

Meeting	Cabinet Resources Committee
Date	25 February 2014
<b>Subject</b>	<b>Tendering for a local voluntary and community sector development partner</b>
Report of	Cabinet Member for Customer Access and Partnerships
Summary of Report	<p>This report seeks authority to:</p> <p>i) Begin a competitive procurement for a local voluntary and community sector development partner</p> <p>ii) Extend funding to the current provider – Community Barnet - up to April 2015 as an interim measure pending conclusion of the tender.</p>

Officer Contributors	<p>Karen Ahmed, Lead Commissioner for Later Life</p> <p>Stephen Evans, Assistant Director, Strategy</p> <p>Dion Watts, Policy Officer, Commissioning Group</p>
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	N/A
Function of	Executive
Enclosures	None
Contact for Further Information:	Dion Watts, Policy Officer, Commissioning Group (ext. 2001)

## **1. RECOMMENDATION**

- 1.1 That the committee authorise procurement of a local voluntary and community sector development partner, up to a maximum of 4 years (2 years plus the option to extend by 2 years) with a contract value of £900,000, to commence no later than 1 April 2015.
- 1.2 To ensure continuity of service during the procurement, that the committee authorise the extension of a grant of £95,775 to CommUNITY Barnet in principle for 2014/15 – apportioned as £60,128 for infrastructure support and £35,647 to underpin volunteering. There is provision in the 2014/15 budget for this.
- 1.3 That the committee authorise the requirements of Section 14 of the council Contract and Procedure Rules to be waived to allow for the extension of the current Family Services contract with CommUNITY Barnet from April 1 2014 up to 31 March 2015 at a value of no more than £116,550.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 CRC, February 2013, approval of a 1 year extension to the contract with CommUNITY Barnet for children's services.
- 2.2 CRC, March 2011: approval of two 3 year funding agreements with CommUNITY Barnet to cover the period from March 2011 until March 2014.
- 2.3 CRC, July 2008: approval of a Third Sector Commissioning Framework.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The Corporate Plan, 2013/14-2015/16 includes the following strategic objectives:
  - To create the right environment to promote responsible growth, development and success across the borough
  - To support families and individuals that need it – promoting independence, learning and well-being
  - To improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study
- 3.2 A strong and vibrant voluntary and community sector (VCS) is an important contributor to these objectives and will play an increasingly important role in the current financial climate.
- 3.3 In order to maintain and grow its robust VCS, Barnet needs a strong, dynamic local VCS development partner. This organisation will have the critical task of supporting individuals and communities to live independently and take responsibility for tackling issues which are important to them. This requirement goes beyond supporting traditional volunteering, and involves building capacity in the local community and encouraging everyone who lives, works or studies in Barnet to play their part and take responsibility for ensuring that the borough continues to be a success.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The proposed re-commissioning is intended to address the risks that the necessary mechanisms are not in place to realise the council's objectives to promote independence. Re-modelling the service, and taking the opportunity for the Council to be clear about what it wants from a development partners, is necessary to support ongoing capacity building in the local VCS.
- 4.2 Changes to the support currently commissioned for networking and representation will be managed sensitively, anticipating and resolving the concerns of VCS organisations and preventing any unintended consequences. The risk of adverse publicity for the council as a result of opposition to change would be mitigated by remodelling the services incrementally in partnership with the sector.
- 4.3 Risks associated with the proposed procurement will be mitigated ensuring that provision to be procured is consistent with budget resources and savings targets; carrying out advance market-testing with potential providers; and requiring production of detailed service mobilisation and transition plans.
- 4.4 The risk that new contracts tendered out will not achieve value for money will be mitigated by designing service specifications which reflect best practice and experience; ensuring contracts are outcomes focused and related to Barnet's key indicators and objectives; and better use of council resources as a result of fewer contracts.
- 4.5 The proposal to extend the current grant funding arrangement with CommUNITY Barnet will link payment to clearly defined priorities and actions and the achievement of targets and outcomes, as it is currently.
- 4.6 All grants to VCS organisations are made subject to the council's Standard Conditions of Grant Aid. Amongst other things, the conditions cover how awards are spent, allowing council officers a right of access to proof thereof, and requiring notification of any change in an organisation's circumstances which significantly affect its grant entitlement. The council reserves the right to withhold payment of any approved grant, or to demand full or partial repayment, if it appears that the organisation has failed to comply with any of the conditions attached to the award. The risks around grant funding are also mitigated in this case by the arrangement being temporary to ensure there are no gaps in provision while a competitive procurement takes place.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The core provisions of the Equality Act 2010 came into force on 1 October 2010 and the public sector equality duty (section 149 of the Act) came into force on 5 April 2011. Under section 149, the council must have due regard to the need to eliminate discrimination, harassment and victimisation prohibited under the Act and to advance equality of opportunity and foster good relations between those with protected characteristics and those without.
- 5.2 The protected characteristics are age; disability; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. They also cover marriage and civil partnership with regard to eliminating discrimination.

