 of Stage 2:

- ITT 7

For lots 2, the following providers failed Step 1 of Stage 2:

- ITT 12
- ITT 4

3.27 For lots 1, the following providers failed Step 2 of Stage 2:

- ITT 13
- ITT 5
- ITT 14
- ITT 4
- ITT 8

For lots 2, the following providers failed Step 2 of Stage 2:

- ITT 16
- ITT 13
- ITT 14
- ITT 15
- ITT 8

3.28 For lots 3, the following providers failed Stage 2:

- ITT 8

For lots 4, the following providers failed Stage 2:

- ITT 12

3.29 For all lots, moderation was undertaken during Stage 2 and final scores were agreed. This ensured that average scores were not influenced by disparate marks from any member of the evaluation panel.

3.30 Having completed the evaluation, officers recommend the Framework Agreement is awarded to the following providers:

Lot 1:

- Sanctuary Support for Living (ITT no: 10) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital

- Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs
- Look Ahead Housing and Care Ltd (ITT no: 1) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs
- Riverside Group Ltd (ITT no: 2) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - Single Homeless and single homeless with complex needs
- Hestia Housing and Support (ITT no: 11) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs

- Thames Reach Housing Association (Consortia) (ITT No: 9) for the following Service Types:
  - Older People (includes community alarm and Hospital Discharge)
  - HIV

Lot 2:

- Sanctuary Support for Living (ITT no: 10) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs
- Riverside Group Ltd (ITT no: 2) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - Single Homeless and single homeless with complex needs
- Look Ahead Housing and Care Ltd (ITT no:1) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs

- Thames Reach Housing Association (Consortia) (ITT no: 9) for the following Service Types:
  - Mental Health
  - Learning Disability
  - Physical Disability + Sensory Impairment
  - Older People (includes community alarm and Hospital Discharge)
  - Offenders (including ex-offenders)
  - Substance Misuse (including recovering substance misuse)
  - Domestic Violence
  - Families
  - Teenage Parents
  - HIV
  - Single Homeless and single homeless with complex needs
- St Mungo Community Housing (ITT no: 5) for the following Service Types:
  - Offenders (including ex-offenders)
- Hestia Housing and Support (ITT no: 11) for the following Service Types:
  - HIV

Lot 3:

- Origin Housing (ITT no: 17)

Lot 4:

- Thames Reach Housing Association (consortia) (ITT no: 9)

3.31 The providers detailed at 3.30 Lot 1 did not satisfy the requirement for 4 providers per service type as detailed at 3.22b for Older People Services and HIV, therefore Thames Reach Housing Association (consortia) (ITT no: 9) was also shortlisted for these client groups.

The providers detailed at 3.30 Lot 2 did not satisfy the requirement of 4 providers per service type as detailed at 3.22b for HIV, therefore Hestia Housing and Support (ITT no: 11) was also shortlisted for these client groups.

A summary of the ITT evaluation is presented in Appendix 4 and 6.

### **Wave 1 Call - off contracts**

3.32 As part of the process to create the Framework Agreement, officers issued information (including TUPE) to providers regarding 5 contracts to be called off the framework agreement.

3.33 The 5 contracts to be called off the framework agreement include:

### **From Lot 1**

- Contract 1: Mental Health Accommodation
- Contract 2: Learning Disability/ Physical Disability (including Sensory Impairment) Accommodation
- Contract 3: Multiple Needs Accommodation (including Offenders, Single Homeless, Substance Misuse).

### **From Lot 2**

- Contract 4: Learning Disability/ Physical Disability (including Sensory Impairment) Floating Support
- Contract 5: Socially Excluded Groups Floating Support (including Mental Health, HIV, Substance Misuse, Offenders)

3.34 These services are in accordance with the service specifications which formed part of the ITT and therefore enabled direct call off with TUPE to take place. In accordance with the call of protocol issued with the ITT, providers wishing to apply for any of the 5 contracts, subject to their appointment to the Framework Agreement under the relevant service type(s), were required to submit TUPE pricing schedules as part of their ITT submission.

3.35 In accordance with the call off protocol, officers have evaluated provider submissions based upon price quality with 90% weighted marks allocated to price and 10% proportionally allocated to quality, for the above named contracts, the outcome of which is detailed in Appendix 5. Officers, therefore, recommend the following providers to be awarded the 5 call off contracts:

- Contract 1: Award recommended to ITT 2: The Riverside Group Limited (with sub-contactors)
- Contract 2: Award recommended to ITT 2: The Riverside Group Limited (with sub-contactors)
- Contract 3: Award recommended to ITT 1: Look Ahead Housing and Care Ltd (with sub-contactors)
- Contract 4: Award recommended to ITT 2: The Riverside Group Limited (with sub-contactors)
- Contract 5: Award recommended to ITT 9: Thames Reach Housing Association (Consortia)

3.36 Officers have carried out a market analysis of the impact of the award of the contracts referred to in paragraph 3.35. The findings are

summarised below:

- **Market Current State**
  - 26 contracts are currently held across 19 different providers
  - There are currently an average of 5 providers associated with each area of service delivery
  
- **Market Future State**
  - The number of contracts will be reduced from 26 to 5
  - The number of organisations associated with the delivery of these services will be reduced from 19 to 9.
  - The average number of providers associated with each area of service delivery will reduce from 5 to 3
  - Table 2 provides an overview of the 5 contracts, the current providers, recommended new providers and their consortia/subcontracting intensions.

