



Executive
9th September 2008
**Report from the Director of Housing
and Community Care**

For Action

Wards Affected:
ALL

**Authority To Tender For Housing Support Services For
People With Mental Health And Other Needs And Other
Supporting People Contract Issues**

Forward Plan Ref: H&CC-07/08-37

1.0 Summary

- 1.1 This report seeks authority to invite suitable providers to tender for five framework agreements for the provision of housing support services for:
- (a) people with a Mental Health difficulty who additionally may have other needs,
 - (b) offenders and people with a support need as a result of drug and alcohol use,
- as required by Contract Standing Orders 88 and 89.
- 1.2 The mental health element requires joint commissioning between Adult Social Care and Supporting People within the Housing and Community Care Department. The participation of Brent Primary Care Trust in the tender process is also being explored.
- 1.3 The report also requests permission to extend some existing contracts so that they expire at the same time as the new arrangements will be ready to start.

2.0 Recommendations

- 2.1 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders for five framework agreements for housing support services (some incorporating care services) as set out in section 6.13 of the report.

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- 2.2 The Executive to give approval to officers to invite tenders for five framework agreements for housing support services (some incorporating care services) and evaluate them in accordance with the approved evaluation criteria referred to in 2.1 above.
- 2.3 The Executive to give approval to the extension of Supporting People contracts as specified in section 5.2 and 6.10 below until 30th September 2009.

3.0 Background – Supporting People

Supporting People is a working partnership of Local Government, service users, Health, Probation and support agencies. Key strategic decisions are taken by the Commissioning Body, a committee, made up of Chief Officers from Housing and Community Care, the Primary Care Trust and the Probation Service.

- 3.2 The Supporting People (SP) Programme is a national programme to commission the provision of housing related support services for vulnerable people to help gain, increase or maintain their independence. Supporting People funds the provision of “floating support services” (support to service users in their own home where the support worker moves to support someone else when support is no longer needed) and “accommodation based services” (support tied to accommodation where the client living in a hostel or supported housing scheme receives support as a condition of occupation). Services assist people in maintaining their accommodation, such as help in ensuring bills are paid, assistance with shopping, reading letters, budgeting, making sure benefits are maintained.
- 3.3 The SP Programme commenced in April 2003. The Programme in Brent is £12.8 million for 2008/9
- 3.4 Extensive needs mapping carried out in Brent in 2004-2005 in preparation for writing the 5 Year Supporting People Strategy demonstrated the need for remodelling of both accommodation and floating support services to be more flexible and responsive to a range of needs.
- 3.5 Members will recall that at their meeting in May 2007, they approved the Supporting People Commissioning Framework setting out a procurement programme for Supporting People Services over a five-year period. This tendering project is part of the plan set out in the programme. Mental health services, drug and alcohol services and offender services are all included in the programme as due to be tendered in 2008-9.
- 3.6 At the end of 2007 the decision was taken to complete a strategic review of mental health services funded by Supporting People. In this way decisions can be made based on information that is current and that service users and stakeholders of the service have been given the opportunity to input into how services should be delivered.

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- 3.7 The Supporting People Strategic Review of the mental health services has been completed. This has been considered by the Supporting People Commissioning Body. The Commissioning Body recommended that Supporting People funded services for people with mental health needs be re-tendered to appoint providers to a Framework Agreement (for further details see below).
- 3.8 The Supporting People Strategic Review of offenders and drug and alcohol services is in progress. This will be reported to the Supporting People Commissioning Body in September.
- 4. Housing Support Services for People with Drug and Alcohol Needs, and Offenders**
- 4.1 The Supporting People budget spends £279K per year on specialist services for people with Drug and Alcohol needs and £481K on offender specialist housing support services.
- 4.2 72 ex-offenders and 90 people who misuse alcohol or drugs are receiving specialist Supporting People funded services for these client groups.
- 4.3 In addition, it is estimated by Brent PCT that up to 80% of people with a mental health need also mis-use drugs and/or alcohol, many people receiving specialist mental health SP services, or services for Single Homeless People involve a secondary need relating to their use of alcohol or drugs or their offending behaviour. The Strategic Review of Offender and Drug and Alcohol Services will consider the need for specialist housing support for these client groups.
- 4.4 The following contracts are currently in place for provision of housing support services for people with drug and alcohol support needs, and offenders.

