

# Delegated Decision Report

Decision below £250k



<b>Subject:</b>	<b>A Bed Every Night (ABEN) Phase 5 (year 4) Exemption from the Contract Procedure Rules and grant of a new 12-month contract for ABEN Phase 5 year 4 from the 1<sup>st</sup> of April 2025 – 31<sup>st</sup> of March 2026</b>
<b>Decision maker: Senior Officer</b>	Part A: Nasir Dad – Director of Environment  Part B: Neil Consterdine – Director of Communities
<b>Decision maker: Cabinet Member</b>	Cllr Elaine Taylor, Cabinet Member for Decent Homes
<b>Decision date:</b>	
<b>Report author:</b>	Clare Ocansey Senior Housing Needs Officer
<b>Ward (s):</b>	Borough wide

## Reason for decision

In light of the recent developments relating to the funding announcement from GMCA, Oldham Council is poised to further its commitment to the A Bed Every Night initiative in collaboration with the Greater Manchester Combined Authority (GMCA).

On the 4<sup>th</sup> of March 2025, the council received confirmation of £376,200 funding from GMCA, enabling the ABEN Service to extend its reach until the 31<sup>st</sup> of March 2026, encompassing an additional four bedspaces.

The most recent contract in place for the provision of the ABEN Service expired on 31<sup>st</sup> of March 2025, and there was insufficient time after the GMCA grant notification to seek approval to modify the term of the contract and implement any agreed variations prior to the contract's expiry.

The unexpected delay from GMCA in announcing the funding has unfortunately compressed the timeline available for conducting any tendering process. This unexpected setback has placed a strain on our ability to move forward with necessary procurement activities within the required timeframe. To ensure the seamless continuation of this vital project, Oldham Council seeks approval to maintain its contractual relationship with DePaul UK, the most recent successful tenderer chosen to deliver the ABEN initiative in Oldham.

This report seeks the following authorisations:

**Part A:** To seek an exemption under rule 21 of the Council's Contract Procedure Rules (CPRs) in respect of the procurement procedures which must be followed under rule 4 of the CPRs, based on contract value.

**Part B:** Subject to the approval of the exemption request under Part A, to approve a direct award of a contract for the ABEN Phase 5 year 4, which would commence on the 1<sup>st</sup> of April 2025 and expire on 31<sup>st</sup> of March 2026. The total contract fee payable to DePaul would be £245,000 (exempt from VAT).

It is further recommended that an underlease of 10 Sharples Street, an 18-bed unit currently housing the ABEN provision, is granted to DePaul and that the four newly added bed spaces are incorporated into the specification for the proposed contract, originally covering 29 bed spaces.

Additionally, approval is sought for a second underlease to DePaul UK on a dispersed ABEN unit to accommodate the newly funded bed spaces, ensuring the continued success and impact of the A Bed Every Night initiative in Oldham.

### **Recommendation(s)**

#### **Part A:**

That the Delegated Officer for Part A approves Part A of Option 1, and that using the exemption powers under rule 21 of the CPRs, the Delegated Officer waives the requirement to comply with rule 4 of the CPRs, which would enable a decision to be made by the Part B Delegated Officer.

#### **Part B:**

Subject to approval of the recommendation under Part A of Option 1, that the Delegated Officer for Part B approves Part B of Option 1:

- (a) the direct award of and enter into a new contract with DePaul UK for the provision of ABEN Service from 1<sup>st</sup> April 2025 to 31<sup>st</sup> March 2026 at a value of £245,000 (this includes a £15,000 uplift for National Insurance and Real Living Wage increases).
- (b) an underlease of the building at 10 Sharples Hall Street and any other necessary units to DePaul UK from 31<sup>st</sup> of March 2025 to 28<sup>th</sup> of February 2026, aligning with the council head lease's expiration on 5<sup>th</sup> of April 2026.
- (c) the augmentation of the scope of the recently expired contract by incorporating four more bed spaces into the specification for the proposed contract, elevating the total ABEN spaces to 33. This expansion demonstrates the commitment to supporting the Councils commitment to ending rough sleeping and enhancing accommodation options for those in need.

A multi-year funding settlement is anticipated post March 2026 from which the Council will seek to reprocore ABEN services via competitive tender.

### **Background**

ABEN was established in 2018 offering “no second night out” access to accommodation for individuals who are currently rough sleeping or at risk of rough sleeping in Greater Manchester. In Oldham, the local authority receives grant funding from GMCA to provide 23 (including one emergency bed) bed spaces, and a further 6 spaces for individuals with no recourse to public funds. ABEN has now been operating for over 5 years and remains a central pillar and safety

net for people experiencing, or at risk of, rough sleeping. Since 2022, the landscape for homelessness, rough sleeping and poverty has changed considerably across borough:

- Record high numbers of individuals approaching the Local Authority for support due to being at risk of homelessness.
- Record numbers of households in Temporary Accommodation (over 698 at any one point in time)
- Sustained increases in the number of people seen rough sleeping on a single night
- Sustained increases in the number of people receiving a Section 21, no-fault eviction.
- A changing migration/asylum landscape, with the accelerated asylum decision-making process creating additional rough sleeping pressures across all 12 boroughs.

