

	<b>Decision of Cabinet Member for Community Health and Wellbeing</b>
	<b>Report from the Corporate Director, Community Health and Wellbeing</b>
<b>Authority to tender contract for a care and support contract for supported living services at clement close in accordance with paragraph 13 of part 3 of the constitution</b>	

<b>Wards Affected:</b>	Brondesbury Park
<b>Key or Non-Key Decision:</b>	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<sup>1</sup>:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Name: Andrew Davies Job Title: Head of Commissioning, Contracting and Market Management Email: andrew.davies@brent.gov.uk

## 1.0 Executive Summary

1.1 This report concerns the 24 hour Supported Living Services at Clement Close. This report requests approval to invite tenders in respect of a new care and support contract at Clement Close as required by Contract Standing Orders 88 and 89.

## 2.0 Recommendation(s)

That the Cabinet Member for for Community Health and Wellbeing, having consulted with the Leader and in accordance with paragraph 13 of Part 3 of the Constitution:

2.1 Approves inviting tenders for a new care and support contract at Clement Close on the basis of the pre - tender considerations set out in paragraph 3.24 of the report.

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2.2 Approves Officers evaluating the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in section (vi) of the table at paragraph 3.24 of the report.

### **3.0 Detail**

#### **Contribution to Borough Plan Priorities & Strategic Context**

3.1 Strategic Priority 5 within the Brent Borough plan 2023-27: Moving Brent Forward Together<sup>2</sup> is about building a healthier Brent. One of the desired outcomes of this is Desired Outcome 1 under tackling health inequalities, to ensure all adults with care and support needs are able to access support and services and they are integrated with health, culturally competent and responsive to individual need. To work with NHS and partners to deliver more cross-sector working within services that impact on health, such as housing, mental health and community safety.

3.2 Desired outcome 2 of the Strategic Priority 5 is for localised services for local needs. This includes continuing to support people to be cared for closer to home, by developing health and social care community services to help people, including those with complex needs, to live at home independently while also addressing key health issues including heart disease and respiratory conditions.

3.3 The proposed care and support contract for supported living services at Clement Close will help achieve desired outcome 1 and 2 of the Strategic Priority 5 by ensuring supported living accommodation is available to adult social care residents with high support needs to allow them to live more independently and promote their wellbeing.

#### **Background**

3.4 The council requires the provision of care and support living services at Clement Close. Officers have considered whether the care and support living services can be provided by the Council itself but have concluded that the care and support living services is best provided by a contractor.

3.5 The Clement Close service has been home to up to 12 residents since 21st December 2018. The building is owned by Brent Council and managed by the Brent Housing Management Team and the care and support contract is currently delivered by Sense, The National Deafblind and Rubella Association.

3.6 The Clement Close service was designed to provide supported living accommodation, and ensure accommodation was available to adult social care residents with high support needs to allow them to live more independently and

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<sup>2</sup> <https://www.brent.gov.uk/the-council-and-democracy/strategies-priorities-and-policies>

promote their wellbeing. The service supports borough residents to live independently in their home and reduce the potential of living within or moving to residential care. Residents have their own accommodation, with self contained flats as well as communal facilities.

- 3.7 The service provides 24 hour on-site care and support in line with the supported living model of care for individuals with a range of needs. Clement Close provides care and accommodation predominantly for adults with sensory loss, and a learning and/or physical disability.
- 3.8 The service delivers support in line with the 'active' model of care, working on a planned basis in delivering proactive support to residents to develop daily living skills within the home and community. This support includes cooking, cleaning, self-care, community access and participation as well as support to manage their finances. The service was designed to be innovative when working with residents to develop new skills.
- 3.9 To address ongoing under occupancy at the service, the contract for support at Clement Close was varied in consultation with the provider in December 2022. The variation expanded the placement criteria to include people who do not have a sensory impairment but had been diagnosed with a learning disability that may include individualised communication support needs.
- 3.10 The additional eligibility criteria ensures the ethos of the service was maintained. The variation allowed for contract payments to better reflect occupancy levels and enable officers to plan for future void management within care, support and accommodation contracts. This would include those with Autism as well as having specific communication needs, using non-verbal communication, visual supports and sensory, environmental differences (noisy and crowded places).
- 3.11 Officers have continued to work with the provider since December 2022 to support occupancy levels to reach full capacity. With the additional eligibility criteria, between March 2023 to October 2023 occupancy rates were up to 75% from 50%. As of November 2023, occupancy reached 100%.
- 3.12 The revised eligibility criteria for the service at Clement Close has enabled a wider group of adults to live within their own home to access services and the community and will reduce the likelihood of there being long term voids.
- 3.13 The new contract will be based on a core and flexi model with only the core element being commissioned through this procurement. The core service is designed to meet daily living needs, unplanned and emergency care needs and night support to provide 24 hour support. The flexi hours are based on residents' assessed needs, with their care and support plan outlining support to ensure their outcomes are met.

