

19/10.



Notice of KEY Executive Decision

Subject Heading:	Contract award for the provision of mental health supported living services
Cabinet Member:	Cllr Jason Frost, Lead Member for Adult Social Care
SLT Lead:	Barbara Nicholls, Director of Adult Social Care
Report Author and contact details:	Daren Mulley, Senior Commissioning Manager, T: 01708 433982 E: daren.mulley@havering.gov.uk
Policy context:	<p>Havering's Health and Wellbeing Strategy 2015- 2019; Theme 3 Provide the right health and social care/advice in the right place at the right time. In this section of the strategy, the Council commits to working with the health sector to reduce the number of unplanned and unnecessary hospital admissions, the frequency of admissions and the average length of stay in hospital.</p> <p>Section 117 of the Mental Health Act 1983 entitles patients to after-care on discharge from hospital. Patients are entitled to Section 117 after-care if they have been in hospital under section 3, 37, 45A, 47 or 48 of the Mental Health Act 1983. After-care should be provided by Adult Social Care and Health Services for as long as the patient needs it in order to live as well and independently as possible.</p>
Financial summary:	The contract (including the two year

Key Executive Decision

	extension) will have a financial implication of £2,031,500.00. The contract will be funded from budgets within Adult Social Care and the CCG via the Better Care Fund.
Reason decision is Key	Expenditure of £500,000 or more
Date notice given of intended decision:	Friday 1 st February 2019
Relevant OSC:	Adult
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input checked="" type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This paper is seeking a decision to approve the award of a five year contract (option to extend for two years) to the Riverside Group for the provision of mental health supported living services.

AUTHORITY UNDER WHICH DECISION IS MADE

Authority delegated to individual Cabinet member under which this key decision is made. Individual Cabinet members' responsibilities for functions as set out in Part 3, section 3.3(b) of the Constitution to award contracts of a value between £500,000 and £5,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

1. Background

The current contract for the provision of supported living services for those affected by mental health conditions in Havering ends on 31st December 2019. The service needed to be re-commissioned as it provides care and support to vulnerable adults whom otherwise would need to either remain in hospital or be placed in more expensive residential care placements. Following the tender of the service, the Tender Manager is seeking approval in this report to award the contract.

2. Objectives

The objectives of this tender were to:

- a) Ensuring that the service is commissioned to meet the Council priorities of the Council and offer the best value for money
- b) Ensure the tender follows Corporate and EU Procurement Regulations and Local Authority Financial Regulations
- c) Ensuring that choice, control, health and well-being, including safeguarding, features as high priorities in the tender.
- d) Establishing outcomes that will allow the Council to judge the performance of the Provider
- e) Ensure the Provider delivers a non-judgemental and inclusive service which treats service users with dignity, respecting gender, sexual orientation, age, physical or mental health ability, religion, culture, social background and lifestyle choice.

3. Key Deliverables

In brief, the key deliverables / milestones to achieve the objectives included:

Key Executive Decision

- Production of all required tender and contract documents (including service specification)
- Tender process managed in line with OJEU and Council procurement procedures
- Contract awarded to the tenderer submitting the best / most advantageous bid to the Council
- New contract awarded and mobilised

The table below presents the key milestones and dates from the project plan are as follows;

Stage	Timescale
Procurement Planning	June-September 2018
Invitation to Tender Published	October 2018
Evaluation	December 2018
Award	March 2019
Mobilisation*	June – December 2019
Contract Start Date	January 2020

* Mobilisation period was extended to ensure a new provider would have sufficient time to source suitable accommodation

4. Project Governance

In order to deliver this tender, a project management structure was formed in April 2018. This included establishing a Project Board which met regularly once a month to coordinate and monitor the progress of the project. The Project Board members included representatives from the Clinical Commissioning Group (CCG), Adult Social Care, Housing, Procurement, Finance & Legal. Project Board's business included managing the project through a number of project control documents including a Project Plan, Action and Risk Logs.