In financial year 2024/25 (1<sup>st</sup> of April 2024- 31<sup>st</sup> of March 2025), ABEN provided housing for 110 individuals, maintaining a 92% move on success rate. Neutral or negative exits (8%) typically involved intra-pathway transfers, such as further statutory temporary housing or returning to custody.

DePaul UK, as a provider, has exceeded expected Key Performance Indicators (KPIs) such as securing positive move-on outcomes for residents and ensuring void targets are met. Moving forward the Council and the provider have agreed goals for next year:

- Increasing the use of PRS offers and incentives
- More personalised support- increasing the access to secondary mental health services and employment opportunities
- Seeking to move to an intensive housing management model of accommodation.

To facilitate the latter, DePaul have agreed to take an underlease for the building at Sharples Hall Street and any additional units, where appropriate. GMCA has confirmed that Oldham Council – along with other Councils in the GM region – will receive the following grant award for financial year 2025/26

- ABEN Grant allocation of £376,200 for total of 33 bed spaces.
- This includes the No Recourse to Public Funds Grant of £79,200 and further £40,000 to cover the delivery of the additional four main ABEN bed Spaces.

The Year 3 ABEN Phase 5 service has a total cost of £245,000 (VAT Exempt), reflecting a £15,000 uplift for National Insurance and Real Living Wage increases. The remainder of the grant will be utilised to fund the private rented sector (PRS) incentives for those individuals at risk of or experiencing rough sleeping, and will cover the building and overhead costs, including No Recourse to Public Funds provision for which Oldham Council is unable to recuperate rent through Housing Benefit.

## **Alternative option(s) to be considered**

### **Option 1**

**Part A:** *approve an exemption in respect of rule 4 of the Contract Procurement Rules by utilising rule 21 of the CPRs, and*

**Part B:** *Subject to approval of the recommendation under Part A of Option 1, that the Delegated Officer for Part B approves:*

- (a) the direct award of and enter into a new contract with DePaul UK for the provision of ABEN Service from 1<sup>st</sup> of April 2025 to 31<sup>st</sup> March 2026 at a value of £245,000 (this includes a £15,000 uplift for National Insurance and Real Living Wage increases).*
- (b) an underlease of the building at 10 Sharples Hall Street and any other necessary units to DePaul UK from 31<sup>st</sup> of March 2025 to 28<sup>th</sup> of February 2026, aligning with the council head lease's expiration on 5<sup>th</sup> of April 2026.*
- (c) the augmentation of the scope of the recently expired contract by incorporating four more bed spaces into the specification for the proposed contract, elevating the total ABEN spaces to 33. This expansion demonstrates the commitment to supporting the Councils commitment to ending rough sleeping and enhancing accommodation options for those in need.*

**Option 2:** *Do not approve the proposed exemption under rule 21 of the CPRs, end the external delivery of the ABEN Service and deliver the service in-house (Not Recommended): This would cause instability for the residents, and the Council also does not have the staffing capacity to deliver in-house and would have to rely on agency staff at additional cost. There would be a significant gap in service whilst the council re-procured the services.*

**Option 3:** *Do Nothing (Not Recommended): Ceasing to deliver ABEN would cause reputational damage to the Council and increase rough sleeping in the Borough, which would also go against the Council's own Ending Rough Sleeping Plan and directives from MHCLG.*

**Consultation** *Cabinet Member is fully supportive of continued ABEN provision within Oldham. No conflict of interest declared. A consultation has been undertaken with service users and partner agencies.*

### **Risks**

A direct contract award to DePaul UK for the provision of ABEN Service from 1<sup>st</sup> of April 2025 until the 31<sup>st</sup> of March 2026 will enable the Council to continue with the commitment made alongside GMCA, to provide assistance to people experiencing or at risk of rough sleeping. The direct award also provides an opportunity for continuity for current residents to stay with a trusted provider who has exceeded the contract key performance indicators. The grant terms and conditions would need to continue to be monitored to ensure that the grant from GMCA is used appropriately. The insurance policies which DePaul UK would be required to hold under a new contract would need to be checked; copies would need to be obtained, retained and checked to ensure contract compliance.

