



Executive
11 November 2013

**Report from the Acting Director of
Children and Families**

For Action

Wards Affected:
[ALL]

Authority to participate in a collaborative procurement for the establishment of a 12 bed block contract for therapeutic children's homes placements with education.

Appendices 1 and 2 of this report are Not for Publication

Appendices to this report are not for publication as they contain the following category of exempt information as specified in Schedule 12A to the Local Government Act 1972, namely, information relating to the financial or business affairs of any particular person (including the authority holding that information).

1.0 Summary

1 This report requests approval to participate in a collaborative procurement with local authorities within the West London Alliance for the procurement of a 12 bed block contract for therapeutic children's homes placements as required by Contract Standing Order 85.

1.1 If agreed officers will present a further report at the tender award stage for member's approval prior to contract award.

2.0 Recommendations

2.1 That the Executive give approval to participate in a collaborative procurement of a 12 bed block contract for therapeutic children's homes placements led by one of the other West London Alliance boroughs.

- 2.2 That the Executive give approval to the collaborative procurement exercise described in paragraph 2.1 being exempted from the normal requirements of Brent's Contract Standing Orders in accordance with Contract Standing Orders 85(c) and 84(a) on the basis that there are good financial and operational reasons as set out in paragraph 3.4 to 3.8 of the report.

3.0 Detail

- 3.1 The West London Alliance (WLA) is made up 6 West London boroughs Barnet, Brent, Ealing, Harrow, Hillingdon and Hounslow. The 6 WLA boroughs are working in partnership with Hammersmith & Fulham, RB Kensington and Chelsea, and the City of Westminster to deliver a programme of efficiencies for Children's Services. For the purposes of the rest of this report when references are made to the WLA or West London this also includes Hammersmith & Fulham, RB Kensington and Chelsea, and the City of Westminster in respect of the Children's Services Efficiency Programme.

The West London Children's Services Efficiencies Programme was launched in September 2011 and includes a commitment to develop a specific programme to deliver savings and efficiencies from spend on externally commissioned social care provision for children in care and care leavers. Collectively the WLA have an external spend in excess of £60m per year on looked after children, making them one of the largest purchasers of external children's social care placements. At the end of March 2012 the nine West London boroughs looked after 2350 children in care which represents 3.8% of the total children in care population for England and Wales. The external spend for West London Alliance Boroughs on residential children's home placements in 2011/12 was £25,952,349.

- 3.2 Brent and other WLA boroughs currently have an over-dependency on purchasing residential children's home placements on a spot purchase basis, which delivers few economies of scale and creates an environment where it is extremely difficult to manage the market to ensure security of supply at the right time, right price and right quality/specification. Unlike most Local Authorities, Brent has no residential provision of its own. Most of the provision for Brent and other WLA member authorities is delivered outside of London. This scenario has come about because of a poor quality and underdeveloped market locally that does not meet the needs of West London Borough's and their children's commissioners. The lack of appropriate local children's residential homes also hampers the council in its duty to take reasonable practicable steps that secure sufficient

accommodation for looked after children where it is in their best interests to be accommodated locally – the “sufficiency duty”. The volume is too small to make a single Borough block contract viable.

3.3 The scarcity of appropriate local accommodation led the WLA to research the most appropriate means of meeting such need. A copy of the Outline Business Case is attached at Appendix 1 and the Project Initiation Document is attached as Appendix 2. These documents provide further background information and identify why the most appropriate and cost effective means of meeting local accommodation needs is the joint procurement of a block contract. The establishment of a West London block contract will involve the procurement of 12 places within 3-4 properties within the West London region or sub region. The potential suppliers could come from the private sector or voluntary organisations.

3.4 Officers consider there are good financial and operational reasons to participate in a collaborative procurement. It is expected this approach will deliver the following benefits for authorities and providers:

1. Significant efficiencies based on guaranteed volume for the provider. This will be dependent on the timing of the tender and the phasing of children’s homes opening.
2. Meets the identified needs of West London boroughs for good quality local children’s homes with a therapeutic approach including education
3. Increased numbers of children placed within West London as opposed to being placed outside of London
4. Clear tendered specification, terms, conditions, and contract performance management arrangements.
5. Development of a partnership with a residential provider allowing a strategic focus greater than that achieved on a spot purchase basis.
6. Greater control over local provision and capacity and the ability to quickly manage difficulties
7. Access to locally available services such as Children & Adolescent Mental Health Service (CAHMS).
8. By commissioning a West London block contract to develop more local provision tailored to Brent’s needs, the council increases its placement options/choices for young people and commissioner’s evidence.
9. Improving placement stability through getting the right placement first time round thus reducing the cost (outcomes for young

people and money) of multiple placement moves. Further information about possible cost savings are detailed in the Financial Implications section.