*Table 2*

| <b>Contract</b>                                | <b>Current Providers</b>   | <b>Number of Providers</b> | <b>New Provider</b>                         | <b>Consortia Members/ Subcontractors</b> | <b>Number of Providers</b> |
|--|--|----------------------------|---|--|----------------------------|
| Contract 1:<br>Mental Health<br>Accommodation  | 1. Riverside<br>ECHG<br>2. Sanctuary Carr<br>Gomm<br>3. St Mungos<br>4. CNWL<br>5. Brent Mind          | 5                          | Riverside                                   | Brent Mind<br>CNWL                       | 3                          |
| Contract 2:<br>LD/ PD<br>Accommodation         | 1. Support for<br>Living<br>2. Network<br>Stadium<br>3. Salvation Army<br>4. RNID                      | 4                          | Riverside                                   | Apna Ghar<br>ASRA<br>Lift                | 4                          |
| Contract 3:<br>Multiple Needs<br>Accommodation | 1. St Mungos<br>2. Cricklewood<br>Homeless<br>Concern<br>3. Hestia<br>4. Single<br>Homeless<br>Project | 4                          | Look<br>Ahead<br>Housing<br>and Care<br>Ltd | N/A                                      | 1                          |

|   |   |   |                 |                                |   |
|---|---|---|-----------------|--------------------------------|---|
| Contract 4:<br>LD/ PD Floating<br>Support                         | 1. Brent Mencap<br>2. Middlesex<br>Association for<br>the Blind<br>3. Genesis<br>4. Muslims with<br>Disabilities<br>5. Apna Ghar                    | 5 | Riverside       | Apna Ghar<br>ASRA<br>Lift      | 4 |
| Contract 5:<br>Socially<br>Excluded Adults<br>Floating<br>Support | 1. Cricklewood<br>Homeless<br>Concern<br>2. Hestia<br>3. CNWL<br>4. Metropolitan<br>5. Broadway<br>6. St Mungos<br>7. Genesis<br>8. Thames<br>Reach | 8 | Thames<br>Reach | Apna Ghar<br>Innisfree<br>Lift | 4 |

3.34 It is anticipated that the framework agreement will commence on the 1<sup>st</sup> December 2012 and that the 5 call off contracts will commence on 1<sup>st</sup> February 2013. This allows for a 2 month implementation period for the 5 contracts to take place, subject to the Council's observation of the requirements of the voluntary standstill period noted in paragraph 5.7 below.

#### **4.0 Financial Implications**

- 4.1. The Supporting People programme budget for 2012-13 is £9.9m. It is anticipated that the budget for the programme will reduce by £0.9m in 2013-14 to £9.0m.r.
- 4.2. This report sets out proposals to award contracts in accordance with local procurement arrangements and the council's contract standing orders. The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to approve the award of the Framework and call off contracts in respect of other matters identified in Standing Order 89.
- 4.3. Current investment associated with the services which are being re-procured through the 5 call contracts is £4.614m (per annum). Through the framework agreement the annual value of these contracts is estimated to be £3.005m (per annum). This re-procurement will therefore release savings of £1.609m for 2013-14 from the Supporting People budget. This saving over achieves the £900k saving target identified for 2013-14 by £700k. The Supporting People Project Board

agreed that the additional savings to be continued to be reported through the Supporting People One Council project, however the additional saving of £700k will be applied against the Procurement One Council project.

- 4.4. These new SP contracts will be funded through the existing Supporting People budget.
- 4.5. Officers have carried out an analysis of the average prices received on the WLA framework agreement and our local framework agreement, which we seek approval for in this report. The average price (excluding TUPE) of services for the 5 call-off contracts on the WLA framework agreement is 12% more expensive than Brent's. A further 5 contracts were expected to be called off the WLA framework agreement in December 2012. The average price (excluding TUPE) of services for the 5 contracts on the WLA framework agreement is 11% more expensive than Brent's.

Furthermore, the WLA framework agreement does not incorporate the option to withdraw investment of up to 25% from 18 months into call-off contracts, please refer to paragraph 4.7 for further information. Therefore officers intend to use our local framework agreement to call-off the additional 5 contracts. Officers will award these contracts in accordance with standing orders.