- 5.3 Any organisation providing public sector services is subject to scrutiny by the council to ensure that delivery complies with the public sector equality duty.
- 5.4 The council's local VCS development partner plays an important role in helping engage and consult with protected characteristic groups including carers, people with disabilities and local faith and ethnic groups and this will need to be taken into account during the tender process.
- 5.5 The proposed services are intended to have a very positive equalities impact. An initial equality impact assessment of the change in service provision will be carried out during the tender process and will be updated in light of the outcomes achieved during the first year of operation.

**6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 The Council's current VCS development partner – CommUNITY Barnet – is funded through three council budgets:

<b>Commissioning Group (Corporate)</b>	<b>Family Services</b>	<b>Section 75 funding</b>	<b>Total (2013/14)</b>
£113,275	£116,550	£19,972	£249,979

- 6.2 The council's corporate grant funding of CommUNITY Barnet in support of its infrastructure role has declined year on year since the 2011-14 agreement as follows:

2010/11 * (£)	2011/12 (£)	2012/13 (£)	2013/14 (£)	3-year change
94,628	94,628	87,628	77,628	-18%

*\* final year of annual core grant*

The tapered reduction has reflected the constraints on public expenditure and the pursuit of more clearly defined outcomes.

- 6.3 The council's corporate grant funding of CommUNITY Barnet in relation to its volunteering role has remained constant over the period at £35,647 per annum, utilising ring-fenced provision for supporting Barnet Volunteer Centre, resulting in total combined funding under the two agreements of:

2011/12 (£)	2012/13 (£)	2013/14 (£)	<b>2014/15 (£)</b>
130,275	123,275	113,275	<b>95,775</b>

- 6.4 Funding for the Family Services contract with CommUNITY Barnet is currently £116,550 per annum. It is proposed that future funding will form part of an amalgamated core budget with contributions from the Commissioning Group and via a Section 75 NHS Act 2006 Agreement, so there will be no separate Family Services contract.
- 6.5 Barnet Clinical Commissioning Group's community contribution is commissioned on their behalf by the council, with CommUNITY Barnet the current provider, and funding for the service is transferred via the Section 75

Agreement. Commissioning of this service was previously amalgamated within the core budget.

- 6.6 The maximum proposed £225,000 per annum funding envelope for the new voluntary and community sector development partner (detailed in 9.23), which is subject to provisional investment of £40,000 from the Barnet Better Care Fund and £20,000 from Capita, represents an overall reduction of £7,325 on the council's current spend with CommUNITY Barnet (factoring in the £17,500 reduction described in 6.8). Within this, it is proposed that the corporate contribution should increase by £14,225 from £95,775 to £110,000.
- 6.7 The proposal for funding from Capita is described in more detail in 9.16 – 9.19, and proposals relating to the contribution to the commission from the Barnet Better Care Fund will be factored into the council's outline business case for prevention to support health and social care integration.
- 6.8 In order to ensure that there are no gaps in provision while allowing time for a competitive tender process to take place, it is recommended that the corporate grant to CommUNITY Barnet is extended at the current level for up to a maximum of 12 months, subject to adequate provision being made in the council's budget for that year, save for £17,500 apportioned for supporting the Big Society Innovation Bank (BSIB) which reflects the decision not to continue BSIB beyond the original 3 year commitment. The 3-month termination clause in the current grant funding agreement would allow the new contract to commence from January 2015 if a suitable bid is accepted (see indicative tender timetable in 9.26).
- 6.9 Similarly, it is recommended that the current Family Services contract with CommUNITY Barnet is extended for up to 12 months. The 2-month termination clause in the current contract would allow the new contract to commence from January 2015 if a suitable bid is accepted.
- 6.10 All of the above means that total funding required for 2014/15 is £232,297 and for 2015/16 and each subsequent year of the new contract is £225,000.