Service Provider Name	Type of Service	Capacity (number of service users)	Contract Price 2008/09 £000
1. Services for Offenders:			
Hestia	Accommodation based service	35	286
St Mungos	Accommodation based service	7	57
St Mungos	Floating Support	30	138
Total (offender services)		72	481

2. Services for People with Drug and Alcohol Support Needs:

			£000
Cricklewood Homeless Concern	Accommodation based service	6	55

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St Mungos	Accommodation based service	23	94
Cricklewood Homeless Concern	Floating Support	25	33
Genesis - PCHA	Floating Support	40	96
	Total (Drug and alcohol services)	94	279

4.5 The contracts listed in paragraph 4.4 are due to expire in December 2009. However it is considered that the demand for these services will increase and while the existing services are subject to a Strategic Review, it is proposed to tender a framework agreement for use with new services only. It is therefore proposed to advertise a framework agreement for the provision of specialist offender and drug and alcohol housing support with the framework agreements for specialist mental health housing support services.

4.6 Consultation

All current providers of services for ex-offenders or people with substance misuse issues are aware of the procurement timetable (see section 6 below). A stakeholder event was carried out in July. This identified the following issues to be addressed during the strategic review:

Drug and Alcohol client group

- Realistic Expectations/consistent message to service users
- Data Collection and information sharing (tracking of clients)
- Supporting clients to live in the community
- Tier 3 services/accommodation with structured support e.g. Broadway's model in H&F.

Offender client group

- MAPPA specific – FS service 40% of accommodation is MAPPA-led
- Develop better links with move on – ECHG. Joint working critical
- Aligning strategies/strategic priorities
- Looking at added value
- Services for offenders no longer under supervision
- Statutory contact – link with single homeless services
- Expand the scope of Floating Support

Service users will be involved in focus groups during the strategic review, to be led by user peer reviewers. User representatives will also be identified to be involved in the selection process for providers of drug and alcohol and offender services. It is envisaged that service users will take part in the site visits and interviews of providers.

5. Strategic Review of SP services for people with mental health needs

The findings and recommendations from the Strategic Review of SP services for people with mental health needs were as follows:

- Reduce the number of shared supported housing properties, creating more independent, self contained accommodation offering a greater number of people high support
- Services should be specified with service user representatives to provide medium to higher levels of housing support services, with all services funded as specialist mental health services having staff/client ratio of no more than 1:12.
- Many services are silted up with people who cannot, do not wish to, or have not been supported to, move on. This prevents services from accepting people in need and leads to a heavy reliance by Brent Mental Health Service and Brent PCT on out of borough placements and residential care home services, both of which are costly to the council and Brent PCT.
- Services should be re-specified to focus on maximising independence, including helping people to move on into social housing or the private rented sector, and live successfully in independent accommodation, and to gain employment.
- Services specifically for black and minority groups, women, offending background and those with dual diagnoses and/or complex needs should be included in the specifications
- Work should start to ensure that the new centralised referral system, START PLUS can be used for all mental health accommodation based and floating support services
- Further development of self directed support for service users, and of a pilot to undertake this.

The intention is to include the re-provision and expansion of these services within the contract tendering proposed in this report.

5.1 **Current Pattern of SP Funded Provision of Mental Health Housing Support**

- The SP grant spent on specialist mental health housing support services is £2.36 million per year (2008-9), or about 18.6% of the annual SP budget.
- The number of users of Mental Health services receiving specialist SP services has increased by 60% since 2003, (within a reducing budget) with 441 users now receiving services specifically for those with a mental health need at any one time.

- The proportion living in ordinary independent accommodation benefiting from floating support specifically for people with mental health needs has increased by over 100% since 2003, from 84 to 220 people.
- In addition to this SP funded provision, many people with Mental health needs are receiving other SP funded support; approximately 35% of floating support for Single Homeless people is provided to people with a mental health need, though may not be severe enough to be on the care programme approach –this represents at least 90 people, probably many more.

