

	<b>Decision for Cabinet Member for Adult Social Care and Public Health</b>
	<b>Report from the Corporate Director, Adult Social Care and Health</b>
<b>APPROVAL TO WAIVE CONTRACT STANDING ORDERS TO PERMIT PROCUREMENT OF 19 REHABILITATION BEDS THROUGH A DIRECT AWARD</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non-Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	N/A
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Lorraine Regan Programme Manager ICP Brent Council Email: Lorraine.regan@brent.gov.uk

## 1. Purpose of the Report

- 1.1. This report concerns the procurement of 19 rehabilitation beds. The current rehabilitation contract is held by Avery Health Care who deliver 19 beds at the Aster unit, Birchwood Grange care home. The contract is due to end on 31<sup>st</sup> October 2022 but there is a critical need for this service to continue for a limited further period to ensure hospital admission avoidance and supported discharge.
- 1.2. The purpose of this report is to seek member approval to waive Contract Standing Orders to enable a direct award of a contract to Avery Health Care for 19 rehabilitation beds at the Aster Unit, Birchwood Grange Care Home for a period of five months. The case for a Direct Award, as opposed to a full tender process, is set out in the detail below.

## **2.0 Recommendation(s)**

That the Cabinet Member for Adult Social Care and Public Health having consulted with the Leader:

- 2.1. Approves an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for 19 rehabilitation beds at the Aster Unit, Birchwood Grange Care Home for a period of 5 months in accordance with paragraph 13 of Part 3 of the Constitution.

## **3.0 Detail**

- 3.1 When the contract for 19 rehabilitation beds at the Aster Unit, Birchwood Grange Care Home was awarded in November 2021 it was assumed that Integrated Care Service partnership would have determined and implemented future rehabilitation bed requirements. However, due to competing priorities and limited resources, work on determining future requirements has only recently been completed. The result of which is that approval is now being sought to reopen an empty ward at Willesden Hospital to deliver the rehabilitation provision. As it will take a number of months to go through due diligence and recruit staff, the current provision at the Aster Unit will be required for a further 5 months. It is predicted that 5 months will provide sufficient time to reopen the ward.
- 3.2 Several discussions over the past two months have taken place between the Council and the provider to explore the possibility of entering into spot purchase arrangement, rather than a block contract. Avery Health Care initially responded positively to this approach, however they have recently changed their viewpoint and now wish to secure a block contract arrangement. Their rationale is that the Aster Unit is a highly specialised rehabilitation unit, which are in short supply. As such, they feel that a spot purchase arrangement would not be a sound business decision.
- 3.3 Given the onset of winter and the current pressures to find available good care home beds, there is a risk that if the Council do not offer a Direct Award contract for 19 rehabilitation beds at the Aster Unit, Birchwood Grange Care Home then another Council will. This would inevitably see higher hospital admissions and delays in discharges across the Borough.
- 3.4 As there is no option in the current contract for an extension, a new contract is required. A full re-procurement of the provision would be too time consuming

and could result in a change in provider. This would cause disruption to established hospital discharge pathways for Brent residents and could lead to delayed discharges and reduce available bed capacity and resilience in the local system to deal with winter pressures. It is also highly unlikely that there would be an alternative provider in Brent able to provide the required number of beds and level of care at short notice and for a 5 month contract term.

- 3.5 Given all of the above and the fact that the required quality and performance standards and outcomes for patients are generally being met, Officers seek an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for rehabilitation beds, thus enabling the direct award of a contract for 19 rehabilitation beds for 5 months

#### **4.0 Financial Implications**

- 4.1 There are no financial implications as the funding for the 19 rehabilitation beds are part of a pre-existing agreement in the Better Care Fund so this is just a continuation, and therefore no additional financial pressures are being met from the Adult Social Care general fund budgets. The total budget for 5 months is £469,096.45

#### **5.0 Legal Implications**

- 5.1 In accordance with paragraph 13 of Part 3 of Brent's Constitution, the Leader has delegated certain functions to Cabinet members to be exercised within their portfolio area in consultation with the Leader. This delegation includes agreement of waivers of Contract Standing Orders for Medium and High Value Contracts.
- 5.2 The 19 Rehabilitation beds that Officers are proposing to procure are valued at £469,096.45 over the contract term and the proposed contract is thus classified as a Medium Value Contract under Contract Standing Orders. Contract Standing Orders provide that a Medium Value Contract should be procured by way of a tender process but pursuant to Contract Standing Order 84(a), an individual Cabinet Member may agree to waive this requirement where there are good operational and/or financial reasons. For the reasons detailed in the body of the report, Officers do not consider it is possible to procure the contract by way of a tender process.
- 5.3 The contract that Officers are proposing to procure falls within Schedule 3 of the Public Contracts Regulations 2015 ("PCR 2015"). The value of the contract falls below the threshold for full application of the PCR 2015 and therefore,

should the Council award a contract directly, there is not considered to be a breach of domestic law or the Council's own procedures.

- 5.4 In reaching any decision to waive Contract Standing Orders, the Cabinet Member in consultation with the Leader should have regard to the reasons Officers have set out in Section 3 of the report.

## **6.0 Equality Implications**

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment and victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.

- 6.2 Under the Public Sector Equality Duty, 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 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 6.4 The proposals in this report have been subject to screening and Officers believe that there are no adverse equality implications

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 Due to the urgency to offer a Direct Award to ensure continuity of the rehabilitation provision at the Aster Unit, no consultation has taken place with other ward members or stakeholders

## **8.0 Human Resources/Property Implications**

- 8.1 This service is currently provided by an external contractor and there are no implications for Council staff arising from the procurement of the contract
- 8.2 There are no property or accommodation implications as Avery Health Care own the building from which the contract is delivered.

**Report sign off:**

**PHIL PORTER**

Corporate Director, Adult Social Care and Health