



Executive
22 April 2013

**Report from the Director of
Adult Social Services**

Wards Affected:
ALL

**Authority for procurement of community based mental
health support**

Appendix 1 NOT FOR PUBLICATION

1.0 Summary

- 1.1 This report requests authority for officers to progress with the development of a competitive dialogue process for the re-provision of local mental health services subject to the outcome of community consultation and appropriate market research and testing.

2.0 Recommendations

- 2.1 That the Executive notes the findings of the Brent Mental Health Services Review.
- 2.2. That the Executive authorises Officers to advance communication with the Clinical Commissioning Group (CCG) and other sub-regional partners as set out in paragraph 3.11 and 3.12.
- 2.3 That the Executive grants an exemption to the usual tendering requirements of Contract Standing Orders to allow the following of a competitive dialogue process for the good operational reasons set out in the report.
- 2.4 That the Executive authorises officers to place an advert asking for potential providers to express interest in participating in a competitive dialogue as set out in paragraph 3.16.

- 2.5. That the Executive authorises officers to carry out service user and community consultations, market research and determine the market readiness for the use of a tender in the form a competitive dialogue, as the first stage in the competitive dialogue process, as set out in paragraph 3.16
- 2.6. That the Executive agrees the timetable set out in paragraph 3.17.
- 2.7 That the Executive note that a further report will be presented in July 2013 for the purpose of approving the pre-tender considerations as required by Contract Standing Orders, including a final recommendation that a competitive dialogue route will proceed where a favourable response arises from the expression of interest.

3.0 Background

Adult Mental Health Services Review

- 3.1 The Council spent £6.989m in 2011/12 on adult mental health services provided by Central and North West London NHS Foundation Trust (CNWL). These services have not previously been subjected to a competitive tendering exercise. The service is complex and comprises of a number of different functions including assessment, brief treatment, care co-ordination, early intervention, assertive outreach, acute, community, and residential care for people with mental health conditions. These functions are further detailed in Section 4 of the Review. The service forms a critical element of the Council's approach to fulfilling its duties under the Community Care Act and the Mental Health Act.
- 3.2 In February 2011 a new national mental health strategy was launched 'No Health without Mental Health'. The strategy draws on the wider principles that the Government has laid down for its health and social care reforms, including patient-centred care, more integrated health and social care services, locally determined priorities and service delivery. At a national level, the strategy sets out Government's high level objectives for improving the mental health and well-being of the population (summarised in Section 1 of the Review).
- 3.4 The Director of Adult Social Services commissioned a review of the Brent Mental Health Service to explore the degree to which existing services are equipped to respond to national priorities, and to investigate a number of on-going concerns related to the quality of services provided and the extent to which the Council's investment in this service area is delivering value for money within a limited resource.

- 3.5 Through the process of conducting the review, it has become apparent to Council officers that there are a number of issues related to the way in which the service is modelled and delivered which need to be addressed, including the degree to which the service has become medicalised, process-oriented, and insufficiently focused on individual outcomes. There is also a need to improve the service's approach to covering the Approved Mental Health Professional (AMHP) function, which is responsible for determining whether or not an individual may be deprived of their liberty under the Mental Health Act. Detailed recommendations for service improvement are outlined in the executive summary of the review.
- 3.6 In line with national strategy and best practice guidance, Council officers wish to place recovery at the heart of local mental health services, increase the degree to which they are preventative and oriented towards the achievement of social outcomes, increase the extent to which service users and former service users are involved in the design, delivery, and evaluation of these services, and ensure that the Council's investment in these services is delivering value for money and good outcomes for users of the service within its resource envelope.
- 3.7 The review outlined a number of options for pursuing these changes. These options were considered by CMT on 28th February 2013, at which the option to open a process of competitive dialogue was favoured. This would involve procuring a new service model, whereby requirements could be clearly defined and expected high level outcomes clearly articulated. The Council would invite potential bidders to develop the service specification through a clear, open and transparent process using a competitive dialogue tendering process. The final specification would yield a more cost effective and improved service specification. The competitive dialogue process is detailed further in the Procurement section below.

Adult Mental Health Services provided by the Voluntary Sector

- 3.8 In addition to those services provided to adults with mental health conditions by CNWL, the Council also invests additional resources in services provided by the voluntary sector for this purpose (approximately £400k per annum). Council officers intend to use this procurement to re-tender for these services as well in order to maximise investment of available resources in preventative and recovery-oriented mental health services, and to ensure there is a seamless alignment and cohesive structure to this service area as a whole.

Children and Adolescent Mental Health Services

- 3.9 Current the Council spends £533,494 per annum on Children and Adolescent Mental Health Services (CAMHS), which includes both a

care planning and placements service and services for children and young people with learning disabilities.

- 3.10 The current arrangement for these services is due to expire on 31st March 2014 and Council officers from Children & Families have expressed a desire to participate in the development and utilisation of the proposed mechanism for re-procuring these services.

Clinical Commissioning Group Services

- 3.11 From the 1st April 2013 Brent CCG will be wholly responsible for local commissioning of clinically-oriented mental health services. The CCG has expressed a tentative interest in collaborating with the Council in this procurement exercise for the purpose of ensuring a more holistic and recovery-based approach to local mental health service provision in the future. Whilst they have not yet finalised the value and/or the elements of its commissioned mental health services to be procured, the CCG have given a strong indication of their intention to use this mechanism to re-tender for their Voluntary Sector spend (approx. £200k per annum). Officers will advance discussions with the CCG regarding the scope of services and contracts which it would wish to include in the process. The combined contract value of these collective services (as described in paragraphs 3.1 to 3.11 above) is likely to be in the region of £8m per annum.

