

Cabinet Member Delegated Decision 27 March 2018

Report title: Contract award for Supporting People projects

Wards: All

Portfolio: Councillor Jackie Meldrum: Cabinet Member for Adult Social Care

Report Authorised by: Helen Charlesworth-May: Strategic Director for Adults and Health

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Report summary

This report seeks approval for an extension to the KeyRing supported housing block contract for up to two years ending on 31st March 2020 and to replace the existing supported housing block contracts for Certitude, Care Expertise and Family Mosaic (known as Peabody Trust from 1 April 2018) with two year spot purchasing contracts to the same providers for a period of up to two years ending on 31st March 2020. During this period, there will be an opportunity for Adult Social Care staff to conduct reviews in order to ensure consistency between support provided under these contracts and the spot purchased care packages that service users already have with these providers.

Finance summary

The annual revenue cost of the block contract extension and the new contract awards is £394,923 as set out in 2.4 and the total cost of the contract extensions will be a maximum of £789,846. There are no capital implications arising from this contract extension and these contract awards.

Budgets in Adult Learning Disabilities (ALD) Supporting People are not directly allocated to specific contracts, but are sufficient to meet the annual expenditure of the contract extensions.

Recommendations

1. To waive contract standing order 9.2 in order to extend the KeyRing contract on the same terms for two years from 1st April 2018 to 31st March 2020 with a total contract value of £252,540 (£126,270 a year)
2. To waive contract standing order 9.2 in order to award a new spot purchasing contract to Certitude from 1st April 2018 to 31st March 2020 at a maximum total contract value of £325,586 (£162,793 a year)
3. To waive contract standing order 9.2 in order to award a new spot purchasing contract to Care Expertise from 1st April 2018 to 31st March 2020 at a maximum total contract value of £163,122 (£81,561 a year)
4. To waive contract standing order 9.2 in order to award a new spot purchasing contract to Family Mosaic from 1st April 2018 to 31st March 2020 at a maximum total contract value of £48,596 (£24,298 a year)

Reasons for Exemption from disclosure

The accompanying part II report is exempt from disclosure by virtue of the following paragraphs of schedule 12A to the Local Government Act 1972:

Paragraph Three: Information relating to the financial or business affairs of a particular person (including the authority holding that information).

1. Context

- 1.1 In April 2011 approval was given to the waiver of section 8.0 (Purchasing Rules) of the Contract Standing Orders to award contracts to individual service providers for the provision of Accommodation Based Services for 3 years for the period 1 April 2011 to 31 March 2014, with the option to extend for a further 2 years up to 31 March 2016, and were extended for a further 2 years up to 31 March 2018.
- 1.2 Currently, the Council contracts with four providers - KeyRing, Certitude, Care Expertise and Family Mosaic – to support 61 vulnerable clients in accommodation in Lambeth to maintain independent living within the community. Each of the providers currently has a block contract with a fixed value. Support for service users delivered under these block contracts is sometimes supplemented with variable community support hours purchased via spot contracting arrangements (except in KeyRing). Support arrangements run side by side and are interdependent, though there is obviously more flexibility to move the spot purchased hours up and down as needs change.
- 1.3 The total spend for these Supporting People funded services in 2017/18 is £394,923 as per the table below. The contracts with Certitude, Care Expertise and Family Mosaic are defined as ‘accommodation-based’, where support hours are attached to the accommodation and with staff based at the accommodation provided. Support hours here are fixed and cannot easily be varied according to need. KeyRing offers a more flexible approach, including peer support, and support can be floated off individual clients as needs change.
- 1.4 The funding of the services relates to the Council’s duties under the Care Act 2014 to ensure the wellbeing of our service users and ensuring preventative services are in place.

2. Proposal and Reasons

- 2.1 These current block contracts have already been approved for extension to a maximum period of two years ending on 31st March 2018. This was on the basis of officers undertaking a review as to how to provide these services after that date.
- 2.2 Officers have now thoroughly reviewed the block contract services provided by KeyRing, Certitude, Care Expertise and Family Mosaic. Officers looked at various procurement options, benchmarking including the related risks and benefits and have concluded that the contract with KeyRing should be extended as is, for a further two years, as it already offers value for money, a flexible support option and could not be provided by another provider given the uniqueness of the model. It also retains the original intention of the Supporting People programme i.e. preventing people from needing higher levels of care and support. The provider has added additional support hours/capacity in recent months at no extra cost which further demonstrates the value for money of the service. KeyRing offer a good quality and popular service.
- 2.3 It has been determined that the rest of the block contracts should be ended and replaced with spot purchasing agreements with a two year contract period with a maximum upper value but no guaranteed hours. The spot purchasing arrangement offers the Council more flexibility to add or reduce hours as support needs go up or down or clients move in and out of services. This will also enable the Council to better align contracting with these providers with existing spot purchased adult social care hours and will bring about further service efficiencies by way of reduced resources deployed for monitoring purposes. The use of Electronic Call Monitoring will also be considered as a means of ensuring outcomes are met and value for money is obtained.

