

	Officer Key Decision
	Report to the Strategic Director of Community Wellbeing
Authority to Award Contract for Procurement of Learning Disability Supported Living Scheme at Salmon Street	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Appendix A to this report is not for publication as it contains the following category of exempt information as specified in Paragraph 3, Schedule 12A of the Local Government Act 1972, namely: "Information relating to the financial or business affairs of any particular person (including the authority holding that information)"
No. of Appendices:	Three: <ul style="list-style-type: none"> • Participating Contractors (exempt) • Quality Tender Evaluation Grid and Weighted Cost / Quality Scores and Bidder Ranking • Equality Analysis Form
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Mark Mulvenna Supplier Relationship Manager Supported Living and Extra Care Email: mark.mulvenna@brent.gov.uk Tel: 020 8937 3276

1.0 Purpose of the Report

- 1.1 This report provides an update on the tender for the Supported Living contract for Salmon Street, which is a 6 bed project for service users with Learning Disabilities. This report requests authority to award a contract as required by Contract Standing Order 88. This report summarises the process undertaken in tendering this contract and, following the completion of the evaluation of the tenders, recommends to whom the contract should be awarded.

2.0 Recommendation

- 2.1 That the Strategic Director of Community Wellbeing in consultation with the Lead Member for Community Wellbeing approves the award of a contract to deliver a Supported Living scheme at Salmon Street to Voyage 1 Ltd (Voyage Care) for a period of two years with an option to extend by up to a further 1 year.

3.0 Detail

- 3.1 The key decision to tender the care and support contract for Salmon St Supported Living was agreed by the Strategic Director for Community and Wellbeing in May 2018.

The Tender Process

- 3.2 The new contract will be let using Lot 4.1 of the Accommodation Plus Dynamic Purchasing System for a period of two years with an option to extend by up to a further 1 years.
- 3.3 Forty One contractors appointed to Lot 4.1 of the Accommodation Plus Dynamic Purchasing System were provided with an outline specification and details of the tender approach and were invited to complete a selection questionnaire using the London Tenders Portal.
- 3.4 The tendering instructions stated that the contract would be awarded on the basis of the Most Economically Advantageous Tender with a 60% price / 40% Quality criteria scoring and that in evaluating tenders, the Council would have regard to the following:
- How the Service will be delivered to achieve delivery of outcomes
 - How policies and procedures regarding equality and human rights will be applied
 - How the Service will be operated and delivered to lead to improved personal independence.
 - Proposals regarding staffing (skills, qualifications, experience and structure) in order to meet the needs of services users.
 - How current/previous experience will be applied to deliver the service
 - How Social Value will be delivered
 - How the Safeguarding policy will be implemented and adhered to

Evaluation process

- 3.8 The tender evaluation was carried out by a panel of 3 officers from the Adult Social Care Commissioning, Contracting and Marketing Management Team.
- 3.9 All tenders had to be submitted electronically no later than Monday 18th

June 12pm. Tenders were opened on Tuesday 19th June and 3 valid tenders were received. Each member of the evaluation panel read the tenders and carried out an initial evaluation of how well they considered each of the award criteria was addressed in the tender.

- 3.10 Although all 3 tenders were initially deemed as valid. It was later decided that the bid from Provider A was non-compliant after further clarification of their pricing schedule was carried out. The bidder's price was deemed unsustainable due to discrepancies around management hours.
- 3.11 The panel met on 29th June and each submission was marked by the whole panel against the award criteria.
- 3.12 The scores received by the tenderers are included in Appendix 1. It will be noted that Provider C was the highest scoring tenderer. Officers therefore recommend the award of the contract to Provider C, namely Voyage 1 Ltd (Voyage Care)
- 3.13 Officers anticipate that the contract will commence on 4th October 2018.

4.0 Financial Implications

- 4.1 The Council's Contract Standing Orders state that contracts for supplies, services and works exceeding £0.5m shall be referred to the Cabinet for approval of the award of the contract.
- 4.2 The estimated annual value of this contract is £0.38m. The recommendation is for the contract to be awarded for 2 years with the option of a further 1 year extension, resulting in a total pre inflation contract cost of £1.15m over the 3 years.
- 4.3 The fixed core element of the contract is valued at £0.28m pa and the estimated spot hours are estimated at £0.1m pa. This equates to an average hourly rate of £20.35 Any further spot hours above the estimate will be charged at £20.35 per hour
- 4.4 The pricing schedules submitted by tenderers were based on paying all staff the London Living Wage. The Council will commit to paying the London Living Wage (LLW) and any increases in contract payments due to increases in LLW will be subject to a business case submitted to the Council. The London Living Wage is currently £10.20 per hour. The UK Living Wage for outside of London is currently £8.75 per hour.
- 4.5 The additional annual cost of paying LLW rather than National Living Wage is £53k pa.
- 4.6 The council, in setting the annual council budget will need to consider that future inflation in the LLW rate which is likely to be higher than other measures of inflation.

