



Executive
12 March 2012

**Report from the Directors of
Adult Social Services and
Regeneration and Major Projects**

Wards Affected: ALL

**Approval for arrangements to procure Supporting People
services for existing contracts terminating in 2012 to 2014**

1.0 Summary

- 1.1 A report was approved by the Executive on 14th March 2011 for Adult Social Care to join a West London framework agreement procurement project for Supporting People services. The report presented a 3 year Procurement Plan, (attached as Appendix A), setting out existing contract arrangements incorporating this framework and extensions to existing contractual arrangements.
- 1.2 This report provides an update on the progress of the West London framework. In addition it seeks approval to extend contracts identified in the 14th March 2011 Executive report Procurement Plan (attached as Appendix A) and proposed next steps.
- 1.3 This report also sets out the supporting people budget and provides an update on savings achieved to date and proposed over the next 2 financial years.
- 1.4 This report seeks authority to invite tenders for the Supporting People Housing Related Support Services Framework, as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

That the Executive:

- 2.1 Note the update on the progress of the West London framework procurement project.

- 2.2 Agree to an exemption from the usual tendering requirements of Contract Standing Orders to award interim contracts for Supporting People funded services to existing providers on the basis of good operational and financial reasons as set out in paragraph 3.3 to 3.4 of this report.
- 2.3 To approve the award of interim contracts for Supporting People funded services as set out in Table 1 of section 3.3 for a period of up to 5 months.
- 2.4 Approve a 1 year contract extension to the Single Homeless Hostels contracts detailed in section 3.3 of this report.
- 2.5 To give approval to the pre - tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 3.5 of this report.
- 2.6 To give approval to officers to invite expressions of interest, agree shortlists, invite tenders for the Supporting People Housing Related Support Services Framework and evaluate them in accordance with the evaluation criteria referred to in 2.5 above.
- 2.7 Note the Supporting People budget and saving update.

3.0 Background

West London framework agreement procurement project update

- 3.1 Supported by the West London Alliance the London Borough of Hammersmith and Fulham and Royal Borough of Kensington and Chelsea are leading the West London framework agreement procurement project. The framework will be accessed by 7 West London boroughs covering all client groups for housing related support services.
- 3.2 The project started in January 2011 with a planned completion date of February 2012; allowing authorities to call off from the Framework from the beginning of April.
- 3.3 Unfortunately there have been severe delays in the procurement timetable due to sign off of procurement documentation and pre-qualification evaluation taking longer than anticipated due to the number of providers bidding to be part of the framework (143 providers submitted a pre-qualification questionnaire before the closing date and time). As a result the framework is now estimated to be ready for boroughs to call off from June 2012. Existing contracts which were planned to be procured through the framework will potentially be subject to a mini competition and Officers will require a 4 month period to carry out this process and to award contracts. It is our intention to procure the contracts outlined in Table 1 below from the framework, we therefore seek approval to extend for up to 5 months to enable this process:

Table 1

Client Group	Number of contracts	Existing Contract End Date	Proposed Extension Period	Proposed Contract End Date
Learning Disability – floating support	2	August 2012	5 months	January 2013
Learning Disability – accommodation based	1	August 2012	5 months	January 2013
Single Homeless Floating Support	1	August 2012	5 months	January 2013

The 14th March 2011 Executive report Procurement Plan (attached as Appendix A) also identified a contract end date of March 2012 for Single Homeless Hostel contracts with a possible 1 year extension subject to Executive approval. Officers request approval for an up to 1 year extension.

- 3.4 In light of the delays to date, it is anticipated that there may be further delays in the framework being established. Therefore Officers intend to review the delivery of the framework in May, and if it is anticipated that the framework will not be established in June; there will be no alternative, but to carry out a Brent Council led procurement process. This will ensure the Council meets its legal obligations to procure services and ensure financial targets are met in accordance with Section 3.7 and 3.8 of this report. The proposed extension period outlined in section 3.3 of this report will allow sufficient time for Officers to carry out our own procurement. The Procurement Plan in the Executive report of the 14th March 2011(attached as Appendix A) outlines additional contracts which expire in late 2012 and early 2013; Officers will also procure those contracts as part of this process.
- 3.5 Following the review referred to in 3.4 above; where Officers are of the view that the West London framework is unlikely to be established in a timely manner, it is proposed that the Council shall carry out its own procurement process. It is anticipated that tenders will be invited in accordance with Contract Standing Order 96 and Proposed contracts awarded on the basis of the evaluation criteria set out in the table (vi) below:

The evaluation criteria set out below broadly mirrors the criteria to be used for the formation of the West London framework.

