



Executive
17 October 2011

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

Wards affected:
ALL

Commissioning Adult Carer Services

1.0 Summary

- 1.1 A report was approved by the Executive on 15th February 2011 to extend the s.75 Partnership Agreement with NHS Brent for the period 2011 – 2013. In addition, approval was given to enter into contracts on a one (1) year basis for the provision of adult respite carer services by way of an exemption from the tendering requirements of Contract Standing Orders.
- 1.2. This report sets out proposals to integrate Adult, Children and Families and NHS Brent/GP Clinical Commissioning Group for the procurement of services to carers. We recommend a joint framework agreement for the provision of respite and support services to carers of children with disabilities and for carers of adults with disabilities and long term health conditions.
- 1.3 This report asks the Executive for approval to extend the existing adult carer respite services contracts with the incumbent providers for a further eight (8) months from 1st April 2012 to 30th November 2012 to allow further development of the proposal in paragraph 1.2, and to agree that they need not be tendered and/or quotations sought in accordance with usual Contract Standing Order requirements, for reasons set out in paragraphs 3.7 – 3.11 of this report.

2.0 Recommendations

- 2.1 The Executive to give approval to an exemption in accordance with Contract Standing Order 84(a) from the usual tendering requirements of Standing Orders to extend the carer services contracts (Adult Social Care) for eight (8)

months on the basis of good operational and financial reasons as set out in paragraph 3.7-3.11 of this report.

- 2.2 The Executive to give approval to the eight (8) month extension of the carer services contracts with the providers referred to in paragraph 4.3.
- 2.3 The Executive to give approval for Adult Social Care and Children & Families department to undertake a wide ranging joint review of carer services in consultation with NHS Brent and carers to identify the type of services needed to support carers into the future that provides quality, value for money and take account of the impending changes in Health and the development of GP Consortia commissioning arrangements.
- 2.4 The Executive to note Officers' intentions to develop a joint framework agreement following the review of services, with anticipated call-off under the framework from May 2012.
- 2.5. The Executive to give approval for the Children and Families Department to integrate their procurement into this joint framework agreement

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 In 15 February 2011 the Executive gave approval to award contracts to incumbent providers of carer services from 1st April 2011 to 31 March 2012 and agreed that they need not be tendered and/or quotations sought in accordance with usual Contract Standing order requirements on the basis of good operational and financial reasons.
- 3.3 The Council has entered into a pooled budget arrangement to commission joint services for carers from 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. This s.75 Agreement was extended for a further two years (to 31 March 2013) by the Executive on 15 February 2011.
- 3.4 Children and Families have responsibilities to support parent carers of children with disabilities under Children and Carer legislation. They currently have a spot purchase arrangement in place to provide respite ("short breaks") support to parent carers of children with disabilities in the home. On 14th March 2011 the Executive gave the Children and Families department approval to invite tenders to establish a multiple provider framework

agreement for their service requirements with an anticipated call-off under the framework being after 3rd October 2011. The timetable detailed within the above mentioned Executive was indicative we therefore seek approval to participate in this joint framework agreement. Please note procurement, legal and the Children and Families Department are currently formalising the interim spot purchasing arrangement for short term.

- 3.5 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.
- 3.6 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. Primary Care Trusts will cease to exist from April 2013 and GP practices will be members of either an authorised clinical commissioning group, or a ‘shadow’ commissioning group and will have a duty to promote integrated health and social care around the needs of service users and carers.

Extending Contracts to incumbent providers“**Good Operational and Financial Reasons**”

- 3.7 Considering the impending changes to commissioning in health and the pooled budget arrangement ending 31 March 2013, officers recommend that by extending contracts to the incumbent providers of services for a further eight (8) months will ensure, in the short term, consistency of service and maintain the range of services currently being delivered to support carers. An extension of the existing arrangements will also provide officers from Adult Social Care and Children & Families the additional time needed to plan more effectively longer term to develop and jointly procure quality, effective respite and support services and solutions for carers into the future.
- 3.9 Opportunities exist for services to be more closely co-ordinated offering carers a ‘one stop shop’, hub or network model where organisations contracted and involved in supporting carers can provide a seamless network of referral; guidance and support around access to health, leisure and work; general information and advice; and direct care and support services. This model will also enable services to be provided in a personalised way and promote personal budgets for carers through the joint framework agreement by prescribing the responsibilities agencies have to provide services through direct payments.
- 3.10 It has become clear to Officers in order to achieve improved efficiencies, deliver respite and support services that provide better value for money more time is needed to:
 - 3.10.1 Carry out market testing.
 - 3.10.2 Undertake a joint commissioning review in partnership with NHS Brent /GP Clinical Commissioning Groups and in consultation with carers to determine the shape of future services needed and undertake an equality impact assessment.

