



**Cabinet**  
1 June 2015

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

For Action

Wards Affected:  
[ALL]

**Authority to invite tenders for a Direct Payment Services  
Contract**

**1.0 Summary**

- 1.1 This report concerns the procurement of a Direct Payment Services contract to allow the Council to offer a Support and Advice (general, employment and ongoing) and Managed Account service provision. The contract will replace an existing agreement which comes to an end on the 28<sup>th</sup> November 2015. This report requests approval to invite tenders in respect of a DPS contract as required by Contract Standing Orders 88 and 89.

**2.0 Recommendations**

- 2.1 The Cabinet to approve inviting tenders for a Direct Payment Service contract on the basis of the pre - tender considerations set out in paragraph 5.0 of the report.
- 2.2 The Cabinet to give approval to officers to evaluate the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 5.0 (vi) of the report.

### **3.0 Background**

- 3.1 A Direct Payment (DP) is a cash element of a Social Care Personal Budget paid directly to Service Users (including carers) to allow them to secure relevant services, to meet their identified needs, and outcomes.
- 3.2 DP's have been in use in Adult Social Care (ASC) and Children's Services since the mid 1990s and they remain a preferred mechanism for delivering personalisation in Brent and nationally. DPs provide independence, choice and control to enable people to purchase their own care and support in order to meet their eligible needs.
- 3.3 The legislative context for DP's is set out in the Care Act 2014, Mental Health Act 1983 and the Care and Support (Direct Payments) Regulations 2014.
- 3.4 The Care Act provides a power to enable DPs to be made to meet some or all of a person's eligible care needs, or a nominated person acting on their behalf if agreed by the person with care needs or the person with care and support needs lacks the capacity to manage the DP them self. DPs are also available to carers. The Care Act requires the Local Authority (LA) to be satisfied that the person is able to manage the DP themselves, or with help or support will be able to manage the DP.
- 3.5 The Government's recent 'Vision' for social care, and also the social care sector document 'Think Local, Act Personal', reinforces personal budgets as mainstream and at the same time expresses an expectation that DP's should become their principle method of delivery. To achieve this, LA's will need to ensure that suitable arrangements are in place to support the take-up of DP's by the majority of their personal budget holders.

### **4. Detail**

- 4.1 Brent Council serves a population of 317,264<sup>[2]</sup>, of which 210,191 are adults aged 18-64, and 34,525 are people 65 and over. For much of this and the eligible Childrens population the Customer Journey service model will make DP's the default delivery payment method for those requiring community based services thus ensuring that the Council meets it's core duty of care.
- 4.2 There are currently 650 eligible ASC service users receiving DP support for which the Council pays an annual contract fee of £157k. Childrens Services have a lesser number, with an average of 77 individuals receiving DP support. With a higher proportion of service users, 85 of the eligible ASC service users receive managed account support whilst only 2 receive the same within

---

<sup>[2]</sup> Based on Mid 2013 Population Statistics from the Office of National Statistics  
April 2015

Childrens Services.

- 4.3 With DPs becoming the default delivery payment method and an increasing number of clients, Officers are forecasting that £6.2 m of expenditure will be channelled through a DP.
- 4.4 To support the roll out, take up and management of DPs, the Council is seeking to ensure, via a 3<sup>rd</sup> party, that service users are clear on what responsibilities they take on with a DP and provide them with access to good quality advice and support to build their confidence in DP's and how to manage them.

### **Current Service Provision**

- 4.6 The current DP service is delivered by Penderels Trust who were appointed through a quotation process and awarded a 1 year contract for a value of £157k. The contract was due to end in May 2015, however, it has been extended for a 6 month period bringing the end date to the 28th November 2015 through a Chief Officer approval in compliance with the Council's Standing Orders and delegations.
- 4.7 Penderels provide the following 4 key services which vary to individual needs:
  - 4.7.1 DP support and advice: This service is aimed at individuals that are relatively independent and require a one-off or short term support with setting up and managing their DP.
  - 4.7.2 DP employment and advice: This service is aimed at individuals that are relatively independent but require support with recruitment, selection and retention of a personal assistant and to set up and manage their DP.
  - 4.7.2 Ongoing advice and support with the management of a DP: those services listed in 4.7.1 and 4.7.2 above are intended to foster greater independence and minimal individual support. However it is accepted that there will be circumstances where the Provider will need to provide short term or ongoing support to some Service Users.
  - 4.7.3 Managed Account: This service is aimed at individuals that have difficulty managing their own finances and as a result cannot fulfil their responsibilities without assistance as a DP user. This service may also be provided to vulnerable users where there may be safeguarding issues. Penderels receive and manage the DP on behalf of the individuals and ensure that they meet their payment responsibilities to their Care Agency or Personal Assistant, HMRC and other suppliers

- 4.8 A fixed hourly fee is payable for all services except for the Managed Account service where an annual contract sum is paid.
- 4.9 The contract is managed by Adult Social Care who receives quarterly performance reports and meet with Penderels to discuss further DP uptake and contract improvements.

