



Decision for Cabinet Member for Health and Adult Social Care

Report from the Corporate Director for Health and Adult Social Care

APPROVAL TO WAIVE CONTRACT STANDING ORDERS TO PERMIT PROCUREMENT OF A 5 MONTH CONTRACT FOR GENERIC HOUSING RELATED FLOATING SUPPORT THROUGH A DIRECT AWARD

Wards Affected:	All
Key or Non-Key Decision:	Non-Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Name: Martin Crick Job Title: Team Manager Commissioning, Contracting and Market Management – Supported Living. Email: Martin.Crick@brent.gov.uk

1. Purpose of the Report

- 1.1. This report concerns the procurement of generic housing related floating support.
- 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 generic housing related floating support. 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 public health and 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 generic housing related floating support for a period of up to 5 months in accordance with paragraph 13 of Part 3 of the Constitution.

3.0 Background/Detail

- 3.1 Housing related support services are non-statutory services and support an individual to maintain independence. Support is short term and in relation to the listed contract individuals would be supported in a number of ways such as maximising income, gaining employment and maintaining independence.
- 3.2 This contract commenced on the 1st September 2018 and ended on the 31st August 2021. Since then the Council has been relying upon a combination of extensions and rolling contracts and the service has continued to be delivered and are being paid for by the Council.
- 3.3 The Council ran a procurement process for all HRS contracts in 2021 however, unfortunately, we were not able to award a new contract following an open competitive tender process. We are currently out to tender for a second time and in the process of evaluating bids.
- 3.4 Legal services has advised that technically this contract has expired and to regularise the situation we should therefore award a new short term contract to the incumbent provider, **Thames Reach** (subject to obtaining the relevant internal approvals) to cover the period during the completion of the procurement process.
- 3.5 Although we may only need a 9 week contract, we are requesting a contract of up to a full 5 months. This is to cover any unforeseen circumstances such as a delay within the procurement process and award.
- 3.6 Given the short length of this contract and that there would be TUPE transfers involved if awarded to a new provider. Both the length of contract and time required to manage TUPE mean this is not an attractive and practical contract for the market. We are also nearing the end of procurement process and therefore seeking an exemption to obtaining 3 quotes.
- 3.7 The benefit of this direct award to the incumbent provider is continuity and consistency to the service users receiving a service. It also provides the same assurance to the staff team delivering the service. The council is able to complete the procurement process and facilitate a smooth transfer of service to any new provider if Thames Reach are not the successful bidder.

4.0 Financial Implications

- 4.1 The maximum cost to the council if we used the full 5 month contract would be £365,000.00.
- 4.2 The cost of this contract will be funded from existing budgets held within Adult Social Care.
- 4.3 Given the nature of this report, approval to waive CSOs, Financial Implications can be limited.

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 generic housing related floating support officers are proposing to procure are valued at £365,000.00 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 CSO 84 (a) states that contracts shall be entered into pursuant to or in connection with the Council's functions AND shall be procured in accordance with Procurement Legislation and unless for good operational and/or financial reasons the Cabinet or individual Cabinet member agrees otherwise, with Contract Standing Orders and the Council's Financial Regulations.
- 5.4 Medium Value Contracts should therefore generally be tendered. However, as Generic Floating Support services are classed as Schedule 3 Services under the Public Contracts Regulation 2015 ("PCR 2015") and below threshold for application of the PCR 2015, there is no requirement under the PCR 2015 for such services to be tendered.
- 5.5 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 Council must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment and victimisation

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

6.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

6.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.4 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 The Cabinet Member for Public Health and Adult Social Care has been consulted.

8.0 Human Resources/Property 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 procurement of the contract.

Report sign off:

Phil Porter

Corporate Director Adult Social Care and Health