



Notice of Non-key Executive Decision

Subject Heading:	Waiver to directly award Learning Disabilities (LD) Supported Living Contract to the current provider until 31 st March 2020
Cabinet Member:	Cllr Jason Frost – Lead Member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls – Director of Adult Services
Report Author and contact details:	<p>Rebecca Smith – Senior Commissioner and Projects Manager, Joint Commissioning Unit</p> <p>Rebecca.amy-smith@havering.gov.uk / 01708 432876</p>
Policy context:	<p>Havering Health & Wellbeing Strategy 2015 – 2018 Theme A: Preventing, reducing and delaying the need for care and support through effective demand management strategies.</p> <p>A Strategy to Manage Growing Demand 2015-2018 - 4.Build and strengthen community resilience</p>
Financial summary:	<p>The annual/ total value of the contract is as follows:</p> <p>LD Supported Living Service:</p> <p>Annual value: £217,914 Total cost of awarding contract until 31st March 2020: £ 272,393</p> <p>This contract is currently funded out of core revenue budget and will continue to be funded in this way</p>

Non-key Executive Decision

Relevant OSC:	Adult Social Care
Is this decision exempt from being called-in?	Yes, it is a non-key decision by a member of staff

Non-key Executive Decision

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[x]
Places making Havering	[]
Opportunities making Havering	[]
Connections making Havering	[x]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Approval to directly award a contract providing housing related support services for people with LD for a period of fifteen months to allow for a review of supported living services for people with LD, effective procurement of a new contract and sufficient time for robust mobilisation plans, including the transfer of staff under TUPE regulations. The contract is Supported Living Service for People with a Learning Disability provided by L&Q Living.

AUTHORITY UNDER WHICH DECISION IS MADE

Rule 14.1 and 14.3 of the Contract Procedure Rules: the authority of an individual Cabinet Member to approve a waiver of the Council's competition requirements.

STATEMENT OF THE REASONS FOR THE DECISION

Supported living arrangements aim to deliver targeted housing related support services to increase individuals' 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. One such service is the Supported Living Service for People with a Learning Disability, provided by L&Q Living.

The Supported Living Service operates across five schemes offering accommodation for 29 service users in either single person flats, or shared houses.

The table below provides a summary of some of the key features of the schemes;

Profile	L&Q Living Supported Living (various sites)
Age	18 - 65
Gender	Men and women
Length of stay	Varies* (Maximum of 2 years)
Hours of support	5 hours per week per client (used flexibly)
Type of	2 x shared houses

Non-key Executive Decision

accommodation	24 x self-contained flats
Number of units	29
Contract type	Block
Referral route**	CLDT

The hours of support paid for by the council are always fully utilised by the provider. The hours are used flexibly, so that where there are differing levels of support needed, clients can have more than or less than 5 hours of support.

The schemes operate with a high level of occupancy. Two voids across the 29 units have been reported to the council in this financial year. When there are voids, the provider works with the council to place a new service user and fill the empty unit as quickly as possible.

The reasons for requesting an interim contract and procuring the new service are as follows;

- a) In accordance with the Council's Contract Procedure Rules (Paragraph 14.4), it is in the best interests of the Council to waive its Rules in order to progress the procurement of the services. In the case of this decision, awarding interim contracts will provide the Council sufficient time to complete an open competitive tender and to review commissioning of LD supported living as a whole.
- b) An interim contract will ensure that there is a formal agreement in place between the Council and the Provider to continue services whilst avoiding instability and uncertainty for the Providers and service users.
- c) An interim contract will enable the Council sufficient time to develop new specifications, drawing on the findings and recommendations from the review of LD supported living services which is currently underway.
- d) An interim contract will provide the market with sufficient time to mobilise new contracts. This is of key importance for the service currently provided by L&Q Living, as for a new Provider, mobilisation will involve identifying and securing accommodation from which to provide the service.
- e) As the interim contract will ensure that there are longer mobilisation periods, incumbent Providers and new Providers will have time to consult and prepare service users and families for new service provisions, and for transferring to new accommodation.
- f) We have ensured that through this interim contract we will be getting good value for money from the provider. The original contract value with L&Q Living was £263,171.92, but this has been reduced to the current value, and during this time, although the provider's costs have increased, their hourly rate for the service has not. We are also currently negotiating with the provider to reduce their hourly rate, which could result in a further reduced contract value during the life cycle of the interim contract.

