

CABINET

18 September 2018

Title: Contract for Mental Health and Learning Disability Supported Living Services	
Report of the Cabinet Member for Social Care and Health Integration	
Open Report	For Decision
Wards Affected: None	Key Decision: No
Report Author: Clare Brutton, Senior Mental Health Commissioner	Contact Details: E-mail: clare.brutton@lbbd.gov.uk
Accountable Director: Mark Tyson, Director of Adult Commissioning	
Accountable Strategic Leadership Director: Elaine Allegretti, Director of People and Resilience	
Summary: <p>This plan focuses on setting out the Council's commissioning plan in respect of supported housing for Mental Health and Learning Disability client group.</p> <p>Supported living arrangements aim to increase individual's independence and skills by reducing dependency over a period of time. This should therefore increase the independence of the adult and reduce the amount of paid and unpaid support that they need. This enables people to try new things, allows the provision of care and support in their own homes and may support people to move-on to more independent forms of accommodation. The provision of tenancy-based accommodation enables mental health service users and those with a learning disability to rent their own home with security of tenure if they abide by the rules of their tenancy. This is in line with the Care Act (2014) and is in keeping with adults without disabilities and fits with the principles of living an ordinary life.</p> <p>The Council will invite responses from suitably qualified and experienced private and voluntary providers interested in joining a Framework Agreement to provide a range of supported living together with specialist floating support. Supported living is housing with up to 24hr care provision available for Mental Health and Learning Disability service users.</p>	
Recommendation(s) <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Agree that the Council proceeds with the procurement of a four-year framework contract, with an option for a further two years, for the provision of supported living provision and floating support for Learning Disability and Mental Health service users, in accordance with the strategy set out in the report; and(ii) Delegate authority to the Director of People and Resilience, in consultation with the	

Cabinet Member for Social Care and Health Integration, the Chief Operating Officer and the Director of Law and Governance, to conduct the procurement and award and enter into the contract and access agreements.

Reason(s)

- a) To provide an appropriate, best-value service that delivers excellent outcomes for Learning Disability (LD) and Mental Health (MH) Service Users
- b) To standardise the quality of accommodation provided to LD and MH service users to ensure the Local Authority is compliant to all aspects of the Care Act
- c) To help relieve budget pressures by ensuring the best value for money options are available to the Nominated Officer when seeking to place a LD or MH service user

1 Introduction and Background

- 1.1 Supported living arrangements aim to increase individual's independence and skills by reducing dependency over a period of time. This should therefore increase the independence of the adult and reduce the amount of paid and unpaid support that they need. This enables people to try new things, allows the provision of care and support in their own homes and may support people to move-on to more independent forms of accommodation. The provision of tenancy-based accommodation enables mental health service users and those with a learning disability to rent their own home with security of tenure if they abide by the rules of their tenancy. This is in line with the Care Act (2014) and is in keeping with adults without disabilities and fits with the principles of living an ordinary life.
- 1.2 This plan focuses on setting out the Council's commissioning plan in respect of supported housing for Mental Health and Disability client group. Prior to the full tender a Prior Information Notice (PIN) was issued in April 2018, resulting in twenty-three providers registering their interest to participate in the full tender which, illustrating the high level of interest in delivering these services locally.
- 1.3 A market engagement event for the service was held on 25th June 2018 with 25 potential bidders in attendance
- 1.4 The Council will invite responses from suitably qualified and experienced private and voluntary providers interested in joining a Framework Agreement to provide a range of supported living together with specialist floating support. Supported living is housing with up to 24hr care provision available for Mental Health and Learning Disability service users.

Learning Disabilities

- 1.5 In total the Disability Service will oversee services to over 2000 children, young people and adults with disabilities. Of these there are currently:
 - 376 children with a disability
 - 1236 children with an EHC plan

 - 367 adults with a learning disability, of which:

- o 20% are in supported living
 - o 54% receive direct payments
 - o 22% have managed personal budgets and
 - o 15% have a residential or nursing placement
- 390 adults with a physical disability, aged under 65 years, of which:
 - o 90% have direct payments
 - o 12% have managed personal budgets
 - o 5% have a residential or nursing placement

Financial Envelope

- 1.6 The current spend within the service for adult Learning Disability service is detailed below.