5.0 Legal Implications

- 5.1 The estimated value of this contract over its lifetime is in excess of the EU threshold for Schedule 3 Services under the Public Contracts Regulations 2015 (the “EU Regulations”) and the award of the contract is therefore governed by the EU Regulations.
- 5.2 The award is subject to the Council's Standing Orders and financial regulations in respect of Medium Value Contracts. The Strategic Director for Community and Wellbeing therefore has authority in accordance with paragraph 9.5, of Part 3 of the Constitution to award the contract. In this instance, the recommendation is that the Strategic Director for Community and Wellbeing awards the contract in consultation with the Lead Member of Community and Wellbeing.
- 5.3 The service for this contract was procured under the Accommodation Plus Dynamic Purchasing System, by inviting tenders to take part in a mini competition.
- 5.4 As the services were procured under a Dynamic Purchasing System, there is no legal requirement for a 10 day Standstill Period. However, Officers are required to observe the Council's Call-in Period prior to award.
- 5.5 The Transfer of Employment (Protection of Employment) Regulations 2006 (“TUPE”) applies to the award of the contract for the scheme at Salmon Street. As a result, subject to the right of the employee to object to transferring, the employee's contract of employment will transfer to the new provider of the contract. Additional information is contained in section 8.

6.0 Equality Implications

- 6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or

minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 6.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. The Strategic Director is referred to the contents of this report for information, in particular the Equality Analysis at Appendix 2 and paragraphs in this section of the report.
- 6.4 The proposed contract will require the provider to deliver services which:
- Address the needs of people with Learning Disabilities who have a range of support needs that stand in the way of residents integrating with their community and building the resilience to remain well for longer.
 - Ensure staff have appropriate training in areas that will raise their awareness of issues faced by vulnerable people from different ethnic backgrounds
 - Ensure that the staff group have appropriate support to raise and address the complex issues that face adults recovering from mental ill health.
- 6.5 The provider will be monitored to ensure it is complying with these requirements through checking of its records, regular review of services provided to individual service users where feedback will be sought from service users, quarterly monitoring meetings and provision of quarterly performance information to the Council.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 As this tender was to continue a service that started in the summer of 2017, there was no further member consultation. Social Workers and the Learning Disability team were invited to comment on the specification and new arrangement for core and spot hours. Where possible service users input into their support plans and work will be undertaken with them in the mobilisation phase to introduce them to any changes to the contract.

8.0 Human Resources/Property Implications (if appropriate)

- 8.1 TUPE applies to the award of the contract for this scheme. As a result, subject to the right of the employee to object to transferring, the employee's contract of employment will transfer to the new provider of the contract.
- 8.2 It is understood that none of the current staff employed at Salmon Street have access to the Local Government Pension Scheme ("LGPS"). Although pension rights do not transfer under TUPE, the Council is under a legal obligation to secure pension rights for its staff or former staff who previously transferred to a contractor pursuant to TUPE, and the successful tenderers awarded the contracts were required to confirm

they will either provide such staff (if any) with continued access to the LGPS, provide pension arrangements that are broadly comparable to the LGPS or in exceptional circumstances pay appropriate compensation to disadvantaged staff.

- 8.3 The existing contract is currently delivered by external contractors and it is proposed that this continues. Therefore, there are no implications for Council staff arising from the award of this contract.

9.0 Public Services (Social Value) Act 2012

- 9.1 The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value Act") to consider how 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 had regard to considerations contained in the Social Value Act in relation to the procurement.
- 9.2 The contract was evaluated with social value making up 10% of the evaluation score and it is proposed that the contracts are awarded on the basis that the London Living Wage is paid to staff.

REPORT SIGN OFF

DMT - Report sign off:

CRAIG CHALMERS

Head of Commissioning, Contracting and Market Management



Strategic Director - Report sign off:

PHIL PORTER

Strategic Director of Community and Wellbeing
(Delegated to Operational Director – Helen Woodland)

