

	<h2>CHIEF OFFICER IN CONSULATION WITH COMMITTEE CHAIRMAN DELEGATED POWERS REPORT</h2>
Title	Direct Award of Family Services' Emergency Duty Team contract 2021-23
Report of	Executive Director, Children and Young People
Date	30.11.21
Wards	All
Status	Public
Enclosures	None
Officer(s) Contact Details	Kofi Danso – Commissioning Officer – Commissioning and Business Improvement – kofi.danso@barnet.gov.uk 0208 359 2589

Summary

This report seeks authorisation to directly award the current Emergency Duty service contract for a period of 24 months (2 years) from 1st April 2021 to 31st March 2023 with the current provider, The London Borough of Harrow (LBH).

The Emergency Duty Service provides a statutory emergency (out of hours) social work duty service for the Council across Family Services and Adults Social Care. There is an existing contract in place with The London Borough of Harrow to deliver this as a shared service across the two boroughs and this is performing very well and continues to deliver value for money to the Council, benefitting two Council departments (Adults and Family Services). The quality of the service and standards of safeguarding by the provider have been commended by Ofsted as part of Barnet's 2020 inspection and this service has demonstrated a high degree of resilience a robust emergency social care response throughout the Covid-19 pandemic which continues to date.

As a contract between two or more contracting authorities, this contract is exempt from procurement under the Public Contracts Regulations 2015, Regulation 12. This exemption is detailed in Barnet's Contract Procedure Rules 2.2 relating to inter-authority payments where a tender is not appropriate.

A re-procurement exercise for this service, in accordance with the Contract Procedure rules (CPR) and the Public Contract Regulations 2015 (PCR) is not recommended for this service.

The existing contract expired on 31st March 2021 and any existing extension options within the current framework have already been used. Directly awarding the current contract to the incumbent provider will ensure that we have sufficient capacity and robust service delivery within local services. In response to the ongoing impact of the COVID-19 pandemic, having sufficient statutory service capacity, flexibility and service continuity is essential as young people, vulnerable adults and families who utilise emergency social care services 24/7 throughout the year. The notable increase in demand for certain services (food vouchers, accommodation support, emergency homecare and Unaccompanied Asylum Seeker support) out of hours has continued post lockdown and the contract term includes contingency arrangements and sufficient staffing resource to respond to local need.

Decisions

- 1. To directly award the current Emergency Duty Team service contract to the current provider, the London Borough of Harrow, via a single tender action for a period of 24 months from 1st April 2021 to 31st March 2023. The overall value of the contract will be £449,928 (£224,964 per annum).**
- 2. To authorise the first extension of the contract for the Emergency Duty Team in 2019-20 to the value of £213,099. The 2020-21 extension has already been executed.**

1. WHY THIS REPORT IS NEEDED

- 1.1 Under the Council's Contract Procedure Rules, permission to contract outside of the terms of the existing contract is required through a Delegated Power Report.
- 1.2 Directly awarding the existing contract arrangement would enable us to continue delivery of high-quality services, ensuring no breaks to service delivery throughout the pandemic response and restoration period. These services play essential roles in developing family resilience and support the Council to fulfil statutory duties in relation to the following cohorts:
 - Safeguarding children and vulnerable Adults
 - Children in Care
 - Children missing from home or care
 - Family Breakdown
 - Children in Police Custody
 - Older Adults and People with Physical and Sensory Impairments
 - Adults with a Learning Disability
 - Appropriate Adults

2. REASONS FOR RECOMMENDATIONS

Emergency Duty Team

- 2.1 The Emergency Duty Service (EDT) is an essential statutory service that provides an emergency social care response out of hours. The London Borough of Harrow has delivered Emergency Duty services to Barnet Family Services and adults for over 20 years. This service was retendered in 2016 and received no bids. A new contract was awarded to The London Borough of Harrow in 2016 and this service has strengthened over time through strong partnership working, contract management and business development.
- 2.2 The initial contract term expired on 31st March 2019. A further 12 months extension of the contract was undertaken, authorised by DPR for 2020-2021.
- 2.3 The EDT service was included in the Procurement Forward Plan 2021-22. Directly awarding the current contract with the incumbent provider will ensure that we have sufficient capacity within local services for the duration of the current pandemic and subsequent and whilst the contract can be reviewed, and future options evaluated to ensure that we continue to receive best value for money.
- 2.4 Not undertaking a direct award of this contract would mean that the Council will need to find an alternative solution to delivering this statutory service across both Family Services and Adults social care. This poses challenges and risks to the Council such as; instability of provision, higher costs from spot purchasing, additional costs from alternative delivery models and/or risks of gaps in essential services and duties.
- 2.5 Directly awarding this contract will enable Family Services to build on this partnership to deliver high quality, emergency provision out of hours.
- 2.6 The total contract value for the service, including the additional contact term is listed on the following page:

Service	Current contract term	Total contract value to date	Length and timeframe for additional contract term	Total short-term contract sought*
Emergency Duty Service	2+1 years	2016-2020= £213,099 per annum, totalling 852,396 2020-21 = £221,923 Total over 5 years 2016-2021: £1,074,319	2 years 1 st April 2021 to 31 st March 2023	£449,928 over 24 months includes 2021-22 staff related inflation rate at 1.3%