Type of Placement	Budget	Projection
Home Care	93,000	236,021
Direct Payments	3,070,700	3,670,142
DS Day Care	200,200	341,120
Supported Living	2,452,080	2,186,205
External Res Placements	2,036,400	2,521,025
Nursing Care	0	246,916
Transports	237,770	237,770
Cumulative Total	8,090,150	9,439,199

Mental Health

- 1.7 Barking and Dagenham has a range of supported housing options that can be considered by social workers and their clients when considering a placement, of which are primarily spot purchased. As of April 2018, there are 254 service users open to the Mental Health Team – all with bespoke packages of care that meet assessed need. The current breakdown of accommodation and floating support is as follows:

Type of Accommodation	Detail	Current Nos
Supported Accommodation	Total No of people in supported residential care	100
	Placed in B&D	82
	Placed outside B&D	22
Temporary Accommodation	Including B&B	7
Private Accommodation	With Floating Support	147
Total spend		£2.2m

- 1.8 These services are primarily accommodation based, although some also can offer outreach or resettlement support to others within the community.
- 1.9 Currently, there are 22 Barking and Dagenham residents with mental health issues in residential / supported living placements outside of the Borough. Some are reasonably close, for example in Newham, others are further afield, for example in

Wales. A further 7 MH service users, with no recourse to public funds have been placed in B&B accommodation.

Projected need for Mental Health Services

- 1.10 The PANSI has modelled a projected rise in demand for MH social care service of 2% over the next 5 years. Commissioners are cautious of this projection, deeming it as conservative, and take this view in part due significant housing growth in the borough, the introduction of universal credit and the financial pressures that this has created, less affordable housing, rise in street homelessness, overcrowding which all takes a toll on a person's MH. Based on the Council doing nothing and with projected costs increasing at 2% and at 4% trajectory, the cost pressure would be between £200,000 – £500,000 per annum.

	Projected budget at 2% rise per annum £	Projected budget at 4% rise per annum £
2018/19	2.7m	Current forecast spend 2.7m
2019/20	2.75m	2.8m
2020/21	2.8m	2.9m
2021/22	2.85m	3m
2022/23	2.9m	3.1m
2023/24	2.97m	3.2m

2. Proposed Procurement Strategy

2.1 Outline specification of the works, goods or services being procured

- 2.1.1 A competitive open market tender will be undertaken to procure new service providers for Supported Living and Specialist Floating Support (Mental Health and Learning Disability) in the borough under a framework agreement.
- 2.1.2 The Framework agreement will be established after a competitive tender process and will set out the general terms under which call offs will be made for the duration of the agreement.
- 2.1.3 The framework will allow the social care team to 'call off' appropriately qualified providers, who will be able to offer bespoke packages of care to support service users in the community. There is no maximum number of participating providers that can be placed on the Framework Agreement. The framework will comprise of 2 categories as detailed below;

		Rationale
Category ONE (CQC and Non CGC)	<ul style="list-style-type: none"> ○ Supported Living (Learning Disability and Mental Health) ○ 24 hour on site care ○ 12 or less on-site care 	1. By moving away from block contracts, we allow care to be flexible to individual need i.e. packages of care can be flexed up or down according to

		<p>presentation</p> <ol style="list-style-type: none"> 2. To help relieve budget pressures by ensuring the best value for money options are available to the Nominated Officer when seeking to place a LD or MH service user 3. To ensure providers have been through quality assurance thresholds through the framework, ensuring placements with better quality of providers
<p>Category TWO</p>	<ul style="list-style-type: none"> ○ Generic Mental Health Support ○ Generic Learning Disability Support ○ Specialist Floating Support ○ those known to the criminal justice system ○ with behaviours that challenge ○ where drugs and/or alcohol are a feature ○ providers that have experience working with and supporting BME communities ○ with physical health needs ○ military veterans ○ LGBT Community ○ Refugee and Asylum Seekers ○ Older Adults (Dementia, Cognitive Impairment due memory issues and /or established MH diagnosis) ○ that have multiple vulnerabilities coupled with impaired cognitive functioning ○ floating support delivered in service users home (rather than residential / supported living) ○ tenancy sustainability support – particularly managing basic living skills, finances, managing relationships with neighbours 	<ol style="list-style-type: none"> 1. To provide floating support to people in general needs accommodation (their own homes), and accommodation such as street purchasing scheme 2. To support people, get ready for move on, intensifying floating support to get people ready for eventual independent living

2.1.4 **Examples** where we could 'call off' care without having to go out to a full tender.