Other Collaborative Opportunities

- 3.12 The problems associated with the delivery of local mental health services to which officers seek remedy are not unique to Brent, but are rather problems which are commonly experienced across localities. Because of this, it may be that once work to establish the competitive dialogue process formally commences, other neighbouring boroughs may express an interest in participating. Officers will ensure all participating partners are known prior to advertising this procurement.

Procurement

- 3.13 Officers have identified that there is a need to create a new landscape within which to meet the mental health needs of the local population. Furthermore the process for developing new services will have many complexities, both in terms of individual Directorate and Strategic Partner requirements, the difficulties that collaboration can create, and the high value of the service. Officers believe it is critical to involve the market in the process of developing new responses to the challenge of rising incidence of mental ill health and improving the quality of future mental health services whilst achieving value for money. Innovation and wider engagement with the market and the wider community will be critical to providing a better service. The structures within which mental health services have been delivered have for some time been fixed and unchallenged. This service area is therefore ideally placed to

benefit from the unique advantages which may be derived from a competitive dialogue, namely that it is an opportunity for the Council to attract a wide range of innovative solutions from across the market to the final service specifications.

- 3.14 In accordance with the Council’s Contract Standing Orders a one-stage or two-stage tendering process is normally required for the contracting of this service. In order for officers to engage with the market in a clear, open and transparent process it is the recommendation to carry out a procurement process via a competitive dialogue subject to further advice from Procurement and Legal colleagues.
- 3.15 The key advantage of the competitive dialogue process is that dialogue with providers is permissible up until the final submission of tenders. This will allow the Council(s) to develop the specification during the process, reducing unnecessary or expensive processes and giving the opportunity to incorporate innovation.
- 3.16 Officers seek approval to carry out service user and community consultation, market research and determine market readiness as set out in paragraph 3.13 as the initial step for this process, once providers have expressed their interest in being part of the competitive dialogue process.
- 3.17 Officers will return to Executive in July to outline and seek approval for pre-tender considerations, including the scope of services to be re-tendered and the structure of the remainder of the competitive dialogue. Outlined below is an indicative timetable for the process:

Task	Date
Place advert inviting expressions of interest and indicating that the first stage in the process will be market consultation	April 2013 following Executive approval and expiry of call-in
Service user and community consultation, Market research and determine market readiness	April to June 2013
Appointment of a Procurement and Project Manager on an interim basis	April 2013
Executive report seeking approval for pre-tender considerations	July 2013
Competitive Dialogue element of the process	August 2013 to January 2014
Invitation to Tender element of the process	January to April 2014
Executive report seeking approval to award	April/May 2014
Procurement awarded	June/July 2014
New services commenced	July 2014 onwards

4.0 Financial Implications

- 4.1. Currently the Mental Health Services being delivered via CNWL for Adults are overspending by £0.769m (11% of a net budget of £6,929) for 2012/13. This overspend has put severe pressure of the rest of the department and which cannot be subsumed going forward. The overspend, based on current performance data, is estimated to increase to £1.000m for 2013/14 if no action is taken which is a severe financial risk to both the department and council.
- 4.2. The indicative financial envelope included within this process is as follows (final envelope will be confirmed when Officers return to Executive in July 2013 with pre-tender considerations):

Description	2011/12 Spend £'000	2012/13 Projected Spend £'000	2013/14 Budget £'000
Adults – via CNWL	6,989	7,698	6,996
Adults – Vol Orgs	400	400	400
Children's – CAMHS	533	533	533
CCG	200	200	200
Other	TBC	TBC	TBC
Total	8,122	8,831	8,129

5.0 Legal Implications

- 5.1 The Director of Legal and Procurement supports the objectives of the Executive Report in striving to achieve a holistic and innovative solution to the provision of mental health services within London Borough of Brent including possible co-operation with other Boroughs and organisations.
- 5.2 Competitive dialogue is a process recognised within the EU public procurement regulations, and is a process that can only be adopted within the regulations for a particularly complex procurement. Here, the service is a part B service not required to be tendered in accordance with the EU regulations, and so the service department can structure a procurement more loosely based on the EU model. Competitive Dialogue would appear appropriate for this kind of procurement, if it does indeed offer significant challenges to the Council in identifying financial models and service-related solutions. However, it is recommended that consideration be given to using alternative procurement procedures if initial community consultation and market testing demonstrate the possibility or benefits of adopting a different procurement strategy.

- 5.3 This report is asking for approval for the use of a competitive dialogue, which requires a specific exemption from Contract Standing Orders, and also for the initial stages in the procurement. The proposed process is unusual because the first stage in the process after placing of adverts is to have a market dialogue with everyone expressing an interest, even though some of these organisations may not pass the pre-qualification stage. However it is only these initial stages that require approval, as a further report will be presented to the Executive in July for the approval of all other pre-tender considerations.
- 5.4 Members need to be satisfied that an exemption from the usual tendering requirements of Contract Standing Orders is justified, on the basis of good operational and / or financial reasons as set out in the report.

6.0 Diversity Implications

- 6.1 Where it is proposed to change any service then an Equalities Assessment will be carried out to identify the impact on any particular group and the mitigating steps that need to be taken before a final decision is made on implementation.

7.0 Staffing/Accommodation

- 7.1 The Brent Mental Health Service is primarily staffed by 100+ individuals on Council employment contracts that are being managed by CNWL under secondment.
- 7.2 Where the award is made under the proposed procurement solution to one or more new providers other than the incumbent; the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") may apply so as to transfer from the current providers to the new, those employees of the incumbent provider. TUPE considerations will be considered by Officers when awarding services.

Contact Officers

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Appendix 1 – Brent Mental Health Service Review Spring 2013

This appendix is not for publication because it contains information that is exempt from publication by virtue of Schedule 12A of the Local Government Act 1972, namely information concerning the business or financial affairs of any person (including the authority holding that information).