* contract value calculated for the contract term.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Emergency Duty Team is a statutory service and the identified Commissioning strategy for this essential service is to continue a cross-borough partnership arrangement with The London Borough of Harrow. This option would ensure quality and efficiency of shared resources, within a limited market. Such an arrangement will continue to be exempt from the PCRs 2015 pursuant to Regulation 12 and the Council's CPRs under 2.2, namely a contract concluded between two or more contracting authorities.
- 3.2 **Allow contracts to expire and not award the contracts**
- 3.3 This option would require spot purchasing of provision and whilst this can work for volume based services, is not a viable option for this service as it operates under a fixed price, requires a longer term commitment to retain staffing and has fixed costs for staffing and delivery. This option poses significant risk relating to service delivery, risk, and costs. Spot purchasing is not a viable option for this statutory Emergency Duty Service.
- 3.4 **In-House service provision**
- 3.5 If we no longer commissioned Emergency Duty services from The London Borough of Harrow, we would likely need to bring this function in-house, or subcontract certain functions. This would require setting up a team to deliver and manage the service across Barnet's Adults Social Care and Children's Social Care. This would take time to implement, including staff consultation and recruitment. Based on market feedback from other local authorities this is not an option that would result in a saving and is likely to require increased costs, due to moving away from a shared service (shared Local Authority) model to one where all provision, including back office functions are funded by Barnet alone.
- 3.6 **Expand service offer across a tri-borough partnership**
The current arrangement is a shared resource across two boroughs. The possibility of sharing resources across three local authorities was considered in detail in 2020-21 however, this model was not taken forward due to financial implications and risk to quality and responsiveness of service delivery from further expansion.

4. POST DECISION IMPLEMENTATION

- 4.1 Once the decision has been approved, a new contract will be issued to the incumbent provider, incorporating the timescales and maximum values detailed under section 2.
- 4.2 Options for future delivery of Emergency Duty services will be scoped to inform the future commissioning and delivery model.
- 4.3 Robust monitoring of services, quality, assurance and any risks or issues are in place for this service and will continue for the duration of the contract term. The provider is required to report on key indicators and outcomes detailed in the contract.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Barnet's Children & Young People's Plan 2019 - 2023 outlines the ambition of our Children & Young People's Partnership to create a Family Friendly borough in which communities are resilient, high quality education and affordable housing is available, families have access to safe and open spaces, children's rights and needs are respected and responded to and our services work holistically together to improve outcomes for Barnet's children.

5.1.2 In accordance with the Council's Corporate Plan, Barnet 2024, one of the outcomes is that residents live happy, healthy, independent lives with the most vulnerable protected. Under this outcome, the relevant key priority areas are to:

- Ensuring we are a family friendly borough
- working towards improving services for children and young people and ensuring the needs of children are considered in everything we do
- integrating health and social care and providing support for those with mental health problems and complex needs.

5.1.3 These services support key outcomes within the new Children and Young People's (CYP) Plan 2019 – 2023:

- Safe & Secure - Children and young people are safe and protected from harm
- Family & Belonging – Families and children can be together and part of a community that encourages resilience
- Health & Wellbeing - Children are supported to achieve a healthy start in life, enjoy a healthy lifestyle and to build resilience
- Education & Learning – Children and young people can learn about the world around them
- Culture – Our attitudes and behaviours enhance the way we work with children and young people
- Cooperation & Leadership – We include children and young people in decision making
- Communication – Information is shared effectively to children, young people, and families across the borough

5.1.4 To achieve the CYP plan vision, services must focus on developing families' resilience, which evidence tells us, is pivotal to providing inclusive services that support all children and young people to be as independent as possible. Resilience based practice sits at the heart of improving outcomes for children and young people; an approach that is based on looking for strengths and opportunities to build on, rather than for issues or problems to treat. Our Emergency service provides support and enables resilience for young people and their families in times of crisis and complements our wider social care offer.

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

- 5.2.1 The total values for the contracts are detailed in section 2 of this report. The contract value is costed within the Family Services Revenue Budget.

5.3 Procurement

This contract has been affected significantly by the Covid-19 pandemic, and arrangements have been put in place to ensure sufficient emergency support out of hours to families in significant need, for example additional staff for peak periods and to deliver welfare support such as, food vouchers or welfare checks. The Cabinet Office Procurement Policy Note PPN01/20 and subsequent PPN01/21 clarify the ability for councils to undertake appropriate action in line with the PCRs 2015 to ensure services can be delivered with continuity.