20-year-old care leaver, with a significant MH history, will need a package of floating support that will support her to integrate back to the community after an episode in hospital, provide life skills training, support her in to meaningful activity and prompt medication compliance to prevent relapse.

60 year-old man with a Learning Disability who is transitioning to an older adults supported living accommodation, that can better meet his physical health needs. Social workers would be able to 'call off' the framework for a time limited package of care to support the transition, ensuring that he is able to develop networks that support the move.

35 year old man with MH issues requires a specialist floating support to help him sustain his tenancy after a second warning from the housing association for anti-social behaviour. Needs support to navigate social norms, medication compliance, ensuring the flat is habitable and introduction to meaningful social activity.

2.1.5 There are several accepted advantages to agreeing a contractual framework over spot-purchasing:

- Quality assurance monitoring can take place across the service both with regard to statistical returns, as well as regular meetings with providers;
- Good practice and training opportunities can be shared amongst providers through forums and bulletins;
- Good quality services lead to more consistent, needs-focused accommodation and support for our service users to assist them on their pathway to independent living;
- A pre-agreed pricing structure that commits the providers to maintain their prices across the term of the contract;
- Guaranteed pricing structure to enable LBBB in our financial planning and forecasting for budget setting and monitoring purposes.

2.1.6 The contractual method recommended to Cabinet, is a Framework Agreement. It would not oblige the local authority to purchase any volume from a provider, but it guarantees the rates we will be charged for at least the duration of the contract.

2.1.7 When the block contracts for Knights Close and Outlook Care comes to an end, commissioners will commission a package of care down from the framework that will continue to support individual service users.

2.2 **Estimated Contract Value, including the value of any uplift or extension period**

2.2.1 The contract will be a Framework Contract that will have no minimum value, nor will any commitment to expenditure by the Council be stipulated within the contract itself. Expenditure will only be incurred when referrals are made. The current expenditure for LB Barking and Dagenham is circa. £1.2m per annum for Mental Health and £4m per annum for Learning Disabilities (circa. £5.2m in total per annum).

2.2.2 The total value of the contract would, therefore, be circa. £31.2m for 4 years, with the option of a further two years extension on an annual basis at the sole discretion of the Council.

2.3 Recommended procurement procedure and reasons for the recommendation

2.3.1 There is a requirement for the tender to be advertised in the OJEU as it is subject to the Regulations. The Council's own Contract Rules require a formal tender process to be followed and the EU Treaty principles of transparency, non-discrimination and equality of treatment do apply. The route of a tender process has previously worked well: providers engaged with and had no issues with the way in which the procurement process was run. Interested parties will be invited to tender based on a compliant tender process.

2.3.2 All providers who express an interest in the tender will be issued with a tender pack which will give clear details on the price/quality criteria and weightings. The proposed weighting will be 70% quality and 30% price. This will be a single stage tender using the Open Process, this will offer the opportunity and support to less experienced providers to submit a tender for this framework contract.

2.3.3 The Council will use its standard framework terms and conditions for the provision of the service with a break and variation clauses. The contracts will be further tightened with service specification requirements and expected outcomes. Key performance indicators will be outlined in the service specification and agreed with the providers. Performance management will be carried out by the borough.

2.4 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

2.4.1 Standardising the specification and quality of accommodation and support will ensure that all relevant service users will be assured of the highest quality service and provision.

2.4.2 A test of the market to ensure that LBBB are receiving the best value for money possible and where possible contribute to relieving pressures on budgets via a reduction in costs.

2.4.3 Enabling the sharing of best practice and learning amongst providers to ensure continual improvement of service provision.

2.4.4 Fixed prices for the first two years of the framework will assist LBBB in financial planning and budget setting/monitoring. A decision will be made after the period to allow for price rises in line with the price retail index.

2.4.5 Simplifying and shortening the commissioning process will save time for LBBB staff and reduce the cost of managing the service. The framework agreement will be funded from the General Fund and delivered in line with the recommended option below. Council standard terms will be used. A break clause will be included allowing notice to be given by the Council for

termination. This allows increased flexibility should a significant change in service provision be required.

2.5 Criteria against which the tenderers are to be selected and contract is to be awarded

2.5.1 The price quality ratio upon which contracts will be awarded will be 70% quality and 30% price. Providers will be ranked in each lot based on the quality % of their tender submission.