## **7. LEGAL ISSUES**

- 7.1 Voluntary Community Services are part B Service under The Public Contracts Regulations 2006 (as amended). This means that the procurement will not be subject to the full EU tendering rules.
- 7.2 Re-commissioning arrangements may lead to the termination of existing contracts with some organisations and entry into new contracts for similar services to be operated by different providers. Any potential TUPE implications will be considered as part of the tendering process. Any termination of existing contracts must be done in accordance with the provisions of the relevant contract.
- 7.3 Section 75 of the NHS Act 2006 empowers health and social care organisations to make contributions to a common fund to be spent on agreed projects or used for delivery of specific or delegated functions. Regulations and Government guidance indicate how section 75 arrangements should be set up.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 The Council's Constitution, Responsibility for Functions, paragraph 4.6 sets out the functions of the Cabinet Resources Committee, including the power to approve grants to voluntary and community sector organisations to the value of £20,000 or more.
- 8.2 Contract Procedure Rules – Appendix 1, Table A sets out the authorisation and acceptance thresholds for procurements with authorisation to commence a procurement process for values of £500,000 and over by Cabinet Resources Committee.
- 8.3 Section 14 of the council Contract Procedure Rules outline that contracts may only be extended or varied if all of the following conditions have been met:
- the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process
  - the value of the extension or variation added to the value of the original contract does not exceed the original authorisation threshold as defined in Appendix 1, table A of the Contract Procedure Rules
  - the extension or variation has an approved budget allocation
  - the extension or variation is in accordance with the terms and conditions of the existing contract
  - if the initial contract was subject to EU tender procedure, extension option was declared within the OJEU notice and the original acceptance report
  - the contract has not been extended before
- 8.4 The council Contract Procedure Rules further outline that, in the event that any of the above conditions cannot be met, then a waiver of the Contract Procedure Rules must be sought in line with Section 15 of the rules.
- 8.5 Section 15 of the council Contract Procedure Rules state that in the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors and Lead Commissioners may apply for a waiver. All applications for a waiver of the Contract Procedure Rules must be submitted to Cabinet Resources Committee specifically identifying the reason for which a waiver is sought.
- 8.6 In relation to the Family Services contract with CommUNITY Barnet, the second and sixth of the conditions in 8.3 cannot be met, so a waiver is sought to extend the contract for up to a further 12 months to allow a competitive tendering process to take place. This will bring together all local infrastructure support funding across the council, which the recent rebalancing of commissioners' aspirations for the services away from representation and networking and towards community capacity building has made possible.

## **9. BACKGROUND INFORMATION**

### **9.1 Sharing Responsibility**

- 9.2 The continuing squeeze on Government spending means that Barnet Council will need to save a further £72m (approximately 25% of its budget) over the period 2016/17 to 2019/20. This is in addition to the £70m that the Council will have saved between 2011/12 and 2015/16.

