



Executive
16 September 2013

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

Wards Affected:
ALL

**Approval to award Extra Care Sheltered Housing Scheme
Management Grant**

1.0 Summary

- 1.1 This report requests that the Executive authorise the award of a grant for the purpose of providing scheme management within local extra care services.

2.0 Recommendations

- 2.1 That Executive authorise award of a 4 year grant of £84,864 p.a. to Willow Housing and Care for the provision of the housing support element of extra care scheme management to the occupiers of 136 extra care units.

3.0 Detail

Background

- 3.1 Extra care housing is a type of supported housing for older people that aims to enable tenants to live independently in appropriate housing for as long as possible by having access to flexible care and support services on-site that are responsive to their needs.
- 3.2 There are currently 136 units of extra care housing (in four schemes) available in the borough, which are provided by a Registered Social

Landlord (RSL), Willow Housing and Care. Willow own the properties and the service users are their tenants. The landlord's role within the extra care service model includes provision of the scheme management function, which involves (a) undertaking housing management duties on behalf of tenants (e.g. repairs, maintenance, etc.) as well as (b) the provision of support to tenants with housing-related needs (e.g. support to access activities, maintain social contacts, and assistance with daily living). The personal care element is separate and is currently provided by the Homecare Partnership, a domiciliary care provider.

- 3.3 The housing management element of the scheme management role is funded via housing benefit. The housing-related support element, however, is not eligible for housing benefit and is therefore resourced via the Council's Supporting People budget. The split between these two funding sources per scheme manager is roughly 50/50.
- 3.4 Funding of the housing support element for the existing 136 units is currently provided to Willow as part of a larger contract, which also includes sheltered housing-related support, emergency response, and activities co-ordination. On 17th June 2013, the Executive authorised officers to disaggregate these four elements and re-procure them on a phased basis between October 2013 and March 2014; however in relation to the existing arrangement for extra care scheme management no decision was made apart from that it would terminate on 30th November 2013. Officers also indicated that they would return to Executive before then with a separate proposal for the continuation of the housing-related support part of the scheme management function within extra care services (see Section 3.1.3 of that report, appended below) and this is the subject matter of this report.
- 3.5 If the support element of the scheme management service were to be subject to a standard procurement exercise under the Council's contract standing orders, it may result in a contract being awarded to a separate provider who would then require access to the Willow premises. In the view of officers, however, introducing a third provider into the service model would have a detrimental impact on the quality of the service provided to users of extra care, and would also pose a risk to the financial viability of other service elements. There is also the synergy between the housing management element of scheme management (provided by Willow as landlord and funded by housing benefit) and the housing support element. While this could be put into place through the Executive approving an exemption from standing order requirements and a direct award to Willow, officers are satisfied, however, that because there is sufficient rigor in the quality assurance of the care received by tenants in the form of care plan reviews, and that the support provided through the scheme management function essentially supplements this care, that monitoring of the scheme management function in the manner usual to contract management will not be required. Therefore award of a grant would be appropriate and

preferable. This will be subject to conditions of grant, including withdrawing the grant in future years on notice should the Council no longer be in a position to fund the service, and also withdrawal of the grant for failure to apply it to the agreed purpose of housing-related support.

- 3.6 The majority of services funded through the Supporting People budget are provided through block contract awarded via the Council's Supporting People Framework. The framework would not be an appropriate mechanism for the resourcing of this service, however, because scheme management is not one of the designated lots on the Framework, and because Willow are not one of the providers on this Framework.
- 3.7 Officers accordingly recommend that a grant of £84,864 p.a. (in line with the current cost of the service) is awarded to Willow Housing and Care for financial year 2013/14 (first payment effective 1st December 2013) for continuing to provide the support element of the scheme management function for four years as per the table below:

2013/14	2014/15	2015/16	2016/17	Maximum Value
£84,864	£84,864	£84,864	£84,864	£339,456

- 3.8 The service is good value relative to other housing-related support services, as the support element is effectively provided at a cost £12 per tenant per week.
- 3.9 The four year term of the grant will be subject to an annual review by the Council, with the Council being able to give notice to Willow that it is unable to give the grant in the subsequent financial year.

4.0 Financial Implications

- 4.1 The Supporting People programme budget for 2013-14 is £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 and the relevant Directors are satisfied that there are no adverse capital finance or other negative implications. The grant is costed at a level equal to the amount spent on this service under the current contract.

5.0 Legal Implications

- 5.1 Under the Localism Act 2011, local authorities have a general power of competence. It is therefore open to the Council to provide financial assistance in the form of grant funding in order to secure delivery of housing support by Willow to its tenants.

- 5.2 The key difference between a grant and a contract is that a contract creates a legal relationship with legally binding obligations, such that the Council can enforce against the provider any failure to perform the contract, including getting damages for any additional costs that the Council has as a result of the failure. However a grant is a gift, albeit made subject to conditions about how it is to be spent; therefore the only consequence for failure to comply with the conditions is withdrawal of funding.
- 5.3 Under part 4 of the Constitution, grants over £5,000 per annum require Executive approval, and the relevant Director must also be satisfied that there are no adverse capital finance or other negative implications.

6.0 Diversity Implications

- 6.1 This report seeks authority to continue a service targeted at older people. It is therefore expected that the proposals within this report will produce a net benefit for local older people. No other diversity implications are anticipated.

7.0 Staffing Implications

- 7.1 The actions proposed do not have any staffing implications.

8.0 Other Implications

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

9.0 Background Papers

- 9.1 See Appendix A below.