2.5.2 The proposed weightings are based on previous experience of the large amount of poor quality accommodation and support in this market. A higher focus on cost has resulted in multiple moves for service users. The weightings are expected to be as follows (this is an overview; tenderers will be made aware of any sub criteria in the tender documents):

- Quality 70% (covering seven areas each making up a % of the total quality score)
 - Continuous Improvement
 - Safeguarding
 - Health & Safety
 - Accommodation Standards
 - Service Delivery (improved outcomes towards independence)
 - Compliance with Care Act; personalisation, choice and control
 - Equalities
 - Property Inspections
- Pricing 30%
 - For accommodation and Support per person per week based on the requirements listed in each specification
 - For stand-alone outreach support on a per hour basis (without travelling expenses, which will not be paid by LBBDD)

Note: If there are any revisions to the weightings during the tender exercise all providers who have requested a tender pack will be informed immediately

2.6 The contract delivery methodology to be adopted.

2.6.1 The contract delivery methodology and documentation to be adopted The framework agreement will be funded from the General Fund and delivered in line with the recommended option below. Council standard terms will be used. A break clause will be included allowing notice to be given by the Council for termination. This allows increased flexibility should a significant change in service provision be required.

3. Options Appraisal

3.1 Alternative options considered were as follows:

Option 1: Do Nothing

Current agreements with providers have varying quality standards and pricing which together with the administration of spot purchasing governance and documentation has resulted in an inefficient process that does not deliver proven value for money. If we do nothing this will continue to add pressure to service budgets and provide an inconsistent service to LD and MH service users. Rejected

Option 2: Join an existing framework

There are no suitable existing frameworks in place that will enable LBBB to specify the providers and standards of delivery we require across the geographical boundaries stipulated in our tender. Rejected

Option 3: Put in place an LBBB framework contract

This will enable LBBB to select providers based on our standards of quality and specification and ensure we have achieved maximum value for money and efficiency in delivering services to LD and MH service users. **Recommended**

4. Waiver

4.1 No waiver is required for this procurement.

5. Consultation

5.1 Consultation for this tender exercise has taken place through circulation of this Cabinet Report. The draft report after having been circulated to all required consultees as listed at the beginning of this report was then put forward and approved at the Corporate Procurement Board Meeting of 20 August 2018.

6. Corporate Procurement

Implications completed by: Adebimpe Winjobi, Senior Procurement and Contracts Manager

6.1 The service being procured falls within the description of services covered by the Light Touch Regime (LTR) under the Public Contracts Regulations 2015. However, the value of this contract, is estimated to be above the LTR threshold for such services (currently set as £615,278) and as such need to be advertised in the Official Journal of the European Union (OJEU) as required by the Regulations. The Council's Contract Rules also require contracts with a value of £50,000 or more to be advertised and opened up to competition.

6.2 In keeping with the EU procurement principles, it is imperative that the contract is tendered in a competitive way and that the process undertaken is transparent, non-discriminatory and ensures the equal treatment of bidders. The proposed procurement route to competitively tender this service will widen the competition, provide best competition to get best value for money for the Council and will be compliant with the Council's Contract Rules and EU Regulations.

- 6.3 The use of call offs under a framework agreement for this service will allow the Council more flexibility around the services in terms of volume and extend of use and also select from a number of suppliers for its requirements, helping to ensure that each purchase represents best value. Under the 2015 Public Contracts Regulations, the minimum number of suppliers for a multiple-provider framework is two.
- 6.4 It is imperative when setting up the framework agreement, the council should include in the contract documents as many of the terms as possible which will apply to the call-off contracts so that the suppliers are clear as to their risks in relation to the call-off terms
- 6.5 Corporate procurement will provide the required support to commissioners throughout the entire process.

7. Financial Implications

Implications completed by: Olufunke Adediran, Group Accountant

- 7.1 The proposed framework contract for the Council would cost c£5.2m per annum and would deliver services across Learning Disability & Mental Health. This are two high risk areas and require significant level of resources to fulfil the Councils statutory responsibility.
- 7.2 Through the introduction of floating support this will ensure service users within supported living are more independent, hence requiring reduced level of resources. The council will benefit from significant savings in the long run as care packages will be reduced thereby reducing the existing budget pressures against these social care package budgets.
- 7.3 The price in the first two years of the contract is fixed and when appointing providers costs need to be competitive. In the final two years prices will be adjusted in line with the Retail Price index. Dependent on what the RPI rate is at the time this could be a significant inflationary pressure to the Council.

