



**Decision of Cabinet Member for
Adult Social Care**

**Report from the Strategic Director,
Community Wellbeing**

Approval to waive Contract Standing Orders to permit procurement through a direct award for supported accommodation linked to two properties for adults with learning disabilities linked to the boroughs New Accommodation for Independent Living program.

Wards Affected:	All
Key or Non-Key Decision:	Non-Key Decision
No. of Appendices:	
Background Papers:	N/A
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1. Purpose of the Report

- 1.1. The New Accommodation for Independent Living (NAIL) program, commenced in 2014 with a savings target of £7.54 million. This savings target remains a significant element of adult social care budget planning process. This report refers specifically to two six bed unit properties within the NAIL program designated for adults with a learning disability.
- 1.2. The purpose of this report is to inform and seek member approval to waive Contract Standing Orders to enable a direct award of two contracts for a service designed to support adults with learning disabilities in two properties at 127 and 129 Harrowdene Road, Wembley. The case for direct award, as opposed to a full tender process, is set out in the detail below.

2.0 Recommendation(s)

That the individual Cabinet Member for Adult Social Care:

- 2.1. Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender two contracts for services to support adults with learning disabilities at properties at 127 and 129 Harrowdene Road, Wembley, for the good operational and financial reasons detailed in the body of the report, thereby enabling Officers to directly award two contracts for a maximum 24 month period.

3.0 Detail

- 3.1 A key objective of the NAIL program is to bring on line alternative, local housing and support provision for adults with learning disabilities, many of whom are currently placed in high cost and sometimes out of borough placements.
- 3.2 This objective is supported locally by a program of acquisition and or refurbishment of properties, and it is important that they are operational as soon as possible.
- 3.3 Empty properties incur costs, do not generate rental income, and at the same time It is the intention to commission support contracts for the majority of properties through a full procurement process. This, depending on the commissioning model, will take between 4-6 months.
- 3.5 In order to mobilise some properties and offer tenancies to a cohort looking for immediate accommodation and care and support, and also support delivery to the boroughs budget recovery process, Officers would propose to commission support for two six bedded properties in Harrowdene Road, Wembley (HA0 2JH) through two direct contract awards to one Service Provider. This would enable Officers to mobilise these services in early 2019.
- 3.6 The properties are designed as two group homes, independent of each other. Each has a shared communal space and spacious gardens. Kitchens are fully equipped, complete with white goods. There is space for an on-site office, and the homes have been earmarked for people with learning disabilities, requiring medium to high levels of support available on 24 hour cycle.
- 3.7 Operational staff have identified a group of potential tenants for the service, most of whom are currently living in high cost placements funded from the adult social care budget. This includes some adults who are placed 'out of

borough' who in keeping with NICE guidelines will be brought back 'closer to home'.¹

- 3.8 Commissioners are seeking approval from the Lead Cabinet Member for Adult Social Care to waive the requirement to tender for contracts in respect of the two properties identifies. This would then enable Officers to seek to directly award the contracts via the Strategic Director's delegated authority.
- 3.9 Officers have considered formally procuring all contracts attached to these upcoming NAIL properties via the DPS but this will take 4- 6 months. Initial fast-track commissioning on a small proportion of these contracts would provide learning for the remaining contracts, which would indeed be opened up to the market through a competitive tender process shortly afterwards.
- 3.10 Subject to Cabinet Member approval to waive Contract Standing Orders, Officers would recommend that two contracts are awarded to a single provider for a duration of not less than 12 months and not exceeding 24 months for the two Harrowdene Road properties (12 beds in total) which are awaiting occupation. This period would provide a necessary interim service whilst steps are taken to procure a longer term contract. The exact duration of contracts would be determined by the price submitted by a provider, but the contract values for each of the two properties will not exceed the total amount of £600,000.
- 3.11 Officers are proposing to award a contract to an established provider in the borough. It is anticipated that this would enable the contract to be mobilised relatively quickly. Officers' assessment from preliminary discussions with providers is that short-term contracts are unlikely to be attractive to the wider market, particularly to providers who do not currently have a presence in the borough.
- 3.12 If Cabinet Member consent is given to waive the usual requirements of Contract Standing Orders to enable the direct award of two contracts, Officers will intensively manage the contract awards and mobilisation process in partnership with council stakeholders and the identified providers.

