

	<b>Officer Key Decision</b>
	<b>Report to the Corporate Director, Community Health and Wellbeing</b>
	<b>Lead Cabinet Member for Community Health and Wellbeing</b>
<b>Authority to Award a Care Contract for services at John Wilson House, 167 Willesden Lane</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	None
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Andrew Davies Head of Commissioning, Contracting and Market Management 020 8937 1609 <a href="mailto:Andrew.davies@brent.gov.uk">Andrew.davies@brent.gov.uk</a>

## 1.0 Executive Summary

- 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 report is seeking consent to direct award a new care contract for services at John Wilson House to Lifeways Community Care Ltd. The current care provider, Achieve Together, has given the council three months' notice on this

contract. For reasons explained in this report it is not feasible to conduct a full tender exercise in the time available, and so to ensure continuity of care for the residents of John Wilson House a direct award is being recommended. Full details are set out in the report below.

## **2.0 Recommendation(s)**

That the Corporate Director for Community Health and Wellbeing:

- 2.1 Approves the pre-tender considerations set out in paragraph 3.3.1.
- 2.2 Approves the direct award of a care contract for services at John Wilson House to Lifeways Community Care Ltd for two years, from 4<sup>th</sup> September 2024.
- 2.3 Notes Officers intention to re-tender these services within the next two years, to put in place a new care contract from 4<sup>th</sup> September 2026.

## **3.0 Detail**

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

- 3.1.1 This award of the care contract for John Wilson House outlined above 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 or to negotiate a resolution to the dispute between the two parties.
- 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 Community Care Ltd ("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 under a direct award of a new care contract.
- 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 for families 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. A waiver has been agreed by the Cabinet Member for Community Health and Wellbeing to grant an exemption pursuant to Contract Standing Order 84(a) of the requirement to tender a contract for care and support services to enable the direct award of a new contract for the service.

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.

### 3.3 Pre-tender Considerations

3.3.1 The pre-tender considerations relevant to the Contract are as follows:

Ref.	Requirement	Response	
(i)	The nature of the services / supplies / works.	As detailed above	
(ii)	The value.	£1,130,000 exclusive of VAT.	
(iii)	The contract term.	Two years from 4 September 2024	
(iv)	The tender procedure to be adopted.	Direct Award	
(v)	The procurement timetable.	<b>Stage in Procurement</b>	<b>Indicative dates</b>
		Contract start date	4 <sup>th</sup> September 2024
(vi)	The evaluation criteria and process.	N/A – Direct Award	
(vii)	Any business risks associated with entering the contract.	No specific business risks are considered to be associated with entering into the Contract.	

<b>Ref.</b>	<b>Requirement</b>	<b>Response</b>
(viii)	The Council's Best Value duties.	For the reasons set out in Section 3, it is considered that Direct Award will result in the Council achieving best value.
(ix)	Consideration of Public Services (Social Value) Act 2012	Officers have had regard to the Public Services (Social Value) Act 2012.
(x)	Any staffing implications, including TUPE and pensions.	There are no implications for Council staff arising from the procurement.
(xi)	The relevant financial, legal and other considerations.	Financial – See Financial Considerations at Section 5.
		Legal – See Legal Consideration at Section 6.
		Other – N/A
(xii)	Sustainability	Given the nature and value of the Contract, it is not possible to include specific sustainability requirements.
(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 Engagement has taken place with the families of the residents affected by this change, and they will be given an opportunity to meet with the new provider before they take on the service from 4<sup>th</sup> September.

#### **5.0 Financial Considerations**

5.1 Part 3 of the Council's Constitution states that the Corporate Director has delegated authority to approve the award of contracts for services valued at less than £2 million. The total estimated value of the Contract for a two year term is £1,130,000 based on the core hours of support delivered in the service.

5.2 This will predominantly be funded by health, with the remainder being funded from the Adult Social Care budget.

5.3 The requirement for any hours in excess of the core hours could pose a financial risk and will need to be managed within existing funds available for the health funded or Adult Social Care funded clients.

## **6.0 Legal Considerations**

6.1 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 and have sought and obtained approval from the Lead Member to waive the requirement to seek quotes, thus permitting a direct award.

6.2 The Corporate Director has delegated power to award Medium Value Contracts in accordance with paragraph 9.5 of Part 3 of the Constitution.]

6.3 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 3.2, it is considered that a direct award is permissible in accordance with Regulation 32 (2) (c) of the PCR 2015.

6.4 The decision to award the contract will be subject to call-in as provided for in the Council's Constitution. Subject to no call-in preventing award, Officers will seek to implement the decision to award.

## **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 There are no climate change considerations to arise from this contract award.

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

- 9.1 These services 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 John Wilson House through the Brent Housing Management Service.
- 9.2 As part of the contract transfer process, employee liability information will be sought from current contractors and provided to the new provider. The TUPE process and any issues that may arise from it will be managed during the mobilization phase.

## **10.0 Communication Considerations**

- 10.1 Specific communications have taken place with the family members of the residents of John Wilson House, and engagement will continue up to and beyond the award of the new contract so that families are assured that their loved ones will continue to receive high quality care.

**Report sign off:**

**Rachel Crossley**

Corporate Director Community  
Health & Wellbeing