

## Commissioning Partnership Board Report

<b>Decision Maker</b>	<b>Commissioning Partnership Board</b>
<b>Date of Decision:</b>	<b>25<sup>th</sup> April 2019</b>
<b>Subject:</b>	<b>Contract Extension for Supported Living Provision</b>
<b>Report Author:</b>	<b>Jo Charlan, Planning and Commissioning Manager</b>

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**Reason for the decision:**

This report requests approval for an exemption from the Council's Contract Procedure Rules to extend current commissioning arrangements for the provision of Supported Living for adults with learning disabilities and/or complex needs in line with the Council's corporate procurement rules.

**Summary:**

**Background**

Supported Living is a term which refers to a form of arrangements where social care and support is provided to adults with learning disabilities in their own homes. Supported living services are for people who need extra help to live in their own homes, whether as tenants or owner occupiers, living alone or with others. Support can mean 24-hour care or simply a few hours a week to help with every-day tasks. Supported living aims to ensure that people have choice and control in their lives and can live as independently as possible.

The key objectives of supported living are to ensure people with learning disabilities and complex needs are provided with the best possible service with regards to their living and accommodation needs, and that they are fully supported to live their lives as independently as

possible

Following a competitive tendering process in December 2015, contracts were awarded to 6 providers under what is collectively known as “the supported living framework”, ensuring a balanced market share across the borough.

The original contract duration period was from 1st September 2016 until 31 March 2019.

The current arrangements with each provider expire on 31<sup>st</sup> March 2019. There is no specific option to extend the individual contracts within the existing terms and conditions, although mention is made of a possible extension to the term and there are provisions for a variation of the contract. However, these are not specific enough to come within the ambit of Rule 17.1 (a) of the Council’s Contract Procedure Rules and in view of the overall value of the contracts an exemption from the Rules is felt appropriate.

The prices for Supported Living provision will remain in line with the provision set in the original contract, but will be subject to uplifts which will be applied following Cabinet agreement in April.

### **Quality Standards**

The providers are monitored through the standard quarterly monitoring process, and Commissioners meet regularly with the delivery organisations through the provider forum network. The Contract Monitoring Officer meets with providers to ensure that high quality standards are consistent and of the highest quality. There have been no concerns regarding performance of the delivery of the contracts noted and no wider concerns raised.

The providers are working well with the Local Authority and feedback from service users is positive. It is therefore felt to be within the Council’s and service users best interests to continue with the existing delivery arrangements and secure the commissioning of services for a further 12 months.

### **Planning for the future**

A project team will be brought together and made up of individuals from the following teams,

commissioning (Adult Social Care and Health), Income and Payments, Learning Disability and Mental Health practice, procurement, and quality monitoring. The project team will undertake a joint approach to commissioning a new supported living delivery model which can explore the possibilities of the GM learning disability flexible procurement system to support people within the borough clusters.

The Council will need to conduct statutory consultation on continuous improvement in services with service users and stakeholders and statutory consultees to involve providers and service users in the planning stages. This will involve:

- Consultation with the wider public and providers on supporting living provision
- A value for money review of the current provision
- Undertaking a market engagement event
- Development of an options appraisal for services required
- Undertake an equality impact assessment (EIA)

***What are the alternative option(s) to be considered? Please give the reason(s) for recommendation(s):***

#### **Options/Alternatives**

Option 1: To **approve** the exemption from the Council's Contract Procedure Rules to grant an extension to existing contracts with the 6 existing providers for a period of up to 12 months from 1<sup>st</sup> April 2019. This will ensure the least disruption to service users in their own homes and ensure business continuity.

Option 2: To **not approve** to award the contracts and cease delivery of supported living provision across Oldham.

**Recommendation(s):**

Option 1 - To **approve** the exemption from the Council's Contract Procedure Rules to grant an extension to existing contracts with the 6 existing providers for a period of up to 12 months from 1<sup>st</sup> April 2019.

**Implications:**

*What are the **financial** implications?*

Budgetary provision has been fully built in to the Medium Term Financial Strategy and provision has been made from the Adult Social Care

Council Tax Precept to fund the anticipated uplift in fees, which for 2019/20 is expected to be £0.172m.