Non-key Executive Decision

OTHER OPTIONS CONSIDERED AND REJECTED

1. Decommission. This would result in both reducing what are already limited resources for LD service users within the borough and having to source alternative provision for the current tenants; in all likelihood at an increased cost. Given the limited timeframe and lack of planning this option is rejected in order to minimise the negative impact on the current care and support.
2. Go out to tender immediately. This would not allow for the level of redesign required to better meet the needs of people with learning disabilities / difficulties
3. Do Nothing: This contract terminated on 31st March 2017 and currently the provider is operating on good will under the previous contracts terms and conditions. If we do nothing, they will be delivering the service outside of any legal agreement.

PRE-DECISION CONSULTATION

Regional managers, service managers and front line staff for the service have been consulted on the decision through face to face engagement.

The Community Learning Disabilities team have also been consulted and made aware of the proposed action.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Rebecca Smith

Designation: Senior Commissioner and Projects Manager

Signature: 

Date: 09/01/2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. This report seeks Cabinet member approval to award an interim contract to the incumbent provider, London and Quadrant Housing Trust, for the provision of supported living services for people with a learning disability (the "Services") from 1 January 2019 to 31 March 2020.
2. The Council is a local authority as defined by section 270 of the Local Government Act 1972 and has a general duty under section 1 of the Care Act 2014 to promote the well-being of individuals. "Well-being" in relation to an individual is defined within the 2014 Act as including suitability of living accommodation.
3. The Services fall within the description of "Health, social and related services" under Schedule 3 of the Public Contracts Regulations 2015; and are services to which the light-touch regime (LTR) apply. The relevant financial EU procurement threshold for LTR services is £615,278.
4. The estimated value of the Services is below the relevant EU procurement threshold negating the need to publish a Contract Notice in the Official Journal of the European Union (OJEU), but under Part 4 [Rules of Procedure] of the Council's Constitution (the "Constitution"), Contract Procedure Rules (CPR) paragraph 8.2, the Council's Checkpoint procedure is applicable to all Supply, Services and LTR contracts over the value of £164,176; and under CPR paragraph 9.1, contracts must be awarded following the relevant competition requirements set out in the CPR.
5. Under CPR paragraph 9.9, unless stated elsewhere in the CPR or for reasons of extreme urgency, each procurement with an estimated value of £100,000 or above (as in this case) must be subject to a formal tender exercise in conjunction with the Strategic Procurement Unit (SPU).
6. Exceptions to the competition requirements may be made, under CPR paragraphs 14.1 and 14.3(ii), in relevant circumstances if all relevant law is complied with and an individual Cabinet member has approved the waiving of the CPR by an Executive Decision.
7. In accordance with CPR paragraph 14.3(i) (a) and (b) the officers have completed a Competition Financial Thresholds Exception (signed by Strategic Procurement Unit on 6th December 2018), and are satisfied that the proposed contract represents the best value that can be obtained in the current circumstances. The exception by which the waiver is sought is under paragraph 14.6.6, CPR, on the basis that it is in the best interest of the Council for the competition requirements to be waived to enable contract procurement to be rapidly progressed while still complying with the EU procurement rules.
8. This approval is sought in accordance with Part 5 [Codes and Protocols] of the Constitution, paragraph 2.5(g), denoting Cabinet members individual decision making powers to approve an exception to the CPR, in accordance with CPR paragraph 14.1.

Non-key Executive Decision

FINANCIAL IMPLICATIONS AND RISKS

The annual contract cost of £217,914 will be met from the LD commissioning budget (Cost Centre A34070), more specifically A34070.651780.6025.000000.600609 account code, where the current budget is £173,900. The resultant annual shortfall of £44,012 will be met from other existing budgets within the "Strategy & Commissioning" Service area of Adults directorate, ensuring continued service delivery within available budgets in the 2019/20 financial year.

The contract value over the last 3 years (including the current year) are as follows:

Financial Year	Contract Value £
2016/17	218,716
2017/18	196,260
2018/19	217,631

As part of the new contract, the service provider has taken on the provision of support to residents of Harold Wood Hall (a site owned by the provider), and as such, spend for 2018/19 will be greater than the 2017/18 outturn, despite negotiating savings within the core provision from the original contract, which had an annual value of £263,171.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council's workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender

Non-key Executive Decision

reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

List here the background papers taken into account in the preparation of this executive decision.

There is a statutory obligation to provide this information.

If in doubt, please seek advice from Committee Administration

Non-key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker



Signed

Name: Barbara Nicholls
CMT Member title: Director of Adult Services
Date: 09/01/19

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 10/1/19

Signed A-K-M