



Executive
8th October 2007

**Report from the Director of
Housing and Community Care**

Wards Affected:
NONE

**Extension of Contract with Penderels Trust and Authority
to invite Tenders for a Direct Payments Support and Advice
Service Contract**

Forward Plan Ref: HCC-07/08-14

1.0 Summary

- 1.1 This report concerns the extension of the Council's existing Direct Payments Support and Advice Service contract with Penderels Trust and the procurement of a new Direct Payments Support and Advice Service contract.
- 1.2 This report requests approval to invite tenders in respect of the Direct Payments Support and Advice Service for a three year period commencing 1st April 2009 with an option to extend the contract for a further two years, as required by Contract Standing Orders 88 and 89.

2.0 Recommendations

- 2.1 That the Executive note the extension of the current contract with Penderels Trust for a further year from 1st April 2008 until 31st March 2009.
- 2.2 That the Executive notes the reasons why the proposed re-tendering exercise did not take place as intended during 2007/8.
- 2.3 That the Executive give approval to the pre-tender considerations and the criteria to be used to evaluate tenders for the new contract as set out in paragraph 3.13 of the report.

- 2.4 That the Executive give approval to officers to invite tenders and evaluate them in accordance with the approved evaluation criteria referred to in 2.3 above.

3.0 Detail

3.1 Policy Background

Direct Payments form part of the government's strategy to empower service users, carers and their families to exercise increased choice, control and independence. They offer flexibility in how services are designed, developed and delivered, in order that individuals have greater independence and are able to make their own decisions about how, when and who delivers their care and/or support.

- 3.2 The Community Care (Direct Payments) Act 1996 and the Carers and Disabled Children Act 2000, gave local authorities the power to make direct monetary payments to some service users in lieu of social care services. Direct Payments are paid to individuals who have been assessed as needing services and are willing and able to manage them (with or without assistance). This means locally that they must meet Brent's Fair Access to Care Criteria whereby users must have critical or substantial needs. Individuals are provided a sum of money sufficient to secure the services they have been assessed as needing.

- 3.3 The Health and Social Care Act 2001 repealed the previous legislation and makes it a duty, in certain circumstances, for local authorities to make Direct Payments to anyone who is eligible. It confirms the principles of independence, choice and flexibility as paramount in the way that individuals' needs are met. Direct Payments can therefore provide the opportunity to create innovative care packages with high levels of individual choice.

Current Contract

- 3.4 In July 2003 the Council agreed to award the current Direct Payments Support and Advice Service contract to Penderels Trust. The contract was for a period of 3 years commencing on 1st April 2004 with an option to extend for a further year. The contract includes practical training and support on establishing personal care arrangements, recruiting carers and advice on payroll and financial management. The contractor also works closely with Council's care managers to actively promote and raise the profile for the service within Brent.
- 3.5 The contract was extended on 1st April 2007 for one year and will expire on 31st March 2008. For reasons detailed in this report a re-tendering exercise has not taken place and therefore officers note that the current contract will be extended a further year until 31st March 2009 to allow time to re-tender the service.

3.6 A number of service users currently in receipt of Direct Payments have commented positively on the way that having services provided through this mechanism has enabled them to exercise greater choice and control over the services they receive. They have also remarked upon the importance of the support service in enabling them to manage the services and they also value opportunities for peer support as provided through the user group facilitated by Penderels Trust.

3.7 Re-tendering of the service has been delayed for the following reasons:

- Review of the Direct Payments Policies and Procedures: Work is underway to revise existing internal policies and procedures relating to Direct Payments to ensure that as many service users as possible are encouraged and supported to choose this scheme as their way of receiving social care support. This work will also address issues concerning roles and responsibilities of the various parties involved, including the role of the Council's Direct Payments Support and Advice service. Clarification of procedures and roles will affect the service specification for the newly tendered Direct Payments Support and Advice Service.
- Contract Value for money: Over the initial years of the existing contract, costs have increased as the number of people receiving Direct Payments has increased. Whilst this is to be expected, there are economies of scale to be taken into account in terms of any new contract. Similarly, the level of support offered to service users varies dependent upon the complexity of their support package, their personal capacity and the length of time they have been using the service. The current contract is effectively based around a 'per head' costing model whereby the contract cost increases with each new user receiving support. This approach needs to be reviewed in advance of the implementation of any new contract, and further work is needed to analyse and explore costing options which take account of levels of care and length of engagement with the service. This approach will also examine alternative ways of delivering the service to ensure we achieve value for money.
- To increase the take-up of Direct Payments and other forms of Self Directed Support: Increasing take-up of Direct Payments and other forms of Self Directed Support is a key element of central government policy relating to the provision of social care services, and was highlighted in the Department of Health's White Paper 'Our health, our care, our say' published in January 2006 ("the White Paper"). The key aim is to ensure that service users and their carers have greater choice, control and influence over the type of care they receive and the way in which it is provided.

