



Policy & Resources Committee 22 February 2023

Title	Adult Social Care Contracts
Report of	Chair of the Policy & Resources Committee
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	None
Officer Contact Details	Jess Baines-Holmes: jess.baines-holmes@barnet.gov.uk Susan Lowe: susan.lowe@barnet.gov.uk

Summary

This report seeks authority to waive Contract Procedure Rules and award contracts directly to incumbent contractors under single tender actions in order to enable continuation of identified contracts. The identified contracts will be subject to fully compliant procurement in 2023 - 2024.

Officers Recommendations

1. To authorise a waiver of Contract Procedure Rules (CPR), pursuant to CPR 12.1, requiring written quotations to be obtained, and the award of contracts listed in this report directly to incumbent contractors under single tender actions.
2. To note that officers will conduct a review of the identified contract requirements and future procurement plans, which will be identified on the Annual Procurement Forward Plan 2023-24 and presented for authorisation to Policy & Resources or Adults & Safeguarding Committees as appropriate.

1. Why this report is needed

- 1.1 On 9 December 2021, the Policy and Resources committee authorised the 2022/23 procurement forward plan which authorised the procurement of the following contracts:
- Neighbourhood Services for Older Adults
 - Nursing care block
 - Enablement
 - Day Services
 - Low level support for visual impairment
 - Prevention and progression support, employment and day opportunities for people with Learning Disabilities and Autism
- 1.2 The contracts listed above are due to expire in the financial period commencing 1st April 2023. Due to the return of the procurement team to an in-house provision, there has been an impact on resourcing and timescales for service delivery in relation to procurement support for the above contracts.
- 1.3 This paper requests approval to waive Contract Procedure Rules (CPR) requiring written quotations to be obtained before awarding contracts, noting that pursuant to CPR 5.8 Interim Assistant Director 9(Commercial and Procurement) in conjunction with the Assistant Director (Investment and Innovation) has agreed to waive the requirement to seek two written quotes so that commissioners can negotiate directly with suppliers for the contracts listed above, to make direct contract awards through a Single Tender Action for a period between twelve (12) to seventeen (17) months (see section 5.1 for further detail). This will allow time to develop and implement a procurement strategy which will include competitive procurement of the services over that twelve to seventeen month period.
- 1.4 This report is needed to confirm compliance in accordance with Contract Procedure Rule 12.1 for the continuation of existing contract arrangements under waiver and single tender action.

2. Reasons for recommendations

- 2.1 The recommendations are presented to ensure that the application of the Contract Procedure Rules does not prevent or inhibit the delivery or continuity of service for the identified contracts.

3. Alternative options considered and not recommended

- 3.1 Alternative options during the procurement in-house transition period including re-tender and/or early market engagement have been considered. These are not recommended due to the risk of time constraints to enable and inform delivery of a compliant procurement exercise and achieve continuity of service provision.

4. Post decision implementation

- 4.1 Upon authorisation of this report officers will proceed with single tender actions where appropriate and HB Public Law (HBPL) will be instructed to proceed with contract awards for the identified contracts.

5. Implications of decision

Corporate Priorities and Performance

Continuation of these services enables the delivery of the council's commitments to support independent living for people with care and support needs, and put people at the centre of their care. These services also include support for people with dementia, also supporting the council's aim of being a dementia-friendly borough. These services also enable the achievement of the council's aim to support local social care providers, as the services in scope are Barnet based organisations, many of which are voluntary or community groups, with locally employed staff and volunteers.

The continuation of identified contracts actively supports the delivery of the Health and Wellbeing Strategy in that they support creating healthier and more resilient communities and ensuring delivery of coordinated and holistic care as and when this is needed.

The continuation of identified contracts addresses the evidence base within Barnet's Joint Strategic Needs Assessment (JSNA) across the period of short-term extension through waiver and single tender action.

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

The following contracts have been identified for continuation of service provision. These have been identified as contracts that need to continue to maintain service delivery before undertaking a compliant procurement exercise. The services are fully utilised and as the contracts are continuing on the original terms they are offering and retaining good value. The service area will enter the identified contracts on the Annual Procurement Forward Plan 2023-24 to support procurement activity and market engagement following review of requirements. The identified contracts have been entered into following evidence-based decision making and joint commissioning by the council and the North Central London Integrated Care Board.

