

## **CABINET MEMBER DELEGATED DECISION 31 MARCH 2021**

**Report title: Re-commissioning of Community-Based Intensive Support Service – Without Walls Service**

**Wards:** All

**Portfolio:** Cabinet Member for Health and Social Care (job-share): Councillor Danny Adilypour

**Report Authorised by:** Andrew Eyres, Strategic Director, Integrated Health and Care

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### **REPORT SUMMARY**

Without Walls Service (WWS) is a community-based service for 4-6 people with a learning disability and/or autism spectrum condition who cannot be supported in mainstream services due to their behaviour that challenges (Transforming Care Programme cohort). As such, WWS works with some of the most challenging service user cohort in Lambeth due to their complex needs, who largely require 2:1 support.

WWS is run as a partnership service model between Lambeth Council and Rathbone. Rathbone is a small local charity within Lambeth's voluntary sector specialising in working with adults who have learning disabilities and/or autism. Lambeth Council's (LBL) retains the employment of two posts and these combine with the Rathbone's funded WWS posts to run as a single integrated service.

From 12 March 2018, Rathbone was awarded a contract to 11 March 2021 for a maximum value of £450,909. From 17 March 2019 to 11 March 2021, WWS was varied and expanded. This was funded via a grant received from the South East London Transforming Care Programme (SEL TCP) comprising £99,000 and underspends accrued within the WWS budget. As the latter variations extended the contract over and above the original maximum authorised value (£450,909.67) and exceeded £500k without prior authorisation, the Cabinet Member is asked to note this additional spend. The total cost of the existing service model over the three years of the contract to 11 March 2021 is £590,925.

A procurement strategy has been considered for services beyond 11 March 2021 and the proposal is to recommission this service from 12 March 2021 on a three plus two-year basis at a maximum value of £1.274m (annualised value £252,000 per annum).

There was no formal approval in place for the additional spend between 12 March 2018 and 31 March 2021, therefore the Cabinet Member is asked to note payments made during this period.

### **FINANCE SUMMARY**

The authorised spend for the current WWS contract for the period 12 of March 2018 to 11 September 2021 was £449,913. The board is asked to note the total contract spend for the WWS as at 11 March 2021 will be £590,925.

The new proposed contractual period for the WWS model will be from 12 March 2021 to 31 March 2024, with the option to extend to the 31 March 2026. Annual contract costs for the WWS model with Rathbone will be £252,000 per year.

## **RECOMMENDATIONS**

1. To note the spend from 12 to 31 March 2021, for an amount of £13,808.
2. To waive contract standing orders 8.2 to award the Without Walls Service (WWS) Contract to Elfrida Rathbone (Rathbone) for a term of three plus two years from 12 March 2021 to 31 March 2024, with the option to extend to 31 March 2026. The award will comprise the following:
  - a. To fund the WWS at the current enhanced level in year one from 12 March 2021 to 31 March 2022. This will be at a total cost of £265,808 (Annual value of £252,000 plus additional funding of twenty days from 12 March 2022 to 31 March 2022 amounting to £13,808)
  - b. Subject to the success of the above service model at the expanded level in year one, to agree to fund the service at the same expanded level in year two and year three (from 1 April 2022 to 31 March 2024) at a total cost of £252,000 per annum
  - c. Where the expanded service has not proven to be successful in year one, to agree funding at a service level of £172,000 per annum in year two and three (from 1 April 2022 to 31 March 2024). The total value of this procurement will be at a maximum value of £1.274m.
3. To note the additional spend of £141,012 on the WWS contract from 12 March 2018 to 11 March 2021, bringing the total value of the contract for this period to £590,925. The original contract value of the WWS was for a maximum value of £449,913.

