

	<h2>Policy and Resources Committee</h2> <h3>13 February 2018</h3>
<p style="text-align: right;">Title</p>	<p>Extension of extra care contract for provision of care and support</p>
<p style="text-align: right;">Report of</p>	<p>Chairman of the Policy and Resources Committee</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>No</p>
<p style="text-align: right;">Key</p>	<p>Yes</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Catherine Searle, Interim Assistant Director of Joint Commissioning catherine.searle1@nhs.net</p> <p>Caroline Glover, Health and Social Care Commissioner caroline.glover@barnet.gov.uk</p>

Summary

Metropolitan Support Trust provides care and support services at Wood Court extra care scheme in Burnt Oak. There is no contractual provision for further extension beyond 1st June 2018. Procurement regulations require that the care and support service should be procured under an OJEU process.

This report asks for agreement from the Committee to waive Contract Procedure Rules requiring the Council to go out to tender for contracts of this value, and to extend the contract for provision of care and support at Wood Court for twelve months to the 31st May 2019. This will enable more time for the development of the procurement, and ensure sufficient mobilisation period to enable a smooth transition for residents, in the event that the tender results in a change to the current care and support provider.

Recommendations

- 1. That the Committee agree to waive the Contract Procedure Rules to extend the contractual relationship with Metropolitan Support Trust to residents of Wood Court, the extra care housing scheme, for the provision of care and support services from 1st June 2018 for the period of twelve months to 31st May 2019.**

1. WHY THIS REPORT IS NEEDED

- 1.1 To seek the agreement of the Committee to waive Contract Procedure Rules in order to extend the contractual relationship with Metropolitan Support Trust (Metropolitan) for provision of care and support services at Wood Court extra care scheme for the period of twelve months (up to 31st May 2019).
- 1.2 Wood Court was completed in 2008 and consists of 39 self-contained wheelchair accessible flats with assistive technology and communal facilities (including a dining room, lounge, laundry room, hairdressing facilities, assisted bathrooms and communal gardens).
- 1.3 Capital funding for the site was provided by the Housing Corporation, with revenue funding from both Adult Social Services and the Supporting People Programme. The land on which Wood Court was built was transferred by the Council to Catalyst Housing (the landlord) at nil value for the development of a block of 39 extra care sheltered housing units to which the Council has 100% nomination rights. Catalyst owns the building and provides the housing management. Catalyst is a housing provider and landlord so the care and support service for Wood Court was subject to a separate tender exercise, in order to bring in an extra care support provider.
- 1.4 Metropolitan provides care and support services to the residents at Wood Court. There is no provision for extension of the care and support contract after 31st May 2018.
- 1.5 Despite early preparations for the re-procurement of the care and support service at Wood Court, a number of complexities and risks have arisen:
 - The Government is consulting (until 23rd January) on reform of funding of housing costs and subsidies for supported housing. A new rent system for older people's housing including extra care housing is proposed and a sheltered rent will be introduced from April 2020. The details of the new regulated rent are yet to be determined and will be subject to further consultation. The implications for housing and support providers will be assessed over the coming months and these will need to be considered in the design of the procurement process.
 - The need to ensure a safe transition for residents in the event that the tender results in a change of care and support provider. People who use extra care services are living with long term conditions and frailty. Any change to provider needs to be managed carefully to ensure a smooth

transition and it is in the best interests of residents to include a longer mobilisation period.

- 1.6 On this basis, extra time is needed to ensure that service design will deliver the best outcomes and that once the new contract has been awarded, there is sufficient time available for a robust transition period so that, in the event that the care and support provider changes as a result of the procurement, residents experience a smooth transition from one care provider to another.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Extension of the contractual relationship up to 31 May 2019 will enable more time for the Council to continue to shape the extra care model, including the pricing model. The extension of this contractual relationship will enable the Council to thoroughly address risks and issues which have arisen during the preparation for procurement, which could result in a poor quality procurement or cause disruption for vulnerable older people. Additional time to resolve these risks and issues now will deliver a smoother transition and better service to vulnerable older people.

- 2.2 Wood Court has a CQC rating of Good.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The alternative option is to go out to tender now, as originally planned, to have services mobilised in June 2018. Due to the risks and issues outlined above, this option is not recommended.