Ref.	Requirement	Response	
(i)	The nature of the service.	Housing related support services	
(ii)	The future estimated value of the contract.	The date the West London Framework is established will determine which contracts need to be procured through our own procurement. The Procurement Plan presented in the 14 th March 2011 Executive (attached as Appendix A) report provides details of approximate contract values of up to £5,150,000 per annum.	
(iii)	The contract term	Contracts would be awarded for up to 4 years (2 years plus 1 plus 1).	
(iv)	The tender procedure to be adopted.	<p>A two stage restricted tender process in accordance with the Council's Standing Orders 96 (c).</p> <p>As Social Care transactions are 'Part B Services', under the Public Contract Regulations 2006 ("the Regulations"); the Regulations apply only in part to the tender namely, (adoption of a technical specification and forwarding a Contract Award notice)</p>	
(v)	The procurement timetable	Indicative dates are: <ul style="list-style-type: none"> • Adverts placed • Expressions of interest (Pre-Qualification Questionnaire) returned • Shortlist drawn up in accordance with pre-determined minimum standards as to financial standing and technical competence • Invite to tender • Deadline for tender submissions 	5.6.12 2.7.12 30.7.12 6.8.12 3.9.12

		<ul style="list-style-type: none"> • Panel evaluation • Executive approval • Contract start date 	24.9.12 12.11.12 1.1.13
(vi)	The evaluation criteria and process	<p><u>Stage 1: pre-qualification stage</u> Shortlists would be drawn up in accordance with the Council's Contract Management Guidelines by a pre-qualification questionnaire (PQQ).</p> <p>The pre-qualification would test the capacity and capability of potential bidders as well as potential bidder eligibility to take part in the Procurement. This would include the following:</p> <ul style="list-style-type: none"> • Subcontracting/consortia arrangements • Professional conduct • Economic and financial standing • Insurance • Resources • Health and safety • Quality assurance • Equality • Environmental • Sustainability • Carbon policy • Business continuity • Previous experience and references <p>The outcome of this stage would be a list of pre-qualified bidders for the Procurement and a short-list of bidders to be invited to tender.</p> <p><u>Stage 2: Invitation to Tender (ITT)</u> For those that would be selected by Stage 1 there will follow an Invitation to Tender (ITT) stage.</p> <p>Tenders will be evaluated on the basis of the most economically advantageous tender using the following criteria.</p> <p>1. Quality</p>	

		<p>Quality will consist of 40% of the evaluation weightings. The quality assessment will be evaluated using the following criteria that may be subject to minor change as required:</p> <ul style="list-style-type: none"> • Working together • Achieving outcomes • Giving individuals choice and control • Creating a positive environment <p>Accommodation based contracts may also include the following quality criteria:</p> <ul style="list-style-type: none"> • Providing a flexible and efficient night support services • Ensuring evictions/abandonments and unplanned moves are reduced to a minimum • Engaging with the local community <p>2. Price</p> <p>Price will consist of 60% of the evaluation weightings assessed through the application of a formula that underpins a proportional scoring which will award the maximum of 60% to the lowest priced tender</p>
(vii)	Any business risks associated with entering the contract	No specific business risks are considered to be associated with agreeing the recommendations in this report.
(viii)	The Council's Best Value duties	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications	See sections 7 below
(x)	The relevant financial, legal and other considerations	See sections 4, 5 and 6 below

Supporting people budget and savings update

3.6 There is an existing Supporting People Strategy 2010-2014. Officers are currently reviewing the investment in Supporting People services under this strategy against investment review criteria of:

3.6.1 Services that directly prevent homelessness

3.6.2 Services which prevent or delay demand on other services.

The review to date has informed the establishment of the One Council project as set out in 3.7, 3.8 and 3.9 below. The review will also inform the future commissioning under the WLA Supporting People framework agreement as set out in this report.