5. Procurement

This procurement was subject to and adhered to the Council's Contract Procedure Rules. The procurement followed a formal tender process in line with the EU procurement open process in accordance with the Public Contracts Regulations 2015, which require compliance with principles of non-discrimination, equal treatment and transparency. Following these regulations, the Council published the required Contract Notice in October 2018. The current provider and providers that contacted us in response to a Prior Information Notice in February 2018 were informed of the opportunity. Suppliers were invited using CapitalESourcing, the Council's E-Procurement system.

6. Evaluation

In total, seven contractors completed and submitted their tender documents by the

Key Executive Decision

closing date of 8th November 2019. On opening the bids, two bids were rejected at the initial phase of the evaluation. First, one organisation submitted a bid that was 'abnormally low' being substantially lower than the next lowest bidder. Secondly, another bid was rejected as they failed to satisfactorily answer the mandatory questions.

All evaluations focused on examining how the proposals will deliver a quality service (technical) and the cost of the service (commercial). Cost was evaluated at 70% of the total score. Suppliers submitted a cost for the service that was within the parameters set by the Council with scores weighted in favour of the lowest price. The quality factors were weighted according to their importance with 30% percent of the total score assigned to quality.

The Project Board members evaluated the bids over a three week period from 12th November 2018 to 7th December 2018 meeting at the end of this period to consider the commercial and technical scores as well as comment on the quality of the submissions. At this meeting the Board were able to agree on the most advantageous bid to recommend for award. In summary, the scores of the bids tendering are presented in the table below;

Bidder	Commercial Score	Technical Score	Total Score
The Riverside Group	68.61	28.80	97.41
Bidder B	70.00	19.098	89.10
Bidder C	60.92	18.198	79.12
Bidder D	58.36	10.05	68.41
Bidder E	59.14	8.502	67.64

Having been approved by the Checkpoint Panel held on 9th January 2019, all suppliers who submitted bids will be informed of the Council's decision following the approval of this key decision paper to award the contract. Following this, arrangements will be put in place with the Riverside Group to sign the contract and submit a structured and comprehensive plan for the mobilisation of the service.

OTHER OPTIONS CONSIDERED AND REJECTED

1. Extend existing contracts; Contracts have already been extended and so this approach would breach the Council's Contracts Procedure Rules.

2. Do nothing: Allowing the existing contracts to lapse would lead to a potential destabilisation of the current service. The only feasible alternative would be to procure care packages on an individual, spot purchase basis. This is not a practical option and

Key Executive Decision

would lead to an increased administrative burden on the Procurement/Brokerage team, loss of the security of having onsite care and support and a potential decrease in quality and value for money.

PRE-DECISION CONSULTATION

The pre-decision consultation has involved engaging with a number of stakeholders throughout the duration of this tender. In summary, the following table presents the type, methods and stakeholders engaged in the pre-decision consultation;

Type	Methods	Consultees
Commissioning Review	Desktop Research, Phone, Email, Structured and Unstructured Individual & Groups Interviews	<ul style="list-style-type: none">• Current Provider• Service Users• Joint Commissioning Unit• Clinical Commissioning Group• Adult Social Care• Housing Services• Mental Health Service• Legal Services• Procurement• Finance
Project Board	Formal regular meetings phone, email	<ul style="list-style-type: none">• Joint Commissioning Unit• Clinical Commissioning Group• Adult Social Care• Mental Health Service• Legal Services• Procurement• Finance
Prior Information Notice	Notice published via the Council's procurement system	<ul style="list-style-type: none">• Current Provider• Other interested providers in the market
Preparing service specification, procurement and contract documents	Formal regular meetings phone, email	<ul style="list-style-type: none">• Joint Commissioning Unit• Clinical Commissioning Group• Adult Social Care• Housing Services• Legal Services• Procurement• Finance• Service Users

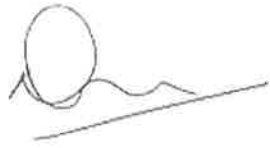
NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Daren Mulley

Designation: Joint Commissioning Unit

Key Executive Decision

Signature

A handwritten signature consisting of a large, stylized 'O' followed by a series of wavy lines and a long horizontal stroke extending to the right.