Contact Officers

Integrated Commissioner, Chris Pelletier

APPENDIX A

	Executive 17 June 2013 Report from the Director of Adult Social Services and Regeneration & Major Projects
For Action/Information	Wards Affected: ALL
Report Title: SUPPORTING PEOPLE SERVICES – APPROVAL OF CONTRACT EXTENSIONS AND PRE- TENDER CONSIDERATIONS	

1.1 Summary

- 1.1 This report requests that the Executive authorise the extension of Supporting People contracts for (a) Sheltered Housing services and (b) Handyperson and Accident Prevention services, and give approval to the pre - tender considerations and criteria for new procurement exercises.

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 (a) Sheltered Housing Service and (b) 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, if the Executive approve recommendation 2.1, the Executive to approve the award of a interim contract for Sheltered Housing Services to Willow Housing Limited to expire no later than 31st March 2014, 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 an Emergency Response Service as set out in paragraphs 3.11 of this report.
- 2.4 The Executive to give approval to officers to invite tenders in accordance with the procurement timetable and evaluate them in accordance with the approved evaluation criteria referred to in paragraph 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 Sheltered Housing Contract is also part of the portfolio of services commissioned within the Supporting People programme. It expired on 31st March 2013 and has not yet been replaced for the reasons outlined in paragraph 3.8 below. However, the services continue to be provided by Willow on a spot purchase basis. This contract is for services targeted at older people and is comprised of 4 elements:
- 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.

Procurement

- 3.5 On 12th November 2012, the Executive authorised the appointment of service providers to a Supporting People Framework procured by Brent, to enable the re-commissioning of local housing-related support services. This Framework has been live since 1st 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. In addition there are lots that cover the current Willow service.
- 3.6 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.
- 3.7 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 12th April 2013, which concluded on 1st May 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 Call Off with TUPE submission. This decision was taken because the submission did not demonstrate the expected value for money.
- 3.8 In addition, in January 2013 officers invited providers on the Brent Supporting People Framework to participate in a process to award contracts for older people floating support, activities co-ordination, and emergency response services. This covered three of the four services outlined in paragraph 3.3 above. 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 and a contract was not awarded. 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.
- 3.9 It has therefore been decided to re-procure the Accident Prevention and Handypersons service by open competition rather than continue further with the sole provider on the Brent SP framework. Officers outline the process to re-procure this in paragraph 3.11.

3.10 In relation to the Sheltered Housing Service currently provided by Willow, the results of the procurement process described above have led to the decision to re-procure all four elements of the current service separately. Two of the four elements will be re-procured using the Brent SP framework (see further paragraph 3.13), while a third will be subject to open competition as set out in paragraph 3.11 below.

Pre-Tender Considerations

3.11 In accordance with Contract Standing Orders 88 and 89, 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 for out of hours support
(ii)	The future estimated value of the contract.	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. 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.
(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.	A one stage (open) tender process in accordance with the Council's Standing Orders 96 (b) will be followed for both contracts. 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)
(v)	The procurement timetable	Both contracts will be in accordance with

		<p>the following indicative timetable:</p> <ul style="list-style-type: none"> • Adverts placed/ Invite Tender • Deadline for tender submissions • Complete Panel evaluation in accordance with the stages set out in section vi below • Executive approval • Contract start date 	<p>1.7.13</p> <p>5.8.13</p> <p>01.9.13</p> <p>Nov 2013 (date TBC)</p> <p>1st February 2014 (pending Executive approval date)</p>
(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 in response to the advert will be required to submit both a pre-qualification questionnaire (PQQ) to assess capacity and financial standing, as well as a tender as to how they would deliver the service. This in accordance with the open tender process.</p> <p>Bidders who pass the PQQ will have their tenders evaluated in accordance with the following:</p> <p>30% of the evaluation weightings will be proportioned to the following quality criteria, which may be subject to minor change as required:</p> <ul style="list-style-type: none"> • Working together • Achieving outcomes • Giving individuals choice and control • Creating a positive environment • Health & Safety <p>70% will consist of the price evaluation. This</p>	

		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.
(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

3.12 The current comparable service contract (Accident Prevention & Handyman Service) expires on the 30th 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.

3.13 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 final end date of 31st March 2014. 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:

Contract Element	Indicative Willow Termination Date	Proposed procurement method
Older people's floating support	31 st October 2013	Direct call-off with TUPE from Brent Framework
Emergency Response	31 st January 2014	Please refer to tender considerations outlined at section 3.11
Activities Co-ordination	31 st March 2014	Direct call-off with TUPE from Brent

		Framework
Extra care scheme management	30 th November 2013	Officers will return with a report to outline the proposal for the Extra Care Scheme Management service element

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 is £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 contracts 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 Emergency Response service are Part B services contract for the purposes of the Public Contracts Regulations 2006 ("EU Regulations"), and 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 one of the contracts proposed to be tendered in this report 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 interim contracts to the incumbent providers, Elders Voice and Willow, to enable its expiry to coincide with the commencement of the competitively tendered Handyperson and Accident & Prevention services contract and the proposed re-procurement of the various elements of the current Willow service, and also to deliver continuity of service. Although this award does not require Executive approval, being of relatively low value, under Contract Standing Orders members are required to approve exemptions from standing orders, and are able to do so where there are good operational/ financial reasons.
- 5.6 As stated above, 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 12th November Executive report which requested authority to award the Supporting People Framework. This EIA has been approved by the Customer and Community Engagement Team. As the two services recommended for tendering in this report will be essentially the same as those currently delivered by the incumbent providers, it is considered that a further Equalities Impact Assessment is not required.

8.0 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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