

Report to CABINET

Request for an Exemption to extend current contracts for the provision of housing-related support

Portfolio Holder:

Councillor Harrison, Cabinet Member for Social Care and Safeguarding

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Reason for Decision

This report proposes the extension of three contracts providing Housing Related Support services (supported housing for homeless people). There is no further provision in the contract to extend and therefore an exemption would be required. The Government has proposed significant changes to the way that short term supported housing is funded, and tendering at this time could subject the council to significant financial risks.

Executive Summary

The report proposes the extension of three contracts providing supported housing for homeless people with additional support needs, in the context of Government proposals affecting short-term supported housing. Government proposes that funding for these services will be taken out of the welfare system altogether, and instead provided through locally administered ring-fenced grants. Proposed changes are to be implemented in April 2020

Recommendations

To allow extension of existing contracts from 01/04/18 to 30/06/19 at the current contract charges.

To work with partners to ensure that supported housing options for vulnerable people are maximized and fit for purpose

Request for an exemption to extend current contracts for the provision of housing-related support

1 Background

- 1.1 This report proposes the extension of three contracts providing Housing Related Support services (supported housing for homeless people). The report describes the rationale for and purpose of the requested extension and the benefits of the provision to the borough. Extension options for these contracts have been utilised and therefore a waiver to the councils' Contract Procedure Rules (CPRs) would be required, however tendering services at this time could subject the council to significant financial risks, as the Government has proposed radical changes to the way that short term supported housing is funded.
- 1.2 *Government consultation:* in November 2016 the Government announced a consultation on the future funding of supported housing. It proposed radical changes to the way that the housing costs of all supported housing types are funded. The consultation period ran from 21 November 2016 to 13 February 2017. The key proposal was to 'cap' housing costs (rents) paid through the benefits system to the relevant Local Housing Allowance (LHA) rate, with a 'top-up' fund paid by the local authority to cover any shortfall, via a transfer of funds to local authorities from the Department for Work and Pensions. The Government also commissioned research into the scale, scope and cost of the supported housing sector, and in March 2017 a Parliamentary Select Committee heard evidence from supported housing tenants and providers on the potential impact of the proposed changes. The Governments timetable for change was outlined as:
- Spring 2017: a Green Paper containing the detailed policy/model with details of each local authorities funding allocation to be published Autumn 2017
 - April 2018: shadow arrangements in place to allow full transition to the new funding model in April 2019
- 1.3 There was intense lobbying of Government from many social landlords/sector-led organisations, who viewed the proposals as threatening the viability of supported housing, and many proposed schemes were stalled as a result of the uncertainty. There was then a delay to the Governments proposed timetable, and a policy statement was eventually published on 31 October 2017. This contains revised proposals, which are more favorable for sheltered housing/longer term provision, but now states that the Government recognises the need for a 'distinct model' for short-term supported housing - such as homeless hostels or domestic abuse refuges, as provided under the three contracts in question. Funding for these services will be taken out of the welfare system (Housing Benefit/Universal Credit) altogether, and instead provided through locally administered ring-fenced grants. The new funding model will now be implemented a year later, in April 2020. A further period of consultation on the proposals closes on 23 January 2018.
- 1.4 *The contracts:* in April 2013, following a major service redesign and a tender process the Council agreed three contracts with two not-for-profit organisations, (Threshold and Depaul UK) for the provision of supported housing for homeless people with additional support needs. The value of the three contracts in 2017/18 is £1,195,000: this funding enables the provision of support via dedicated staffing who support residents to address the issues that contributed to their homelessness, and to establish a more settled way of life. Collectively the contracts provide 104 supported bed spaces across three 'pathways'. Lengths of stay vary but throughput is high, so in 2016/17 the services accommodated and supported 290 households in total. Each pathway has a scheme with 24-hour staff cover, plus satellite schemes with varying levels of staff support:

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- Women's Services Pathway 25 bed spaces - which includes the women's refuge - for women aged over 16 (plus any accompanying children)
 - Generic Pathway 48 bed spaces for single people/couples aged over 16
 - Young People's Pathway 31 bed spaces for young people aged 16-23

The contracts are monitored regularly to ensure that services meet expectations around quality and outcomes, and services have seen reductions of £175,000 over the life of the contract, plus no allowance for inflation: the likelihood that services do not provide value for money is therefore low. The housing is provided in a range of settings, including hostel accommodation and self-contained units. Often the accommodation is leased by the support provider: in Oldham this is mainly from two landlords, Regenda and Great Places: the support provider also receives funds from the landlords for undertaking housing management functions on their behalf.