Table 2. Indicative Timescale for commissioning and service mobilisation

Approvals to waive tender, contract award	January
Drafting of specification, pricing model and model contract	January
Liaising with providers leading to Contract Award	January

¹ Learning disabilities and behaviour that challenges: service design and delivery. NICE guidelinesNG93 2018
<https://www.nice.org.uk/guidance/ng93/chapter/Recommendations#housing-and-related-support>

Mobilization period (customers start to move in)	February/March
Service fully implemented	April

4.0 Financial Implications

EU Threshold.

- 4.1 The contract cash envelope will not exceed the EU threshold for Schedule 3 services (currently £615,278) under the Public Contracts Regulations 2015.
- 4.2 Initial modelling on comparable services indicate that a maximum envelope of around £300,000 per property (or £600,000 for both) would be more than sufficient to cover core costs of a contract for a minimum duration of 12 months. Depending on a number of factors including the level of support required and the proposed hourly cost for support put forward by potential providers, the contract may be let for up to, but no longer than, 24 months.

Financial modelling

- 4.3 Commissioners have modelled costs based on a number of assumptions regarding the level and complexity of need and how this may translate in terms of staffing levels. These models will be refined once a more detailed profile of customers is available.
- 4.4 The proposed contract covers the core hours only and it is anticipated that each individual will have a direct payment to purchase any additional assessed hours from a provider of their choice.

Loss of revenue and cost savings

- 4.5 The support contracts for the Harrowdene Road are, like all NAIL projects, linked to the boroughs budget recovery process. There are two specific cost implications in delaying the commissioning of these projects,
- I. The loss of rental income whilst the 12 units remain unoccupied.
 - II. Continual incurred costs associated with maintaining potential tenants in higher cost out of borough placements.
- 4.6 As indicated in table 2, for every week the 12 bed spaces remain empty, the avoidable loss of income and savings to Brent is £8,184. If the contracts were subject to a full procurement this would require a minimum 24 weeks for procurement and mobilisation. In this period the loss of income and savings would in the region of £200,000.

- 4.7 The 12 week period commissioning and mobilisation process associated with the direct award would reduce this by 50%.

Table 2. Estimated moneys lost in relation to delayed mobilisation of 127 and 129 Harrowdene

	Cost per tenant per week	Loss per scheme Per month	Total loss of rent and potential cost savings over 24 weeks for 12 beds
Loss of rental income ²	£350	£8,400	£100,180
Cost saving/avoidance associated with transfer from higher cost unit	£332³	£7968	£95,616
Total	£682	£16,368	£195,756

- 4.8 In order to achieve the projected NAIL savings target, service users would need to start to move in during March 2019. It would not be possible to have a provider in place by this time via the formal tender route. This is more likely to be achievable via a Direct Awarded to a known provider.
- 4.9 The cost of paying London Living Wage on the anticipated core hours for this contract is £42,995 p.a.

5.0 Legal Implications

- 5.1 The combined contract value of services at the two properties, both individually and cumulatively, would have a value of less than the EU threshold for Schedule 3 services (currently £615,278) under the Public Contracts Regulations 2015. Given the nature of the services (support services to people with learning disabilities), the contracts are unlikely to be of cross border interest.
- 5.2 For the purposes of the Council's Standing Orders and Financial Regulations, the estimated value of the contracts are classed as Medium Value Contracts.
- 5.3 Contract Standing Order 96 provides that for Medium Value Contracts, tenders should be invited in accordance with Contract Standing Orders.

² Estimated rental income based on similar schemes in Brent

³ Cost saving from transfer from high cost unit is calculated as an average weekly saving associated with NAIL projects

Contract Standing Order 84(a) however, provides that subject to the requirements of European Procurement legislation for Medium Value Contracts, an individual Cabinet Member may agree an exemption from the requirement to procure where there are “good operational and/or financial reasons” for waiving Contract Standing Orders. For the reasons detailed in paragraph 5.1, it is not considered that waiving the Contract Standing Orders would constitute a breach of domestic and EU legislation.