- 5.1.1 All services are funded from the Adult Social Care base budget and present no additional financial pressure.

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
---------	-----------	-------------------------	-----------------------	--------------------

Neighbourhood Services for Older Adults	YES	01/04/2023	31/08/2024	£637,500
Service Description	<p>The current contract with Age UK Barnet commenced 1st April 2019 and is due to expire 31st March 2023</p> <p>These services aim to improve the resilience, aspirations, health and wellbeing of older people by enabling and promoting independence, social inclusion and increasing access to mainstream opportunities and services.</p> <p>The services are available to adults aged over fifty-five years, who are living in Barnet. The offer is made up of four components:</p> <ul style="list-style-type: none"> • Neighbourhood Services - provides activities for older people focusing on, healthy living and wellbeing, exercise classes, befriending, digital inclusion and lunch clubs • Handyperson Service – providing small building repairs, minor adaptations and general home safety checks • Later Life Planning – providing targeted information and advice to older people to enable them to plan for later life • Falls Prevention Activities – providing exercise classes including strength, balance and Tai Chi 			
Waiver/ STA Requirement	<p>17 months direct award: to enter into a new contract with the current provider from 1st April 2023 to 31st August 2024.</p> <p>This will enable the service continuity while commissioning and procurement run a compliant tender process.</p>			

5.1.1.1

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
Nursing Care Block	YES	01/04/2023	31/03/2024	Up To £663,540
Service Description	Securing of nursing care block beds whilst review of future requirement is undertaken and a further tender exercise is mobilised.			

Waiver/ STA Requirement	<p>To enter a new contract with the current provider(s) from 1st April 2023 to 31st March 2024.</p> <p>The waiver will enable the service continuity while commissioning and procurement run a compliant tender process.</p>
--------------------------------	--

5.1.1.2

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
Enablement care (Bliss Home care)	YES	01/04/2023	31/03/2024	Up To £663,540
Service Description	<p>The current contract with Bliss Home care commenced 1st April 2022 and is due to expire 31st March 2023.</p> <p>The Enablement service is an essential part of Barnet Council's preventative, early intervention and wellbeing provision.</p> <p>The service promotes independence and reduces or delays the need for longer-term care and support. Enablement provides intensive, time limited and needs based care to eligible adults to help them attain an improved quality of life.</p> <p>Contract for additional enablement provision initially provided for 200 hours per annum with identified uplift to 800 hours which would not be exceeded and may reduce.</p> <p>Provision of this requirement continues which if no longer available would have significant impact both in terms of disruption to service delivery and reputational support delivery</p>			
Waiver/ STA Requirement	<p>To enter into a new contract with the current provider from 1st April 2023 to 31st March 2024.</p> <p>The block contract hours can be flexed from 200 block hours a week up to 800 block depending on levels of demand and Provider capacity hours per week. Up to £663,540 depending on levels of demand.</p> <p>The waiver will enable the service continuity while commissioning and procurement run a compliant tender process.</p>			

5.1.1.3

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
Day services - Approved Providers	YES	1 April 2023	31 August 2024	£642,813
Service Description	<p>The contract for the Day Opportunities Approved Provider List started on 01/11/2017 and ended on 31/10/2022 with a waiver pending until 31/03/2023. Total estimated contract value for this period is £2,265,000.</p> <p>The services are provided under Lots as follows:</p> <ul style="list-style-type: none"> ● Lot 4 - Community Peer Support Networks (low support) – small group activity to enable people to develop skills, their independence, build natural community supports and social networks to support each other. ● Lot 5 - Supported Day Opportunities (low/ medium/ high) – small group activity (and in exceptional circumstances 1:1 support) to promote social inclusion, interpersonal skills and peer support. This service will support people to experience a wide range of opportunities, based on the outcomes identified in the individual’s Care and Support Plan, to enable them to learn and develop and build on their existing social skills, daily living skills, confidence and self-esteem ● Lot 6 - Complex Day Care - The aim of this service is to promote and support people’s wellbeing, goals and aspirations in everyday community life with the view of sustaining choice, control, and independence. The service will support individuals to improve or maintain their current level of independence whilst maintaining social friendships. 			
Waiver/ STA Requirement	<p>To enter into a new contract with the current Approved Provider List for seventeen months, from 1st April 2023 to 31st August 2024.</p> <p>This service provision is across multiple providers and a statutory duty to deliver. The nature of service provision across multiple providers is considered low risk in terms of directly awarding a 17-month contract via a Single Tender Action.</p> <p>The waiver will enable the service continuity while commissioning and procurement run a compliant tender process.</p>			