The range of SP funded Mental Health housing support services provided in the borough includes:

- An Accommodation based service for 11 users with Dual Diagnosis (severe and enduring Mental Health issues with or without substance misuse).
- A counselling accommodation-based service (8 users), part funded by Brent PCT
- Accommodation based services consisting of shared schemes (group Homes), self contained accommodation (6 units), and accommodation used by Brent HRC (Housing Resource Centre) to house users with Mental Health needs (20 units) who have made a Homeless Application. (184 users total)
- Outreach service focusing on support to Move-On within the Borough- (85 users)
- A Floating support service to focus specifically on users who have resided in Group homes for a lengthy period of time as well as providing support to the community (200 + users)

5.2 The Supporting People contracts with the mental health providers are currently in place for the financial year 2008/9 for the provision of housing support as listed below:

Contract Name	Type of Service	Capacity (service users)	Contract Price 2008-9 £000
Brent Mental Health Service	Accommodation	24	199
Brent Mind	Accommodation	60	369
English Churches Housing Group	Accommodation	20	358
St Mungos	Accommodation	11	183
Ujima HA (now London and Quadrant HA)	Accommodation	10	36
Adepta	Accommodation	8	121
Arbours Association	Accommodation	8	82
Brent Mental Health Service	Accommodation	37	293
Jewish Care	Accommodation	5	2
	ACCOMMODATION BASED SERVICES		
SUB TOTAL		183	1643

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Brent Mental Health Service	Floating Support	75	187
BHP-Hsg Management service	Floating Support	45	67
Broadway Resttlement Services	Floating Support	58	190
Metropolitan Support Trust	Floating Support	20	56
Thamesreach Bondway	Floating Support	50	184
Adepta	Floating Support	10	33
	FLOATING SUPPORT		
SUB TOTAL		258	717
TOTAL		441	2360

5.3 Consultation- Mental Health Services

5.3.1 Service user opinion

During the Strategic Review of mental health housing support services, significant consultation took place with existing service users of SP funded housing support services. This was to ascertain their views on the current service and where they saw themselves in the future. Key points that emerged from the consultations were:

- Move on from supported housing is a challenging process for clients in relation to expectations, finances, securing a home and living without support.
- Often the length of time spent in shared accommodation leads the client to feel they are quite comfortable in their existing accommodation and do not wish to move. However, the view that finding a home of their own would alleviate some of the stigma and prejudice appeared to be shared by a number of clients in their current shared settings.
- Service users would like support to be provided in a variety of formats, both formal and informal.
- Clients feel their options of achieving independence are disadvantaged by the limited availability of housing in Brent. Housing problems often contribute to admissions to hospital or to delayed discharge
- Clients generally mentioned employment, housing and maintenance as the most frequently encountered problems. Significant emphasis was placed on gaining opportunities to work, and support with this.
- High rents in the private rented sector discourage people from trying to find work
- Clients are focused on living without support although they acknowledge they may need the initial support to settle into a new home.

5.3.2 Stakeholders / Partners

Stakeholder and provider consultation at a recent event identified the following gaps in existing services:

- BME specific services

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- a women only service
- services for people escaping domestic violence
- service which appeals to a younger client group.
- Services for people with challenging behaviour and personality disorders, people whose hoarding or anxiety disorders are putting their accommodation at risk
- Additional floating support services were thought to be needed, particularly floating support at high staff/client ratios (perhaps 1:5).
- There is also a need for provision for complex needs, and medium support *which extends beyond 2 years*

All current Mental Health SP providers are aware of the procurement timetable (see section 6 below). Brent User Group will be represented on the project group for the tendering process for Mental Health Services. User representatives will also be identified to be involved in the selection process for providers of drug and alcohol and offender services. It is envisaged that service users will take part in the site visits and interviews of providers.