- 3.7 In Brent, local Supporting People services cost £10.7m in 2011-12; having been reduced by £1.2m against the 2010-11 budget. These savings were achieved primarily through negotiations with service providers which resulted in reductions to the hourly rate and for support in line with benchmarked rates paid across the West London sub-region.
- 3.8 The One Council Programme Board has identified 'effective and efficient provision of housing-related support needs' as a project required to be delivered by the Adult Social Care department over the next two years. This project will improve the Council's approach to preventing homelessness and reduce pressures on statutory care budgets. Service change will be achieved in the first year through:
- 3.8.1 Transfer of funding for housing related support needs in sheltered housing to housing benefit
 - 3.8.2 Non-renewal of underperforming contracts and contracts which fund services that are duplicated elsewhere within Council provision
 - 3.8.3 Negotiation of efficiencies with existing service providers
- 3.9 This activity will deliver £600k in savings against the Supporting People budget in 2012-13. Further service change will be realised in 2013-14 through the re-specification and procurement of the Council's Supporting People-funded services. A number of initiatives will be built into the design of the procurement process to ensure that existing gaps in service provision and care pathways are overcome, including:
- 3.9.1 Transfer of intensive housing management costs to housing benefit
 - 3.9.2 Increasing the degree to which local services are able to meet the needs of a diverse population
 - 3.9.3 Better management of demand
 - 3.9.4 Incentivising move-on into step down/ private-rented sector accommodation
 - 3.9.5. Non-payment of voids
 - 3.9.6. Review and rationalisation of referral pathways
- 3.10 This activity will deliver a further £900k in savings against the Supporting People budget in 2013-14.

4. Financial Implications

- 4.1. In 2011/12 the total value of the Supporting People programme is £10.7m. It is anticipated that the budget for the programme will reduce to £10.1m in

2012/13 and that a further reduction of £900k is anticipated in the following year.

- 4.2. This report sets out proposals to use the West London Supporting People framework to procure supporting people services or if the framework isn't available in time, to award contracts in accordance with local procurement arrangements and the council's contract standing orders. The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to invite tenders and in respect of other matters identified in Standing Order 89.
- 4.3. The current annual value of the contracts to be called off the framework or tendered as set out in this report is estimated to be up to £10.1 for 2012/13. These new SP contracts will be funded through the existing Supporting People budget.
- 4.4. There will be costs incurred in the contract process for professional advice, in particular legal. These will be funded from existing resources.

5 Legal Implications

- 5.1 The Council has the necessary powers to enter into the contracts included in Appendix A under s21, s26 and s29 of the National Assistance Act 1948, s45 of the Health Services and Public Health Act 1968, s2 of the Chronically Sick and Disabled Persons Act 1970, and s2 of the Local Government Act 2000. In addition, the Council must comply with any conditions imposed on the Supporting People Grant it receives.
- 5.2 The Council, being a Contracting Authority, has to comply with legislation which includes the Treaty on the Functioning of the European Union ("*TFEU*") (formerly known as the EU Treaty) as amended by the Lisbon Treaty; the Public Contract Regulations 2006 and 2009 (as amended) ("*the Regulations*") in addition to the Council's published Financial Regulations and Contract Standing Orders in terms of awarding contracts.
- 5.3 The provision of Housing Related Support services are deemed Part B services for the purposes of the Regulations and as such are not subject to its full application of the tendering rules. They are however, subject to the overriding TFEU principles of *transparency, proportionality, mutual recognition, fairness, equal treatment and non-discrimination*. Notwithstanding that the services are Part B it is an established principle under EU Law that the obligation of transparency means that a contracting authority must ensure a degree of advertising - sufficient to allow the services market to be opened up to competition. Where a particular service has "certain cross-border interest" outside of the UK then the Contracting Authority must ensure transparency in letting the contracts.

- 5.4 In applying these principles with respect to the proposed interim contract awards identified within the body of this report; the significant factor to decide is whether there will be cross-border interest in the services thereby requiring advertising and re-tender. This has to be looked at on a case-by-case basis. The following factors will be significant:
- The subject matter of the contract
 - The estimated value of the contract
 - The place of performance or delivery
 - The size and structure of the relevant market.
- 5.5 Therefore, subject to Para. 5.3 above, a contracting authority that makes a direct award of a Part B service without adequately advertising the contract will be in breach of the TFEU principles. However, it is for Officers to determine that there will not be cross-border interest in the proposed interim contract awards to existing providers to cover the period until such time as the procurement process for those services are completed.
- 5.6 Where approval is being sought to award interim contracts to current providers, an exemption from the usual tendering requirements of Contract Standing Orders is required. The Executive can only grant such an exemption where it is satisfied that there are good operational and/or financial reasons and that there would be no breach of the Regulations.
- 5.7 This report is also seeking approval to go out to tender for Brent led procurement for Housing Related Support services where Officers determine that the current collaborative West London framework will not be established in a timely manner so as to enable the Council to call off services when required. The proposed value of the Housing Related Support services contracts are High Value (i.e. exceeding £500,000 in total value). Therefore, in accordance Contract Standing Orders 88 and 89 the Executive is required to agree the pre-tender considerations so that Officers may invite expressions of interest, shortlist and subsequently invite tenders for the services.
- 5.8 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.