5.1.1.4

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
Prevention and progression support, employment and day opportunities LD and Autism (Barnet Mencap).	YES	1 April 2023	31 August 2024	£485,917 (for 17 months)
Service Description	<p>The contract for 'Bright Futures' delivered by Barnet Mencap started on 01/11/2018 and will end 31/03/2023, the contract value is £343,000 per annum</p> <p>The service provides problem solving support, employment support, community participation and learning and development activities and training to adults in Barnet who have a learning disability and/or autism spectrum conditions. The service is available to people who have both eligible care & support needs (Care Act 2014) and those whose needs fall below this threshold, aged 18 and over. The service also provides a 'Welfare Check' service.</p>			
Waiver/ STA Requirement	<p>To enter into a new contract with Barnet Mencap (the current provider) for seventeen months, from 1st April 2023 to 31st August 2024.</p> <p>Extensions for this contract have been exercised therefore it is proposed to seek a single tender action</p> <p>This will enable service continuity while commissioning and procurement run a compliant tender process.</p>			

5.1.1.5

Service	Statutory	New Contract Start Date	New Contract End Date	New Contract Value
Low level support for people with	YES	1 November 2023	31 October 2024	£27,219

Visual Impairment (Middlesex Association for the Blind).				
Service Description	<p>The contract for ‘Low level support for people with Visual Impairment’ delivered by Middlesex Association for the Blind started on 1 April 2022 and will end on 31 October 2023.</p> <p>The service provides low level support (a home visiting service and practical support and advice) to people who have both eligible care & support needs (Care Act 2014) and those whose needs fall below this threshold, with a visual impairment. More recently the service has started to offer a monthly VIP social club for people with visual impairment, a form filling service and an information desk at a hospital in Barnet.</p>			
Waiver/ STA Requirement	<p>To enter into a new contract with Middlesex Association for the Blind (the current provider) for a further 12 months, from 1 November 2023 to 31 October 2024.</p> <p>Extensions for this contract have been exercised therefore it is proposed to seek a single tender action to enable a one year contract to be entered into.</p> <p>This will enable service continuity while commissioning and procurement run a compliant tender process. This will also allow time to prepare a needs analysis and a Physical and Sensory Impairment Strategy, which will inform the recommissioning.</p>			

5.2 Legal and Constitutional References

- 5.2.1 The award of below threshold contracts is not subject to the main provisions of the Public Contracts Regulations 2015 (PCR), i.e. the Council does not have to run a competitive procurement under one of the prescribed procedures in the PCR. The current financial threshold is £663,540 (inclusive of VAT) for social care contracts. The calculation of the contract value is the total value of the contract and includes any extension options. The total cost of the separate contract awards proposed in this report are each below £663,540.
- 5.2.2 A Waiver of the relevant requirements of the Council’s Contract Procedure Rules (CPR) requiring the Council to advertise and/or tender for below threshold contracts, allows the Council by Single Tender Action to make compliant direct awards of new contracts to existing or new contractors as long as the total contract value for each contract is less than £663,540 for social care contracts.
- 5.2.3 Under CPR 5.8, for Contracts under the tender financial threshold the Interim Assistant Director (Commercial and Procurement), in conjunction with the Assistant Director

Investment and Innovation may waive the requirement to seek 2 written quotes subject to an Officer Decision being provided, demonstrating that the market place has been fully tested and the Council has obtained value for money.