6. Proposals for Tendering

- 6.1 Meetings have been held with the Council's Deputy Head of Procurement regarding the tendering of all Supporting People contracts. Advice has also been given by Legal Services.
- 6.2 Many of the providers who provide Mental Health services also provide services to people with a drug and alcohol support need, and/or services for offenders. Advertising a framework for the latter with the frameworks for services for people with a mental health need will reduce bureaucracy for tendering organisations, by allowing them to complete one Pre-Qualifying Questionnaire for all the services they are tendering for.
- 6.3 The exact contractual requirements for services for people with Mental Health needs will be agreed with Brent PCT and Brent Social Services prior to the Invitation to Tender stage as they could not be specified precisely during the Strategic Review.
- 6.4 The Strategic Review currently being undertaken of services for offenders and those with a drug or alcohol need will identify the exact contractual requirements for these services. It will not be possible to issue the Invitation to Tender until the results of the Strategic Review have been analysed and fed into the relevant Specification.
- 6.5 The proposal is to advertise and tender a number of "framework" agreements. Under a framework agreement, the exact nature of the services is not specified in advance. The essence of a framework agreement is that the one or more contractors are appointed prior to the client(s) knowing what services they will actually need to purchase. Framework agreements run for a number of years and there is a standing offer from each contractor appointed to the framework that if appointed for a particular procurement, it will deliver this

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according to the framework's terms and conditions. The process of placing an order for an individual requirement is sometimes known as a "call off". Under a simple framework, prices can be fixed at the outset of the framework, but for more complex procurements it is usual to have more than one supplier on the framework and it is common to run a mini-competition between them in order to get a contract price and technical solution best suited to the individual requirement.

6.6 The objective of this tender exercise is to have the ability to call off contracts for both current services and newly specified services to improve the quality of housing support services. The Executive is asked to approve the packaging of the framework agreements for mental health housing support services as follows:

i. **Accommodation Based services (Mental Health)**

These are services which are tied to supported housing or hostels, where receipt of housing support is a condition of occupation of the housing.

This will be divided into separate frameworks of

(a) Services for people with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour

b) Services for people from black and minority ethnic groups with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour

c) Services for women with a mental health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour

ii. **Floating and Outreach Support service (Mental Health)**

These services are not tied to occupation of specific housing, but are available to people with support needs living independently in the community. This support "floats off" to another client when the service user no longer needs support. It is normally of up to two years in duration. This will consist of Floating Support for People with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour (to include Short term resettlement support to help people move into independent accommodation)

iii **Floating and accommodation based support for those with a drug and / or alcohol need, and for those who are offenders / ex-offenders**

6.7 The proposed framework agreements will be set up for 4 years (2 years plus 2 years), so there will be both call-offs at the start of the frameworks for

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current services, as well as may be future call-offs. Under the proposed frameworks, suppliers will be appointed for each framework and prices for services will be fixed under the framework. Call offs for known service requirements will be made at the commencement of each framework and then subsequently as service requirements evolve.

6.8 As the exact requirements and quantities of housing support needed for people with mental health needs, drug and alcohol needs and offenders are not known at present, the intention is to tender for providers to be appointed to the Framework Agreements, and to call off lots once the exact requirements have been agreed through the Strategic Review (in the case of the offender and Drug and Alcohol services) and with Brent PCT and Brent Adult Social Care Services (in the case of Mental health housing support services).

6.9 Officers are recommending that the contract period for the Framework Agreement contracts is 2 years with an option for a 2 year extension where performance is satisfactory.

6.10 Extension of contracts

The Mental health contracts listed in paragraph 5.2 above are due to expire in December 2008. They have already been extended from their original termination date of December 2007, under delegated powers. It is proposed that existing contracts which have been identified as strategically relevant and eligible for Supporting People funding during the Strategic Review should be extended for good operational and financial reasons until 30th September 2009, to ensure stability of the service during the period of tendering, and allow for the above tendering timetable to be followed, and for individual contracts to be called off once providers have been appointed onto the Frameworks. All the contracts listed in paragraph 5.2 above are proposed to be extended to 30th September 2009, other than those provided by Jewish Care (which was been terminated by the provider in June 08) and Arbours (which during the strategic review was found to be ineligible for SP funding as it provides a therapeutic service rather than housing support and the contract for which will therefore terminate in December 2008).