## **1. CONTEXT**

- 1.1. The WWS began as an in-house service run through the internal day service. In March 2018, the service partnered with Rathbone to develop a single integrated service model in order to extend the market in an area that is not well served currently. The current block contract for WWS, which was approved on 13 February 2018 via officer delegated decision, started on 12 March 2018 for a maximum period of three years ending on 11 March 2021 at a value of £450,909.67. This was granted on the basis that the Council lacked the necessary expertise to run such services and there wasn't another local provider for supporting adults with learning disabilities and/or autism who challenge services.
- 1.2. From 17 March 2019 onwards, the service was varied and expanded. This was funded from additional funding received from the SEL TCP of £99,000. As the variations extended the contract over and above the original maximum authorised value to £590,925 without formal authorisation, the Cabinet Member is asked to note this additional spend.
- 1.3. WWS enables individuals within the transforming care cohort to live within their own communities and closer to home as per good practice guidelines. Without these services, the service users are highly likely to end up living in out of borough expensive care settings such as residential or inpatient facilities. The service enables service users to access the community to enjoy various activities in safe spaces, using positive behaviour techniques and approaches in doing so. The service provides added value as service users' families are also supported in a holistic way, giving them much-needed respite from their caring responsibilities.
- 1.4. Our Equalities data shows us a higher number of service users are from the Black/Black Afro-Caribbean communities than would be expected based on demographics alone. The service directly serves to reduce the inequalities as set out in Lambeth's Borough Plans for 2019/21 and meets Council's obligations as detailed in the Care Act 2014.

## **2. PROPOSAL AND REASONS**

- 2.1 The purpose of the procurement is to recommission the service with Rathbone from 12 March 2021 to 31 March 2024, with the option to extend to 31 March 2026 on a three plus two year basis. Officers have reviewed the service which has shown that although good outcomes for current service users were achieved that included cost avoidance in high cost placements, WWS could not expand its service due to being seriously affected with recruitment and retention issues. A key factor relating to these issues have been Rathbone's WWS staff pay which does not match market rates for the type of work that is expected to work with the transforming care cohort. This has been corroborated by benchmarking information.
- 2.2 In the first year of the proposed funding period i.e. 12 March 2021 to 31 March 2022, the intention is to test the model and fund the service in its current expanded form (five posts - to complement two LBL posts) but with a revised service model adjusted to uplift salaries that resolve recruitment and retention issues. This will be complemented with an updated service specification and Key Performance Indicators (KPIs). The revised model will ensure a focus on crisis intervention and hospital discharge work. The team will work with the Council's dynamic risk register which identifies service users suitable for the WWS Service. The model will also emphasise the need to take a more enabling approach with the service users which will see them moving out of the service to other community-based services as opposed to becoming dependant on WWS.
- 2.3 Funding during the first year will be at a value of £265,808 (annual value of £252,000 plus twenty additional days funding from 12 March 2022 to 31 March 2022) per annum. The model will be continually reviewed to assess the degree of its success. If the model is successful, the Council

intends to recommission the same service for a further two years to 31 March 2024. If the service does not deliver the intended KPIs and meet service expectations, the Council will revert back to funding services at the smaller reduced service level (three posts - to complement two LBL posts) at a value of £172,000. The total value of the funding over the three plus two-year contractual period will be at a maximum value of £1.274m (annual figure up to £252,000) and will have provision for early termination or flexibility in order to allow for any service revisions.

- 2.4 Officers have considered the various procurement options and concluded that a direct award still remains the most appropriate route to procuring this service. Services for the TCP cohort represent a niche market, and knowledge gained from our provider/commissioning relationships across London highlights that the regional market remains sparse for such services. Officers acknowledge that there is no similar service that is being run by providers in the market, making the WWS service unique. Elfrida Rathbone continues to remain an expert as well as a skilled provider for working with Lambeth's service user cohort with the most challenging needs. The service cannot be set up easily by a new provider or entrant into the market as workers need to be recruited as well as to undergo specialist and lengthy training. This is a high-risk service and service provision needs to be delivered by experienced staff members. Without such expertise, services can very quickly disintegrate which may cause harm to service users themselves, to staff members or members of the public. The service will support between 3-7 clients at any given time, depending on whether it continues to be funded at the expanded level.