- 9.3 Changing demographics will place even more pressure on council resources meaning that, by the end of the decade, the council's spending power will be around 45% lower than at the start.
- 9.4 Given this scale of reduction, residents and communities will be required to be more independent and provide local solutions to local challenges.
- 9.5 **The need for a development partner**
- 9.6 Barnet has a large and diverse VCS. There were estimated to be 1,400 organisations in Barnet including 858 registered charities operating in November 2013. The sector is estimated to contribute around £250 million to the local economy.
- 9.7 Small organisations make up a significant part of the VCS, many of which are constituted groups rather than registered charities. Just under one in three have an income of less than £5,000, employ no staff, and rely solely on volunteers. Seven out of ten organisations employ fewer than 10 staff. There is also a wide range of medium and large organisations operating in the borough, but proportionally very few with a substantial income; only 47 registered charities in Barnet have an income over £1m.
- 9.8 The council does not have the capacity or networks to engage with a sector so large (and yet composed of many small organisations), and many may not wish to engage directly with the council. There are also many groups considered hard to reach (young people, carers, faith groups, etc) who require additional support and encouragement in order to participate in their local areas.
- 9.9 Therefore, engagement with the VCS and interrelated strategies for unlocking the potential of Barnet's communities need to be framed in the right way. The council needs a VCS development partner with the ability to develop and maintain networks, the skills to develop and use local knowledge to build capacity in the sector, and the expertise to encourage communities to participate and share responsibility for tackling local challenges.
- 9.10 The council wants a local VCS development partner to deliver the dual aims of: a) building capacity in the local community and encouraging everyone who lives, works or studies in Barnet to play their part and take responsibility for ensuring that the borough continues to be a success; and b) supporting VCS organisations to increase their support to local residents through leveraging in additional resources to the borough and delivering council services differently.
- 9.11 **Going out to tender / developing the market**
- 9.12 The council's current funding agreements with its local VCS development partner, CommUNITY Barnet, expires on 31 March 2014, presenting a key opportunity to re-shape the nature of the service and to ensure that the commissioning process enables the council to enter into a partnership which will deliver on the aspirations described in this report.

- 9.13 It is apparent from soft market testing that there is a need for the council to put in place a market stimulation plan to encourage a range of providers to bid for the contract.
- 9.14 The commissioning of a VCS development partner is important, given that the successful tender, as a key strategic partner, would be responsible for helping the council achieve its Corporate Plan ambitions.
- 9.15 Risk will therefore need to be managed throughout the procurement process. The contract may therefore be commissioned as separate 'lots', in which case the council would ensure that the 'lots' were not made so small as to:
- (a) Lose economies of scale; and
  - (b) Render the opportunities available insufficient to attract bidders and generate a competitive market.
- The council would go into the process flexibly and assess the market response to determine whether tendering as a single contract may be preferable.
- 9.16 **How our partnership with Capita will help us with this agenda**
- 9.17 The council entered into a strategic partnership with Capita in 2013 to deliver a new Customer and Support Service Group (CSG). Some core mandates of this partnership are:
- to build the capacity of the VCS to deliver services on behalf of and in lieu of the council
  - to develop the capability and capacity of the VCS to provide services more effectively and efficiently to the council, as well as public sector and private sector partners
  - for Insight gathered from engaging the VCS to inform commissioning decisions taken by the council and services provided by Capita
- 9.18 To achieve this, Capita proposes to work with the council's VCS development partner to:
- To build and maintain an electronic database of all VCS providers in the borough. Capita would help to design and optimise the database; and the partner would host, maintain and update it regularly, while allowing Capita access for analysis purposes.
  - To undertake qualitative research on behalf of Capita when commissioned to do so.
- 9.19 Capita proposes to invest up to £25,000 in designing and establishing the database in partnership with the VCS development partner, and will consider investing an additional £20,000 per year in purchasing additional services (as described above) from the successful provider. It is proposed that the council should tender for delivery of the data portal as a separate 'lot', in order to ensure that an appropriately qualified partner is appointed.
- 9.20 **The funding required**
- 9.21 The proposed tender comes at an opportune time in terms of the enhanced partnerships that the council is developing to meet the financial challenge, e.g. with Capita and the NHS. In addition, these partnerships bring with them shared requirements for an increased response from the community both in



terms of recognising individual responsibility (rather than an automatic default to the state) and in developing alternatives to services.

9.22 It is therefore proposed that the new service is funded through a mixture of work streams:

- an amalgamated core budget (Corporate / Family Services / S75)
- the Better Care Fund (in response to the guidance and a renewed emphasis on prevention to support health and social care integration)
- and Capita

It is further suggested that financial incentives are offered for key areas of work.

