

	Officer Key Decision
	Report to the Assistant Chief Executive
AUTHORITY TO TENDER CONTRACT FOR BRENT HEALTHWATCH SERVICE	

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Part Exempt (Appendix 2) Para 3 of Part 1, Schedule 12A of 1972 Local Government Act)
No. of Appendices:	Two Appendix 1: Equality Analysis Appendix 2: Contains Exempt Information
Background Papers¹:	None
Contact Officer(s): (Name, Title, Contact Details)	Julia Mlambo, interim Partnerships and Engagement Manager, Julia.mlambo@brent.gov.uk 020 8937 1133

1.0 Purpose of the Report

- 1.1 The purpose of this report is to request approval for the retender of the Brent Healthwatch Contract.
- 1.2 The current contract which is delivered by CommunityBarnet is due to expire on the 31st of March 2021 and a decision has been made by the Strategy and Partnership Service not to extend this contract beyond the three year term. This decision was made as part of a wider strategy to bring all the contracts managed by the Partnerships and Engagement Team into line i.e. to ensure that all the contracts started and ended at the same time.

- 1.3 This approach was agreed at Cabinet on the 20th of February 2020, as part of a wider strategy 'to put in place a framework during the transition to the new model of collaborative working'
- 1.4 Approval to invite tenders in respect of Healthwatch service is sought as required by Contract Standing Orders 88 and 89.

2.0 Recommendation(s)

That the Assistant Chief Executive:

- 2.1 approves inviting tenders for Brent Healthwatch services on the basis of the pre - tender considerations set out in paragraph 3.6 of the report.
- 2.2 approves Officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 3.6 (vi) of this report.

3.0 Detail

- 3.1 The purpose of this report is to seek approval for the commissioning of the Healthwatch Service, with the aim of implementing a new service to start in on the 1st of April 2021.
- 3.2 Brent Council has a statutory duty to provide local Healthwatch provision under the Health and Social Care Act 2012. The legislation states that local authorities who commission adult social care services are required to fund an independent Healthwatch in their local area.

Healthwatch is responsible for a number of statutory functions, including:

- Obtaining the views of local people and using these to inform commissioning and other health and social care decisions.
 - Undertake community based research and make recommendations about how local health and social care services might be improved.
 - Promote and support the involvement of local people in the monitoring, commissioning and provision of local health and social care services.
 - Provide information, guidance and advice to the public about accessing health and social care services in their local areas.
 - Make recommendations to Healthwatch England to advise the CQC to carry out special reviews or investigations into areas of concern.
- 3.3 The current costs of the Healthwatch Service has been £150,000 per year for the last three years, resulting in a contract worth £450 000 over three years. In 2019/20 the costs of Healthwatch contracts in London range from £225,115 into £65 000 in other London Borough Councils.
- 3.4 The 2021/24 Healthwatch Service is estimated to start on £135,000 per year which represents a 10% reduction from the costs of the 2018-21 contract. The reduction is on the basis that efficiency savings were not required from the current contract for the

period 2018 to 2021 although efficiency savings was a condition on other similar contracts that the Council commissioned during this period.

The cost of the 2021/26 contract is set out below. These figure assume a steady state with no COVID impact.

3.4 Contract Value		
Year 1	2021/22	£135,000
Year 2	2022/23	£128,250
Year 3	2023/24	£121,837
Total for 3 years		£385,087
Option to extend Year 4	2024/25	£121,837
Option to extend Year 5	2025/26	£121,837
Total contract		£628,761

3.5 In line with the approach to other contracts, Officers will work with the successful Healthwatch tenderer to make 5% year on year savings on the contracts from 2022/23. The savings that can be achieved are included as part of the detailed costings for the contract set out in the table as part of an exempt appendix to this report.

3.6 Further, as the Healthwatch market in London is relatively underdeveloped, there are a limited number of providers. Therefore a key element of the commissioning process will be a comprehensive market warming and capacity development programme to encourage a range of providers to apply for the opportunity.

3.7 This includes a market warming event held on the 2nd of September attended by 10 organisations including a range of providers large and small, as well as some local providers. In addition, Strategy and Partnerships, the Procurement Service and the Business Development Team are arranging a number of events to build the capacity of smaller local organisations, and provide them with the tools to make high quality bids. The invite list will include all providers known to the three services listed above.

The following capacity building events have been organised

- Doing Business with Brent Council on the 2nd of October 2020, this will be an outline of the process for bidding for tenders in Brent.
- Bid writing and presenting skills on the 5th, 7th and 8th of October 2020
- Partnerships and Consortia Building on the 6th of October 2020, a series of four workshops successful partnership development.
- Healthwatch Policy and Service models on the 13th of October 2020

3.6 In order to accommodate the above events the tender dates have been extended. The tender will now open on the week commencing the 14th of October and close of the

13th of November 2020. From now until the 14th of October, officers in the Partnerships and Engagement Team will proactively publicise the tender opportunity and capacity development events extensively across the borough.

