

	<p style="text-align: center;">CHIEF OFFICER IN CONSULTATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT 31 January 2019</p>
<p style="text-align: center;">Title</p>	<p style="text-align: center;">Authorise a new approved list of Best Interest Assessors and Mental Health Assessors</p>
<p style="text-align: center;">Report of</p>	<p>Strategic Director for Adults, Communities and Health</p>
<p style="text-align: center;">Wards</p>	<p>All</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Enclosures</p>	<p>None</p>
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Summary

The Council has statutory duties as the Supervisory Body for the Deprivation of Liberty Safeguards. Following each application for authorisation the Council must commission a series of six assessments, five of which are carried out by a Best Interest Assessor (BIA) and one by a Section 12 Mental Health Act 1983 approved mental health doctor known as a Mental Health Assessor (MHA).

The London Borough of Barnet (the "Authority"), developed an approved list for The Provision of Mental Capacity Act (2005) Deprivation of Liberty Safeguards Assessments in April 2016. The Council then re-opened this approved list and issued an Invitation to Tender (ITT) to all interested organisations as set out in the Public Contracts Regulations 2015, as amended (the "Regulations").

The Authority re-opened the approved list which runs for a period of a 4 year term. The list will be reviewed and opened on a regular basis, subject to requirements and legislative change. Any new entrants will only be added for the duration of the existing Approved List.

A competitive procurement was completed (open procedure), in line with the Council's Contract Procedure Rules.

The proposed arrangement will provide value for money along with a wider resource base the Delivery Unit can access to deliver the assessments.

Decisions

The re-opening of the list incorporated two lots, The Services were divided into the following Lots:

- Lot 1 – Best Interest Assessors
- Lot 2 – Mental Health Assessors

Lot 1:

Award places on the approved supplier list for Best Interest Assessors to:

Organisation
Steve Chamberlain Social Care Ltd
Helena Peros
Ajana Ltd
Eloges Social Work Ltd
Access Independent Ltd
CMG1
Recruitment Team Nine Ltd
RUN Healthcare Ltd
Prellodson Services Ltd
Ambrosial Services Ltd
Brent Social Service

Lot 2:

There was 1 bid submission for lot 2 which did not qualify for the following reasons;

Mental Health Assessors must be either:

- approved under Section 12 of the Mental Health Act 1983 with a license to practise; or
- a registered medical practitioner with at least three (3) years post registration experience in the diagnosis or treatment of mental disorder with a license to practise.

Therefore, there will be no additional Mental Health Assessors on the approved list for this re-opening.

1. WHY THIS REPORT IS NEEDED

- 1.1 Barnet Council has legal duties under the Mental Capacity Act Deprivation of Liberty Safeguards (DoLS). These safeguards exist to protect people in care homes, hospitals and in the community. Where a deprivation is identified the provider must apply to the Local Authority for authorisation. Adults and Communities administers these duties which include tasks undertaken by professionally qualified staff as well as administrative tasks.
- 1.2 In March 2014 the Supreme Court delivered the Cheshire West judgement which widened the scope of Deprivation of Liberty Safeguards (DoLS) by redefining the test. The number of people who are subject to the Deprivation of Liberty Safeguards increased substantially following this ruling.
- 1.3 It is projected that we will receive over 1400 application during 2018-19. This is consistent with the pattern of referrals over the last three years. The table below shows the increase in applications since 2013-14 following the Cheshire West ruling.

	2013-14	2014-15	2015-16	2016-17	2017-18
Number of requests for authorisation	55	640	1357	1420	1390

- 1.4 Following each application for authorisation the local authority must commission a series of six assessments, five of which are carried out by a Best Interest Assessor (BIA) and one by a Section 12 Mental Health Act 1983 approved mental health doctor known as a Mental Health Assessor (MHA).

This report is required under the Council's Contract Procedure Rules. These state that a Full DPR (Committee Chairman jointly with Chief Officer) is needed for acceptance of a contract(s) which is within budget and the agreed savings targets are on the Forward Plan, where the contract exceeds £500,000.

- 1.5 All new entrants will only be added for the duration of the existing approved list. The existing approved list is due to come to an end on 31 March 2019.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The existing Approved list was procured as The Council did not have the internal capacity and the current approved list is no longer able to meet the demand as there has been changes to those available on the list. Demand for this service had increased and resulted in increasing costs. The Council is in competition for this resource with other Local Authorities.
- 2.2 A competitive procurement was undertaken, as authorised through the Procurement Forward Plan.