- 5.4.1 This arrangement was identified as exempt from Procurement activity. The arrangement is between two or more contracting authorities and is exempt from procurement under the Public Contracts Regulations 2015, Regulation 12. This exemption is also detailed in The Authority's Contract Procedure Rules (Clause 2.2) relating to inter-authority payments where a tender is not appropriate.
- 5.4.2 As this is a single tender request, reliant on a direct award, this arrangement will also fall within rule 6.1 of the Contract Procedure Rules; *"6.1 A Single Tender Action is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise. This is permitted only in exceptional circumstances and should be approved in advance by the Director of Resources (S151 Officer) and Director Commercial & Customer Services. Procurement advice should be sought in all cases. Exceptional circumstances may include where the works, supplies or services can be supplied only by a particular supplier."*
- 5.4.3 This service has been included within the Annual Procurement Forward Plan (APFP) 2020-2021 to take into consideration the need for this requirement and will also be included into any future APFP's to enable contract review and considerations for any future requirements should requirements change.

5.4 Social Value

- 5.4.1 Social value will be delivered through these contracts in the following ways:
- Local employers
 - Flexible hours for staff to enable working.
 - Ongoing training to staff
 - Use of local suppliers
 - Shared resources across Local Authorities

5.5 Legal and Constitutional References

- 5.5.1 The direct award of the Emergency Duty Team service contract to The London Borough of Harrow is exempt from the PCRs 2015 pursuant to Regulation 12, as it consists of a contract between two or more contracting authorities.
- 5.5.2 The contract award is in accordance with Contract Procedure Rules section 6 item 6.1 Single Tender Action where prior authorisation approval has been sought and granted by the Director of Resources (S151 Officer) and the Director of Commercial and Customer Services. Commercial.

5.5.3 HB Public Law shall, upon approval of award, prepare a Contract to be entered into with The London Borough of Harrow.

5.6 Risk Management

5.6.1 High quality delivery of this service is fundamental to achieving the Family Friendly Barnet vision of Resilient Families: Resilient Children which aims to improve outcomes for all children and young people and their families. The risks of not implementing this recommendation would include:

- The Council not meeting its statutory duties for emergency duty out of hours social care
- Lack of continuity of services – causing unnecessary stress for families not able to access services; referrals not resulting in the offer of a service
- Risk of providers increasing prices when operating out of contract- resulting in a cost pressure to the Council.

5.6.2 The specification and contract terms entered into will set out the requirements for the provider to ensure appropriate information sharing, confidentiality, data protection, data collection and analysis are in place. Policies and protocols will be in place to ensure that systems are robust and to ensure adherence to them. All aspects of information management and safeguarding, including policies and processes, will be examined, and checked as part of the provider's assurance and due diligence checks. EDT services are part of Local Authority Ofsted inspections.

5.6.3 To ensure monies are being spent effectively the contracts will be performance managed throughout the term of the contract using a robust monitoring system and monitoring visits. This system is in place for current contracts in Family Services.

5.7 Equalities and Diversity

5.7.1 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

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

5.7.3 Equalities data is available on current users of services which can be used for monitoring purposes. This will be used to complete Equalities Impact Assessments for any services that require a change in offer of model.

5.8 Corporate Parenting

5.8.1 These contracts support Barnet in its Corporate parenting responsibilities in the following ways:

5.8.2 Emergency Duty Team provided the statutory function of out of hours social care services,

which support children in care, including children that are at risk form harm and children that go missing form care or home and those that need to be accommodated on an emergency basis.

5.9 Consultation and Engagement

- 5.9.1 The direct award of this contact has been planned to enable sufficient time for robust stakeholder engagement when planning future commissioning activity and re-procuring contracts. Stakeholder engagement has been included in the commissioning project plans for these contracts.

6. BACKGROUND PAPERS

- 6.1 Public Contracts Regulation 12:
<https://www.legislation.gov.uk/ukxi/2015/102/regulation/12/made>
- 6.2 Barnet Contract Procedure Rules [18ContractProcedureRules.docx 2021.pdf](#)
- 6.3 Policy and Resources Committee, link to the 2020-21 Family Services Procurement Forward Plan, row 41/42
<https://barnet.moderngov.co.uk/documents/s62439/Appendix%201%20Annual%20Procurement%20Forward%20Plan%20202122.pdf>.
- 6.4 Policy and Resources Committee, link to the 2020-21 Annual Procurement Forward Plan, line 235:
<https://barnet.moderngov.co.uk/documents/s62439/Appendix%201%20Annual%20Procurement%20Forward%20Plan%20202122.pdf>
- 6.5 Policy and Resources Committee, link to the 2019-20 Annual Procurement Forward Plan, line 264:
<http://barnet.moderngov.co.uk/documents/s50127/Appendix%201%20-%20Annual%20Procurement%20Forward%20Plan%202019-20.pdf>
- 6.6 DPR to extend Emergency Duty Team beyond initial term.
<https://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=7480>
- 6.7 The Cabinet Office Procurement Policy Note Procurement in an Emergency [PPN01/20](#) and subsequent [PPN01/21](#)

DECISION TAKER'S STATEMENT

- 7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision-making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations. The decision is compliant with the principles of decision making in Article 10 of the constitution.*

Chairman: Cllr David Longstaff

Signed: David Longstaff

Dated: 01.11.2021

Chief Officer: Executive Director of Children's Services

Signed: Executive Director Children's
Services

Dated: 30.11.21