

	<p style="text-align: center;">Executive 6th August 2007</p> <p style="text-align: center;">Report from the Director of Housing and Community Care</p>
<p style="text-align: right;">Wards Affected: NONE</p>	
<p>Multicultural Day Care Service for Older People – options following tendering</p>	

Forward Plan Ref: H&CC-07/08-05

The appendix to this report is not for publication

1.0 Summary

- 1.1 On 15 January 2007 the Executive agreed to invite expressions of interest for a contract for multicultural day care services as part of a market testing exercise. Tenders were subsequently invited in accordance with the process approved by the Executive on 16 April 2007. Only one tender, from the current provider, was received which was heavily qualified and the cost was in excess of the budget available. This report sets out the options now available and requests the Executive to approve the new process to be followed.

2.0 Recommendations

That the Executive:

- 2.1 Agree to an exemption from the tendering requirements in Standing Order 84 for the further procurement of the multicultural day care service due to the failure of the recent tender process;
- 2.2 Agree to officers negotiating with Sudbury Neighbourhood Centre to provide a multicultural day care service as set out in paragraph 3.8.2 within the parameters set out in paragraph 3.10, and delegate to the Director of Housing and Community Care the decision to award a contract on satisfactory conclusion of these negotiations;
- 2.3 Agree that in the event of the negotiations described in paragraph 2.2, proving unsuccessful a further report will be brought to the Executive.

3.0 Detail

- 3.1 Sudbury Neighbourhood Centre currently provides 60 sessions of day care per week over a Monday to Friday period for an average of 45 services users assessed by Older People Services as meeting the Fair Access to Care Services criteria at the critical or substantial level from its own premises in Sudbury. The Centre transports service users from home to the day service and back and provides refreshments and a hot lunch. A range of activities is offered as well as periodic outings. The Council's approved charge for meals is levied from the service users and although no charge is currently made for attendance the Executive has approved this and it will be introduced in the near future following completion of individual financial assessments.
- 3.2 The initial contract was entered into following approval from the Executive, on 18 November 2002, with an exemption from the Council's Contract Standing Orders from following a tendering process for good financial and operational reasons, to allow negotiations between the Council and the organisation which had previously been in receipt of grant for the services they provided.
- 3.3 The contract commenced on 1 April 2003 and initially ran until 31 March 2006 when it was extended for one year until 31 March 2007 by the Director of Housing & Community Care in accordance with Part 4 Paragraph 3 of the Constitution. In the report submitted to the Executive in November 2002 it was set out that officers would carry out a market testing exercise at the end of the contract period to establish if there were any other providers who could deliver a similar service. To allow this process to take place the Executive agreed on 15 January 2007 to further extend the contract until 30 November 2007.
- 3.3 The Executive on 15 January 2007 gave approval for inviting expressions of interest for a new multi-cultural day care service. The background for this tendering exercise, in addition to the expiry of the current contract, was the need to improve the Specification to reflect good practice in this sector. Advertisements were placed in the Community Care journal and the local press on 1 February 2007. Seven expressions of interest were received; five were subsequently discounted as they were unable to offer accommodation for the service in the borough or did not have appropriate experience. As there were two viable expressions of interest a full tendering process was required and the Executive approved the process and evaluation criteria on 16 April 2007. This approval was for a multi-cultural service that covered the whole borough, with the provider needing to put forward suitable premises for delivery of the service.
- 3.4 The closing date for submission of tenders was 6 June 2007 and only one tender was received; from Sudbury Neighbourhood Centre, the current provider. However the tender was heavily qualified, due to the organisation indicating that they could not accept certain key areas of the Specification. Details of the qualifications are set out in the Appendix to this report, which is not for publication.
- 3.5 The extent of the qualifications means that the whole service is compromised and the service improvements sought by the Council and set out in its Specification, such as making the service available to all areas of the borough, taking on new

service users promptly, providing care for all those meeting the Critical and Substantial eligibility criteria, administering medication, monitoring service users' nutrition and hydration and providing more varied activities, could not be achieved if the bid was accepted.