### **Future service provision**

- 4.10 In addition to the re-procurement of the existing services listed in Section 4.7 above, the specification for the future contract will include 2 additional services.
  - 4.10.1 A Personal Assistant (PA) Service: A PA Service will support individuals to live independently within their own home with payment being made through a DP. The future provider will be required to provide a PA service to individuals who may not know someone they want to use as their PA, do not know where to look, have language or literacy issues making it difficult for them to manage the PA process and/or find it difficult to find a PA with sufficient skills, experience and training to match their specific needs.
  - 4.10.2 Delivery of support for individuals to manage their Personal Health Budgets (PHB): This provision will compliment a 2 year pilot assessment of how on-going direct payment support for service users, aged 18 and over who are eligible for NHS Funded Continuing Healthcare by Brent Clinical Commissioning Group (CCG), is managed. It is envisaged that there will be an initial 20 service users referred during the first year, and this will be funded by health.
- 4.11 The future contractor will also be required to deliver a number of value added services that compliment the take up of DP's. This may include:
  - 4.11.1 A DP forum where service users and PA's can discuss DP set up, administration, issues and improvements.
  - 4.11.2 Newsletters that are circulated to existing and potential service users.
  - 4.11.3 Production of an information packs which may include information on recruiting PA's and other sources of information.
  - 4.11.4 Training for individual employers and personal assistants
  - 4.11.5 Development of a PA market which may include a PA noticeboard, newsletters, information packs, links with Jobcentre Plus and recruitment training.

- 4.12 The target has been set for a further 400 service users to be recipients of DP's over the next 3 years. Alongside the existing 727 this will bring the total number of DP's users to 1127 by the end of the new contract term in November 2018.
- 4.13 Officers have considered whether to split the contract into separate lots but have concluded that this is not appropriate. Officers consider that a contract with a single contractor will help to deliver a seamless service and enable the provider to deliver the value added services detailed in paragraph 4.11.
- 4.14 With Brent being a member of the West London Alliance (WLA), the intention is to procure the contract principally for Brent but on the basis that it can also be accessed by the 5 other participating WLA Authorities should they choose to do so.

## 5.0 Pre-tender considerations

- 5.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Cabinet.

| Ref.  | Requirement                         | Response  |                              |
|-------|-------------------------------------|---|------------------------------|
| (i)   | The nature of the service.          | Direct Payment Services   |                              |
| (ii)  | The estimated value.                | £1,662,818 (the estimated value of Brent's element is £904,116)       |                              |
| (iii) | The contract term.                  | 2 years plus the ability to extend by a further 1 year                |                              |
| (iv)  | The tender procedure to be adopted. | Restricted Procedure  |                              |
| v)    | The procurement timetable.          | <b>Indicative dates are:</b>  |                              |
|       |                                     | Adverts placed  | 26 <sup>th</sup> June 2015   |
|       |                                     | Expressions of interest returned                                      | 27 <sup>th</sup> July 2015   |
|       |                                     | Shortlist drawn up in accordance with the Council's approved criteria | 12 <sup>th</sup> August 2015 |
|       |                                     | Invite to tender  | 17 <sup>th</sup> August 2015 |

| Ref. | Requirement                          | Response  |                                 |
|------|--------------------------------------|---|---------------------------------|
|      |                                      | Deadline for tender submissions   | 11 <sup>th</sup> September 2015 |
|      |                                      | Panel evaluation and shortlist for interview  | September 2015                  |
|      |                                      | Interviews and contract decision  | September 2015                  |
|      |                                      | Report recommending Contract award circulated internally for comment  | September 2015                  |
|      |                                      | Cabinet approval  | November 2015                   |
|      |                                      | Minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers in accordance with EU Regulations  | November 2015                   |
|      |                                      | Contract Mobilisation   | November 2015                   |
|      |                                      | Contract start date   | 29 November 2015                |
| (vi) | The evaluation criteria and process. | <p>1. Stage 1 selection (pre-qualification stage) shortlists are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines and will require bidders to meet the Council's financial standing, technical capacity and technical expertise requirements.</p> <p>2. Tender evaluation at Stage 2 will be against <u>Quality and Price criteria</u> whereby:</p> <p>Quality will consist of 40% of the evaluation weightings. The quality assessment will be evaluated using a range of criteria:</p> <ul style="list-style-type: none"> <li>• How experience in delivering similar services will be applied to the proposed contract.</li> <li>• How the Service will be operated to lead to improved personal independence.</li> </ul> |                                 |