6. TUPE

- 6.1 As these are new services and not designed to replace or transfer activity from existing block contracted provision there are no TUPE implications in relation to these services.

7.0 Equality Implications

- 7.1 National guidelines for the care and support of people a learning disability emphasises the value of caring for people ‘nearer to home’ and to provide people with access and choice to accommodation and support:

‘Commissioners should work with local housing and social care providers to identify the specific housing needs of adults with a learning disability and behaviour that challenges. They should ensure areas have a range of housing and care options available that meet these needs and cater for different preferences and person-centred support needs’

- 7.2 Whilst a key driver for the NAIL project is to assist the borough in delivering a sustainable budget it offers real opportunities to improve the quality of accommodation and support available for a number of vulnerable service user groups and therefore to improve client choice.
- 7.3 Planned moves will be discussed with clients and their families and every effort will be made to locate people near families and community networks. Similarly every effort will be made to place clients together where they have established friendships.

8.0 Consultation with Ward Members and Stakeholders

- 8.1 In October Brent hosted a market warming event to introduce its commissioning intentions in respect of its support and care services for adults with learning disabilities. This was well attended (40 delegates) including established local providers.
- 8.2 Work is underway to identify potential service users to move in to the Harrowdene properties. Once individuals have been identified work will be done to involve the service user and their family in making the planned move

- 8.3 As part of the development of the Harrowdene projects, Brent will work with the contracted provider to ensure that a positive relationship is established with immediate neighbours and the wider communities in which the services are located.
- 8.4 There is a working group for the NAIL program which includes representatives from adult social care, housing and commissioning. This group works closely together to ensure good communication and forward planning and ensures that service users are the heart of the process.

9.0 Human Resources/Property Implications (if appropriate)

- 9.1 The two properties in Harrowdene are owned by the council. As part of the direct award process the service provider/s will sign a housing management agreement with the council. As the landlord, the council will retain responsibility.
- 9.2 The council's intention to award any contract on the basis of being London Living Wage compliant.

10. Other options considered

- 10.1 Commissioners have looked at alternative options including condensing the full procurement process into a shorter time frame. Officers have however been advised that this would not be feasible and in order to meet the objectives of providing clients with 'quick access' to the new accommodation a direct award would be the best of options in terms of the identified objectives.

11. Identification of risk and mitigating factors

- 11.1 We have considered a range of options in terms of the risk associated with them, probable impact and actions to mitigate risk and their impact.
- 11.2 We have considered the risks that may be associated with the direct award of two time limited contracts. Our assessment of the main risks and the factors or actions that would mitigate against are set out in table 3.
- 11.3 As the information in table 3 highlights, there are three 'significant' risks associated with Officers proposed procurement option of direct contract award. It is Officers' assessment that these risks are moderate and manageable.

Table 3. Identified risks associated with proposed direct award and actions designed to mitigate these risks

Risk	Assessed level of risk	Mitigating factors/actions
The short term duration of the contact may prevent providers from bidding	Moderate	<p>Commissioners will seek an 12 month minimum contract to include mobilisation period</p> <p>Initial discussions with local providers indicates a positive interest in these contracts despite the short term nature of the contract</p> <p>As properties are owned by Brent, there is no financial costs associated with leases.</p> <p>Any staff recruited by providers will be eligible to TUPE transfer in the re-procurement of longer term contracts for the service</p>
Providers unable to mobilise quickly e.g. recruitment of staff levels	Moderate	<p>Commissioners will seek providers operating to a scale that indicates access to a significant workforce that could be redeployed.</p> <p>Commissioners will consider a limited contingency budget as part of submitted proposals. This will be a 'one off 'payment to meet any additional costs incurred in the mobilisation period e.g. backfilling staff and limited agency staff costs.</p>
Unable to fill all bed spaces	Low	A preliminary review of clients in existing placements has identified a pool of potential clients.