- 3.5 To enable the project to progress authorities are being asked to provisionally commit to buying a set number of places for the full period of any contract which it is currently envisaged would be 7 years with the option to extend for a further 2 years, this is subject to change pending discussions with the market. Should the Council have any voids then these would be sold on to other WLA boroughs at a premium first and other councils in the rest of London thereafter. The demand is such that Officers consider there should be little risk in the council not filling any voids. All the WLA authorities are provisionally committing to purchase a number of places under the block contract. Brent Officers are keen to provisionally commit to purchasing 3 places at an estimated cost of £156k per place per year, total commitment of £468k per annum, £3,276,000 over the proposed 7 year initial period of the contract (£4,212,000 over the contract period including extensions).
- 3.6 At the current time there are on-going discussions between WLA boroughs as to which authority will lead the procurement. Officers have indicated that Brent will not lead the procurement and it is likely that the London Borough of Hounslow or the London Borough of Barnet will lead on the procurement. As there are differences between the contract standing orders and financial regulations of the various WLA boroughs, Officers consider that there are good financial and operational reasons why the contract standing orders and financial regulations of whichever WLA borough leads on the collaborative procurement should be used for procuring the block contract. As a result approval is sought for any collaborative procurement to be exempted from the normal requirements of Brent's contract standing orders.
- 3.7 Whilst it is proposed that one of the other WLA authorities will lead on the procurement, Brent will be fully involved in the process, including having input into the setting of evaluation criteria and subsequently evaluating tenders. It is proposed that all the WLA authorities will in due course enter into a memorandum of understanding setting out the involvement of Brent and the other WLA authorities in the procurement. Once Officers have evaluated tenders, they will seek authority from the Executive to the award of the contract.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £250k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 90.
- 4.2 The cost of purchasing 3 places, at an estimated cost of £156k per place per year, gives a total commitment of £468k per annum which equates to £3.276m over the proposed 7 year initial period of the contract. There could be the option to extend for a further 2 years which would increase the contract value to £4.212m. The cost of this contract will be funded from Children's Placement Budget. Currently there are 25 young people in residential care at a total forecast cost of £3.439m (based on placements as at 01/10/2013). Outturn for 12/13 was £4.851m.
- 4.3.1 If Brent were to purchase 3 placements in the block contract, savings of £200 to £500 per week per place are expected. Further modelling work will be carried out prior to the start of the procurement exercise to ensure savings projections are robust. Provisionally, assuming no void periods or premium places being sold, savings could be in the region of £31,200 to £78,000 per annum or £218,400 to £546,000 over 7 years.
- 4.4 There is a risk of the Council paying for places that they are unable to use but the risk of voids is mitigated by the ability to sell unused places on to other WLA boroughs at a premium first and other councils in the rest of London thereafter. The demand is such that Officers consider there should be little risk in the council not filling any voids.

5.0 Legal Implications

- 5.1 Approval is sought for the Council to participate in a collaborative procurement for a block contract. It is proposed that Brent will be a party to such block contract which will outline Brent's commitment to purchase three places for the duration of the contract.
- 5.2 The block contract is being procured by means of a collaborative procurement exercise. Under Contract Standing Orders 85(c) such collaborative procurements need to be tendered in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption under Standing Order 84(a) can be approved by the Executive where there are good operational and / or financial reasons, and these reasons are set out in paragraphs 3.4 – 3.8 above.

- 5.3 The estimated value of the block contract over its lifetime is higher than the EU threshold for Services under the Public Contracts Regulations 2006 (“the EU Regulations”). Residential care services are classed as Part B services under the EU Regulations and as such are not subject to the full application of the EU Regulations (save that there must be a technical specification contained in the contract documents and on award of contract the Council must issue a Contract Award Notice in the OJEU within 48 days of award). The services are however, subject to the overriding EU Treaty principles of equality of treatment, fairness and transparency in the award of contracts.
- 5.4 It will be necessary to ensure that the tender documents meet Brent’s requirements and clearly set out Brent’s rights and responsibilities in view of Brent’s proposed commitment to purchase 3 places under the contract.
- 5.5 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.6 As detailed at paragraph 3.3, the council is under a “sufficiency duty”. This duty is pursuant to Section 22G of the Children Act 1989 which requires local authorities to take reasonably practicable steps to secure sufficient accommodation for looked after children under their care who cannot live at home and whose circumstances indicate that it would be in the child’s best interests to be accommodated within the local authority’s area – for example, to stay at the same school or if other family members are nearby.
- 5.7 Further information concerning staffing is contained in Section 7.
- 5.8 Details of the Council’s duties in connection with the Public Services (Social Value) Act 2012 are contained in Section 8.

6.0 Diversity Implications.

- 6.1 An Equalities Impact assessment will be carried out in accordance with the Equality Act 2012 prior to the commencement of any proposed procurement.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 This service will be provided by an external contractor and there are no implications for Council staff arising from tendering a contract of this type.

8.0 Public Services (Social Value) Act 2012

8.1 Since 31st January 2013, the council, in common with all public authorities subject to the EU Regulations, has been under duty pursuant to the Public Services (Social Value) Act 2012 (the “Social Value Act”) to consider how the services being procured might be structured to improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract as Part B Services over the threshold for application of the EU Regulations are subject to the requirements of the Social Value Act.

8.2 The market for these services is highly specialised and limited which narrows the opportunities available to the Authority in terms of the requirements of the Social Value Act. However, the intention to procure a block contract for more local accommodation is likely to improve the economic and social wellbeing of the area and Officers together with other WLA colleagues, will throughout the new procurement exercise take account of Social Value Act provisions and seek to implement these as appropriate

9.0 Background Papers

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