- 3.14 To support cost modelling and effective use of funds, the overall contract value will include assessed hours as at the time of going to market. The guaranteed payments to providers will only be for the core support hours.
- 3.15 The core service at Clement Close will be 376 hours per week based on 31.33 hours per week, per person. The breakdown of support staff to meet these needs will require 2.5 staff during the day and 1 waking night staff to provide support for 24 hours a day, 7 days per week to support 12 residents.
- 3.16 Assessed hours and those for additional needs are subject to an assessment by a Social Worker to meet the service users individual needs.
- 3.17 Within the supported living scheme, the Council fund care and support while residents are supported to claim Housing Benefit to pay accommodation costs. The scheme generates efficiency savings to ASC through the provision of care and support in place of residential placements, where the Council is responsible for both care and accommodation costs.
- 3.18 Officers propose to let this contract as a 3 year contract with the option to extend for a further two, one year periods (3+1+1) subject to satisfactory performance of the successful provider. The length of this contract will be attractive to the market, whilst maintaining a degree of flexibility for the Council.
- 3.19 Stakeholder engagement commenced in August 2023 through to December 2023 with residents, their family members and representatives from our health and social care partners. This was to ensure people using the services were fully involved in designing the service delivery and specification based on their experience and expertise.
- 3.20 Officers visited the service and met with all the residents and with some family members as well as providing our contact details for any queries or feedback outside of the session people may wish to share.
- 3.21 Feedback received included family members requesting the service continue to support residents with sensory loss, learning disabilities and additional communication needs and not change significantly, which is reflected in the specification. Family members will be involved in the implementation process particularly if their is a new provider and this has been fed back to interested family members.
- 3.22 The specification has been written taking into consideration the comments and suggestions from service users and family members.
- 3.23 Through the increased eligibility criteria, the future contract risks of limited occupancy are minimised and a potential increase in future demand has been identified.

## Pre-tender Considerations

3.24 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for the procurement of the contract for care and support services at Clement Close (the “Contract”) have been set out below for the approval of the Cabinet Member:

Ref.	Requirement	Response	
(i)	The nature of the services / supplies / works.	Delivery of care and support services at Clement Close – Supported Living scheme. This care and support is for adults with range of needs including physical disability, learning disability, mental health needs, sensory loss and additional communication needs.	
(ii)	The estimated value.	<p><b>£4,793,455.00</b></p> <p>£958,691 annually and £4,793,455 over the full contract period including extensions (3+1+1)</p> <p>Core Value Annually = £467,064 Assessed Hours (as at Mar 24) Annually = £491,627 Total Annual Amount = £958,691</p> <p>Full Contract Period Core Value = £2,335,320 Assessed Hours (as at Mar 24) = £2,458,135 Total Contract Amount = £4,793,455</p>	
(iii)	The contract term.	Three years with the option to extend for a further two, one year extensions (3+1+1)	
(iv)	The tender procedure to be adopted.	A variation of the Open process under the Light Touch Regime	
v)	The procurement timetable.	<b>Indicative dates are:</b>	
		Market engagement	Completed 20 December 2023 and 24 June 2024
		Invite to tender	26 June 2024
		Tender workshop	
		Deadline for tender submissions	1 August 2024

Ref.	Requirement	Response	
		Panel evaluation	12 August to 30 August 2024
		Report recommending Contract award circulated internally for comment	Between 6 September to 13 September
		Cabinet Member approval	20 September 2024
		10 calendar day standstill period – notification issued to all tenderers and additional debriefing of unsuccessful tenderers	23 September to 4 October 2024
		Contract Mobilisation	6 October 2024
		Contract start date	1 December 2024 (Scope to start up to 21/12/2024)
(vi)	The evaluation criteria and process.	<p>1. At initial stage based on evaluation criteria published and the use of a supplier questionnaire the panel will identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. The questionnaire and criteria are to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines.</p> <p>2. At tender evaluation stage, the panel will evaluate the tenders against the following criteria: 50% quality, 10% Social Value and 40% price.</p>	
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the proposed Contract. Financial Services and Legal Services have been consulted concerning this Contract.	
(viii)	The Council's Best Value duties.	The adoption of an open tendering process under Light Touch Regime will enable the council to achieve best value for money.	
(ix)	Consideration of Public Services	The Council is under duty pursuant to the Public Services (Social Value) Act 2012 ("the Social Value	

Ref.	Requirement	Response
	(Social Value) Act 2012	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 and social value forms 10% of the evaluation score.
(x)	Any staffing implications, including TUPE and pensions.	There will be TUPE implications which have been taken into consideration with the time scales. See section 9 below.
(xi)	The relevant financial, legal and other considerations.	See Financial Considerations at Sections 5 and Legal Considerations at Section 6 below.
(xii)	Sustainability	This has been assessed in line with the Procurement Sustainability Policy and determined that a quality measure for sustainability is not required and can be captured as part of the Social Value criteria.
(xiii)	Key Performance Indicators / Outcomes	Appropriate Key Performance Indicators / Outcomes will be included in the Contract.
(xiv)	London Living Wage	The Contract will require the payment of the London Living Wage.
(xv)	Contract Management	A contract manager will be appointed and appropriate contract management provisions will be included in the Contract.