### **Contract Management**

- 2.5 The new contract will have revised terms and conditions and service specification which will reflect the intention for the service to take a more strength/recovery-based approach as well as a reduction in the contract value if KPIs are not being met. As part of the preparation for the new contract, a monthly workshop will be held from January 2021 with Rathbone, commissioners, health colleagues and the care management team (relevant stakeholders) to agree KPIs which are SMART. KPIs will include the numbers of service users being supported, numbers of referrals accepted, hours of delivery, recruitment of staff and retention, outcomes relating to crisis management/hospital discharge work, enabling service users to be less dependent on WWS and assessing how well the service has adapted to the revised model.
- 2.6 Monitoring officers will carry out robust performance and contract management activities. These will be carried out in regular monitoring meetings, from April 2021 onwards, held with relevant stakeholder and will be focused on quality and KPIs. Poor performance will be reported via the scheduled monitoring meetings. Continued poor performance will also mean that Rathbone can expect much more frequent monitoring, revised contract and hence changes in the level of funding.
- 2.7 Monitoring officers will also go through segmentation under the Lambeth's contract management model.
- 2.8 The contractual terms and conditions will clearly stipulate the need to follow GDPR. It will identify the data controller/processor and the related obligations in terms of process, duration, storage, retention and application.
- 2.9 The Provider has a Care Quality Commission rating of 'Good'. Additionally, due diligence checks are being requested from the provider such as Dunn and Bradstreet checks, insurance certificates, health and safety and safeguarding procedures.

### **3. FINANCE**

- 3.1 The authorised spend for the current WWS contract for the period 12 of March 2018 to 11 September 2021 was £449,913. The approver is asked to note the total contract spend for the WWS as at 11 of March 2021 will be £590,925. The additional expenditure was funded through a grant from South East London Transforming Care Partnership and underspends arising from the WWS budget.
- 3.2 For the new contractual period of 12 March 2021 to 31 March 2026, annual combined costs for the WWS model (LBL and Elfrida Rathbone) will be a £252,000 contract with Rathbone plus £78,000 LBL staff per year using 20/21 rates. Funding for this contract is from Learning Difficulties revenue budgets (LD Day Centre staffing and LD Third Party).
- 3.3 There is a funding gap of £80,000 in Year one. This is expected to be partially offset by non-recurrent grant funding, with the remainder being offset by the supplier, Rathbone, (who did not spend the entirety of the contracted payments in prior years, due to issues recruiting staff).
- 3.4 In subsequent years, the gap will be met by a net reduction in the third party (care package) spend in Learning Disabilities.

#### **4. LEGAL AND DEMOCRACY**

- 4.1. The authority to approve the new contract award is delegated to the Cabinet Member for Health and Social Care (job share), who have the power to authorise a waiver of the competitive tendering requirements of the Council's contract standing orders if they are satisfied that this is demonstrably in the Council's best interests and/or they are satisfied that there is only one provider capable of meeting the Council's requirement. Expenditure already incurred under the current contract which was not prospectively authorised can only be noted.
- 4.2. The value of the proposed new contract is above the threshold at which the services are subject to a requirement to publish a contract notice in the UK e-notification service. Regulation 32 of the Public Contracts Regulations permits the award of above threshold public contracts by a negotiated procedure without prior publication where the services can be supplied only by a particular economic operator because competition is absent for technical reasons. The facts asserted in this report do not provide a clear-cut case for making this determination, but it is arguable that the specialist requirement cannot currently be met other than by the direct award to Rathbone.
- 4.3. It should be noted that, in addition to the competitive procurement regime prescribed by the Public Contracts Regulations, section 5 of the Care Act requires that the local authority promotes the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market has a variety of providers to choose from who (taken together) provide a variety of services; has a variety of high quality services to choose from; and has sufficient information to make an informed decision about how to meet the needs in question. The Council must have regard to this duty in considering how to meet a service user's needs for care and support. In arranging for the provision by persons other than it of services for meeting care and support needs, a local authority must have regard to the importance of promoting the well-being of adults in its area with needs for care and support and the well-being of carers in its area. In this regard the argument made about the unique service model with the council partnering Rathbone is relevant but similarly not determinative.
- 4.4. Section 149 of the Equality Act 2010 sets out the public sector equality duty, i.e. that all public bodies are under an obligation to have 'due regard' to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy, and maternity, marriage and civil partnership, race, religion or belief, sex