5.2.4 Under CPR 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 Assistant Director (Investment and Innovation) and Interim Assistant Director (Commercial and Procurement),

5.2.5 The justification for this is as follows:

- The contracts are below threshold and so the awards are not subject to the main provisions of the PCR requiring advertisement and competitive procurement.
- The Council are not advertising the opportunities anywhere and so are not obliged to publish the opportunity on the government's Contracts Finder website
- The Council will waive internal contract procedure rules (CPR) so that we can negotiate directly with one or more suppliers for a contract award of 12-18 months to allow us to develop and implement a procurement strategy which will include competitive procurement of the services in the near future
- The Council needs to have a service in place and continue to meet statutory responsibilities
- The Council has taken into account relevant considerations, including:
 - the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services;
 - the specific needs of different categories of users, including disadvantaged and vulnerable groups
- The new Provider Selection Regime (PSR) is intended to provide a regulatory framework for the award of healthcare contracts by NHS commissioners and local authorities that sits outside the formal public procurement regime and means that those contracts will not need to be procured in accordance with the rules in the PCR or their successor legislation. The PSR is a new framework accompanying the Health and Care Act 2022, and is expected to come into force in 2023.
- The Public Contracts Regulations 2015 will be changed and are expected to come into force in 2024.
- Therefore the Council will have more flexibility and will be able to negotiate bespoke longer term contracts for social care when these significant changes to the procurement framework come into force

5.2.6 The Contracts Finder Transparency Guidance requires award information to be published in respect of every contract over £25,000, regardless of whether the original contract opportunity was published on Contracts Finder because it was not openly competed, so the Council must publish the following information on Contracts Finder within 90 days of awarding the contract:

- the name of the contractor;
- the date on which the contract was entered into;

- the value of the contract;
- whether the contractor is a SME

5.3 **Insight**

Insight data is not applicable for the purposes of this report

5.4 **Social Value**

- 5.4.1 The Public Services (Social Value) Act 2012 requires the commissioning of public services to assess and secure wider social, economic and environmental benefits.
- 5.4.2 London Borough of Barnet has adopted a Social Value policy which informs procurements and for existing contracts benefit realisation in support of securing wider social, economic and environmental benefit.
- 5.4.3 The service providers are Barnet based organisations, many of which are voluntary or community groups, with locally employed staff and volunteers, working with residents to maintain their safety, reduce isolation, increase social cohesion, improve access to the community and maximise residents own potential.

5.5 **Risk Management**

- 5.5.1 Continuity of the current contractual arrangements listed in this paper will ensure continuity of service for residents and will avoid the risks associated with gaps in provision.
- 5.5.2 Extending the current contractual arrangement with the Provider listed in this paper (see section 5.1) will enable sufficient time for robust procurement for the longer-term provision of these services and remove the risk that time constraints will have on the council being able to deliver a compliant procurement exercise and achieve continuity of service provision.
- 5.5.3 These contracts will continue to be regularly monitored by the Council's Care Quality team.

5.6 **Equalities and Diversity**

- 5.6.1 The core provisions of the Equality Act 2010 (the Act) came into force on 1st October 2010 and the public sector equality duty (section 149 of the Act) came into force on 5th 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 for opportunity and foster good relations between those with protected characteristics and those without.
- 5.6.2 The protected characteristics are age; disability; race; gender reassignment; pregnancy and maternity; religion or belief; sex; and sexual orientation. They also cover marriage and civil partnership with regard to eliminating discrimination.
- 5.6.3 Any organisation providing public sector services is subject to scrutiny by the Council to ensure that delivery complies with the Public Sector Equality Duty.

5.6.4 The contracts for these services includes explicit requirements fully covering the Council's duties under the Equality Act 2010 and the specification requires that groups that the Council finds harder to reach are identified and have the opportunity to receive the service. All the services referred to in this report are provided for people with protected characteristics, especially disability and age.

5.7 Corporate Parenting

5.7.1 Care experienced young people may go on to receive support from adult social care services as they reach adulthood. The services referred to in this report are available to people who have been looked after in their childhood or who are care experienced.

5.8 Consultation and Engagement

5.8.1 Not applicable

5.9 Environmental Impact

5.9.1 There are no direct environmental implications as a result of this recommendation.

6. Background papers

6.1 Appendix 1 of the Annual Procurement Forward Plan (agenda Item 8) for 2022/23 presented to the Policy and Resources Committee on 9 December 2021 which provided approval for the extension/tender of these contracts (line 351, line 353, line 352, line 390, line 353)
[Agenda for Policy and Resources Committee on Thursday 9th December, 2021, 7.00 pm \(moderngov.co.uk\)](#)

6.2 Authorisations from

- the Interim Assistant Director (Commercial and Procurement) and the Assistant Director Investment and Innovation, and
- the Assistant Director Investment and Innovation and Interim Assistant Director (Commercial and Procurement)