



**Executive**  
17 June 2013

**Report from the Director of Adult  
Social Services and Regeneration  
and Major Projects**

Wards Affected:  
ALL

**Supporting People Services – approval of contract  
extensions and pre-tender considerations**

**1.0 Summary**

- 1.1 This report requests that the Executive authorise the extension of Supporting People contracts for a Sheltered Housing service and handyperson and accident prevention services and to give approval to the pre - tender considerations and criteria for a new procurement exercise.

**2.0 Recommendations**

- 2.1 The Executive to agree to an exemption from the usual tendering and quotation requirements of Contract Standing Orders to allow the award of interim contracts for Supporting People funded Willow Sheltered Housing Service and Handyperson and Accident Prevention services to the incumbent providers, on the basis of good operational and financial reasons as set out in paragraphs 3.4 - 3.11 of this report.
- 2.2 That the Executive approves the award of a interim nine (9) month contract for Willow Sheltered Housing Service to Willow Housing Limited and a seven (7) month contract for the Handyperson and Accident & Prevention service to Elder's Voice as outlined in Para 3.10 and 3.11 of this report.
- 2.3 The Executive to give approval to the pre - tender considerations and the criteria to be used to evaluate tenders for a new Handyperson and Accident & Prevention Service and Sheltered Housing Service as set

out in paragraphs 3.9 of this report.

- 2.4 The Executive to give approval to officers to invite expressions of interest, agree shortlists and invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria referred to in 2.3 above.

### **3.0 Detail**

#### ***Background***

- 3.1 Supporting People is a national preventative programme administered by local government which aims to enable vulnerable people to live independently in the community through providing housing-related support services.
- 3.2 Handyperson and accident prevention services are part of the portfolio of services commissioned within the Supporting People programme. The aim of this service is to increase the independence of people living in their own home and to prevent the occurrence of accident and/or illness which may result in people accessing higher threshold forms of care (i.e. hospital, residential and/or nursing care). A contract for the delivery of these services in Brent has been in place continuously since April 2009.
- 3.3 The Willow Sheltered Housing Contract is also part of the portfolio of services commissioned within the Supporting People programme. This contract for services targeted at older people is comprised of 4 elements, including housing-related support for people living in sheltered housing, scheme management for people living in extra care schemes, emergency response for out of hours support, and activities co-ordination to enable older people to participate in meaningful activities during the day.
- 3.4 Responsibility for the commissioning of these services sits with Brent Council's Adult Social Care (ASC) department and the budget is held by Regeneration and Major Projects. Governance of this service area is maintained jointly by the ASC Departmental Management Team and the One Council Supporting People Project Board.

#### ***The procurement process***

- 3.4 On 12<sup>th</sup> November 2012, the Executive authorised the appointment of service providers to a Framework procured by Brent, to enable the re-commissioning of local housing-related support services. This Framework has been live since 1<sup>st</sup> December 2012. The Framework has 4 lots covering different client groups and service types, one of which is Lot 3: Accident Prevention and Handyperson Service.

- 3.5 Under the framework agreement, bidders are contractually committed to the rates set out in the tender to deliver services in accordance with the relevant Lot service specification. The framework agreement call off protocol outlines the process by which the Council will award contracts from the framework. It is at this call-off stage that bidders are provided with TUPE information (if applicable). Bidders then have the opportunity to submit a TUPE pricing schedule to incorporate any staffing costs that they may incur as a result of the transfer of staff from current providers.
- 3.6 Officers invited the sole provider on Lot 3 to submit a TUPE pricing schedule for a Handyperson and Accident Prevention Service in accordance with the call-off protocol on 12<sup>th</sup> April 2013, which concluded on 1<sup>st</sup> June 2013. Officers have considered the pricing schedule submitted by the bidder and have rejected the submission in line with the published procurement documentation which states that the Council shall not be bound to accept the lowest or any Direct Call Off with TUPE. This decision was taken because the submission does not demonstrate the expected value for money.
- 3.7 In January 2013 officers invited providers on the Brent Supporting People Framework Agreement to participate in a process to award a older people floating support, activities co-ordination, and emergency response services. The floating support and emergency response services were combined into a single contract with the expectation that doing so would deliver best value; however, an insufficient level of interest from the providers on the framework was received to produce this result. Furthermore, the relevant Lot on the Framework was used to call off a contract for the Activities Co-ordination Service. This process, however, highlighted problems with the TUPE information received from the incumbent provider which officers are now working to resolve, and did not, therefore, result in an award of contract. Officers outline the process to re-procure these services in Para. 3.11.
- 3.8 In order to ensure compliance with Contract Standing Orders, officers recommend commencing an open procurement process to award a contract for a Handyperson and Accident Prevention Service. It is anticipated that tenders will be invited in accordance with Contract Standing Order 96 and Proposed contracts awarded on the basis of the evaluation criteria set out in the table (vi) below:

### **Pre-Tender Considerations**

- 3.9.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

Ref.	Requirement	Response
(i)	The nature of the service.	Contract 1: Handyperson and Accident Prevention Services Contract 2: Emergency Response
(ii)	The future estimated value of the contract.	<p>Contract 1: The current comparable contract is valued at £133,658 per annum. Officers anticipate the value of the new contract to be a High Value Contract (as defined in CSO) over the four years.</p> <p>Contract 2: The current comparable service element is valued at £100,00 per annum. Officers anticipate the value of the new contract to be a Medium Value Contract (as defined in CSO) over the four years.</p>
(iii)	The contract term	Both contract would be awarded for up to 4 years (2 years plus 1 plus 1).
(iv)	The tender procedure to be adopted.	<p>A one stage open tender process in accordance with the Council's Standing Orders 96 (b) will be followed for both contract..</p> <p>As Social Care transactions are 'Part B Services', under the Public Contract Regulations 2006 ("the Regulations"); the Regulations apply only in part to the tender namely, (adoption of a technical specification and forwarding a Contract Award notice)</p>

(v)	The procurement timetable	<p><b>Both contracts will be in accordance with the following indicative timetable:</b></p> <ul style="list-style-type: none"> <li>• Adverts placed/ Invite Tender</li> <li>• Deadline for tender submissions</li> <li>• Panel evaluation</li> <li>• Executive approval</li> <li>• Contract start date</li> </ul>	<p>1.7.13</p> <p>5.8.13</p> <p>26.8.13</p> <p>Oct 2013 (date TBC)</p> <p>December (pending Executive approval date)</p>
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(vi)	The evaluation criteria and process	<p><u>Invitation to Tender (ITT)</u></p> <p><u>Both contracts will be procured separately in accordance with the following process:</u></p> <p>All bidders who express an interest and submit an ITT in accordance with the open tender process will be evaluated on the basis of the most economically advantageous tender using the following criteria.</p> <p>For information and pass/fail criteria evaluation:</p> <ul style="list-style-type: none"> <li>• Subcontracting/consortia arrangements</li> <li>• Professional conduct</li> <li>• Economic and financial standing</li> <li>• Insurance</li> <li>• Resources</li> <li>• Health and safety</li> <li>• Quality assurance</li> <li>• Equality</li> <li>• Environmental</li> <li>• Sustainability</li> <li>• Carbon policy</li> <li>• Business continuity</li> </ul> <p>Bidders who pass the pass/fail evaluation criteria detailed above will be evaluated in accordance with the following:</p> <p>30% of the evaluation weightings will be proportioned to the following quality, which may be subject to minor change as required:</p> <ul style="list-style-type: none"> <li>• Working together</li> <li>• Achieving outcomes</li> <li>• Giving individuals choice and control</li> <li>• Creating a positive environment</li> </ul> <p>70% will consist of the price evaluation. This will be evaluated through the application of a formula that underpins a proportional scoring which will award the maximum of 70% to the lowest priced tender.</p>
(vii)	Any business risks associated with entering the contract	No specific business risks are considered to be associated with agreeing the recommendations in this report.

(viii)	The Council's Best Value duties	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications	See sections 7 below
(x)	The relevant financial, legal and other considerations	See sections 4, 5 and 6 below

310. The current comparable service contract expires on the 30<sup>th</sup> June 2013. In order to carry out the above procurement process officers request an interim contract is awarded to the incumbent provider, Elders Voice, with a duration of 7 months.

3.11 The Willow Sheltered Housing contract has 4 distinctive service elements which officers intend to procure separately. In order to award the 4 contracts to deliver the service elements separately, officers request an interim contract is awarded to the incumbent provider, Willow Housing, with a duration of 9 months. During this period officers intend to replace the current service provision by agreeing with Willow to split the service elements and costs into 4 elements and phase the termination dates. Officers will propose the following indicative timetable:

<b>Contract Element</b>	<b>Indicative Willow Termination Date</b>	<b>Proposed procurement method</b>
Older people's floating support	31 <sup>st</sup> October 2013	Direct call-off with TUPE from Brent Framework
Emergency Response	31 <sup>st</sup> December 2013	Please refer to tender considerations outlined at section 3.9.1
Activities Co-ordination	31 <sup>st</sup> March 2014	Direct call-off with TUPE from Brent Framework

Exrtra care scheme mangement	31 <sup>st</sup> November 2013	Officers will return with a report in October to outline the proposal for the Extra Care Scheme Management service element as Executive has not previously approved a procurement process for this service.
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#### **4.0 Financial Implications**

- 4.1 Investment associated with the current service specification for handyperson and accident prevention services is £133,658k per annum and £505,145 per annum for the Willow Sheltered Housing Contract.
- 4.2 The Supporting People programme budget for 2013-14 £8.4m. This budget has been reduced by £3.3m since 2010-11. The expected cost of these services has been budgeted for within the reduced financial envelope.
- 4.3 This report sets out proposals to procure a contract in accordance with local procurement arrangements and the council's contract standing orders. The Council's Contract Standing Orders state that contracts for supplies and services exceeding £500k or works contracts exceeding £1million shall be referred to the Executive for approval to approve the award the call off contract in respect of other matters identified in Standing Order 89.