- 1.5 Each contract was let for a period of two years to 31st March 2015 with provision for extensions to 31st March 2017: these extension options have been utilized. In response to the initial Government proposals of November 2016, approval was given in February 2017 for an exemption to the council's contract procedure rules to allow a 12 month extension to the contracts. At that time the Governments detailed proposals were expected in the spring of 2017, and it was considered the most prudent option would be to extend the existing contracts until the proposals and related funding envelope were clarified, and to possibly tender in autumn 2017 for new services to be in place by 1st April 2018.

2 **Current Position**

- 2.1 *Government proposals:* the revised proposals for the funding of short term supported housing create a range of risks for local authorities and for service providers and landlords. These include the risk of a shortfall in funding between the actual costs of providing services and the funding allocated to local authorities within the grant.
- 2.2 Government now proposes that the entire provision of short term supported housing will be commissioned at a local level, and be 100% funded locally through a ring-fenced grant. All the funding for housing costs (including rent and eligible service charges) that were previously met from Housing Benefit, will instead be allocated to local authorities to fund these services: this removes short term housing entirely from the welfare benefits system, and means that tenants will no longer pay rent to the landlord of the provision, as this will be funded by local authorities through the grant.
- 2.3 The new funding model will require the Local Authority to commission housing management functions including landlord/tenancy relationships, repairs, renewals and replacements, rent collection, void management etc. as well as the support service. This is an entirely new requirement on the Local Authority.
- 2.4 In determining the level of grant paid to each Local Authority, the consultation paper says "We will work with local government and the welfare system to ensure that grant allocations for short-term supported accommodation in 2020-21 match the sums that would otherwise have been paid out in each local area to pay for housing costs through the welfare system. The amount of short-term supported housing grant funding will be set on the basis of current projections of future need (as informed by discussions with local authorities) and will continue to take account of the costs of provision in this part of the sector". The policy statement also says that the Government intends to retain the ring-fence in the long term to protect this provision and the vulnerable people it supports.
- 2.5 The grant will be paid from Department of Communities and Local Government (DCLG) to local authorities using existing powers under Section 31 of the Local Government Act 2003. This will include detailed grant conditions, supported by non-statutory guidance.

Local authorities will be required to work within a 'national statement of expectation': this includes the development of a local strategic plan for supported housing underpinned by a needs assessment, national quality standards, and to report on spend twice a year, including a breakdown of spend for different client groups. New burdens funding will be provided to help local authorities meet these new expectations and the new requirement to commission housing management functions.

- 2.6 *Options and risks:* despite Government assurances around retaining a ring fence in the longer term, and that funding will match the sums that would have been paid via previous arrangements, there is considerable concern from local authorities, landlords and support providers, who have seen similar assurances before - for example around the Supporting People program - which were soon eroded. There is also little detail in terms of the methodology for sizing the funding 'pot' initially, nor how the 'projections of future need' will be calculated and translated into future funding to keep pace with inflation, or to fund new provision. These concerns have been echoed in the draft Greater Manchester Combined Authority response.
- 2.7 Given the delay to, and subsequent revision of, Government proposals and the lack of detail available, assumptions have had to be made in considering the options and risks impacting on the councils considerations around recommissioning this provision. These assumptions include:
- over the next 24 months – until proposed new funding arrangements are in place - 'pot-sizing' considerations must be a key consideration for local authorities
 - tendering for services where contracts cut across this period of change will of necessity involve commissioning arrangements that can flex and evolve, and our contractual arrangements would need to take account of considerations such as identified mechanisms for determining any costs occurred by agreed service reconfiguration within the contract term
- 2.8 Landlords providing accommodation for our existing contracts have indicated that they remain willing to allow this provision to be utilized for supported housing under the Governments new proposals.
- 2.9 A further consideration is that the Council is currently reviewing its processes to ensure they support the requirements of the Homelessness Reduction Act, effective from April. This is the biggest change to Homelessness legislation for decades and impacts on pathways and processes. Existing services were commissioned as an integrated system, accessed via a 'gateway' (Central Access Point) commissioned from First Choice Homes (FCHO). A suite of common paperwork and processes form part of existing contracts: changes are being made to these - e.g. to referral and access arrangements, to ensure that the council can evidence it is meeting its new duties around both the Prevention and Relief homelessness tests. The learning from pilot authorities such as Southwark has informed this work with the support providers and FCHO, but may require revision once tested for a few months in an Oldham context. An extension will provide continuity of providers' engagement in this process, and stability of provision at a time of significant legislative change, when homelessness figures are increasing nationally and locally.