6.11 Monitoring

SP funded services will be monitored by the Supporting People Unit. The current providers are required to submit quarterly monitoring data on their performance to the Supporting People Unit and have regular meetings. In addition to these meetings the Supporting People Unit also conduct an annual quality assessment framework review of the service.

It is envisaged that monitoring of the new contracts will be more service user centred, involving greater user involvement, and can be more focused on service delivery quality within the resources available. Annual service user satisfaction surveys will also be carried out. The future provider will also be asked to submit regular monitoring data that is required by the various

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statutory funding agencies, some of which informs the national performance indicators. All monitoring will be carried out by the Supporting People Team.

Where services are procured jointly, there is the possibility of joint performance management meetings will take place at least annually.

6.12 Access to Services

Access to all the newly commissioned floating support and supported housing will be through the START Plus service, a central referral route to all floating support and accommodation based services in Brent managed within Housing and Community Care.

Access for some high support Mental Health services will be through the Complex Care Panel for higher support needs as these users may require Health and Social care services which require separate funding approval.

6.13 Pre-Tender Considerations

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

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Ref.	Requirement	Response
(i)	The nature of the service framework agreements). (five)	<p>1. Accommodation Based services (MH)</p> <p>a) Services for people with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour</p> <p>b) Services for people from black and minority ethnic groups with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour</p> <p>c) Services for women with a mental health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour</p> <p>2. Floating and Outreach Support (MH)</p> <p>Floating Support for People with a Mental Health need including those who may or may not have drug and/or alcohol problems, users with criminal/forensic histories and challenging behaviour, including short term resettlement support to help people move into independent accommodation.</p> <p>3. Floating and accommodation based support for those with a drug and / or alcohol need, and for those who are offenders / ex-offenders (new services only)</p> <p>The framework agreements described under 1. and 2. above will be let through a joint tender exercises between the Supporting People team and Adult Social Care within the Housing and Community Care Department. The potential for Brent Primary Care Trust to participate in the framework agreements described at 1, and 2, is currently being explored.</p>

(ii)	The future estimated value of all contracts:	Up to £2.2 million per annum for Mental Health (up to £8.8m over 4 years). £760K per annum for Offender groups, and Drug/Alcohol groups (£3.040m over 4 years).
(iii)	The contract term for the Framework Agreements	2 years with an option to extend for a further 2 years (the frameworks will be structured so that it will be possible to do a call-off that goes beyond the expiry of the frameworks)
(iv)	The tender procedure to be adopted.	<p>A two stage process leading to the appointment of providers to 5 Framework Agreements, in accordance with the Council's Standing Orders. Evaluation will be on the basis of the most economically advantageous tenders.</p> <p>As Social Services transactions are 'Part B Services' for the purposes of the EU regulations, the Regulations are of residual application only (general duties of fairness and transparency, forwarding of a contract award notice, etc.) and do not dictate the procurement process to be followed.</p>

(v)	Procurement timetable	Indicative dates are: Adverts placed Seminar for Interested Parties Expressions of interest in the form of the Council's Pre-Qualification Questionnaire returned Shortlist drawn up in accordance with the Council's approved criteria Invite to tender /Framework agreement Deadline for tender submissions Panel evaluation and shortlist for site visit Site Visits Interviews/presentations Framework Evaluation	Sep 2008 Sep 2008 Oct/Nov 08 Nov 08 Nov 08 Jan09 Jan /Feb 09 Feb 09 March 09 March 09
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		Report recommending Contract award circulated internally for comment	April/May 09
		Executive approval	June 09
		Contract award	June 2009
		Framework Contract start date	1 st October 2009