- 3.10.3 Carry out a 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
- 3.10.4 External market development for the formation of a joint framework agreement.
- 3.10.5 Develop a Joint framework agreement with the intention of Adult, Children and Families Departments and NHS Brent/GP Clinical Commissioning Group being able to call off from the framework on or after 1 May 2012.
- 3.10.5.1 A framework agreement is an agreement for a set number of years (maximum 4 years) under which specific contracts for particular services can be 'called-off' at any time within the period. There can be a number of approved suppliers under a framework agreement the council could contract with to procure carer services.
- 3.10.5.2 The benefits of developing a joint framework agreement will allow the council to access a wider range of providers delivering carer support; joint spend will attract a higher number of potential providers offer more competitive rates and reduce costs in tendering process.
- 3.10.5.3 Officers intend to go out to advert to seek expressions of interest in December 2011. Officers will therefore be submitting another report seeking Executive approval on the criteria at the end of November 2011.

- 3.11 The incumbent providers (providing services to carers of adults with disabilities) and care agencies providing spot purchased short break services for parent carers of disabled children 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.

4.0 Financial Implications

- 4.1 There is a pooled budget arrangement in place until 31 March 2013 with NHS Brent subject to finances being available. The Council and NHS Brent have reduced contributions to the pooled budget by 5% year on year as part of the Council and NHS Brent efficiency savings programme. Details of the budget taking account of these reductions for this financial year and the year after are listed below.

4.2

Financial year	LA contribution £	NHS Brent Contribution £	Pooled Budget £
2011/2012	566,913	195,000	761,913
2012/2013	538,567	185,250	723,817

4.3 There are currently eight organisations contracted to provide respite and support services to carers of adults with disabilities and long term health conditions the contract values are detailed below:

Provider	Service	Annual Contract Value
Crossroads West London (formally Brent Crossroads)	Respite at home OP/PD & long term health conditions	149,943
Friends of African Caribbean Carers & Sufferers of Dementia	Respite at Home dementia	106,168
Asian People Disability Alliance	Respite/Befriending Service	90,343
National Autistic Society	Respite at Home includes service	92,085
Brent Carers Centre	Range of services including Info/Advice young carers /counselling training	180,183
Elders Voice	Respite Day Care - & Pilot outreach service	56,196
Harrow Helpline	Carers Emergency Support	28,000
St Luke's Hospice	Supporting Carers caring for someone at End of life	38,000
Help Somalia Foundation	Identifying & Supporting Carers to access support	10,000
Total		750,918

4.4 The Children & Families spend on Care at Home support for 2010-11 was £694,809.

5.0 Legal Implications

5.1 The Council, being a contracting authority, has to comply with legislation which includes the EU Treaty Principles; the Public Contract Regulations 2006 and 2009 (as amended) ("the EU Regulations") in addition to the Council's published Financial Regulations and Contract Standing Orders in terms of awarding contracts. The provision of adult respite care and support services is deemed Part B services for the purposes of the EU Regulations and as such is not subject to the full application (save that there must be a technical specification contained in the contract documents and on award of contract the contracting authority must issue a Contract Award Notice in the OJEU). Part B services are however, required to be adequately advertised so as to ensure there is sufficient competition; in addition, Part B services are subject to the overriding EU Treaty principles of equality of treatment, fairness and transparency in the award process. Therefore, a contracting authority that makes a direct award of a Part B contract without adequately advertising the contract will be in breach of the EU Treaty principles.

- 5.2 Members are aware that the Executive on 15th February 2011 gave its approval for the award of the current 8 respite care and support contracts to be awarded to the incumbent providers for a period of one year from 1 April 2011 to 31 March 2012. However, for reasons highlighted in the body of the report officers are seeking an extension to those contracts for another eight (8) month period, which they feel will enable proper consultation with stakeholders and allow sufficient time to establish a joint framework agreement with the Council's Children and Families department and NHS Brent.
- 5.3 In looking at Contract Standing Order requirements, the total value of the proposed contracts with the providers identified at Para. 4.3 above must be considered in the aggregate, taking into account the current contract period and any period of extension. The aggregate value of the proposed contracts is £750,918 classified as High Value Contracts under Contract Standing Orders, requiring a tendering exercise to be undertaken. Therefore, there is a risk to the council in extending the existing suite of respite support services contracts from other providers in the market capable of delivering the services due to the lack of competition. However, it is for Members to weigh up the potential for challenge against the need for officers to carry out proper consultation with stakeholders and health services, which Officers state will form the basis of the services specification when the new framework is put out to public tender.
- 5.4 Once the consultation process has been undertaken and concluded Officers intend to report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken and will then seek approval to go out to tender the inter-departmental framework agreement for respite care and support services for children and adult carers.

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.
- 6.2 An equality impact assessment in accordance with the Equality Act 2010 will be undertaken to assess the likely impact of any future proposals to change respite and support services to carers before implementation.

7.0 Staffing/Accommodation Implications (if appropriate)

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

Background Papers

Contact Officers

Alison Elliott
Director of Adult Social Care

Steven Forbes
Head of Service, Integrated Commissioning, Adult Social Care

Krutika Pau
Director Children & Families

Graham Genoni
Assistant Director – Children Social Care