- 4.6. There will be costs incurred in the contract process for professional advice, in particular legal. These will be funded from existing resources.
- 4.7. As part of the One council Project associated with the procurement of these contracts, a review of the degree to which it can be evidenced that these service prevent homelessness and/or access to higher threshold public services is concurrently being undertaken. The option to withdraw investment of up to 25% from 18 months into contracts commencing has been built into the framework agreement terms which allows for the findings of the Investment Review to be implemented on all call-off contracts.

## **5.0 Legal Implications**

- 5.1 The Council has the powers to enter into Supporting People services contracts under s21, s26 and s29 of the National Assistance Act 1948, s45 of the Health Services and Public Health Act 1968, s2 of the Chronically Sick and Disabled Persons Act 1970, and s2 of the Local Government Act 2000. In addition, the Council must comply with any conditions imposed on the Supporting People Grant it receives from Central Government.

- 5.2 The estimated values of the call-off contracts under this Framework

over its lifetime are higher than the EU threshold for Services and in excess of the Council's threshold for services (£500,000). The provision of Supporting People services are classified as a Part B Service under the Public Contract Regulations 2006 (as amended) (the "EU Regulations") and as such are not subject to its full application (save that there must be a technical specification contained in the contract documents and on award of the Framework Agreement the Council must issue a Contract Award Notice in the OJEU). Part B services are however, subject to the overriding Treaty of the European Union Principles ("the TFEU Principles") of *transparency, proportionality, mutual recognition, fairness, equal treatment and non-discrimination* and the service must be advertised widely so as to ensure sufficient competition. Officers have undertaken this procurement process in accordance with the TFEU Principles and Contract Standing Orders.

- 5.3 The establishment of the Framework and subsequent five (5) wave 1 call-off contracts are subject to the Council's own Contract Standing Orders in respect of High Value Contracts and Financial Regulations. As a result Executive approval is required for appointment to the Framework and subsequent call-off contracts to the tenderers recommended at paragraph 3.30 and 3.33 respectively.
- 5.4 Individual call-off contracts may be awarded, subject to Executive approval to appoint the recommended tenderers to the Framework, without the need for them to be separately advertised and procured through a full tender process. The Framework includes a prescriptive call-off protocol ("the Protocol") that Officers must adhere to when calling off services under the Framework; the use of the Protocol will ensure fairness and transparency. Executive approval will only be required for High Value Contracts called off under the Framework.
- 5.5 Officers are seeking a short renewal to the existing Supporting People contracts so as to ensure an adequate implementation period can take place following award of the Proposed five (5) wave 1 call-off contracts referred to at paragraph 3.33. However, a Contracting Authority that makes a direct award of a Part B service without adequately advertising the contract could potentially be in breach of the TFEU Principles. However, the extensions sought are for a brief duration and are unlikely to be of interest to the relevant market.
- 5.6 Where approval is being sought to award interim contracts to current providers, an exemption from the usual tendering requirements of Contract Standing Orders is required. The Executive can only grant such an exemption where it is satisfied that there are good operational and/or financial reasons and that there would be no breach of the EU Regulations.
- 5.7 Although Supporting People services are Part B, Officers have

determined that the award of this Framework Agreement will be subject to a voluntary minimum 10 calendar day standstill period before the Framework Agreement can be awarded. Therefore subject to Executive approval, all tenderers will be issued with written notification of the award decision. A minimum 10 calendar day standstill period will then be observed before the Framework Agreement is concluded – this period will begin the day after all Tenderers are sent notification of the award decision – and additional debrief information will be provided to unsuccessful tenderers in accordance with the EU Regulations. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However, if no such challenge is brought during the period, then as soon as possible after the standstill period ends, the successful tenderers will be issued with a letter of acceptance notifying them of appointment to the Framework Agreement and its commencement date, which will enable the Officers to enter into the call-off contracts.

- 5.8 Following award of the Framework Agreement, the Council will be required to publish a contract award notice in the Official Journal of the European Community within 48 days of award.

## **6.0 Diversity Implications**

- 6.1 An Equalities Impact Assessment (EIA) has been undertaken in accordance with the Equality Act 2012. A copy of the EIA is attached under appendix 5 of this Executive Report. This EIA has been approved by the Customer and Community Engagement Team.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 There will be TUPE implications arising from the award of call-off contracts under the Framework Agreements. The assumption is that TUPE is likely to apply to incumbent Provider's staff currently providing services that are included in the tender process. As such, protection shall be afforded under the TUPE regulations to such staff where assigned to the service immediately prior to the contract start date and who do not object to transferring so that they will transfer to the organisation awarded the contract on their existing terms and conditions.

## **8.0 Other Implications**

- 8.1 There are no other known implications that may impact upon the award of this contract.

## **9.0 Background Papers**

- 9.1 Report to Executive dated 12<sup>th</sup> March 2012 'Approval for arrangements to procure Supporting People services for existing contracts terminating in 2012 to 2014'.

**Contact Officers**

Alison Elliott  
Director of Adult Social Services