2.4 The contract values for the contracts in 2017-18 are as follows:

Provider	Service	£
Family Mosaic	Brook Drive - Oakden	24,298.28
KeyRing	KeyRing 1	34,437.23
KeyRing	KeyRing 2	34,437.23
KeyRing	KeyRing 3	34,437.23
KeyRing	KeyRing - Newburn Street	22,957.98
Care Expertise	Lambeth ALD Service	81,561.34
Certitude/Southside	6B Caldwell St ALD Service	28,917.73
Certitude/Southside	Barrington Road - ALD Service	33,524.50
Certitude/Southside	Dalberg Rd - ALD Service	80,708.48
Certitude/Southside	Rathmell Drive	19,642.74
Total		394,923

It is not intended to make changes to these values at the commencement of the new contract period but, rather than fixed block values, these amounts will become maximum values against which changes can be made as support hours/needs fluctuate.

- 2.5 In making the above recommendations, officers considered various procurement options such as re-tendering all services via open market, extending all block contracts on same or similar terms (after looking for efficiencies), ending block contracts with providers and switching to a spot purchasing arrangement from 1 April 2018 onwards. The latter option was determined to be the most advantageous. This is because service users supported by these providers often have existing adult social care packages (spot purchased through community support framework) as well as these accommodation-based support packages. Broadly, these two packages of care work together to achieve the same outcome for the service user. Having a block contract arrangement - which cannot be varied (even when needs change) - sitting alongside a spot purchased care package carries a real danger of inefficiency, with the likely outcome being that the Council will be overpaying.
- 2.6 Extending or re-tendering the block contracts would mean that the inflexibility of the current model would remain, which means that the hours of support remain tied to the accommodation/scheme in question and cannot vary even when clients move in and out with differing needs. This is especially important because the review identified some circumstances where this has led to overpayments and where care/support under two different types of contract is being paid to the same provider to support a client in the same scheme – leading to the potential for cross subsidy and double claiming. The proposed spot purchasing model recommended for Certitude, Care Expertise and Family Mosaic will reduce or eliminate these problems and provide the flexibility and efficiencies that the Council requires whilst maintaining quality service user provision.
- 2.7 Open market tendering is not deemed a realistic option because these are accommodation based services provided in situ where the support providers either own the buildings or have management agreements with housing associations which own the buildings. This means that a change of support provider would result in a further fragmentation of service delivery between housing management, care and support and in some cases would not be permitted by the owning landlord. There are other potential difficulties which are outlined in the Part 2 report along with a more detailed options analysis.

3. Finance

- 3.1 The annual revenue cost of the set of contracts is £394,923 is as set out in the recommendations and as per table in 2.4.
- 3.2 Budgets within the Learning Disability services are not directly allocated to specific contracts, but are sufficient to meet the annual expenditure of the contract extension and contract awards.
- 3.3 Savings of £150,000 will be taken from the ALD budget in 2019/20 and individual provider contracts are being reviewed across the board with the aim of reviewing the number of hours delivered in order to reduce contract values where appropriate to contribute to meeting the savings by 2019/20. As each service/care package is reviewed and a new individual price agreed, the hours of support paid for may reduce.
- 3.4 Estimated reductions of £37,000 are already forecast to take effect from 1 April 2018 due to changes in client numbers at Rathmell Road and through negotiations with Family Mosaic and Care Expertise.

4. Legal and Democracy

- 4.1 The authority to deal with the recommendations in this report is delegated to the Cabinet Member for Adult Social Care.
- 4.2 The Council's contract standing orders require that contracts with a value of £100,000 or more are competitively tendered but this requirement can be waived by the Cabinet Member if she is satisfied that, inter alia, this is demonstrably in the Council's best interests.
- 4.3 The services which are the subject of these contracts are deemed Schedule 3 health and social 'light touch' services for purposes of the Public Contracts Regulations (PCR). For the purpose of determining whether the procurement engages the light touch regime the value to be taken into consideration shall be the maximum estimated value, net of VAT, of all the contracts envisaged for the total term. This would trigger a requirement to publish a notice in the Official Journal.
- 4.4 In this case it is explained that the support and accommodation requirements, and specifically the providers' ownership or indirect control of the accommodation, make open competition difficult. In that case Regulation 32 of the PCR is relevant in that there is an exemption from the competition requirement where competition is absent for technical reasons, and only where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement. The Treaty principle underpinning the light touch regime is that the higher threshold for light touch services is designed to set the appropriate level to safeguard cross-border trade. Analysing the point by this test the proper conclusion is that it is unlikely that there would be cross-border interest in these contracts. The relatively short period of the contracts is a factor. However, the assessment must be made by construing Regulation 32 strictly.
- 4.5 This proposed key decision was entered in the Forward Plan on 9 February 2018 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 Officers have engaged with providers about the Council's procurement strategy for these services and they understand the Council's wish to either bring about added-value or align existing funding with adult social care funding. Individual service users will also be consulted on their level of need during adult social care reviews.

