



Executive
15 November 2010

**Report from the Director of
Housing and Community Care**

Wards Affected:
ALL

Awards of new contracts to incumbent providers of housing support services for people with Mental Health needs.

Appendix 1 to this report is not for publication

1.0 Summary

1.1

This report seeks an exemption from the tendering requirements of Contract Standing orders in relation to contracts for housing support services for people with mental health needs, in accordance with Contract Standing Order 84. It further seeks approval to negotiate and award new contracts to the existing providers for a period of one year commencing from 1st December 2010 with an option to extend for a further period of up to one year.

2.0 Recommendations

2.1 The Executive to approve an exemption from the tendering requirements of Contract Standing Orders pursuant to Contract Standing Order 84 for the reasons set out in paragraph 5 of this report in order to allow for the direct award of new contracts for housing support services as set out in paragraph 2.2 of this report.

2.2 The Executive to delegate authority to the Director of Housing and Community Care to directly award to the existing service providers as listed in Appendix 1 to this report, new contracts for housing support services for people with mental health needs for the period from 1st December 2010 to 30th November 2011 with the option to extend until 30th November 2012. .

2.3 Note that the Director of Housing and Community Care will negotiate contract price reductions with regard to the new contracts providing that service quality can be maintained.

3.0 Background – Supporting People

- 3.1 The Supporting People (SP) programme is a national programme to commission the provision of housing-related support for vulnerable people to help gain, increase or maintain their independence. Supporting People funds the provision of 'floating support services' and (support to service users in their own home where the Support Worker moves to support someone else when support is no longer needed) and 'accommodation based services' (support tied to accommodation where the service user living in a hostel or supported housing scheme receives support as a condition of occupation).
- 3.2 The Supporting People programme commenced in April 2003. The funding for 2010/11 is £12.36 million. The Comprehensive Spending Review October 2010 has announced a small reduction of 12% over 4 years in the Supporting People Grant nationally. However, full details of the allocation of local grant, and the approach to be taken regarding the SP grant contribution to overall Council savings requirements, have yet to be agreed. In this context it has not yet been possible to set a budget for future Supporting People services, including for the future contract prices for these services. However, it is clear that savings will be required, and negotiations have already started with providers to deliver short term savings.
- 3.3 At the Executive meeting on 29th of May 2007, approval was given to set up the Supporting People Commissioning Framework which set out a procurement programme for SP services over a five-year period. This involved the completion of a Strategic Review of groups of services according to client groups to inform future procurement, commissioning and tendering of SP services. At the end of 2007 a Strategic Review of services for Mental Health was completed and was reported to the Supporting People Commissioning Body in February 2008.
- 3.4 The Strategic Reviews of services for Mental Health which were formally reported in 2008 recommended that the existing housing support services should be procured going forward by way of a framework arrangement in accordance with Contract Standing Order 84. The Executive meeting in 26th of May 2009 agreed to give approval for pre-tender considerations and criteria to be used to evaluate tenders for the procurement of three framework agreements for housing support services for people with mental health needs. However, the procurement exercise was terminated because tenderers were unable to fulfil Pre-Qualification Questionnaire requirements within the reduced cost requirements so the Executive is asked to allow exemption from tendering and the direct award of interim new contracts to allow time for re-tendering to take place.
- 3.5. The recent Comprehensive Spending Review funding reductions mean that Supporting People funding over the next 4 years is currently uncertain. Service providers may need to deliver short and medium term contract price savings of up to 25%. We are exploring ways of addressing this in partnership with the West London Alliance and when future procurement options are appraised, our intention is to re-commence the tendering process as soon as possible by the end of 2011. In the meantime current providers are willing to

make immediate efficiencies to deliver short term savings and to continue to deliver services that are strategically relevant.

- 3.6 The Core Strategy Group and strategic Commissioning Body partners, including Brent Probation and NHS Brent, met in August 2010 and agreed that services for people with mental health needs could be negotiated to generate immediate savings to allow time for contract re-tendering to take place.

4. Current Pattern of Supporting People (SP) Funded Provision of Mental Health Housing Support

- 4.1 The SP grant spent on specialist mental health housing support services is £2.32 million per year (20010-11), about 18.4% of the annual SP budget.

The number of users of Mental Health services receiving specialist SP services has increased by 60% since 2003, (within a reducing budget) with approximately 441 users at any one time now receiving services specifically for those with a mental health need. Adult Social Care and Brent NHS provide additional funding of approximately £2.87m.

- 4.2 The range of SP funded Mental Health housing support services provided in Brent includes:

Accommodation based services:	Floating Support/Outreach Services:
An Accommodation based service for users with Dual Diagnosis (severe and enduring Mental Health issues with or without substance misuse). (11 Units)	Outreach service focusing on support to Move-On within the Borough - (75 users)
Accommodation based services consisting of shared schemes/group Homes (161 Units),	A Floating support service to focus specifically on users who have resided in Group homes for a lengthy period of time as well as providing support to the community (183 + users)
Purpose built self contained accommodation (10 units), Accommodation used by Brent HRC (Housing Resource Centre) to house users with Mental Health needs who have made a Homeless Application (20 units).	
Total (192 users)	Total (258 users)
Grand total of 450 Users	

4.3 Supporting People contracts with mental health providers are currently in place for the financial year 2010/11 for the provision of housing support services. These current contracts were approved by the Executive to operate until 30th September, 2010 and since expiration date the providers have continued to provide the housing support services by way of implied contracts. Please see Appendix 1

5.0 **Justification for exemption from immediate tendering and for negotiating savings with current providers**

5.1 The proposal is to carry out a negotiation exercise with existing providers in order to enter into new contracts for a maximum of 2 years. To support this, criteria for contract negotiations have been developed, including price, quality, value for money and outcomes. The aim is to negotiate contract savings of up to c25% over the period of the new contracts with minimal impact on service delivery and outcomes.