4. POST DECISION IMPLEMENTATION

- 4.1 The Strategic Director, Adults, Communities and Health, will progress plans to extend the contractual relationship if the Committee approves the recommendations.
- 4.2 The Council will continue work to develop a clear and robust service specification and procurement documents to ensure comparable and cost effective bids for the procurement of the care and support services to be in operation from 1st June 2019.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

The Corporate Plan 2015 – 2020 sets out the Council's 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:

- of opportunity, where people can further their quality of life
- where people are helped to help themselves, recognising that
- prevention is better than cure
- where responsibility is shared, fairly

- where services are delivered efficiently to get value for money for the taxpayer

5.1.1 The 2017-18 Addendum to the 2015-2020 Adults and Safeguarding Commissioning Plan includes the following commissioning priorities:

- Developing best practice social care, focused on what people can do and how they can help themselves.
- Diversifying Barnet's accommodation offer to help more people live independently.
- Transforming day care provision to ensure that people remain active and engaged through access to employment and volunteering.
- Improving the borough's leisure facilities, parks and open spaces to support and encourage active and healthy lifestyles, helping to manage demand for adult social services.
- Expanding evidence-based prevention and early support, including technology, to make sure people can use services closer to home to help them stay independent for as long as possible.

5.1.2 Extra Care Housing is a key element of the Council's commissioning of services that support vulnerable older people to maintain their independence, receiving care and support in their own homes, engaging in their local community, and avoiding more institutional settings.

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

5.2.1 The cost of care and support provided by Metropolitan at Wood Court was £354k in 2015/16 and £431k in 2016/17. The budget for Extra Care provision for 2017/18 is £986k per annum and this includes Wood Court extra care scheme. A twelve month extension (from 1 June 2018 up to 31 May 2019) of the contractual relationship with Metropolitan for care and support services at Wood Court is expected to be at least the same cost as 2016/17 and there is ongoing budget provision for this scheme within the Adult Social Care Budget.

5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act 2012 requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before commencing a procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

5.4 **Legal and Constitutional References**

5.4.1 Under public procurement rules contracts for services of this nature need to be competitively tendered if the total contract value exceeds £615,278.

5.4.2 Contract Procedure Rules (CPR) also require the Council to tender for services of this value.

- 5.4.3 However, Regulation 32 (2) (c) of The Public Contracts Regulations 2015 (PCR) says that the Council can make a direct award of a contract to a provider insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the Council, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.
- 5.4.4 Also, Regulation 72 (1) (b) of PCR says that contracts can be modified without a new procurement procedure where additional necessary services not included in the initial procurement are required from the original contractor and where a change of contractor:
- cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or
 - would cause significant inconvenience or substantial duplication of costs for the contracting authority.
- 5.4.5 Provided that any increase in price does not exceed 50% of the value of the original contract.
- 5.4.6 Also Regulation 782 (1) (c) of PCR says that contracts can be modified without a new procurement procedure where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, and any increase in price does not exceed 50% of the value of the original contract.
- 5.4.7 In the case of reliance on Regulation 72 the Council must send a notice to that effect, in accordance with Regulation 51, for publication.
- 5.4.8 Regulation 72 of PCR also allows contract modifications where the modifications, irrespective of their value, are not substantial. An extension of a 10 year contract for one year is unlikely to be a substantial modification under the PCR.
- 5.4.9 Under the Council Constitution, CPR rule 16.1 states that if the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors or Assistant Directors and Heads of Service may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.

5.5 **Risk Management**

- 5.5.1 The preparation for procurement, including provider engagement and extensive discussions with internal stakeholders, have identified risks and issues which have taken longer than anticipated to resolve. The extension addresses the risk of the Council approaching the market with limited results and a short mobilisation period for the new contract.

5.6 Equalities and Diversity

5.6.1 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.

5.6.2 Pursuant to the Equality Act 2010, public sector organisations have a responsibility to consider equality as part of every procurement. The Council and any organisation contracted by the Council to provide services on its behalf 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, religion or belief and sexual orientation.

5.6.3 No concerns have been raised against Metropolitan during its contract in relation to Equalities and Diversity.

5.7 Consultation and Engagement

5.7.1 Carer and service user representatives have been involved in research into good practice in care and support in ECH schemes, through in-borough visits and out of borough visits. This will inform the development of the wider Barnet model of extra care and the reshaping of the specification for the Wood Court care and support contract.

5.8 Insight

5.8.1 NA.

6. BACKGROUND PAPERS

6.1 Extension of Extra Care Services, Adults and Safeguarding Committee, 10 November 2016 (Item9)

<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=698&MId=8674&Ver=4>

6.2 Appendix 1 of the Annual Procurement Forward Plan (agenda Item 10) for 2017/2018 presented to the Policy and Resources Committee on 1 December 2016 which provided approval for the extension/tender of extra care housing schemes and sheltered plus schemes.

<https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=8731&Ver4>