

	<b>Decision for Cabinet Member for Community Health and Wellbeing</b>
	<b>Report from the Corporate Director, Community Health and Wellbeing</b>
<b>Approval to waive contract Standing Orders to permit procurement of Care &amp; Support Services for John Wilson House, 167 Willesden Lane 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>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Andrew Davies Head of Commissioning, Contracting and Market Management 020 8937 1609 Andrew.davies@brent.gov.uk

## 1. Purpose of the Report

- 1.1. This report concerns the procurement of care and support services for the Brent Supported Living Service at John Wilson House, 167 Willesden Lane. This is a Profound and Multiple Learning Disability Service (PMLD) with five units of accommodation, four of which are currently occupied.
- 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 for care and support services at John Wilson House. The case for 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 Community Health and Wellbeing 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 care and support services for John Wilson House, 167 Willesden Lane for a period of two years from 4<sup>th</sup> September 2024 in accordance with paragraph 13 of Part 3 of the Constitution.

### **3.0 Detail**

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

- 3.1.1 The award of the care contract for John Wilson House is strategically positioned to significantly contribute to Brent Council's Borough Plan 2023-2027 Strategic Priority 5.
- 3.1.2 John Wilson House is dedicated to serving vulnerable adults with profound and multiple learning disabilities. The service is designed to provide supported living accommodation which enable service users to live more independently, promote their wellbeing and reduce the possibility of having to move to more restrictive forms of care, such as residential care services.
- 3.1.3 By providing an inclusive and accessible environment, the service actively works towards reducing health inequalities and strengthening community ties through supporting people closer to home, engagement initiatives and robust partnerships with local organisations. The contract award will ensure the continued alignment with and contribution to the Council's aspirations, promoting a healthier, more equitable, and unified community.

#### **3.2 Background**

- 3.2.1 Brent Council has commissioned a PMLD care and support service at John Wilson House, 167 Willesden Lane for some years. The contract was last tendered in 2020/21, and the successful provider was Achieve Together. Achieve Together are the incumbent provider and have been delivering care and support from the site since at least 2010.
- 3.2.2 Brent Council and Achieve Together have been in dispute around a number of aspects with this contract and a second care contract the company has on another PMLD service at 124 Harrowdene Road. Despite efforts to resolve the dispute, these have not been successful. The council had been taking steps to serve notice on the contract at 124 Harrowdene Road (which is an empty service) but had not planned to do this on the service at John Wilson House. However, on 4<sup>th</sup> June 2024 Achieve Together served notice on both contracts, with the company ceasing to provide services from 3<sup>rd</sup> September 2024.
- 3.2.3 After receiving notice on the contract, officers from the council made attempts to contact Achieve Together to work through the implications of their actions. Unfortunately Achieve Together did not respond to the council's correspondence until 25<sup>th</sup> June 2024, effectively reducing the time available to plan the handover to a new care provider.

- 3.2.4 Re-tendering a care contract of this nature, with the need for mobilization in three months is not considered realistic. Achieve Together has also made it very clear that they will not consider any extension to the notice period – they will be withdrawing from the service on 3<sup>rd</sup> September 2024.
- 3.2.5 The service at John Wilson House is home to some of Brent’s most vulnerable service users. Although Brent Council commissions the care contract, all of the service users have large proportions of their care package funded by the NHS, in recognition of their complex PMLD care needs. Consequently, in order to secure a care provider to deliver care to the residents of John Wilson House, officers are of the view that there is insufficient time to conduct a competitive procurement process and effective mobilization of the contract and in consequence a direct award is the only viable option in the circumstances.
- 3.2.6 Officers approached the company that came second to Achieve Together in the tender carried out in 2021 to see whether it would be interested in taking on the service at John Wilson House. The provider, Lifeways, is already a contracted provider of Brent Council, delivering care from the Brent Supported Living Service at Cranhurst Road and Salmon Street. Lifeways is a well regarded, high quality provider that has an established working relationship with Brent Council. Discussions with Lifeways have progressed positively, and they are willing to become the new provider at John Wilson House.
- 3.2.7 It is proposed that the direct award would be for a period of two years, with an annual contract value of £565,000 based on the core hours of support delivered in the service. Assessed hours would be paid for if required above the core support at an hourly rate of £22.26. This is a London Living Wage contract. Care and support staff are highly likely to transfer from the existing provider to Lifeways pursuant to the Transfer of Undertakings (protection of Employment) Regulations 2006 (“TUPE”). This will ensure continuity of care.
- 3.2.8 The residents of John Wilson House have not been informed of the proposed change of care provider due to their PMLD care needs. However, the families of the residents have been informed, and are aware of the proposed changes. There will be opportunities in the coming days to meet with representatives of Lifeways before the proposed transfer takes place from 4<sup>th</sup> September 2024. Similarly, meetings will be arranged between the staff at John Wilson House and Lifeways as part of the TUPE transfer arrangements that will be worked through in the coming weeks.
- 3.2.9 It is proposed to direct award a contract for two years. Officers consider that this is the shortest term that is feasible given the complexities of the service, the willingness of a provider to take on the service at short notice and the time that it will take to carry out a full procurement in due course.
- 3.2.10 The service will need to be retendered through a full and open tender process and a new provider confirmed and in place by 4<sup>th</sup> September 2026. Further reports will be brought forward on this in due course.

#### **4.0 Financial Considerations**

- 4.1 There are no direct financial considerations arising as a result of the decision to waive the contract standing orders. The report accompanying the direct award of the contract will set out the financial implications for the Council. The cost of the contract will be funded from the Adult Social Care budget.

#### **5.0 Legal Considerations**

- 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 services Officers are proposing to procure are valued at £1,130,000 for core services 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 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 value of the proposed contract over its lifetime is in excess of the threshold for Services under the Public Contracts Regulations 2015 (PCR 2015) and the procurement and award of the contract is therefore governed by the PCR 2015. Ordinarily this would require a full tender process but for the reasons detailed in Section 3, in particular paragraphs 3.4 and 3.5, it is considered that a direct award is permissible in accordance with Regulation 32 (2) (c) of the PCR 2015.
- 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 Equity Considerations**

- 6.1 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,
- 6.2 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.

- 6.3 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.
- 6.4 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.
- 6.5 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 None.

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

- 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.

**Report sign off:**

***Rachel Crossley***

Corporate Director, for Community  
Health and Wellbeing