(Danny Jackson)

What are the **procurement** implications?

The report recommends that the current provision could be extended under direct award provision for one-year period until 31<sup>st</sup> March 2020 allowing sufficient time to formulate commissioning intention, procure and mobilise the new supported living service. This service is currently being delivered under a framework agreement which was awarded in Sept 2016 and due to expire on 31<sup>st</sup> March 2019. The spend on such services falls under Light Touch Regime of PCR2015 and the Council Contract Rules requires the award of contracts of such spend via a competitive tendering process. The Council has recently awarded Flexible Purchasing System and a further competition could be carried out under the Cat 5 of FPS to procure the service in compliance to Contracting Rules. The provision supports the vulnerable service users therefore it is essential that there are no disruptions to the services they receive. In view of the continued need for this service the procurement supports the decision to extend by a further one-year period with incumbent providers allowing sufficient time to explore the options to procure the service in a compliant manner. The procurement team also recommends the following:

- a. A full financial check to be carried out to ascertain the sustainability of the provider for the duration of proposed contract.
- b. A clear KPI's must be agreed with the provider and the commissioning team manages and monitors KPI's.
- c. A contract document must be agreed and signed with the provider that includes full financial information such as rates we pay i.e. per hourly or daily; not just the financial envelope.
- d. Further advice MUST be sought about TUPE implications at the time of direct

- award i.e. to address TUPE implications at the tendering stage
- e. Set up a working group (project board) involving Procurement team at early stage ensuring no further requests will be made to extend these contracts in the future.
- f. Ensure appropriate consultation is undertaken at pre-procurement stage with the provider market, service users and other public sector organisations such as CCG in compliance to the Social Value Act.

Raj Ahuja – Interim Sourcing Consultant

12.03.19

*What are the **legal** implications?*

There is provision under Rule 21.3 (h) of the Council's Contract Procedure Rules to grant an exemption from the Rules in exceptional circumstances where the contract is for services which are required in circumstances of extreme urgency. The existing framework contract for supported living services is due to expire on 31<sup>st</sup> March 2019 and in view of the vulnerability of the service users, it is imperative that the existing service provision continues for their safety and welfare whilst the Council begins to explore its options for the procurement of new supported living services. An extension to the existing contracts would in effect be a direct award of a contract to each of the six providers. The Council may wish to consider publication of a Voluntary Transparency Notice to flush out any potential legal challenge but it may be advisable to accompany the VEAT Notice with confirmation that the Council will be retendering the opportunity within the next financial year which would reduce the likelihood of any challenge. (Elizabeth Cunningham Doyle)

*What are the **Human Resources** implications?*

None

**Equality and Diversity Impact Assessment** attached or not required because (please give reason)

Not required at this stage as there are no changes to current provision. A full EIA will be completed as part of the new tender process during 2019/20 and will ensure any changes are taken into account.

*What are the **property** implications*

None

**Risks:**

Not extending the current commissioning

arrangements would have a detrimental impact on support to service users and business continuity for providers. This would leave service users vulnerable and would risk the reputation of the Council in its responsibility to deliver services to vulnerable people.

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Has the relevant Legal Officer confirmed that the recommendations within this report are lawful and comply with the Council's Constitution/CCG's Standing Orders? Yes

Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the S.75 budget? Yes

Are any of the recommendations within this report contrary to the Policy Framework of the Council/CCG? No

**Reason(s) for exemption from publication:** 3. Information relating to the financial or business affairs of any particular person including the Council

**Reason for urgent report** NA

**Reason for exemption from call in** NA

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***Reason why this Is a Key Decision*** (1) to result in the local authority incurring expenditure or the making of savings which are, significant (over £250k) having regard to the local authority's budget for the service or function to which the decision relates; or  
 The Key Decision made as a result of this report will be published within **48 hours** and cannot be actioned until **five working days** have elapsed from the publication date of the decision, i.e. before 03/05/19, unless exempt from call-in.

This item has been included on the Forward Plan under reference CPB-09-19

**The background papers to this report contain exempt information under Schedule 12A of the Local Government Act 1972.**

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<b>Report Author Sign-off:</b>	
	Jo Charlan
<b>Date:</b>	14.03.19