5.2 We are also assessing future procurement options with partners in NHS Brent and the West London Alliance, who have a good track record of savings delivery in Housing and Adult Social Care services. The West London Alliance is currently looking at a range of potential Supporting People savings projects across the sub-region, including joint procurement. Once these procurement options been appraised our intention is to recommence the tendering of these housing support services. It is hoped that this will happen quite quickly but flexibility is sought in relation to the proposed new contracts for this reason (one-year contracts with the option to extend for up to a further one year). The option to extend where this is needed will only be exercised if the services remain strategically relevant and providers have performed satisfactorily.

5.3 Current discussions with providers are demonstrating that good short term savings and value for money will be achieved, and that performance indicators and outcome measures can be improved. A new specification has been agreed to improve the strategic relevance of the services. Providers are willing to remodel services where necessary to support local, national priorities and commissioning strategies.

5.4 The strategic Supporting People Commissioning Body partners which include NHS Brent, Children and Families Dept and Probation , support the position set out in this report and the proposed recommendations.

6. **Monitoring**

6.1 Supporting People services are monitored by the Supporting People Unit. The current providers are required to submit quarterly monitoring data on their performance to the Supporting People Team and attend regular meetings for this. Additionally, the Supporting People team also conduct an annual Quality Assessment Framework review of the service.

6.2 It is proposed that the future monitoring of contracts will be more service user centred, outcome focussed and assess how services are meeting good quality service standards within the resources available. Providers will be required to submit regular monitoring data to inform the National Performance Indicator data set. All monitoring will be carried out by the Supporting People team and will also draw on stakeholder feedback.

7.0 Financial Implications

7.1 The Supporting People Grant totals £12.36 million per year which funds housing support provided by a range of agencies in Brent. The SP grant spent on specialist mental health housing support services is £2.32 million per year (2009-10), about 18.4% of the annual SP budget.

7.2 Contract negotiations for these services would ensure that a saving of £232,000 are likely to be possible over the next two years and any future agreed contract sums are less than the current contract prices where possible, and that the such savings would not have an adverse impact on Health, Adult Social Care and Probation. There is also scope to remodel services which will cater for people with critical and enduring mental health needs.

7.3 There are no additional financial implications arising from the recommendations set out in this report.

8.0 Legal Implications

8.1 The report recommends that all the Supporting People Services for the Mental Health client group should be exempt from the normal requirements of tendering set out in Contract Standing Orders.

8.2 The authority for the Executive to grant an exemption from tendering requirements is in Contract Standing Order 84, and this requires that the Executive can only grant the exemption where there are good operational and financial reasons for doing so. The Executive therefore needs to consider whether the grounds stated constitute good operational and financial reasons for not tendering. Normally the fact that service providers are performing well is not sufficient to replace the requirement for tendering. Neither would any potential savings to the Council justify not opening a procurement to competition. .

8.3 In considering the recommendations in this report Members also need to be satisfied that the proposed course of action will deliver Best Value for the Council. One of the clearest ways of demonstrating Best Value is through periodic tendering of contracts..

8.4 These services are Part B services under the Public Contracts Regulations 2006 (the EU Regulations) and are thus exempt from the full tendering requirements of the EU Regulations. However award of a Part B contract is subject to over-riding obligations of fairness and transparency and there is

certainly EU case law to suggest that even part B contracts should be subject to some form of advertising. However this is subject to an analysis of the nature of the service and whether there is likely to be cross-Europe interest. This appears to be unlikely owing to the nature of the services under reference so the risk of a challenge by the European Community is low. However the risk of a successful challenge by local service providers cannot be discounted. The limitation of the contract period for the new contracts, the fact that a previous tender exercise was undertaken albeit aborted and a proposal to open the procurement of the service to competition going forward (which process would have been completed and contracts awarded by the expiration date of the new contracts) are all be mitigating factors which may assist the Council's defence if indeed legal challenge occurs.

- 8.5 Approval should have been obtained from the Executive for the entering into of new contracts prior to the expiration date of the existing contracts on 30th September, 2010. The present implied contracts with the existing service providers were not approved by the Executive.
- 8.6 As the level of funding for the proposed new contracts is not guaranteed, a risk could arise and in order to mitigate this a term will be inserted in the new contracts to give the Council the right to terminate the contracts prior to their expiration date with notice in the absence of fault where it is found that there is insufficient funding.

9.0 Diversity Implications

- 9.1 Contracts currently require providers of housing support services to deliver services which are:
- culturally sensitive by providing cultural awareness training for all staff, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
 - able to offer service users a male or female Support Worker where specifically requested
 - are able to undertake partnering arrangements with local community groups and specialist providers
- 9.2 The new contracts will continue to require providers to deliver services in this way
- 9.3 An Equality Impact Assessment looking at the potential impact of price reductions are in progress. The outcome of these will be considered when agreeing contract price reductions, to minimise untoward impact.

Background Papers

Supporting People Grant Conditions (CLG)
Brent Supporting People Strategy 2005/10 and updates 2010-14
Strategic Review of Mental Health services (May 2008) and updates 2009

Executive Report June 15th 2009

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