- 3.7 The Service Specification development and evaluation process has been designed to ensure that potential providers focus on key priorities such as COVID-19 impact, engaging with hard to reach groups and addressing racial and social inequalities. Potential providers will also have to demonstrate extensive local knowledge, possibly by developing partnerships with local voluntary sector providers.
- 3.8 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Assistant Chief Executive.

Ref.	Requirement	Response	
(i)	The nature of the services	Healthwatch service contract. The contract will enable Brent Council to fulfil its statutory duty to provide a local Healthwatch service.	
(ii)	The estimated value.	The estimated cost of the contract will be £628,761 over three years with an option to extend for two 1 year extensions. This includes a 5% year on year reduction as part of a process of efficiency savings.	
(iii)	The contract term.	The contract is a three year contract and will include the option to extend for a further two years on a plus one plus one basis.	
(iv)	The tender procedure to be adopted.	Open procedure. The contract will be put to competitive tender after a market warming exercise.	
v)	The procurement timetable.	Indicative dates are:	
		Market Engagement	2 nd of September
		Invite to tender	14 th October
		Deadline for tender submissions	18 th November 2020
		Panel evaluation and moderation	November/December 2020
		Report recommending Contract award circulated internally for comment	w/c 4 th January 2021

Ref.	Requirement	Response	
		Assistant Chief Executive approval	w/c 11 th January 2021
		minimum 10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers (contracts covered by the full EU Regulations only)]	w/c 18 th January 2021
		Contract Mobilisation	February- March 2021 8 weeks
		Contract start date	1 st April 2021
(vi)	The evaluation criteria and process.	<p>An adapted open tendering process will be used for the procurement, but organisations will be required to complete a selection questionnaire which officers will review to ensure organisations meet the Council's financial standing requirements, technical capacity and technical expertise. Organisations who fail any questions in this section will have their tender disregarded. Organisations that pass will be subject to a number of scored questions to further assess their technical ability. Organisations who do not meet the required threshold may have their tender disregarded and not have their second envelope 2 opened</p> <p>The most economically advantageous tender calculation will be based on: 50% of the points being awarded for Quality/Technical assessment, 40% of the points being awarded for Commercial assessment and 10% on Social Value.</p> <p>At tender evaluation stage, the panel will evaluate the tenders against the following Quality/Technical criteria:</p> <ul style="list-style-type: none"> • The Tenderer's proposal to meet the requirements and outcomes as stated in the service specification • Tenderer's proposed plans for ensuring effective quality management of the Services and 	

Ref.	Requirement	Response
		<p>maintenance of the Contract Standard, including self-monitoring and evaluation</p> <ul style="list-style-type: none"> • The Tenderer's proposal for Stakeholder Engagement / Partnership working. • The Tenderer's proposal on how their safeguarding policies will be applied to this contract. • The Tender's commitment to Professional Development towards their workforce <p>The Tenderer's proposed approach to Social Value delivered through this contract (weighted at 10% of the total evaluation criteria)</p>
(vii)	Any business risks associated with entering the contract.	There are limited business risks are considered to be associated with entering into the proposed contract. The service is a statutory service so Brent has to provide it in line with government guidance. The successful provider will engage with vulnerable people as part of the delivery of its services and therefore will be asked to provide safeguarding, risk assessment and health and safety policies, as part of the due diligence process. Providers will also be asked to outline how they will address risks associated with implementing a safe workplace in the context of COVID-19 guidance and regulations
(viii)	The Council's Best Value duties.	We have addressed this by benchmarking cost against similar boroughs and also reviewing costings with the finance department
(ix)	Consideration of Public Services (Social Value) Act 2012	The service specification will ask providers to address how they intend to meet Social Value requirements as part of tender process. It will count for 10% of the overall score.
(x)	Any staffing implications, including TUPE and pensions.	There may be TUPE implications as the current service. TUPE documents have been received from the current provider.
(xi)	The relevant financial, legal and other considerations.	See sections 4.0 and 5.0 below.

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

4.0 Financial Implications

- 4.1 The estimated value of the Healthwatch service contract for a three year contract with an option to extend for two 1 year extensions is £628,761.
- 4.2 It is anticipated that the cost of this contract will be funded from the Partnership and Engagement Team's advice and guidance budget.
- 4.3 All staff employed within this contract will be paid the London Living Wage (LLW) throughout the length of the contract.
- 4.4 This contract starts next year and therefore the Council needs to consider the current impact of COVID and its risk on a provider's ability to deliver. If the provider became unable to fulfil its contract, in order for the Council to meet its statutory obligations, it would have to retender or deliver it in house.