Social Care authorities now have a duty to provide Direct Payments to those who can consent to have them, and the White Paper made it clear that Direct Payments should be the 'first option' discussed with users at the point of assessment and/or review. Legislation was also promised extending the range of people and services eligible for direct payments funding.

Other forms of Self Directed Support are also in development both locally and nationally. These include Individual Budgets, which are being piloted in a number of authorities across England. These differ from Direct Payments in that they involve funds other than social care resources, but the principles of user choice and control are similar. The two year Individual Budget National pilots are due to report to the Department of Health during 2008/09, and it is likely that from 2009/10 onwards the Individual Budget approach will be rolled out nationally with an expectation that they will significantly increase the number of people choosing to take control of their service design and delivery.

The support service to be tendered which will begin in April 2009 will need to take account of these new developments.

- Adult Social Care Transformation programme: A major transformation programme is currently underway in the Council's Adult Social Care services; the programme is seeking to improve the efficiency and cost effectiveness of service delivery whilst maintaining high levels of user focused service delivery. The programme is timetabled to run until March 2010. Among the key elements of the programme is a project to significantly increase the take-up of Direct Payments and other forms of Self Directed Support.

This work is in its relatively early stages with a range of service area specific initiatives being developed to ensure that ambitious targets for increases in take up are delivered. The availability of an effective and responsive support service will be a significant aspect in achieving this shift in the way services are delivered. As this work develops, specific recommendations relating to the Direct Payments Support and Advice service are likely to emerge which will be significant in informing the service specification and the tendering process for a new service.

- 3.7.1 Performance Indicators and Star Ratings: Take-up of Direct Payments is a key performance indicator for Adult Social Care (PAF C51). Performance against this indicator is particularly significant in determining overall star ratings as it is classified as a 'Key Threshold' indicator which is given added weighting by the Commission for Social Care Inspection when reaching judgements on star ratings. The Adult Social Care star ratings in turn influence the Council's overall rating under the Comprehensive Performance Assessment ("CPA") and the new Comprehensive Area Assessment which will replace the CPA in 2009.

Brent's performance against this indicator has shown steady improvement over the past three years with significant increases in the number of people receiving Direct Payments. However, in 2005/06 (the last year for which audited comparative figures are available) Brent is shown to be in the lower quartile nationally, and more recent London benchmarking data also indicates that Brent's performance is low when compared with other authorities during 2006/07.

The review of procedures and the focus on Direct Payments/other Self Directed Support processes within the Adult Social Care Transformation Programme (as mentioned above) will both contribute to improving performance, as will as ensuring the availability of an effective support service.

- 3.8 As described above, a number of initiatives are in place locally to increase take-up of Direct Payments, and there are also likely to be developments on a national level in terms of extending the range and scope of Direct Payments and other forms of self-directed support. In order to ensure that the support service available is best placed to respond to these changes and developments, it is considered sensible and appropriate to extend the existing contract for a further year.
- 3.9 To cover the period between 1st April 2008 and 31st March 2009 we propose to further extend the existing contract with Penderels Trust, and during the extension period the re-tendering exercise for the new contract will take place. Officers have already extended the contract for one year in accordance with the terms of the contract. Officers are permitted to extend the contract for a further one year period (please refer to paragraph 5.5). The terms of the extension are to be confirmed but provisionally it is expected to be at a better price than the existing contract; the current estimated value of the extension is noted at paragraph 4.2 of this report. Officers will be negotiating for a lower price per head as volume increases.
- 3.10 Officers are of the opinion that the current contractor is providing a satisfactory service and they will continue to monitor the performance of the current contract through regular meetings with the contractor. Officers will also ensure that this information is fed back to the department-wide Direct Payments Steering Group chaired by the Assistant Director for Community Care.

New Contract

- 3.11 Assuming the extension of the current contract is approved by the Executive it is proposed that the Council re-tender the Direct Payments Support and Advice Service and enter into a new contract commencing 1 April 2009 for a period of three years with the option to extend for a further two years depending on the new contractor's performance.

- 3.12 The services to be provided under the proposed new contract will comprise:
- Personnel Services, which will include providing practical support to users on recruitment of Personal Assistants, assisting with job descriptions, advertisement and interviews, and assisting users to identify the training needs of Personal Assistants and provide awareness sessions on how to be a good employer.
 - Payroll Services, i.e. assisting and supporting users to set up their own Payroll system including keeping records, and ensuring the completion and return of Inland Revenue Forms/correspondence.
 - Information and Advice, which is to be provided to the Council, service users, and external organisations on all matters relating to Direct Payments.
 - Staff Training, which will entail providing Direct Payments Awareness Training to Care Managers within Housing and Community Care and Children's Services.
 - Promotional and Development Services, which will involve working with the Council in actively promoting and raising the profile of Direct Payments within the Borough.
 - User/Peer Support Group, which requires the creation of a network for new and existing users to meet and discuss issues relating to the service.