9.23 The council has benchmarked the proposed budget envelope against other boroughs and identified the funding required for each work stream:

Aspiration	Strategic fit	Funding
<p><b>Community capacity building</b> – promoting and supporting community empowerment and development opportunities including Community Right to Bid etc.</p> <p>CCG’s community contribution (commissioned on their behalf by LBB)</p>	<p>PSR, MTFS and Capita ecosystem, Better Care Fund</p>	<p>LBB - £50k Core Funding (including £20k S17 funding)</p> <p>Incentive up to £20k from Better Care Fund for initiatives to support health and social care prevention. Payable where there is an agreed evidence base with deliverable savings based on a prototype</p>
<p><b>Promoting a shift from traditional voluntary and community sector models and functions</b> – procurement savvy sector.</p> <p>- Expert fundraising advice - Support for SMEs - Develop social investment approach and set up community trust (with council) to support capacity and new initiatives - Supporting good quality voluntary sector offer, strong governance, participation, and training (including safeguarding)</p>	<p>PSR, MTFS and Capita</p> <p>Support through Capita for procurement and additional capacity for fundraising from LBB</p> <p>Additional requirement to build in social investment and set up community trust to support VCS initiatives</p>	<p>LBB - £30k Core Funding</p> <p>Incentive of £10k to set up a Barnet community fund with local philanthropy support of at least £10k to support VCS initiatives</p>
<p><b>Building capacity around early intervention and safeguarding children and young people</b> –</p> <p>Supporting good quality voluntary sector able to play an active role in safeguarding children and young people, including through the CAF</p>	<p>Building capacity in voluntary sector</p> <p>Developing early intervention – MTFS</p>	<p>LBB - £35k Core Funding</p>
<p><b>Communication</b> – developing shared approach across wide voluntary sector networks and public and business sector to meeting key challenges</p> <p>Managing database, evaluation and some consultation</p>	<p>PSR – joined up approach</p>	<p>LBB - £20k Core Funding</p> <p>Capita - £25k one-off investment for development of database</p>

<b>Representation</b> – proactive and reactive representation and consultation, facilitating dialogue with residents, securing voluntary sector representation at strategic meetings. E-network consultation included in communication.	Part of Capita, part of PSR	LBB - £30k Core Funding
<b>Volunteering</b> – enhanced volunteering / matching offer for all ages.		LBB - £30k Core Funding  Better Care Fund - £20k linked to delivery of health and social offer.
<b>TOTAL FUNDING ENVELOPE = £225k</b>	LBB - £195k Core Funding + £10k incentive payment  Better Care Fund (NHS / ASC) - £20k Core Funding + £20k incentive payment (provisional)  Capita - £20k Core Funding (+ £25k one-off investment)	<b>£195k Core Funding</b>  <b>£30k one-off incentives</b>

9.24 The proposed funding envelope, which is subject to provisional investment of £40,000 from the Barnet Better Care Fund and £20,000 from Capita, represents an overall reduction of £7,325 on the council's current spend with CommUNITY Barnet.

9.25 **Indicative timetable for procurement**

9.26 Subject to approval by CRC, the timetable for procurement of the service will run as follows:

<b>Activity</b>	<b>Duration</b>	<b>To be commenced / completed</b>
Prepare for procurement (underway)	6 weeks	January 2014 / Feb 2014
Obtain authorisation to tender	1 week	25 Feb 2014 (CRC) / March 2014
Expressions of interest received and PQQs sent	2 weeks	March 2014 / March 2014
Finalise specification	3 weeks	April 2014 / April 2014
Questionnaires returned Evaluate questionnaires Take-up references Undertake financial evaluations Complete long listing	3 weeks	April 2014 / May 2014
ITTs sent out Tenders returned	4 weeks	May 2014 / June 2014
Tender evaluation Contractors presentations Complete tender report and select shortlisted bidders	4 weeks	June 2014 / July 2014
Negotiate on technical and commercial issues and request BAFOs	1 week	July 2014 / August 2014
Select preferred bidder	1 week	August 2014 / August 2014
Acceptance (assuming DPR) Call-in (5 working days)	2 weeks	August 2014 / September 2014

Scrutiny (next committee)		
Contractors appointed 10 day cool off period	2 weeks	September 2014 / September 2014
Contract start		January 2015

## **10. LIST OF BACKGROUND PAPERS**

10.1 None

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>SD</b>