Either way this could potentially become an additional cost pressure for the council. To mitigate this risk we are asking potential bidders to outline business continuity plans to minimise the risk of the impact of COVID or other issues. We are also asking bidders to outline exit strategies, so that if they are no longer able to deliver the contract the handover and other arrangements would be as seamless as possible.

5.0 Legal Implications

- 5.1 Local Authorities have a statutory duty under the Health & Social Care Act 2012 and subsequent regulations to make contractual arrangements for a Local Healthwatch organisation to exist in their area for involvement of local people in the commissioning, provision and scrutiny of health and social services.
- 5.2 Under the Public Contracts Regulations 2015 ('the EU Regulations'), the services to be delivered under the Local Healthwatch contract is defined as a Schedule 3 service. As the estimated value of the contract is above the relevant EU threshold Schedule 3 services, the procurement is subject to the 'light touch regime' thereunder, in that Officers are required to advertise the service requirement in the Official Journal of the European Union ('OJEU') and follow the applicable rules for tendering and selection under the EU Regulations.
- 5.3 Based on the estimated value of the contract over its lifetime, as mentioned in paragraph 4.1 of the report, it is deemed a Medium Value Contract under the Standing Orders (CSO) and Financial Regulations. CSO 95(b) provides that for Schedule 3 Services with value above the EU threshold, tenders should be invited using the open, restricted or any of the procedures under the EU Regulations, by placing a notice in OJEU and on Contract Finder as set out in CSO 95 (a) or such additional procedures as are consistent with the European Procurement Legislation. Paragraph 3.5 of this report sets out the procurement process that will be used and the pre-tender considerations for approval.
- 5.3 Under section 3(a) of the table at paragraph 9.5 of Part 3 of the Constitution, Chief Officers have delegated to them power to invite expressions of interest, agree

shortlists, invite Tenders, negotiate, award, and terminate contracts provided the service contract over its lifetime will not exceed £2m. It is considered that you have delegated authority to approve the invitations of tenders for this contract and the pre-tender considerations set out in paragraph 3.5 above, in accordance with Standing Order 89 and Standing Order 88.

- 5.4 Once the tendering process is undertaken, Officers will report back to the Assistant Chief Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.4 As the procurement is subject to competition under the EU Regulations, the Council must observe the requirements of the mandatory minimum 10 calendar standstill period imposed by the EU Regulations before the contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.
- 5.5 The service is currently provided by external service provider and there is no implications for the Council staff arising from the retendering the contract under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). However, Officers will obtain Employee liability information from the current provider to share with the bidders as part of the procurement process.

6.0 Equality Implications

- 6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a "protected characteristic" and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.
- 6.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. The Assistant Chief Executive is referred to the contents of this report for information, in particular the Equality Analysis at Appendix 1

6.4 The contracts outlined in this paper are all designed to provide services for the most vulnerable residents in Brent. Therefore it is particularly important for robust Equality Impact Assessment to be carried out as part of the development of service specifications.

7.0 Consultation with Ward Members and Stakeholders

7.1 The Partnerships and Engagement Manager is working closely with stakeholders to develop the service specification for this tender. Partners such as Public Health and the Clinical Commissioning Group (CCG) have agreed to contribute and be part of a reference group that will oversee the mobilisation of the new service as well as support the development of the first year Healthwatch workplan.

7.2 The Strategy and Partnerships service has also consulted with Councillors including the Chair of the Health and Wellbeing Board and service users for example the Brent Mencap Service users group. We are also working with our partners to select service users to be part of the evaluation panel.

8.0 Human Resources/Property Implications (if appropriate)

8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from retendering the contract.

8.2 This service is currently based in offices situated at 3 Rutherford Way, Wembley, and London, HA9 0BP. These offices are subcontracted from Brent CVS. Brent CVS is currently negotiating an extension of the lease with its landlord, so it unclear whether this space will be available after March 2021. We will require the successful bidder to have some presence in the Borough.

In light of the COVID-19 pandemic providers will be asked to outline how they intend to deliver services with social distancing measures in place and/or working from home arrangements.

9.0 Public Services (Social Value) Act 2012

9.1 The Council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the Council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

9.2 It is the intention within this tender that 10% of the total evaluation criteria will be reserved for social value considerations

9.3 Brent Council Social Value and Ethical Procurement Policy was agreed by Cabinet on April 2020 and applies to all tenders over £100,000 equally. This policy requires all bidders in Brent to outline how they will add social value initiatives and deliverables which align with the Strategic Themes of the Council’s Brent Borough Plan 2019-2023.

Bidders will be asked to provide a social value action plan and method statement which then be measured for impact and delivery over the life of the contract through the Contract Management function.

This contract we will ask providers to provide initiatives with Social Value and impact equivalent to a monetary value of 10% of the contract value. In this tender it this tender it is equivalent to £62,876.

Report sign off:

Shazia Hussain

Assistant Chief Executive