



Executive
15 February 2011

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

Wards Affected:
ALL

Development of Contracts with Voluntary Organisations (Carer Services)

1.0 Summary

- 1.1 This report asks the Executive for approval to extend its partnership arrangements (& its contribution to the pooled budget detailed in paragraph 4.3 of this report) with NHS Brent to deliver seamless, effective, good quality and value for money services for carers in Brent for the period 2011-2013.
- 1.2 This report sets out proposals for changes to funding arrangements for organisations providing support to carers in Brent, moving from grant funding mainstream services to provision under contractual arrangements.
- 1.3 This report asks the Executive for approval to award contracts to incumbent providers of carer services from 1st April 2011 to 31 March 2012 and to agree that they need not be tendered in accordance with usual Contract Standing order requirements for reasons set out in paragraphs 3.15-3.21 of this report.

2.0 Recommendations

- 2.1 The Executive give approval to a two year extension of the s75 partnership agreement (& its contribution to the pooled budget detailed in paragraph 4.3 of this report) with NHS Brent approved on 26 May 2009 for the establishment of a pooled budget, such extension to take effect from 1 April 2011 to 31 March 2013.
- 2.2 The Executive give approval to an exemption in accordance with Contract Standing Order 84(a) from the usual tendering and quotation requirements of Standing Orders to permit negotiations leading to the award of one year contracts on the basis of good operational and financial reasons as set out in paragraph 3.15-3.21 of this report.

3.0 DETAIL

Background

- 3.1 There are over 23,000 unpaid carers in Brent, some providing substantial levels of care per week. These carers provide care and support to older people, adults with disabilities, those with mental ill health, learning disabilities and substance misuse issues and children with disabilities. The Council has duties under legislation (Carers Recognition and Services) Act 1995, Carers and Disabled Children Act 2000 & Carers (Equal Opportunities) Act 2004) to assess the needs of carers providing substantial and regular care and has powers to provide support and services to meet eligible needs.
- 3.2 The Carers' Grant, which is an annual Department of Health grant provided to all local authorities, enables the Council to provide additional support to carers and commission carer services through the voluntary sector. The Carers Grant now forms part of the Council's area based grant.
- 3.3 The Council entered into a pooled budget arrangement for the period 2009 to 2011, under a partnership arrangement (the "s.75 Agreement") with NHS Brent established pursuant to s.75 National Health Service Act 2006. The Executive agreed to this arrangement on 26 May 2009.
- 3.4 Under this s.75 agreement, the Council acts as lead commissioner of services, taking into account joint priorities for Brent Council, NHS Brent and the Carers Strategy.
- 3.5 Brent Carers Strategy 2010-2014 has been agreed by NHS Brent and Brent Council following wide consultation with carers and partners. It sets out Brent's strategic vision and priorities for supporting carers over the next four years.
- 3.6 NHS Brent also supports carers of adults and children who meet the NHS continuing care criteria, providing breaks to carers in order for them to continue in their caring role. It also provides core support to Brent Carers Centre.
- 3.7 The Government announced on 16th November 2010 that it was making £400 million available through the NHS over the next four years. The purpose of this funding is to develop and improve support for carers' breaks in partnership with local authorities, voluntary and third sector agencies and carers' themselves. Further details of this funding are to be confirmed.
- 3.8 On 15 December 2010 the Government published a White Paper – *Equity and Excellence: Liberating the NHS*, which sets out proposals for groups of GPs to commission NHS services for their local communities. As a result, in the future, it is expected that GPs consortia will work with Local Authorities to support commissioning of carers services.
- 3.9 *A vision for adult social care; Capable Communities and Active Citizens* sets out the Government's commitment to breaking down barriers between health and social care funding; and encouraging care and support to be delivered in a partnership between individuals, communities, the voluntary sector, the NHS and Councils.

S.75 Agreement

- 3.10 The partnership agreement negotiated with NHS Brent has resulted in a commitment from the PCT to contribute £200k pa for 3 years, subject to finance being available to increase the amount of purchased carers' services available in Brent.
- 3.11 Officers have reviewed the partnership agreement and agree that it has enabled NHS Brent and the Council to improve capacity and deliver good quality and value for money services for carers in Brent based on agreed priorities.
- 3.12 From April 2010-11 a range of services that address carers practical and emotional and physical well being have been jointly commissioned following an extensive open bidding process. A detailed breakdown of the services and support currently funded is detailed in annex A of this report.
- 3.13 Following discussions between the Council and NHS Brent, Officers agree that the partnership agreement has been effective in improving support for carers in Brent and want the agreement to continue for a further two years from 1st April 2011 to 31 March 2013.
- 3.14 Officers also wish to commission services from 2011 by way of formal contract (rather than by awarding grants with related service level agreements as has traditionally occurred). As detailed at paragraph 3.15 and 3.18 below, this will see a move away from grant funding towards the development of more formal contractual purchasing arrangements that will provide a more effective and efficient way of commissioning services, ensuring that the allocation of resources is based on our strategic priorities and which provides greater stability for organisations providing social care services which are essential element of local provision.