Pre-Tender Considerations

- 3.13 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response	
(i)	The nature of the service.	Provision of a Direct Payments Support and Advice Service for users of direct payments.	
(ii)	The future estimated value of the contract	The annual value of the contract is estimated to be £1.25 million; over the life of the contract (including the optional two year extension) the contract's estimated value is £6.25m.	
(iii)	The contract term.	3 years with an option to extend up to a further 2 years.	
(iv)	The tender procedure to be adopted.	The Restricted (Two-Stage Tender) process in accordance with the Council's Standing Orders and the EU Procurement Regulations for Part B services contracts.	
(v)	The procurement timetable	Indicative dates are: <ul style="list-style-type: none"> • Adverts placed 	31 March 08

		<ul style="list-style-type: none"> • Expressions of interest returned • Shortlist drawn up in accordance with the Council's approved criteria • Invitation to tender issued • Deadline for tender submissions • Panel evaluation and site visits / interviews • Panel Decision • Report recommending Contract award circulated internally for comment • Executive approval • Contract start date 	<p>16 May 08</p> <p>20 June 08</p> <p>4 July 08</p> <p>29 Aug 08</p> <p>2 Sept – 10 Oct 08</p> <p>17 Oct 08</p> <p>Nov/Dec 08</p> <p>Jan 09</p> <p>1 April 09</p>
(vi)	The evaluation criteria and process	<p>Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines namely the pre qualification questionnaire (PQQ) and thereby meeting the Council's financial standing requirements, technical capacity and technical expertise.</p> <p>The tenders will be evaluated on the basis of the tender that is the most economically advantageous to the Council – a recommendation to the Executive will be made by the tender evaluation panel. The panel will be made up of Senior Management from the Housing and Community Care Adult Services operational units, representative from the Financial Services, Procurement and Risk Management, Service Users and Carers.</p> <p>The evaluation criteria will include:</p> <ul style="list-style-type: none"> • Financial Competitiveness and affordability 	

		<ul style="list-style-type: none"> • Ability to meet the requirements of the service specification • Staff recruitment, induction, training, supervision and equalities issues • Administration practices and record keeping • Adherence to procedures • Customer Care • Quality system in operation • Business continuity arrangements • Complaints handling • Best value considerations • Implementation plan • Human Resources including the ability to facilitate continuity of care, availability and extent of staff skills • Diversity of staff and cultural sensitivity and equalities in service delivery • Proposals for innovation in service delivery
(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. Financial Services and Legal Services have been consulted concerning this contract.
(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)	The relevant financial, legal and other considerations	See sections 4, 5 and 6 below.
(x)	Any staffing implications	See section 7 below.

The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 88.

4.0 Financial Implications

4.1 The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contract exceeding £1m shall be referred to the Executive for approval to invite tenders.

4.2 Based on activity levels similar to those targeted for the end of 2009/10, and assuming a slight reduction in unit costs, the estimated annual value of the new contract will be in the region of £1.25m.

- 4.3 The current block contract price with Penderels Trust for 07/08 is £115,405. The contractor is required to provide the service for up to 250 service users for the contract price.
- 4.4 Currently the number of users receiving the service is 185, and this is below the service target. Over the last 3 years most of the service targets detailed in the contract has been met by Penderels and therefore we expect the current target will be achieved by the end of the contract, i.e. April 2008.
- 4.5 For the period that the extension is required, i.e. the financial year 2008/09, the Department has set a target of a minimum of 320 users on Direct Payments. To achieve this target the cost of providing the service will increase, and based on the current unit cost, the approximate cost of the extension will be £147,840. This cost will be funded from existing resources.
- 4.6 Officers are aware of the focus to improve the take up of Direct Payments as detailed in this report. Should these initiatives deliver a significant increase in the service and the targets set for 08/09 are exceeded, it is proposed the Department will spot purchase services from the contractor on a unit cost basis.
- 4.7 In 2006/07 the average hour of homecare cost £15.37: adjusted to 2007/08 prices this would be £15.97 per hour. The Direct Payment rate in 2007/08 is £10.70 per hour. An hour paid by Direct Payment is £5.27 less than an hour of homecare. There are different rates set for sleep-in-care.
- 4.8 In a sample week 14,728 hours of homecare was delivered to 1,471 clients with an average of 10 hours per client per week. However, the pattern was not even: the 10% of clients who received the most hours had an average of 36 hours per week and the 40% of clients with the shortest packages received an average of 3 hours per week.
- 4.9 In calculating the impact on costs of a switch from homecare to Direct Payments it is important to note that there are two fixed costs associated with Direct Payments. These are:
- £462 per client per year to Penderels; and
 - £254 per client per year for financial administration and audit of payments.