## Implications

Financial	<p>The costs in 2024-25 relating to DePaul and 10 Sharples Hall St are £333k and are completely covered by the ABEN grant. It is anticipated that the 2025-26 grant will also cover the costs mentioned in this report. (Mike Roberts)</p>
Legal	<p><b>Part A</b></p> <p>The value of the contract dictates which procurement procedure must be followed under rule 4 of the Contract Procedure Rules (CPRs).</p> <p>Rule 4 of the CPRs also covers above threshold contracts which will be subject to the Procurement Act 2023. The contract subject to this report is significantly below the threshold for services under the Procurement Act 2023.</p> <p>If there are deemed to be exceptional circumstances to justify a departure from rule 4 of the CPRs and the contract is not governed by procurement legislation, rule 21 of the CPRs can be relied upon to seek an exemption to waive the requirements of rule 4 so that a direct contract award can be made.</p> <p>Rule 21.3 lists a number of circumstances which might amount to exceptional, and which can be used to justify an exemption, but the list is not exhaustive. This means that the decision maker, as determined under rule 21.4.2, can consider other circumstances which may be exceptional, taking the dictionary definition. The decision maker must be satisfied that the circumstances are objectively exceptional and that a decision would stand up to scrutiny.</p> <p>In this matter, the report describes the urgency to re-appoint DePaul UK for the period 1<sup>st</sup> of April 2025 – 31 March 2026 and the delay which the late award of grant monies by GMCA has created.</p> <p><b>Part B</b></p> <p>If the exemption is approved, the decision maker for the proposed contract award will be able to treat rule 4 of the Contract Procedure Rules as having been followed. This means that the decision maker could lawfully approve the required budget and the direct contract award to DePaul UK. Provided a decision to exempt the requirements of rule 4 of the CPRs is a reasonable decision, this will mitigate against the risk of making a decision to approve a direct contract award.</p>

	<p>As detailed in the procurement comments, one change in respect of below threshold contracts which is brought about by the Procurement Act 2023 is that the council will be required to publish a transparency notice which will alert the public domain to the direct award without competition.</p> <p><b>Risks</b></p> <p>Whilst action can be taken to mitigate any legal risks, it isn't possible to remove the right to make a claim for judicial review. That said, there are limited grounds for bringing such a claim and the claimant must have sufficient interest, or "standing" in the matter to which the judicial review relates (for example, a contractor who has not been given the opportunity to bid for the contract).</p> <p>Sarah Orrell – Commercial &amp; Procurement Solicitor</p> <p>Property legal comments  As the proposed lease is for a term of 7 years or less, the provisions concerning the Council obtaining best consideration relating to Section 123 of the Local Government Act 1972 will not be applicable to the proposed disposal.  Legal officers recommend that the lease contains any provisions necessary to protect the Council's best interests.  As the Lease is a sub-lease, there may be a requirement to obtain landlord's consent and to observe any consequential conditions, if required. It is noted the sub-lease is not excluded from the security of tenure provisions of the Landlord &amp; Tenant Act 1954 which means there is a risk the sub-tenant would not move out at the end of the term to enable the Council to give vacant possession. It is also noted there is reference to a Schedule of Condition which it is recommended be agreed and attached to the lease before it is completed. Without this there is a risk of a disrepair/dilapidations claim against the Council at the end of the term.  The Council needs to be satisfied the property complies with all relevant regulations pertinent to its proposed use to house vulnerable individuals as it has statutory duties in this respect. The report author has confirmed that in relation to the granting of the lease, the provisions of the Council's Land and Property Protocol have been and will continue to be observed.  (Rebecca Boyle – Group Solicitor – Corporate)</p>
Equality impact including implications for Children and Young People	Not required – no change in service specification from 2022 (EIA already completed)
Property	The property is 10 Sharples Hall Street Asset L03189, which is currently held on a 5-year lease from Infinity Property Investing Ltd at a rent of £84,240pa. the lease is due to expire on 05 April


	<p>2026.</p> <p>The property is to be sub-let to DePaul UK Ltd who will run and be responsible for the premises and will be able to access additional income streams not available to the Council. Under the terms of the lease, subletting of the whole is allowed, but permission must be sought from the landlord. DePaul's lease will expire 31<sup>st</sup> March 2026, to allow the Council to hand back vacant possession of the building.</p> <p>Alison Evans – Corporate Estates Manager</p>
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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?	Yes
Has the relevant Finance Officer confirmed that any expenditure referred to within this report is consistent with the Council's budget?	Yes
Are any of the recommendations within this report contrary to the Policy Framework of the Council?	Yes

Report author sign-off	Clare Ocansey
Role	Senior Housing Needs Officer
Date of sign-off	10 <sup>th</sup> April 2025

Approval	
Officer approval sign-off	
Role	Neil Consterdine, Director of Communities

Date of sign-off	9 <sup>th</sup> May 2025
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<b>Approval</b>	
Member(s) approval sign-off	
Role	Cabinet Member for Decent Homes
Date of sign-off	9 <sup>th</sup> May 2025