8. Legal Implications

Implications completed by: Kayleigh Eaton, Contracts and Procurement Solicitor, Law & Governance

- 8.1 This report is seeking approval to tender a four-year framework for Mental Health and Learning Disability supported living and specialist floating support service.
- 8.2 The services being procured are subject to the Light Touch Regime under the Public Contracts Regulations 2015 (the Regulations). The threshold for application of this regime is currently £615,278. The value of the proposed contract is above this threshold meaning that it will need to be advertised in the Official Journal of the European Union (OJEU). There are no prescribed procurement processes under the light touch regime, therefore the Council may use its discretion as to how it conducts the procurement process provided that it discharges its duty to comply with the Treaty principles of equal treatment, non-discrimination and fair competition; conducts the procurement in conformance with the information that it

provides in the OJEU advert; and ensures that the time limits that it imposes on suppliers, such as for responding to adverts is reasonable and proportionate. Following the procurement, a contract award notice is required to be published in OJEU.

- 8.3 Clause 2.5 of this report states that the contract will be advertised in OJEU as well as on the Council's website and Contracts Finder using the Open procedure as set out in the Regulations. This appears to comply with the requirements of the Regulations and the Council's Contract Rules and therefore would appear to be following a compliant tender process.
- 8.4 Contract Rule 28.7 of the Council's Contract Rules requires that all procurements of contracts above £500,000 in value must be submitted to Cabinet for approval.
- 8.5 In line with Contract Rule 50.15, Cabinet can indicate whether it is content for the Chief Officer to award the contract following the procurement process with the approval of Corporate Finance.
- 8.6 The report author and responsible directorate are advised to keep the Law and Governance Team fully informed at every stage of the proposed tender exercise. The team will be on hand and available to assist and answer any questions that may arise.

9. Other Implications

- 9.1 **Risk and Risk Management** - The following is an assessment of the key risk issues relating to this procurement and their mitigation.

Risk	Likelihood	Impact	Risk Category	Mitigation
Delay to/ failed procurement process	Medium	Medium	Medium	Set and monitor a realistic timetable. Council to negotiate a new short-term contract with current provider in the case of a delayed or failed procurement
No tender received	Medium	High	High	High level of publicity and tender launch in various contract register platforms and via the Council for the Voluntary Sector. Hold market engagement event
Contract award decision challenged by unsuccessful provider(s)	Low	Low	Low	Procure contract in line with Council's contract rules and EU Public Contracts Regulations. Liaise with legal and corporate procurement departments at all stages and ensure documentation is kept.

Provider fail to meet contractual obligations	Low	High	Medium	Clear set of outcomes set out in service specification and agreed with provider. Robust and regular performance monitoring procedures, performance indicators and consequences of failure to meet them set out in service contract.
---	-----	------	--------	---

9.2 **TUPE, other staffing and trade union implications** – Not applicable

9.3 **Corporate Policy and Equality Impact** - An Equality Impact Assessment has been undertaken as part of the procurement process. It is acknowledged that vulnerable client groups, such as those with mental health problems, substance misuse, learning disabilities and complex health needs often have poorer outcomes than the general population. The supported housing tender will seek to address the things that prevent good outcomes, such as ill health, unstable housing or debt problems. This tender will change the way that support may be provided, it is not anticipated that anyone currently receiving a service will have that materially altered.

Evidence of Unmet Needs - This proposal does not remove support for vulnerable groups but does change the way that support may be provided. It will also affect some parts of the support offer as we will seek to reduce our reliance on residential packages of care. Commissioners and the Head of MH Social Care will mitigate and monitor for any unmet needs.

The proposal will affect all monitored equality groups equally; there is no current evidence of any discriminatory effect on any one group. The impacts of the tender will need to be monitored throughout the process of implementation to guard against unintended consequences.

9.4 **Safeguarding Adults and Children** - The proposed procurement would ensure that service users of MH services and / or LD will be supported to live as independently with in Barking and Dagenham as they are able. This procurement will ensure that the Local Authority are complies to all aspects of the Care Act 2014.

All providers that are placed on to the framework will be complaint to the LA's safe guarding protocols, as well as being quality assured by the Quality Assurance Team (part of Adult Commissioning).

9.5 **Health Issues** – The proposed procurement will improve the clinical outcomes for people with LD and MH as they will enjoy continuity of care from their clinical teams rather than being placed out of borough and having to establish new relationships.

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None