Date: 22nd January 2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The decision is to award a five year contract with an option to extend for up to a maximum of two years. The total value of the contract if the full 7 years was invoked would be as stated in Financial Summary of this report namely £2,031,500.

As stated in the Policy context of this report Section 117 of the Mental Health Act 1983 entitles patients to aftercare on discharge from hospital. Patients are entitled to Section 117 after care if they have been in hospital under certain provisions of the MHA and after care shall be provided by Councils.

The Council has a general power under section 111 of the Local Government Act 1972 to do anything that is calculated to facilitate , or is conducive or incidental to the discharge of any of its functions. It provides the Council with a general power to enter into contracts for the discharge of any of their functions.

Provision of mental health and supported living services are classified as 'Light Touch Services' and come within Schedule 3 of the Public Contracts Regulations ('Regulations'). The regime which applies to Light Touch Services over the contract value of £625,278, requires the Council) to advertise the service either by a contract notice or PIN in the Official Journal of the European Union ('OJEU') and on Contracts Finder, also to make the results of the award known by a contract award notice(section 75 of the Regulation). The value of this contract exceeds the threshold therefore the procurement will be subject to the section 75 Regulations and the principles of transparency and equal treatment of bidders (section 76). The standstill period is likely to apply to above threshold Light Touch contracts .

Key Deliverables of the report mentions that the Tender process was managed in line with OJEU and Council procurement and 5 sets out the Council's procurement process. Legal were not consulted during the procurement process. Legal notes that two bids were rejected and note the evaluation criteria, the Council will have to show in conducting the process the Council acted within the principles stated in section 76.

The Council's Contract Standing Order 12.4 states "the tender accepted shall be the one which represents the most economically advantageous tender for the Council overall, taking account of whole-life cost, quality of service, risk to the Council and other benefits, as set out in the evaluation criteria chosen for the tender and as described in the Procurement Strategy." Contract Standing Order 18 also need to ensure the can demonstrate they have complied with the Council's best value obligations.

As this is a key decision it will be subject to a 28 day public notice and it must be on the Forward Plan.

As stated in this report Part 3 section 3.3 (b) of the constitution permits a member of the Senior Leadership Team to award all contracts with a total contract value of between £500,000 and £5,000,000.

Key Executive Decision

The transfer of undertaking protection of employment regulations 2006 ('TUPE') apply where a service provision changes from one contractor to a new contractor and the activities being transferred are fundamentally the same as the activities carried out by the previous contractor.

The operation of a contract or social care may raise personal data issues under the General Data Protection Regulations now the Data Protection Act 2018 and the Council's Data Protection officer will need to be involved in the contract if they have not already provided advice.

FINANCIAL IMPLICATIONS AND RISKS

The contract costs are met from budgets held within the Mental Health Strategy and Commissioning Service area (A34090), generating annual savings of £54,000. Being a fixed price contract, the risk to service budgets from demand fluctuations is minimal however, ongoing monitoring of the contract should ensure any material risks are quickly identified and managed as part of the Council's regular monitoring arrangements.

Being a jointly funded service with the local CCG, using a proportion of their Better Care Fund (BCF), adequate safeguards should be sought to ensure continued funding for the term, especially if there is material change in their funding arrangements in future.

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 or its workforce. TUPE does apply to this contract but staff will not need to be transferred as the incumbent provider is being recommended to be awarded the contract.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Havering has a diverse community made up of many different groups and individuals. The Council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring. 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

Key Executive Decision

protected characteristics and those who do not, and;
(iii) foster good relations between those who have protected characteristics¹ and those who do not.

The Council demonstrates its commitment to the Equality Act in its decision making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

An EIA (Equalities Impact Analysis) report has been completed and reviewed by the Corporate Diversity Officer in April 2018. The EIA highlighted that the service does and will continue to have a similar impact on protected characteristics including age, gender and socio-economic disadvantage. The recommendation to award a contract does not give rise to any identifiable Equalities and Social Inclusion risks that would affect the Council, Provider, Service Users or the wider community.

BACKGROUND PAPERS

Not applicable

¹ Note: 'Protected characteristics' are: age, gender, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

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: 8th February 2019

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 8/2/2019

Signed J. J. R.