3 **Options/Alternatives**

- 3.1 Option 1: To allow the existing contracts to end on 31 March 2018 and do not commission replacement provision. This is not the recommended option. With this option:
- homelessness is increasing both nationally and locally. The provision of supported housing makes a significant contribution to the prevention and relief of homelessness: these services are also less costly than other options such as Temporary Accommodation/B+B or out of borough placements. Whilst Oldham has seen an

increase in homelessness presentations and associated costs, it has not experienced the 400% increases seen by some (non-City) neighboring LAs who have less supported housing provision

- The provision of supported housing reduced from 146 units to 104 in 2016/17 to meet savings targets from these contracts: to cease provision would severely compromise the councils ability to meet its statutory homelessness obligations
- In Oldham from 2015/16 to 2016/17 there was a 90% increase in the number of households at risk of homelessness, and the number of households owed a statutory duty increased from 47 in 2015/16 to 71 in 2016/17. From April - November 2017, 334 statutory homelessness decisions were taken, with 90 households owed the statutory duty. The number of households in Temporary Accommodation (TA) also increased: on 30 September 2015, there were 20 households in TA, increasing to 28 on 30 September 2016 and to 66 on 31 March 2017, including 30 households in B + B
- many households accessing the services have a high degree of vulnerability/complexity and there would be negative impacts for them - and potentially on the wider community - if their housing and support needs are not met

3.2 Option 2: To allow the existing contracts to end on 31 March 2018 and competitively tender for new services to be in place by 1st April 2018. This is not the recommended option. With this option:

- there is now not sufficient time to undertake a procurement process and have in place a new contract by 1st April 2018. It was the preferred option when Government was due to release its Green Paper in spring 2017, with details of each local authorities funding distribution expected in autumn 2017. However the delay to the Governments timetable (with the eventual release of revised proposals on 31st October 2017) created a 'limbo period' for local authorities, landlords and support providers, where risks couldn't be adequately scoped / costed by any party
- the revised Government proposals are subject to further consultation, and entail a more comprehensive change to the funding arrangements for short-term services.
- the Homelessness Reduction Act 2017 will be enacted in April 2018. This change to Homelessness legislation impacts on pathways and processes which need to be tested before incorporating into a new tender

3.3 Option 3: To allow extension of existing contracts from 01/04/18 to 30/06/19 at the current contract charges. This is the recommended option, With this option:

- the extension can be accommodated within the councils CPRs as the proposed Modification is for an increase in value of not more than 50% of the initial contract value
- the contracts contain a 'no fault' termination clause and the Council may tender the services sooner if Government release details / make changes sooner than expected,
- the opportunities potentially afforded by a funding transfer to the Local Authority are less likely to be compromised
- this option carries the risk of needing to have arrangements that cut across two different funding regimes: if funding transferred is less than the actual costs of provision, such that cannot be resolved by negotiated service reconfiguration, there may be the need for another competitive tendering exercise within a short period

3.4 Option 4: To allow extension of existing contracts from 01/04/18 to 31/03/20 at the current contract charges. This is not the recommended option. With this option:

- This would be the preferred option, however as the proposed extension cannot be accommodated within the council CPRs - as the proposed Modification would be for an increase in value of more than 50% of the initial contract value - there are greater legal risks with this option
- This would maximize opportunities potentially afforded by a funding transfer to the Local Authority, and avoid the need to have arrangements that cut across two different funding regimes - which carries a risk of incurring costly use of Council resources for a

contract that could potentially be relevant for a very short period, if funding transferred is less than the actual costs of provision

- there would be less risk to the council of taking decisions on service redesign and pricing, as the policy and funding landscape is likely to be clearer and its implications for the Council and for service provision better scoped
- the council has a 'no fault' termination clause which could be utilized if Government make changes sooner than expected