6. Risk management

- 6.1 Officers consider the potential risks associated with the preferred option to be low. This is because officers have had an opportunity to engage early with providers to discuss the preferred option and current providers are already providing adult social care services to the same clients. It is highly unlikely that new providers will want to contract for block services under these conditions as the risks can be high for both the Council and the new provider with two different providers potentially ending up supporting each client. Bringing two contracts into alignment will mean that contracts can be monitored using one single approach. In addition, the Public Contracts Regulations permit exceptions as outlined in the legal observations.
- 6.2 All providers will be contract managed using the RAG rated approach in use within Social Care commissioning and Dunn and Bradstreet checks will be undertaken on all providers before contract award. Officers will additionally check that providers are compliant with safeguarding, have the required insurance cover and ensure they are compliant with the new General Data Protection Regulations.

7. Equalities impact assessment

- 7.1 An Equalities Impact Assessment is not relevant at this stage as existing clients stand to receive the same or similar support to that of the old block contracts. Any future reviews undertaken by care managers or new contract arrangements by commissioners will take into account individual care and support needs. Of the 61 clients receiving services, 55% are from BME communities, 57% are female and 43% male, and 13% are over 60.

8. Community safety

- 8.1 This contract award will improve and maintain community safety as there will be more flexible, needs-based support provided to the clients which should minimise the risk of clients either perpetrating or being the victim of crime or antisocial behaviour.

9. Organisational implications

9.1 Environmental

None

9.2 Staffing and accommodation

None

9.3 Procurement

On extending or letting contracts, officers will ensure London Living Wage commitment from providers and seek added value such as offering increased shared-care, or working closely with

supported employment providers. Officers have also benchmarked and will continue to benchmark against the Council’s approved provider list, other internal services and against other local authorities to ensure that prices agreed for spot contracts are cost effective and affordable.

9.4 Health

The health of the clients being supported will be maintained and continued to be improved by providers as services are person-centred and work directly alongside health colleagues, supporting service users to lead a life in the community as opposed to being institutionalised in residential care or secure units.

10. Timetable for implementation

10.1 The timetable for implementation is as follows:

	Task	Time/deadline
1.	Procurement Board	27.2.18
2.	CMDDR sign off	03.3.18
3.	Decision published online	05.3.18
4.	Decision enacted	13.3.18
5.	Issue contract	20.3.18
6.	Gateway 4	30.6.18

10.2 The contracts will focus on holistic outcomes such as housing, community access and networks, health, work, appropriate accommodation and tenancy management. Where individuals have a social care package, these outcomes will be looked at in conjunction with the Care Act 2014 outcomes.

10.3 Contracts will be managed on a quarterly basis on a prescribed monitoring template and via the Council’s Electronic Call Monitoring System, if appropriate, where real time data is received following the delivery of support.

Audit Trail				
Consultation				
Name/Position	Lambeth directorate / department or partner	Date Sent	Date Received	Comments in paragraph:
Councillor Jackie Meldrum	Cabinet Member for Adult Social Care	7.2.18	8.2.18	All
Helen Charlesworth-May	Strategic Director for Adults and Health	7.2.18	14.2.18	All
Pete Hesketh, Finance	Corporate Resources	7.2.18	19.2.18	All
David Thomas, Legal Services	Corporate Resources	7.2.18	7.2.18	4
Maria Burton, Democratic Services	Corporate Resources	7.2.18	12.02.18	All

Report History	
Original discussion with Cabinet Member	08.12.17
Report deadline	N/A
Date final report sent	N/A
Part II Exempt from Disclosure/confidential accompanying report?	Yes
Key decision report	Yes
Date first appeared on forward plan	9.2.18
Key decision reasons	Expenditure, income or savings in excess of £500,000
Background information	https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets/care-act-factsheets
Appendices	<i>None</i>

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 Jackie Meldrum, Cabinet Member for Adult Social Care

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None