- 3.6 In the Instructions to Tenderers we reserved the right not to consider any tender where the tenderer has made any qualifications to the terms of any tender document. Following legal advice on this matter a letter has been sent to Sudbury Neighbourhood Centre to inform them that their tender will not be considered further.
- 3.7 In addition the tender price exceeded the available budget by £40,000, which means that the tenderer had significantly increased its prices above that paid at present (see section 4 below).
- 3.8 Having discontinued the tender process, there are three options available:
 - 3.8.1 Re-tender;
 - 3.8.2 Negotiate directly with Sudbury Neighbourhood Centre with Executive approval for an exemption from tendering under Standing Order 84;
 - 3.8.3 Seek out alternative providers on a negotiated basis.
- 3.9 In respect of the first option to re-tender officers feel that because of the limited market of day care providers with suitable premises located in the borough, as evidenced by the response to the expressions of interest, this is not a feasible choice. Officers have communicated with the other organisation that was invited to tender and have established that the reason they did not submit a tender was that they did not feel they had the skills, resources or premises to run the service themselves. In seeking alternative accommodation for the Council's own Day Centre officers are aware of the lack of suitable premises in the borough.
- 3.10 Officers therefore propose that the most appropriate option is the second option. However the third option is available as a back-up, and should negotiations prove unsuccessful with Sudbury Neighbourhood Centre then the Executive will receive a further report with further proposals. In order to progress the second option, officers will enter into negotiations with Sudbury Neighbourhood Centre to agree a contract with the following requirements:
 - 3.10.1 Negotiations are completed before the end of the current contract period on 30 November 2007;
 - 3.10.2 Agreement is reached with Sudbury Neighbourhood Centre for them to provide the service as specified in full and to meet all the contract requirements in order to secure the service improvements sought by the Council and to maximise usage of the sessions purchased and to ensure that the service is available to anyone living in the borough rather than the currently restricted area;
 - 3.10.3 A price is agreed which is within the market norm for a level of service that is affordable within the available resources, though this may result in a fewer number of sessions being purchased than at present.

4.0 Financial Implications

- 4.1 The price submitted in the tender received exceeded the market norm and the existing resources available for this service, as well as representing a significant increase on the current charge. Details of the tendered charge as well as of the current charge are set out in the Appendix (not for publication).
- 4.2 One of the key drivers for the negotiations with **Sudbury Neighbourhood Centre** will be the need to contract for a service which is affordable within the resources available for the service.
- 4.3 Where service prices cannot be negotiated such that the desired number of sessions is affordable within resources available then the number of sessions purchased can be reduced to the level that can be purchased within those resources.
- 4.4 The current annual budget for this service is £186,000, which purchases 60 sessions from the current provider.

5.0 Staffing/Accommodation Implications

- 5.1 This service is currently provided by an external contractor and there are no implications for Council staff.
- 5.2 The Contractor is required to provide suitable accommodation for the provision of the service.

6.0 Legal Implications

- 6.1 Day care services are part B services under the Public Contracts Regulations 2006 and so are not required to be tendered in accordance with the European public procurement regime. This means that the main legal issue for the Executive is to ensure that proposals for ensuring ongoing delivery of this service are within the framework of Standing Orders.
- 6.2 A three-year contract for a borough-wide multicultural day service for 60 sessions per week would be a High Value contract as it would exceed £500,000 in value. It must therefore be tendered, and is required to be awarded by the Executive. However under Standing Order 84, the Executive can exempt a contract from the tendering requirement where there are good operational or financial grounds for doing this. Here the failure of the previous tender exercise and the known lack of providers in the market is put forward as justifying exemption from further tendering.
- 6.3 If negotiations are successful with the current provider, then normally there would be a further report to the Executive to award the contract, because of its High Value status. However it is proposed that such a decision is delegated to the relevant Chief Officer. This means that the potential for delay in finalising the contract once negotiations are satisfactorily concluded is minimised.

6.4 Under the National Assistance Act 1948 S29 the Local Authority has a duty to provide recreational facilities for its community. This is a 'target duty' and accordingly allows the Local Authority discretion as to how these services are provided. A decision to significantly reduce or close a service should only be made after meaningful consultation. Under the Chronically Sick and Disabled Persons Act 1970 the Local Authority has a duty to provide services, including recreational services, to persons assessed as having a need for such services. This is determined by application of FACS. Where a person has a need for services those needs must be met and therefore in the event that the number of places is less than those who are assessed as having a need, alternative provision will need to be made, although those needs may be met by a range of services and not only day centre services.

7.0 Diversity Implications

7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications. However it is essential that service users from Brent's multicultural communities have equal access to day care services wherever they live in the borough and facilities are not restricted to users living in the Sudbury/Wembley area. If the service is not available to all older residents then this would indicate a negative diversity impact. All other day care services accept services from all parts of the borough.

8.0 Background Papers

- 8.1 Executive Report: Options for Older People Day Services – 15 January 2007
- 8.2 Executive Report: Approval of the Tendering Process For A Multi-Cultural Day Care Service For Older People – 16 April 2007
- 8.3 Invitation to Tender – Older People Day Care Services 2007

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