and sexual orientation. Section 149 (1)(b) of the Act states that: a public authority must, in the exercise of its functions, have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Part of the duty to have “due regard” where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim.

4.5. The proposed key decision was entered in the Forward Plan on 14 December 2020 and the necessary 28 clear days’ notice has been given. In addition, the Council’s Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days – the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

## 5. CONSULTATION AND CO-PRODUCTION

5.1 WWS regularly seeks feedback from service users, family carers, WWS, commissioners, health colleagues and care managers. The overall summary is that there is a continued justification for such a service as no other such service exists, that the service continues to support family carers who are unable to rely on alternative services, that there is a need for the service redesign to offer support to those service users who are in crisis or being discharged from hospital, that WWS needs to place a more emphasis on using a strength-based and empowering approach so that the service users are able to develop greater independence and control. .

## 6. RISK MANAGEMENT

6.1 The main risks that impede on the successful delivery of this procurement and contract are:

**Table 1 – Risk Register**

Item	Risk	Likelihood	Impact	Score	Control Measures	Risk Owner
1.	Risk of challenge for not procuring through competition	1	2	2	<ul style="list-style-type: none"> <li>This is a particular model in Lambeth and there is no alternative provider available to run this service. Any new entrants will require to develop skills and expertise to run a service like WWS</li> <li>The Contract will have provision for early termination</li> </ul>	Integrated Disabilities Commissioning Team
2.	Risk of breakdown in business/Brexit continuity	1	4	4	<ul style="list-style-type: none"> <li>Rathbone has robust business continuity plans. Based on current assessment, the impact of Brexit on the provider will</li> </ul>	Integrated Disabilities Commissioning Team/Rathbone

					<p>be minimal. Rathbone has a longstanding and dedicated team. The Council is in receipt of provider's business continuity plans</p> <ul style="list-style-type: none"> <li>• A Dun and Bradstreet has been carried out and is seen as a low risk. This will be repeated on an ongoing basis.</li> </ul>	
3.	Risk to service provision due to Covid	3	4	12	<ul style="list-style-type: none"> <li>• Rathbone has robust Covid plans in place which ensures business continuity and infection control.</li> </ul>	Integrated Disabilities Commissioning Team/Rathbone
4.	Risk of service users dropping out of the Service and the service becomes expensive due to low numbers attending the service	2	4	8	<ul style="list-style-type: none"> <li>• Service users are referred and assessed as being suitable to attend service. Where service users drop out, an immediate request for referral is made to social care management teams. A waiting list will be maintained. This will be monitored through contract management</li> </ul>	Integrated Disabilities/ Commissioning Team/Care Managers and Rathbone
5.	Inability to recruit specialist staff as well as retaining them, hence affecting service capacity	4	8	32	<ul style="list-style-type: none"> <li>• The proposed funding has allocated a salary uplift which will alleviate recruitment and retention issues. The contract will be revised from year 2 onwards if capacity cannot be expanded</li> </ul>	Integrated Disabilities Commissioning Team/Rathbone
6.	The WWS services become uncoordinated given the complexity of the service	2	8	16	<ul style="list-style-type: none"> <li>• A monthly meeting will be coordinated with relevant partners e.g. social care team, Rathbone, health colleagues and commissioners</li> </ul>	Integrated Disabilities Team Commissioning Team/Rathbone

## 7. EQUALITIES IMPACT ASSESSMENT

- 7.1 An EIA has been carried out and agreed by the Director of Integrated Commissioning (Adults) on 22.12.20. The service specification will require WWS to be culturally sensitive depending on the ethnicity of the service users, support them and their families in a holistic way as well as offer

services to increase number of individuals. The assessment has also highlighted that the service needs to address the needs of female service users – the service will be required to recruit female staff.