The London Borough of Barnet (the “Authority”), developed an approved list for The Provision of Mental Capacity Act (2005) Deprivation of Liberty Safeguards Assessments in April 2016 and this has been followed by a re-opening of the list. The procurement will be carried out under the Light Touch Regime.

2.3 The tender process

- 2.4.1 An open OJEU tender process was undertaken.
- 2.4.2 The procurement was managed by a project team with the following membership:

- Head of Safeguarding Adults
- Social Care Commissioning Lead
- Deprivation of Liberty Safeguards Team
- Procurement Manager, Procurement Team

The project team followed the council’s procurement procedures. Corporate Procurement managed and provided oversight of the tender process. This ensured that the necessary protocols were followed.

- 2.4.3 The procurement covered:
- Best Interest Assessments (BIA’s) – Lot 1
 - Mental Health Assessors (MHA’s) – Lot 2
- Bidders’ were invited to apply for one or both lots.
- 2.4.4 Following advertisement of the tender on the Barnet sourcing web site, there were 103 expressions of interest.
- 2.4.5 16 organisations submitted tenders:
- 16 for BIA’s
 - 1 for MHA’s
- of which 11 were compliant and taken forward to tender evaluation.
- 2.4.6 **Stage 1 - Submission on time & Acceptance of T&C’s**

Tenders were submitted through the online E-Procurement Portal “Curtis Fitch” by no later than 12:00 noon 21st May 2018. Any Tenders received after this date and time were rejected and not considered further. Bidders at this stage must also confirm acceptance of the terms and conditions of the contract (subject to acceptance by the Authority of any amendments proposed during clarifications) according to the Declaration by Tenderer. Tenders that passed Stage 1 were then be subject to Stage 2.

2.4.7 Stage 2 – Compliance Evaluation

Potential Bidders who submitted a Selection Questionnaire were subject to evaluation. At Selection Questionnaire stage potential suppliers were required to initially self-declare their status. At contract award stage the successful provider will be required to submit all relevant documentation requested within the tender. The selection questionnaire is a declaration by the supplier of their eligibility to deliver the service they have tendered for.

In completing the SQ submissions, Candidates were made aware they should not assume that the Council has any prior knowledge of the Candidate, its practice, reputation or its involvement in existing services, projects or procurements. Any questionnaire responses that failed Stage 2 were not be considered further. Questionnaire responses that passed Stage 2 were then be subject to Stage 3.

2.4.8 Stage 3: Method Statement Questions

Tender evaluation was based on a combination of Quality and Price. For this tender, the ratio was 80% Quality and 20% Price and the evaluations for each were undertaken separately. Quality is broken down by sub criteria and measured through responses to method statement questions. The total scores for quality and price were eventually combined in order to give a total evaluation score. The lowest price received the maximum marks with all other prices calculated proportionally.

The Quality Evaluation weightings are detailed below and are scored out of 100%.

<u>Lot 1</u> Method Statement Question	Weighting	Character Limit
Experience	25%	6000
Professional Development	10%	3000
Assessment	15%	N/A
Minimum Standards	15%	4500

Mental Capacity Act	15%	3600
Explaining DOLS to family/carers	10%	3000
Suitability	10%	3000

Lot 2

Method Statement Question	Weighting	Character Limit
Experience	25%	6000
Professional Development	10%	3000
Assessment	15%	N/A
Minimum Standards	15%	4500
Person Centred approach	8%	3000
Conflict of interest	11%	3600
Explain DOLs to family/carers	8%	3000
Concern about quality of care	8%	3000

The total score for these questions was multiplied by 0.8 to take account the 80% weighting when combining the overall quality score with price.

The Method Statement Questions were evaluated in accordance with the scoring criteria below.

The evaluation panel will use a scoring range of between 0 and 5 to score Bidder's responses to Method Statement Questions. The assignment of a score of 0, 1, 2, 3, 4 or 5 will be a consensus score and be based on the following assessments:

The following scoring system was used:

0	Very Poor No response
1	Poor response
2	Limited response
3	Satisfactory response
4	Good response
5	Outstanding response

This section was subject to a gateway threshold, where if bidders' did not achieve a minimum of 50% of the total score for the section or scored "0" on any question they would fail and the rest of the bid would not be evaluated.

2.4.9 Stage 4 - Price Evaluation

Price consisted of 20% of the evaluation weightings. The evaluation method ensured that the lowest price achieved the maximum available marks, with other Bidders scores calculated proportionately. The lowest price will achieve the maximum available score (20%) with the other Bidders prices scoring points inversely proportionate to the lowest.