(vi)	<p>The evaluation criteria and process. (weighting of 45% for cost and affordability, with 55% for quality)</p> <ul style="list-style-type: none"> • 	<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. The PQQ will contain scenarios which require detailed responses from applicants to demonstrate technical expertise, good practice and experience.</p> <p>Once tenders are received, there will be shortlisting on the basis of price and some quality criteria. The short-listing criteria will be disclosed to tenderers.</p> <p>For the purpose of detailed tender evaluation, following site visits and interviews, the panel will evaluate the tenders against the following criteria:</p> <ul style="list-style-type: none"> • Staff resources (recruitment, training, induction, measures for ensuring continuity, availability and flexibility of staff) • Implementation proposals including TUPE management plan • Management resources including location of office • Service User Involvement • Ability to deliver the Council's Specification • Proposals for Innovation in service delivery including best value proposals • Administration practices including record keeping and business continuity • Equalities • Cost and affordability
(vii)	<p>Any business risks associated with entering the contract.</p>	<p>All existing providers are locally based organisation working with people with mental health needs in the borough. The contract(s) to be tendered will represent a significant portion of their business.</p> <p>In relation to the potential for Brent Primary Care Trust to participate, the main risk for the Council is delay. The PCT will need to have made a decision to participate and agreed to the contents of the tender pack prior to Invitation to Tender stage. Brent PCT representatives will then participate in the</p>

		evaluation process and will have to work with the evaluation process and criteria presented for approval by the Executive in this report. The PCT would need to commit resources to the evaluation so that this stage of the process is not delayed either. Once the evaluation panel agrees as to which providers submitted the most economically advantageous tenders, both client organisations would appoint to the frameworks and enter into call-off contracts on the basis of their own procedures, so Brent is not taking on risk by being the sole client for the frameworks such that all call-offs to be made by the PCT would be through the Council.
(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. Tenderers will be invited to submit specific proposals on ensuring best value

ix)	Any staffing implications, including TUPE and pensions.	See sections 7, 8, 9 and 10 below
(x)	The relevant financial, legal and other considerations.	See sections 7, 8, 9 and 10 below

6.7 The Executive is asked to give its approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

7. Financial Implications

7.1 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.

7.2 The current combined annual value of all Mental Health Supporting People contracts to be re-tendered is £2.36m.

There will be no increased funding provision, it is likely that the total amount of funding will reduce to no more than £2.2million per annum or no more than £8.8m over 4 years, as stated in 6.13 (ii), and it is envisaged that the number

of support hours purchased may be increased. The expectation is that re-tendering the services and remodelling will lead to an increased value for money and greater efficiency savings. If Brent Primary Care Trust also participates in the tender exercise for the Mental Health frameworks, there is the potential for even more savings due to greater economies of scale.

7.3 The current total value for the Drug and Alcohol contracts is £279K and for the Offender group contracts is £481K. The combined value for the client groups totals to £760K per annum or £3.040m over 4 years. The expectation that re-tendering or remodelling the services will lead to an increased value for money, and greater efficiency savings will be made and the estimated contract value will be in line with the current cost.

7.4 There will be costs incurred in the contract process for professional advice, particularly legal. The cost of these contracts, including those for professional advice, will be funded from existing resources within the Supporting People budget.

7.5 Funding by other agencies

The Strategic Review of SP Mental health services also revealed a very complex pattern of joint funding of services, with Brent PCT and Brent Social Services also providing funding for health and social care provision to several of the above services. Brent PCT additionally funds services worth over £1.16 million per annum to the providers listed above. This funding however, is not incorporated in this report.

8 Legal Implications

8.1 The Council has the necessary powers to enter into the proposed framework agreements under (amongst other provisions) 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, the Supporting People Grant Conditions, section 1 of the Local Government (Contracts) Act 1997 and s2 of the Local Government Act 2000, all in conjunction with s111 of the Local Government Act 1972.

8.2 The estimated values of the framework agreements over their lifetime are in excess of £500,000 therefore the procurement and award of the contacts are subject to the Council’s Contract Standing Orders in respect of High Value contracts and Financial Regulations.

8.3 The services are part B Services under the Public Contracts Regulations 2006 (“EU procurement Regulations”) and are not therefore subject to the full application of the EU Procurement Regulations. They are however, subject to the overriding EU principles of equality of treatment, fairness and transparency in the award of the contracts.

8.4 Once the tendering process is undertaken Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the

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process undertaken in tendering the framework agreements and recommending award.