## **8 COMMUNITY SAFETY**

- 8.1 The service will minimise the risk of either service users perpetrating or being at risk of crime of anti-social behaviour. The service offers crisis intervention preventing harm either to the service users themselves, their families, or others.

## **9 ORGANISATIONAL IMPLICATIONS**

### **Environmental**

- 9.1 Rathbone, as an organisation, encourage staff to use public transport to deliver services. This is to ensure that they do not contribute to poor air quality by using cars.

### **Health**

- 9.2 The service meets the health and wellbeing strategy and supports the joint strategic needs assessment by working in a multi-disciplinary with other professionals including health professionals. For instance, by offering community-based services, service users enjoy participating in activities in their local community as opposed to being confined at home. The service also works in a multi-disciplinary way having access to health services should service users experience crises.

### **Corporate Parenting**

- 9.3 Not applicable

### **Staffing and accommodation**

- 9.4 As WWS in a partnership model, Lambeth staff will continue to operate from Rathbone's offices.

### **Responsible Procurement**

- 9.5 Rathbone are also working towards the Mayor of London's 'Good Work Standard' <https://www.london.gov.uk/what-we-do/business-and-economy/supporting-business/what-mayors-good-work-standard>. The organisation will soon be undergoing the accreditation process. The standard will ensure that the provider has sound policies and procedures such as whistleblowing policy including the freedom for workers to join a trade union and not be treated unfairly as a consequence of belonging to one. Rathbone does not advertise zero hours contracts, or offer them routinely, although they have a very small number of staff using these by their own request.

### *Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group*

- 9.6 Rathbone offers apprenticeship opportunities where appropriate but cannot guarantee a specific number due to the fact this is a relatively small service. Rathbone does however support clients into employment or volunteering.

### *Reduce Emissions: Lambeth Council has a commitment to being Zero Carbon by 2030*

- 9.7 Rathbone staff use public transport for work. The organisation has recently exchanged/updated minibus vehicles to comply with the London ULEZ scheme. Rathbone are in the planning stage for undertaking works at their premises to introduce more energy efficient heating and lighting systems.

### *Single Use Plastics*

- 9.8 Rathbone strives to reduce the use of plastics. Rathbone no longer use plastic cups for water. Rathbone provides glasses for staff to use. Rathbone recycles wherever possible and follows the correct recycling procedure laid down by our Local Authority contractor. However, Rathbone purchases are commercially available goods, therefore they cannot dictate packaging. We have in place an Environmental Policy. Each year Rathbone introduces a new target - examples include ending the use of plastic filing sleeves; ending use of single use plastic cutlery; using compostable disposable 'glasses' for events.

#### *Positive Health and Wellbeing*

- 9.9 Rathbone is signed up to the London Healthy Workplace Charter. Rathbone has an independent Occupational Health provider which screens staff on appointment as well as supporting and advising health/sickness issues in the workplace.

#### *Other Offers (Innovation)*

- 9.10 Rathbone provides youth services for Lambeth Council, with specialist service for Children and Young People (CYP) with Learning Disabilities and Special Educational Needs and Disabilities (SEND), Autism and challenging behaviour. Through Rathbone's fundraising/grant programme in 2019/20, over £300,000 was brought into the borough. Although these funds are mainly restricted funds for CYP service, they contribute to overheads and provide resources used across the organisation.