This absorbs £716 per client per year from any savings from switching. Clearly it will be financially advantageous to focus on clients with the larger homecare packages.

- 4.10 For a client receiving an average homecare package the saving to Brent Council from switching to a Direct Payment (allowing for additional costs) is £2,027 per year. For a client with a homecare package in the top 10% for longest hours the saving to Brent Council would be £9,119 pa. The table below sets out the savings that would be achieved by increasing the take-up of Direct Payments by service users receiving average sized care packages

in 2007/08 and the two following years. The targets used for Direct Payments were agreed by the ASC Transformation Board.

Item	2006/07	2007/08	2008/9	2009/10
Target (outturn for 2006/07)	150	663	1,326	2,652
Growth by 31 st March		513	663	1,326
Mid-year target		407	995	1,989
Growth on mid-year target		257	588	995
Savings with average client		£520,017	£1,192,087	£2,016,208

- 4.11 The savings shown are the additional savings that accrue in that year. The total savings over the three years would be £3.728m. If the 10% of clients with the longest hours of homecare were targeted and they choose Direct Payments then higher levels of savings would be achieved. So for example, if all of the clients with the longest hours of homecare move to a Direct Payment in 2007/08 the saving would rise to £1.5m. Even with a high degree of targeting it is unlikely that a majority of these clients would choose Direct Payments. There is a risk that savings will not be achieved if the levels of uptake identified in the targets are not achieved. Earlier implementation of the take-up of Direct Payments in the financial year would mean higher levels of saving could be achieved.
- 4.12 Savings of £136,000 have been included in the budget for 2007/08 arising from increasing the number of clients moving from homecare to Direct Payments. These appear to be achievable in the light of the above table. Should the targets be achieved then additional savings of £384,000 will be made in 2007/08.

5.0 Legal Implications

- 5.1 The provisions in relation to direct payments are now covered by the Health and Social Care Act 2001 and the Community Care, services for Carers and Children's Services (Direct Payment) (England) Regulations 2003.
- 5.2 The estimated value of the new contract over its lifetime exceeds the EU threshold for Services contracts and the nature of these services means that they fall within Part B of the Public Contracts Regulations 2006 ("the EU Regulations"). The procurement of Part B Services contracts is not subject to the full tendering requirements of the EU Regulations although it is still subject to overriding EU principles of equality of treatment, fairness and transparency in undertaking the tender process, including contract award.
- 5.3 In addition, as the estimated value of the contract over its lifetime is in excess of £500,000, the procurement and award of the contract are subject to the Council's Contracts Standing Orders in respect of High Value contracts and Financial Regulations.

- 5.4 The Council has the necessary powers to enter into the proposed contract under (amongst other provisions) the Chronically Sick and Disabled Persons Act 1970, and section 2 of the Local Government Act 2000, all in conjunction with section 111 of the Local Government Act 1972.
- 5.5 With regards to the proposed extension of the current contract with Penderels Trust, paragraph 2.5 of Part 4 of the Constitution and Contract Standing Order 112 permit contracts to be extended subject to certain provisos. In this case all of the requirements are satisfied. Consequently, the relevant Chief Officer may extend the current contract with Penderels Trust pursuant to paragraph 2.5 of Part 4 of the Constitution but any extension of the current services contract must not exceed a period of one year, in accordance with the Constitution.
- 5.6 Once the tendering process has been undertaken Officers will report back to the Executive in accordance with Contract Standing Orders to inform the Executive of the tender process undertaken and to recommend contract award as appropriate.

6.0 Diversity Implications

- 6.1 An Equality Impact Assessment to examine the take up of Direct Payments showed significant numbers of people from the Black and Minority Ethnic communities were using the service. This showed the services were being used by a wide range of users that reflected the ethnic, gender and disability make up of the borough.
- 6.2 All Community Care Contracts currently require providers of health, social care and housing support services to deliver services which are:
- culturally sensitive by providing cultural awareness training for all staff, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
 - able to provide support and advice to service users with disabilities, parents/carers of children and young people with disabilities and older people; and
 - able to provide training for all staff in areas that will raise awareness of issues faced by vulnerable people from different ethnic groups.
- 6.3 The new contract will continue to require the provider to deliver the service in this way. The provider will be monitored to ensure they are complying with these requirements through checking of their records, regular review of services provided to individual service users where feedback will be sought from service users, monthly monitoring meetings and provision of quarterly performance information to the Council.

7.0 Staffing Implications

- 7.1 This service is currently provided by external providers and the tendering exercise will not raise any implications for Council staff.

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