Awarding contracts to the incumbent providers of services – “Good Operational and Financial Reasons”

- 3.15 Officers have considered whether to tender for contracts for carer services but concluded that it would be preferable to negotiate a formal contractual arrangement direct with the incumbent organisations (**Asian People Disability Alliance** (Carers Befriending Project); **Brent Carers Centre**; **Crossroads Care West London**, **Friends of African Caribbean Carers & Sufferers of Dementia**, **National Autistic Society** (Brent Short Breaks Scheme), & **St Luke's Hospice**) for one year, thereafter to carry out a competitive tendering exercise for 2012/13 and beyond. This would tie into national changes planned within health and be in line with the planned review of Brent Carers Strategy.
- 3.16 Approval is being sought to conclude the arrangements referred to at paragraph 3.15 above without recourse to tendering on the basis that:
- 3.17 An open bidding exercise undertaken in January 2010 awarded allocation of resources by way of ongoing grant to successful organisations based on priorities for carers outlined in the Brent Carers Strategy.
- 3.18 Awarding contracts to the incumbent providers of services for the next financial year will ensure consistency of service, maintain the range of services currently being

delivered to support carers and ensure that the services provided continue to be in line with Council priorities.

- 3.19 There is a very limited market in the type of specific carer services, and a tender process at this stage is very unlikely to bring in new providers to Brent, while at the same time causing both the Council and the small voluntary sector providers to incur the costs of the tender. Through a jointly agreed pre-qualification questionnaire agreed with NHS Brent and Bent Council, current organisations have satisfied officers that they have the expertise to deliver these services and are regularly monitored. All organisations providing respite care are registered with the Care Quality Commission, and where organisations are providing information and advice they have the Commission for Legal Service quality marks.
- 3.20 There is an intention to offer one year contracts and to carry out market testing after six months of the contract year. This would allow sufficient time for full consultation with service users and service providers to explain the impact and implications of tendering in order to minimise disruption and distress of any future tendering exercise. It would also assist with capacity building for the market to ensure that there would be genuine competition for any re-tender.
- 3.21 In this period Officers will also undertake a commissioning review to determine if services should be re-commissioned. If a decision is made to re-commission the services Officers would then undertake a competitive procurement process in accordance with the Council's Standing Orders.

4.0 Financial Implications

- 4.1 A pooled budget has been established between the partners and the minimum financial contributions, was agreed subject to finances being available from 1 April 2011-31 March 2013.
- 4.2 The Local Government Financial settlement announced last year, has resulted in the Council needing to save between £90 to £100 million by 2014/15 and reduce spending by £37 million next financial year (2011-2012).
- 4.3 Following internal discussions Officers' recommend that the Council's contribution to the pooled budget is reduced by 5% year on year as highlighted in the table below:

Financial year	LA contribution £	NHS Brent Contribution £	Pooled Budget £
2011/2012	566,913	200,000	766,913
2012/2013	538,567	200,000	738,567

- 4.4 The value of funding allocated to voluntary organisations to deliver carer services in 2010/11 is detailed below:

Organisation	Grant Funding 2010-2011 £
Asian People Disability Alliance	90,343
Brent Carers Centre	170,365
Crossroads Care West London	149,943

*Elders Voice	39,196
Friends of African Caribbean Carers & Sufferers of Dementia	78,168
National Autistic Society	61,095
St Luke's Hospice	38,000

4.5 Elders Voice currently holds a contract with the Council to deliver day care for older people as well as respite for carers until 2012.

4.6 Resources from the pooled budget for this period 2010/11 have also been allocated as listed below:

- £35K to Harrow Helpline) to provide a carers emergency support service under a service level agreement;
- £36K to take forward personalisation and direct payments for carers
- £98K to commission additional specific carers' services for the period January 2011-December 2011 has been advertised through an open bidding process deadline for receipt of applications 4 February 2011.

4.4 The proposed exemptions to the Contract Standing Orders for developing contracts with **Asian People Disability Alliance** (Carers Befriending Project); **Brent Carers Centre**; **Crossroads Care West London**, **Friends of African Caribbean Carers & Sufferers of Dementia**, **National Autistic Society** (Brent Short Breaks Scheme), & **St Luke's Hospice** do not have any specific financial implications as the new contractual arrangements will be negotiated within the current financial resources. Funding for 2011-2012 will be negotiated in line with the principles of Best Value. Council expenditure to the pooled budget is currently incurred from the Adult Social Care (Carer Services) budget.