Rathbone operates The Old Library premises in partnership with Lambeth Council, as one of the early adopters, through the Co-operative Council programme. The building houses the CYP Service. It also operates as a local community hub and rents offices to six local charities/community groups and hire space to many others. The building is also used to provide space for Without Walls services. Rathbone is currently seeking funding to develop a Sensory Room in the building for use by adults with Learning Disabilities and complex needs. This will complement Rathbone's CYP and Without Walls services as well as be available for hire to other organisations.

Rathbone has just secured a three-year grant from the City Bridge Trust for £102,000 for a Transitions Case Worker. Aligned with both Rathbone's Outreach and Youth services, this work will complement the Council's Transitions work. Rathbone also fundraises independently to run adult groups tackling loneliness and social isolation, including a healthy cooking group, gardening group, social group. Rathbone is signed up to food redistribution programmes and are an accredited referral partner to Lambeth Food Bank to enable Rathbone to secure free food for any of our service users and families in need.

Rathbone is a member of Kings College London's 'Civic Challenge' creating partnerships with local communities and professionals and students. Rathbone recently won a £5,000 grant from them to help develop volunteering opportunities for adults with Learning Disabilities in the West Norwood community.

Rathbone is one of the largest local employers in West Norwood and play a prominent role in the local community, being active members of Norwood Forum and members of Norwood Action Group. Rathbone has been the lead partner of Norwood Consortium for the last seven years. It works with and supports six smaller providers of CYP services and over the period, has secured and managed over £1m of funding for the Norwood area.

## **10. TIMETABLE FOR IMPLEMENTATION**

- 10.1 The table below details the stages and deadlines for implementing the recommendations:

<b>Activity</b>	<b>Proposed Date</b>
Date published on Forward Plan	14.12.2020
Publication on Decisions online	23.03.2021
Officer or Cabinet Member Decision	31.03.2021
Execution of Contract	01.03.2021
Mobilisation Period for Contract	12.03.2021
Commencement of Contract	12.03.2021

<b>AUDIT TRAIL</b>				
<b>Consultation</b>				
<b>Name and Position/Title</b>	<b>Lambeth Directorate</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in paragraph:</b>
Councillor Adilypour, Cabinet Member Health and Social Care	Health and Social Care	01.02.21	01.02.21	Entire report
Councillor Jack Hopkins	Leader of the Council	02.02.21	22.03.21	
Jane Bowie, Director of Integrated Commissioning (Adults)	Integrated Health and Care	28.02.21	01.02.21	Entire report
Andrew Eyres, Strategic Director	Integrated Health and Care	01.02.21	02.02.21	Entire report
Richard Sparkes	Adult Social Care	01.02.21	02.02.21	
Peter Hesketh, Finance	Finance and Property	12.01.21	25.01.21	3
David Thomas, Legal Services	Legal and Governance	24.12.20	07.12.21	4
Jacqueline Pennycook, Democratic Services	Legal and Governance	07.01.21	15.01.21	Entire report
Sasa Glisic, Category Manager	Procurement	07.01.21	21.01.21	Entire report
Leena Khatri Sustainability Officer	Sustainability Team	06.01.21	06.01.21	9

<b>REPORT HISTORY</b>	
<b>Original discussion with Cabinet Member</b>	10.12.20
<b>Report deadline</b>	N/A
<b>Date final report sent</b>	N/A
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	14.12.20
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000.
<b>Background information</b>	<a href="https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf">https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf</a> Officer Delegated Decision, 13 February 2018: <a href="#">Without Walls Service – New Intensive Community-Based Service</a>
<b>Appendices</b>	Appendix 1: Equalities Impact Assessment

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Harsha Ganatra, Senior Commissioning Officer

**I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Councillor Danny Adilypour  
Cabinet Member for Health and Social Care

**Any declarations of interest (or exemptions granted): None**

**Any conflicts of interest: None**

**Any dispensations: None**