2.4.10 Stage 5 – Award on to approved list

Bidders Quality and Price score was added together to give a total weighted score and presented in an evaluation matrix. The bidders will then be awarded onto the approved list and work will be allocated in accordance with the protocol set out in the tender specification.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1.1 Do nothing.

The risks of doing nothing is that we do not have enough suppliers to meet the demand for applications. This could result in legal challenges

4. POST DECISION IMPLEMENTATION

3.2 Following approval of this report, the approved list of contractors will commence on 20th October 2018. The approved list will be re-opened for new applications on an annual basis if required.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The council's Corporate Plan for 2015-20 sets our vision and strategy for the next five years based on the core principles of fairness, responsibility and opportunity to make sure Barnet is a place where people can further their quality of life.

5.1.2 One of the strategic objectives of the Corporate Plan is to: "Support families and individuals that need it- promoting independence, learning and well-being". Legislation from the Mental Capacity Act (MCA) and Deprivation of Liberty Safeguards (DoLS) serve to support this corporate objective.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The procurement exercise is expected to deliver value for money, by securing new lower rates for Best Interest Assessor (BIA) than the current arrangements. New rates for BIA range from £250- £275, this is a reduction of £75 per referral when comparing the new top rate to previous top rate.

5.2.2 Funding is from the Adults and Communities base budget however, demand has risen markedly over recent years and the annual number of applications have been c.1400 since 15-16 resulting in significant budget pressure. The new rates secured are expected to ease the budget pressure.

5.2.3 Contract spend will be closely monitored to ensure value for money

5.3 Social Value

Some value was considered and consulted upon but was not included as part of this procurement exercise as it proved difficult to incorporate based on provider capability and market dynamics.

5.4 Legal and Constitutional References

The Councils Contract Procedure Rules say that contracts with a value of more than £181,302 can be awarded by a full officer DPR Full DPR (Committee Chairman jointly with Chief Officer) If the contract is within Budget and the agreed savings target is on the forward

plan. Authority to go out to procure had been granted via the Procurement Forward Plan.

5.4.2 The establishment of the Approved List is necessary in order for the Council to fulfil its legal duties under the Mental Capacity Act 2005 Deprivation of Liberty Safeguards (DoLS). These safeguards exist to protect people in care homes, hospitals and the community. The decision of the Supreme Court in March 2014 redefined what amounted to DoL and the scope was widened significantly meaning more people were considered to be deprived of their liberty than previously. Where a deprivation is identified the provider must apply to the Local Authority for authorisation. Adult Social Care administers these duties which include tasks undertaken by professionally qualified staff as well as administrative tasks.

5.4 Risk Management

5.5.1 The Council must undertake this work as the risks of not doing so could result in legal challenge. The current service cannot cope with this new demand and has exhausted process improvement in order to manage the increased workload.

5.4.1 There is a risk of Barnet residents being left without assessment, or a delay in assessment which amounts to an unauthorised Deprivation of Liberty, and a breach of their human rights.

5.4.2 Failure to meet our statutory obligations not only risks legal penalties, but a risk to the Council's reputation.

5.4.3 The risks detailed above can be mitigated by setting up formal contracts with specialist providers that meet the Council's requirements.

5.5 Equalities and Diversity

5.5.1 Equality and diversity issues are a mandatory consideration in decision making in the council pursuant to the Equality Act 2010. This means the Council and all other organisations acting on its behalf must have due regard to the equality duties when exercising a public function. The broad purpose of this duty is to integrate considerations of equality and good relations into day to day business requiring equality considerations to be reflected into the design of policies and the delivery of services and for these to be kept under review.

5.5.2 The purpose of the DoLs regime is to provide people who are mentally incapacitated with the same protections on their liberty as people with capacity by providing oversight of any deprivation.

5.5.3 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups
- foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services

The pre-qualification process included an evaluation of the tendering organisation's equalities and diversity procedures.

5.6 Corporate Parenting

5.6.1 Not applicable

5.7 Consultation and Engagement

Not applicable

5.8 Insight

5.8.1 Not applicable

5.8 BACKGROUND PAPERS

Annual Forward Plan 2018/2019 gives permission to carry out this required tender for the delivery of DOLS.

Chairman:

Has been consulted

Signed

Dawn Wakeling

Date 31 January 2019

Chief Officer:

Decision maker having taken into account the views of the Chairman

Signed

Dawn Wakeling

Date 31 January 2019