6. Diversity Implications

- 6.1 Where it is proposed to change any service then an Equalities Assessment will be carried out to identify the impact on any particular group and the mitigating steps that need to be taken before a final decision is made on implementation.

7. Staffing/Accommodation Implications

- 7.1 Subject to Para. 6.2 below, the supporting people services proposed to be procured in or outside the west London framework and proposed savings for 2012/13 are provided by external providers and there are no implications for Council staff arising from the proposed tendering exercise.
- 7.2. In the review of services to deliver the 2013/14 savings there are 2 contracts currently being delivered by council staff. However at this stage the review is 9 months from commencing and Officers cannot identify at this stage if the 2 contracts will be affected by the planned savings.
- 7.2. Where the award of call-off contracts are made under the proposed Framework Agreement or appropriate alternative procurement solutions to one or more new providers other than the incumbent; the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") may apply so as to transfer from the current providers to the new, those employees of the incumbent provider. TUPE considerations will be considered by Officers when calling-off services under the proposed framework.

Background Papers

Executive Report titled Supporting people procurement Plan and related Contract issues dated 14th March 2011

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APPENDIX A

LONDON BOROUGH OF BRENT – SUPPORTING PEOPLE PROCUREMENT PLAN 2011-13				
Client Group	Contract end dates /extensions	Tender Process Start Month/Year	Contract approx annual value 2010-11	Next steps and options being considered
PROCUREMENT IN PROGRESS:				
Young Peoples Services	September 2011	February 2011	£0.8mill	Local Framework Contract Tender in progress. New service providers to be in place by 1 st Sept 2011.
PLANNED PROCUREMENT:				
Domestic Violence Services	March 2012 (+ possible 1 year extension) (subject to approval by exec)	April 2011	£0.57mill	West London SP Framework
Families	March 2012 (+ possible 1 year extension) (subject to approval by exec)	April 2011	£0.5mill	West London SP Framework
Learning Disability – floating support	August 2010 + 2 years (currently negotiating extension price)	Depends on outcome of negotiations with current provider	£0.45m	Either existing West London home support Framework or new West London SP framework
Learning Disability- Accommodation Based	August 2011 +1 year possible extension	Preparation starts August 2011 Call off WL February/March 2012	£0.27mill	Call off either existing West London home support Framework (service would need considerable re-configuring) or new West London SP framework
Older People (sheltered)	March 2012 + 1 year possible extension	Preparation starts with Exec report August 2011	£1.2mill	Sheltered Review in Progress due to report to Executive by August 2011. The outcome will determine future configuration of services and capacity. Either call off existing West London home support Framework, West London SP Framework
Mental Health Services	November 2011 with possibility of 1 year extension	Preparation starts August 2011 Call off WL February/March 2012	£2 mill (reduction of £0.4 negotiated for 2010-11)	West London SP Framework

LONDON BOROUGH OF BRENT – SUPPORTING PEOPLE PROCUREMENT PLAN 2011-13 continued				
Client Group	Contract end dates /extensions	Tender Start Month/Year	Contract approx annual value 2010-11	Next steps and options being considered
Single Homeless - hostels	March 2012 + 1 year possible extension (subject to Exec approval)	Preparation starts June 2011 with call off in February/March 2012	£2.2mill	Call off new West London SP framework
Single Homeless Floating support	August 2012 and March 2013 (2 contracts)	call off as required from June/July 2012	£1.3 mill	Call off new West London SP framework
HIV services	Feb 2012 with possibility of 1year extension	Preparation starts Sep 2011 call off in February/March 2012	£0.05m	Call off West London SP Framework Agreement (with other floating support services)
Older People (Floating support)	June 2012 with possibility of extension one year	Call off date will depend on price reduction negotiations and contract extension agreed with existing provider.	£0.79mill	Call off either existing West London home support Framework or new West London supporting people framework
Services for People with Physical Disabilities and HIV	November 2011 with possibility of one year extension	Call off WL February/March 2012	£0.33million	Call off West London home support Framework or WL SP framework
Offenders services	December 2012	June 2012	£0.43mill	Call of f from West London SP Framework
Drug and Alcohol Services	December 2012	June 2012	£0.32mill	Call of f from West London SP Framework
Teenage Parent services	September 2012 with possibility of one year extension	Late 2012/early 2013	£0.2mill	Call of f from West London Framework