| Ref.   | Requirement   | Response   |
|--------|---|--|
|        |   | <ul style="list-style-type: none"> <li>• How the services will be delivered to increase DP uptake.</li> <li>• How the service provider will use its staffing (skills, qualifications and experience and structure) in order to meet the needs of those in receipt of DPS.</li> <li>• How the Service will be operated to achieve delivery of outcomes</li> <li>• How policies and procedures regarding equality and human rights will be applied to the range of service users.</li> </ul> <p>Cost will constitute 60% of the evaluation criteria.</p> |
| (vii)  | Any business risks associated with entering the contract. | There are no business risks associated with the proposed contract.   |
| (viii) | The Council's Best Value duties.                          | The evaluation criteria are based on a model where cost and quality will be distributed to ensure that provider(s) are selected on best value. The tendering documentation will also specify how the agreements will be managed to ensure on-going delivery of the outcomes.   |
| (ix)   | Consideration of Public Services (Social Value) Act 2012  | See section 10.0 below.  |
| (x)    | Any staffing implications, including TUPE and pensions.   | See section 9.0 below.   |
| (xi)   | The relevant financial, legal and other considerations.   | See sections 6.0 and 7.0 below.  |

5.2 The Cabinet is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

## 6.0 Financial Implications

6.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £250,000 or works contracts exceeding £500,000 shall be referred to the Cabinet for approval of the award of the contract.

6.2 The estimated value of the DPS contract over the proposed 3 year contract term is £1,662,818. This includes a 3 year Managed Account fee of £174,00

and a forecast external WLA spend of £758,700 for the Personal Assistant service.

- 6.3 Brent's costs are based on an increase of 400 people on Direct Payments and as set out in the table below the expected contract cost for Brent's element is £904,116 for 3 years. .

|                  | Service users                   | Cost      |
|------------------|---------------------------------|-----------|
| Current contract | 727                             | £157,000  |
| Year 1           | 861                             | £210,808  |
| Year 2           | 994                             | £243,372  |
| Year 3           | 1127                            | £275,936  |
|                  | Managed Accounts (3 year value) | £ 174,000 |
|                  | Total                           | £904,116  |

- 6.3 The increase in the contract value will be offset by lower unit costs for care through Direct Payments. The costs will be met from within the Adult Social Services and Children's Service budget for each financial year of the contract. This budget is subject to the council's annual budget process so this contract will be a priority commitment upon that budget. Should the contract be exceeded the additional cost will also be contained within the Adults and Children's budgets as required in the first instance.
- 6.4 The Adult Social Services and Children's Services budget is monitored as part of the ongoing budget monitoring process and this contract will form part of that monitoring going forward.

## 7.0 Legal Implications

- 7.1 DP services fall within the social and other specific services listed in Schedule 3 ("Schedule 3 Services") of the Public Contracts Regulations 2015 ("EU Regulations") and as such are subject to a lighter touch regime. As the estimated value of this proposed tender is £1,662,818 (including possible extension) it is above the threshold applicable to Schedule 3 Services (currently set at £625,050) and will therefore need to be procured in accordance with EU Regulations, including advertising in the Official Journal of the European Union.
- 7.2 The estimated value of the proposed contract is in excess of £250,000 making it a High Value Contract under the Council's Contract Standing Orders. As such it is subject to the Council's own Standing Orders and Financial



Regulations in respect of High Value Contracts and therefore the Cabinet must approve the pre-tender considerations set out in paragraph 5.1 above (Standing Order 89) and the inviting of tenders (Standing Order 88).

7.3 Once the tendering process is undertaken Officers will report back to the Cabinet in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.

7.4 As this procurement is subject to the full application of the EU Regulations, the Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the EU Regulations before the contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.

## **8.0 Diversity Implications**

8.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

## **9.0 Staffing/Accommodation Implications**

9.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

## **10.0 Public Services (Social Value) Act 2012**

10.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (the "Act") to consider how the services being procured might 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. Officers have commenced engagement with a range of service users to understand their views of the current service and how the future contract may be shaped to meet economic, social and/or environmental needs.

10.2 The services being procured have as their primary aim improving the social and economic well being of some of the most vulnerable groups in Brent. They are highly specialist with only a very limited number of suppliers who can meet the Council's requirements. Nevertheless, officers will endeavour to ensure the requirements of the Act are implemented as part of the procurement process.

10.3 Bidders will also be asked to submit pricing that includes the London Living Wage.

### **11.0 Background Papers**

None.

#### **Contact Officer(s)**

Jas Kothiria  
Strategic Commissioning & Adult Social Care  
Tel No: 020 8937 1170  
Email: jas.kothiria@brent.gov.uk

Jasmina Gomes  
Strategic Commissioning & Adult Social Care  
Tel No: 020 8937 4049  
Email: jasmina.gomes@brent.gov.uk

PHIL PORTER  
Strategic Director of Adult Social Services