4 Preferred Option

4.1 Option 3: To allow extension of existing contracts from 01/04/18 to 30/06/19 at the current contract charges

4.2 To work with partners to ensure that supported housing options for vulnerable people are maximized and fit for purpose

5 Consultation

5.1 Commissioners in Adults and Children's Social Care, and officers from Strategic Housing have been consulted. Strategic housing officers consider these services to be critical to the prevention or relief of homelessness in Oldham, particularly for households with complex support needs who are not yet able to access general needs accommodation due to the level of support they require. They anticipate that the enacting of the Homelessness Reduction Act will lead to increased numbers of households seeking assistance. Landlords and service providers have also been included in discussions.

6 Financial Implications

6.1 The cost to extend the contracts under the current agreement until 30 June 2019 is £1.195m. The table below shows the breakdown of the three contracts.

Contract	Provider	Budget 2018/19 £000's
Women's Service Pathway	Threshold Housing Project Ltd	297
Generic Pathway	Threshold Housing Project Ltd	576
Young People Pathway	Depaul UK	322
Total		1,195

6.2 Full budgetary provision exists within the Adult Social Care Commissioning Service within the current financial year and this has been rolled forward into 2018/19 and future years over the period of the medium term financial strategy to support continued funding of the preferred option.

(Danny Jackson- Senior Accountant)

7 Legal Services Comments

7.1 There is provision under Rule 21(3) (j) of the Council's Contract Procedure Rules to grant an exemption where an extension to a contract for a particular period can be justified e.g where a service review includes the intention to co-terminate relevant contracts within a reasonable period. The circumstances outlined in the body of the report would suggest a justification for an exemption owing to the fact that the Council cannot be expected to tender for contracts for services when the basis of the funding to be allocated by the government to pay for such services is uncertain and awaits confirmation of the final position. (Elizabeth Cunningham-Doyle)

8. **Co-operative Agenda**

8.1 The services support the Cooperative Agenda of the Council by supporting vulnerable and socially excluded people to address issues such as mental ill health, substance misuse, and lack of independent living skills - helping them to avoid repeat homelessness and increase their life chances. The service is accessible to all sections of the community who may need the support.

9 **Human Resources Comments**

9.1 N/A

10 **Risk Assessments**

10.1 N/A

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 None

13 **Strategic Sourcing Implications**

13.1 An Exemption is required under the Council's Contract Procedure Rules to extend the current contracts for a further year. Contract Procedure Rules and Public Contract Regulations state that a tender exercise should be undertaken. As the service requirements and associated outcomes are yet to be established, this would impact on undertaking a robust competitive procurement exercise and from a commercial perspective consideration needs to be given around the financial risks to the Council by undertaking a tender exercise at this time.

13.2 An Exemption for a further year would allow sufficient time to take into account the impact of Government changes and mitigate the financial risks to the Council. As the value of the Exemption will exceed OJEU levels Strategic Sourcing would revert to the guidance as set out in the Public Contract Regulation 2015 (721.b), which allows for modifications under a contract and the Councils Contract Procedure Rules (clause - 21.3.J).

13.3 If option 3 is approved, Strategic Sourcing be required to issue a modification notice to the market notifying them of the Council's intentions, which may result in a challenge to the award.

13.4 Strategic Sourcing will support an exemption on the approval of Legal Services (Diana Nuttall, Sourcing and Contracts Consultant)

14 **Environmental and Health & Safety Implications**

14.1 These services have a positive impact on environmental and health and safety issues for the people receiving the service and for the wider community. The services help to ensure that people who are at risk of social exclusion and homelessness are able to remain safe within their community, and where relevant to address issues that could have a potentially negative impact on the wider community.

15 **Equality, community cohesion and crime implications**

15.1 The services have a positive impact on community cohesion and crime prevention as they are targeted at socially excluded people, and the provision supports them to address issues such as mental ill health and homelessness, and the effects of trauma such as domestic abuse. The services are accessible to all sections of the community who may need the support.

16 **Equality Impact Assessment Completed?**

16.1 Yes

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 SCS-17-17.

19 **Background Papers**

19.1 None

20 **Appendices**

20.1 Appendix 1: EIA