#### 4.0 Stakeholder and ward member consultation and engagement

4.1 The Cabinet Member for Community Health and Wellbeing has been consulted and consultation with providers and residents was undertaken.

#### 5.0 Financial Considerations

5.1 The estimated value of this Contract over the contract term of 5 years (3+1+1) is £4,793,455 at today’s prices, based on an estimated annual cost of £958,691. This is based on the assumption each resident will have an average of 31.33 hours of support from the core service per week plus individual assessed needs as per individual support plans.

- 5.2 It is anticipated that the cost of the Contract will be funded from existing ASC budgets. Cost modelling has taken place, and it is expected that the change of provision of the service will be contained within the existing EHC budget.
- 5.3 The cost modelling was based on this contract being London Living Wage (LLW) compliant at LLW hourly rate at £13.15 per hour, from 1 April 2024 which was previously £11.95ph. To deliver the agreed amount of hours under the core element of this contract will mean approx. 11.68 FTE support workers will benefit from being paid at least the current minimum LLW of £13.15. If the number of assessed hours remains the same then total amount of staff employed will be over 25 in number who will all get at least LLW.
- 5.4 The annual cost of this contract is likely to increase each year when the London Living Wage commission announce the annual uplift. This growth provision will be considered as part of the Council's Medium Term Financial Planning.

## **6.0 Legal Considerations**

- 6.1 The services that Officers are proposing to procure fall under Schedule 3 of the Public Contracts Regulations 2015 ("PCR 2015"). The estimated value of the proposed Contract during its lifetime would be at £958,691 per annum and is therefore above the threshold for Schedule 3 Services under the Public Procurement Regulations 2015 (the "PCR 2015") and the procurement is therefore governed by the Light Touch Regime under the PCR 2015.
- 6.2 In accordance with the Council's Contract Standing Orders, the Contract is defined as a High Value Contract pursuant to Contract Standing Order 82 and as such the Contract shall be entered into and procured pursuant to Contract Standing Order 84. As such the Contract shall be procured in accordance with the tendering procedures set out in Contract Standing Order 95(c).
- 6.3 The procurement is subject to the Council's own Standing Orders and Financial Regulations in respect of High Value Contracts given the procurement is valued at £4,793,455.00 In accordance with paragraph 13 of Part 3 of the Council's Constitution, the Cabinet Member for Community Health and Wellbeing, having consulted with the Leader, has delegated power to approve the pre-tender considerations set out in paragraph 3.24 above (Standing Order 89) and the inviting of tenders (Standing Order 88) for High Value Contracts.
- 6.4 Once the tendering process is undertaken, Officers will report back to the Cabinet Member in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 6.5 The Council will observe a voluntary 10 calendar day standstill period before the Contract can be awarded. This will 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 will issue a letter of acceptance to the successful tenderer and the Contract may commence.

- 6.6 Officers have set out in section 9.1 that the proposed services will be provided by external contractors. As such, the proposed procurement process is unlikely to have a direct impact on Council staff. There are likely to be TUPE implications as a result of the procurement process due to a continuation of services from the current contract and the new Contract being procured. In this respect, Officers have set out in section 9.2 how it would manage any TUPE issues that might arise as a result of this procurement process.
- 6.7 As the decision that is being sought here is a Key Decision, the decision is subject to a 5 clear day call-in period and Brent will undertake standstill period concurrently. The decision to award may not be implemented until after expiry of the call-in period provided that no call in has been made.
- 6.8 As the decision that is being sought here is a Key Decision, the decision may not be taken by the Cabinet Member unless this matter has been published on the Forward Plan. The Key Decision must be published on the Forward Plan (Paragraph 30 of the Access to information rules) and must be included on the Forward Plan not less than 28 days before the decision is to be made. (Paragraph 34 of the Access to Information Rules). Cabinet Member decisions are to be recorded and published along with the report.

## **7.0 Equity, Diversity & Inclusion (EDI) Considerations**

- 7.1 Pursuant to s149 Equality Act 2010 (the “Public Sector Equality Duty”), the Council must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
  - (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,
- 7.2 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.
- 7.3 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.

7.4 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.

7.5 The proposals in this report have been subject to screening and officers believe that there are no adverse equality implications.

## **8.0 Climate Change and Environmental Considerations**

8.1 Given the nature of the services to be delivered, Officers do not envisage that there will be any direct Climate Change and Environmental Considerations.

## **9.0 Human Resources/Property Considerations (if appropriate)**

9.1 The Clement Close service will be provided by an external provider and there are no direct staffing implications for the Council arising from the tender process. The council own and manage the buildings and schemes through the Brent Housing Management service.

9.2 As part of the procurement process, employee liability information has been sought from current contractor to be provided to the tenderers. The TUPE process and any issues that may arise from it will be managed during the mobilisation phase, which will be at least two months between contract award and commencement.

## **10.0 Communication Considerations**

10.1 Consultation and engagement has taken place with current service users and their families at Clement Close ahead of seeking permission to tender. A market warming exercise has also happened and will be repeated ahead of the tender launch.

**Report sign off:**

***Rachel Crossley***

***Corporate Director Community Health and Wellbeing***