#### **5.0 Legal Implications**

- 5.1 The contracts for the Supporting People funded Handyperson and Accident & Prevention service and the Sheltered Housing service are Part B services contract for the purposes of the Public Contracts Regulations 2006 ("EU Regulations"), and is thus only subject to partial application of the EU Regulations to include requirements in relation to technical specifications and the need to publish a Contract Award Notice.
- 5.2 The estimated value of the contracts over its term (including possible extensions) is in excess of £500k. As such the contract is a High Value contract for the purposes of the Council's Contract Standing Orders and Financial Regulations and thus Executive approval is required to invite tenders and to evaluate tenders for the contract.



- 5.3 In the present case, there is an incumbent provider currently providing elements of the service being procured. As a result, the Transfer of Employment (Protection of Employment) Regulations 2006 ("TUPE") may apply if the contract is awarded to a new provider, where immediately before the change of contractor, there is an organised grouping of employees situated in Great Britain which has, as its principal purpose the carrying out of the activities concerned on behalf of the Council and where the employees are assigned to that organised grouping. Subject to the right of the employee to object to transferring, the employee's contract of employment will transfer to the new contractor. Further information concerning the staffing issues is detailed in paragraph 7 of this report.
- 5.4 The Executive on 12 November 2012 gave approval for the appointment of providers onto the Brent Supporting People Framework ("the Framework") which, consisted of 4 Lots of which, the Handyperson and Accident & Prevention service falls under Lot 3 (being a single provider Lot). In accordance with the Framework call-off protocol Officers undertook a direct call-off, with TUPE with the single provider; the results of which are outlined in paragraph 3.6 of this report. As the price tendered by the Framework provider under Lot 3 did not represent value for money to the Council, Officers had no choice but to reject the bid submitted and not to award a call-off contract under the Framework. The Council is not bound under the Framework to accept the lowest bid or any bids submitted for a call-off contract and the Framework is not exclusive, nor does it guarantee any work.
- 5.5 Officers therefore seek an exemption from Contract Standing Orders to award an interim 7 month contract to the incumbent provider, Elders Voice to enable its expiry to coincide with the commencement of the competitively tendered Handyperson and Accident & Prevention services contract and for continuity of service.
- 5.6 The Sheltered Housing Scheme and Handyperson and Accident & Prevention services are deemed Part B services for the purposes of the EU Regulations. Where such services are of interest to providers located in other EU Member States, they must be procured in line with the Treaty on the Functioning of the European Union of non-discrimination, equal treatment, fairness and transparency in the award process. Therefore, a contracting authority that makes a direct award of such Part B contracts without adequately advertising the contracts or indeed seeks to extend such contracts where this is not provided for in the contract will be in breach of the Treaty on the Functioning of the European Union (previously known as the EU Treaty Principles).
- 5.7 The proposed extension of contracts goes beyond the period of extension (if any) provided for in the current contracts. It is arguable whether the service contracts in issue would be of interest to providers

located in other EU Member States, but there is a low risk of challenge to the Council. However, it is for Members to weigh up the limited potential for challenge against the need for the current contracts to be extended by a limited period to enable continuity of service and for its expiry to coincide with the commencement of new competitively procured contracts.

- 5.8 Once the tendering process is undertaken, Officers will report back to the Executive in accordance with Contract Standing Orders explaining the process followed in tendering the contracts and recommending award.

## **6.0 Diversity Implications**

- 6.1 An Equalities Impact Assessment (EIA) has been undertaken in accordance with the Equality Act 2012. A copy of the EIA is appended to the 12<sup>th</sup> November Executive report requesting authority to award the Supporting People Framework. This EIA has been approved by the Customer and Community Engagement Team.

## **7.0 Staffing Implications**

- 7.1 There will be TUPE implications arising from the award of the contract, if there is a change in service provision. The assumption is that TUPE is likely to apply to the incumbent provider's staff currently providing a proportion of the services that are included in this process. As such, protection will be afforded under the TUPE regulations to such staff assigned to the service immediately prior to the contract start date and who do not object to transferring; so that they will transfer to the organisation awarded the contract on their existing terms and conditions.

## **8.0 Other Implications**

- 8.1 There are no other known implications that may impact upon the award of this contract.

## **9.0 Background Papers**

- 9.1 None.

## **Contact Officers**

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