5.0 Legal Implications

5.1 The National Health Services Act 2006 ("NHS Act") requires local authorities and NHS bodies to work together to improve health and social care and Section 75 of NHS Act provides for flexible funding and working arrangements to be established by agreement to facilitate this. This includes the establishment of pooled budgets and lead commissioning arrangements. Under the current s.75 Agreement established on 26 May 2009, the Council and NHS Brent may extend this agreement on an annual basis for a maximum period of two (2) years. Any such Section 75 agreement in relation to commissioning services for carers would form a schedule to the main overarching framework agreement entered into between NHS Brent and the Council in 2004 to facilitate such partnership arrangements.

5.2 The Council, being a public authority, has to comply with legislation which includes the Public Contract Regulations 2006 ("the Regulations"); the Council's published Financial Regulations and Contract Standing Orders in terms of letting contracts.

5.3 Only the value of one out of the six proposed contracts namely, Brent Carers Centre is, over the one-year lifetime, approximately £170,365 and therefore higher than the EU threshold for Services currently at £156,442 under the Regulations. However, services provided for carers are deemed Part B services under the Regulations and as such are not subject to the full application of the Regulations with regard to competitive tendering. Although in accordance with an Interpretative Communication issued by the European Commission in July 2006 indicates that the

EU general requirements for transparency, non-discrimination and equal treatment will normally require advertising and some form of competitive process before contract award, even for Part B services, especially if the contract is likely to be of interest to overseas EU providers. Given the current very limited market in the type of services provided by the incumbent providers as identified at paragraph 3.19 above, the limited duration of an interim contract and the intention to expose the contracts to competition in due course, it is considered that the award of interim contracts would pose a low risk of challenge under the Regulations.

5.4 The value of each of the proposed contracts with the other five providers is such that they are classed as Low Value Contracts for the purposes of the Council's Contract Standing Orders. The Council's Contract Standing Orders provide that Low Value Contracts should be let by inviting at least three written quotes. The value of the Brent Carers Centre contract means that it is classed as Medium Value Contract under the Council's Standing Orders and so ordinarily should have been the subject of a formal tender. However Contract Standing Order 84(a) states the Executive may agree not to follow these quotation and tendering procedures where there are "good operational and/or financial reasons". Officers consider that there are good operational and / or financial reasons for negotiating contracts with the six providers referred to at paragraph 4.4 rather than carrying out a formal quotation and tender process at this stage.

5.5 Award can be by authority of the Chief Officer.

6.0 Diversity Implications

6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications because the same services will continue. Services will be available to all eligible carers following an assessment of need under Fair Access to Care Services criteria at critical and substantial levels. There are also a number of organisations providing cultural specific services.

7.0 Staffing Implications

7.1 These services are currently provided by voluntary organisations and there are no implications for Council staff arising from this report.

Background Papers

Carers Strategy 2010-2014

White Paper Equity & Excellence: Liberating NHS

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Organisation	Carers Support Services Provided
Asian People Disability Alliance	<p>Befriending Service/sitting service in the home for children and adults with a disability from the Asian community. Sessions can be 2/3 hours each. Cared for are engaged in activities, assisted with their English language, reading, speech therapy or taken for walks. The Befriender does not provide home care, personal care or administer medication.</p> <p>Additional services include training for carers, annual cultural and social events organised.</p>
Brent Carers Centre	<p>Carers one stop service for information & advice – provides Advocacy/Emotional Support /support groups/benefit checks/casework/signposting/undertakes consultation and provides training for carers and professionals in supporting carers</p>
Crossroads Care West London (formally) Brent Crossroads	<p>Domiciliary Care service for adults with disabilities, enabling carers to have a break. Service provided Mon-Sun from 6.30am to midnight. Carers are accommodated if service is required outside of these hours.</p>
Friends of African Caribbean Carers & Sufferers of Dementia	<p>Home respite care service for carers caring for people with dementia from the African Caribbean community. Service is tailored to meet needs of carer and cared for. Also provides support/advice over the telephone as well as sign posting, advocacy, carers support meetings, annual conference on dementia.</p>
National Autistic Society (Brent Short Breaks Scheme)	<p>A respite care service for the cared for (adults & children), who have an autistic spectrum disorder, thereby providing a respite break for their carers. Service tailored to individual needs. Service is provided evenings and weekends.</p>
St Luke's Hospice	End of life