- 8.5 One of the current mental health contracts is delivered by the Brent Mental Health Service. However this is actually a partnership between the Central and North West London Mental Health NHS Trust and the Council. As the partnership itself has no legal entity the contract is actually with the CNWL NHS Trust. Some of the staff delivering this contract are Council staff, and their status will need to be investigated and appropriate steps taken before Invitation to Tender stage. It may be that such staff will revert to working for the Council should the CNWL contract end, or they may be assigned to the service as required for the application of the Transfer of Undertaking legislation (TUPE) and so transfer. There are also ex-Council staff working on a contract currently being delivered by Brent Housing Partnership. It therefore appears that a small number of Council staff and former council staff may transfer to a new employer under TUPE as a result of the proposed tendering process. Under TUPE the Council will have obligations to inform and consult the relevant trade unions representing any employees affected by the transfer and to give prior to the transfer certain information about transferring employees to the new employer. The officers conducting the tendering process will need to have regard to the Best Value guidance issued by the Government called “The Code of Practice on Workforce Matters in Local Authority Service Contracts” and decide which if any parts of that guidance are likely to achieve Best Value and therefore should be applied in the tendering process. These officers will also need to ensure that the requirements of the Best Value Authorities Staff Transfers (Pensions) Direction 2007 are met. This Direction requires the Council to ensure the protection of the pension rights of Council staff transferring to a contractor under TUPE as a result of an outsourcing process.
- 8.6 In relation to the proposal to have separate framework agreements for women with a mental health need and black people with a mental health need, equalities legislation permits such provision in limited circumstances. Here it is considered that it will not be discriminatory to provide these services because appropriate provision will be made for men and for non-black people with a mental health need.
- 8.7 Under the Council’s Constitution, where a contract does not have provision for extension, a Chief Officer can extend the contract (with an original term of at least a year) by a maximum of a year. This power has already been exercised in relation to the contracts referred to in paragraph 6.10, and so Executive approval for the further extensions is required.
- 8.8 In relation to the potential for Brent Primary Care Trust to join the tender exercise, this would be a Collaborative Procurement exercise under the Council’s Contract Standing Orders. However there is no requirement for the Executive to specifically approve the Collaborative Procurement because the tender process would continue to be run by the Council according to its own procedures. The main risks of the Collaborative Procurement are as set out in section (vii) of the table above.

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9. Diversity Implications

- 9.1 Contracts currently require providers of social care and housing support services to deliver services which are
- culturally sensitive by providing cultural awareness training for all care workers, matching specific language requirements where possible and recruiting a local workforce which reflects the communities of Brent;
 - able to offer service users a male or female support worker if specifically requested
 - Partnering arrangements with local community groups and specialist providers will be encouraged

The new contracts will continue to require providers to deliver services in this way. In addition partnering arrangements with local community groups and specialist providers will be encouraged. The framework agreements will include two specialist frameworks, one the delivery of services to women with mental health needs, and one for black people with mental health needs. Both address preferences consistently raised by service users.

10. Staffing Implications

- 10.1 The majority of these services are currently provided by external contractors, whose staff are likely to transfer to new service providers. Appropriate consultation will commence as soon as possible. In the case of one current contractor, ex-Council staff are currently performing the services.
- 10.2 The assumption is that TUPE may apply to those Council staff providing a service that will be included in the tender process. This will be assessed during the tendering process (see also legal comment).
- 10.3 Council policy concerning the protection of accrued and future pension rights of Council employees transferring to a private or voluntary sector employer, will need to be followed in the tendering process (see also legal comments).

Background Papers

Supporting People Grant Conditions (CLG)
Brent Five Year Supporting People Strategy 2005/10
Mental Health Strategic Review April 2008

Contact Officers

Helen Duckworth (Supporting People Lead Officer)
Sarah Nyandoro (Joint Commissioner for Mental Health)
Christabel Shawcross (AD Adult Social Care)

Martin Cheeseman
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34 Wembley Hill Road

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Meeting Date	Version no. Date
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Wembley
Middlesex
HA9 8AD

Meeting Date	Version no. Date
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