

 the low tax borough	<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET</b>  <b>14 OCTOBER 2013</b>
<b>RECOMMENDATION TO AWARD AN INTERIM CONTRACT TO YARROW HOUSING FOR TWO YEARS FROM OCTOBER 2013 FOR THE PROVISION OF ACCOMMODATION SERVICES FOR PEOPLE WITH LEARNING DISABILITIES</b>	
<b>Cabinet Member for Community Care - Councillor Marcus Ginn</b>	
<b>Open report</b>  As separate report on the exempt Cabinet agenda provides commercially confidential information about the costs of this contract.	
<b>Classification:</b> For decision <b>Key Decision:</b> Yes	
<b>Wards Affected:</b> All	
<b>Accountable Executive Director:</b> Jane West, Executive Director of Finance & Corporate Governance	
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## 1. EXECUTIVE SUMMARY

- 1.1 LBHF has a long term arrangement with Yarrow Housing since 1989 for the provision of 9 registered care homes for 43 adults with learning disabilities dispersed across the borough. This service provides more than 60% of accommodation where support is provided on site (including supported housing) for people with learning disabilities in the borough. As such the service is critical in enabling people to live locally and not have to be placed out of the area.
- 1.2 There is no formal written contract in place but there is an implied contract as both parties have been working to the terms of the agreement signed by the health authorities that originally commissioned the service, in 1995 & 1996.
- 1.3 In partnership with Agilisys, Council officers from adult social care commissioning and procurement have been working with Yarrow to

explore options to regularise the contractual arrangements and deliver savings. Officers have also been working in partnership with Yarrow on a programme of work to re-register seven of the nine homes from registered care homes into supported housing. This programme is crucial to both the delivery of savings and the development of the service so that it is more in line with the requirements of accommodation based services for people with learning disabilities.

- 1.4 Yarrow have agreed that they can deliver a 10% reduction in the annual contract price and work proactively towards the de-registering of seven homes with the proviso that they are issued with a two year contract .
- 1.5 The report below sets out the background, the details of the current contractual arrangements and the reason for the request.

## **2. RECOMMENDATIONS**

- 2.1 That approval be given to a waiver of the Council's Contract Standing Orders and to the award of a fixed 2 year contract with Yarrow Housing to extend the current arrangement in regard to the block contract for the provision of 9 registered care homes at 161 Becklow Road; 172 Bishops Road; 37 Brackenbury Road; 35 Minford Gardens; 20 Old Oak Road; 25 Oxberry Avenue; 97 Percy Road; 60 Richford Street; 78 Stephendale Road.
- 2.2 That the Council continues to work with Yarrow to ensure that during this period seven of these homes will be re-registered to become supported housing, and to explore opportunities to provide suitable additional capacity within the borough, as appropriate.

## **3. REASONS FOR DECISION**

- 3.1 These recommendations are made under the auspices of the LBHF Corporate Transforming Procurement Programme (TPP) as undertaken by Agilisys. Council officers have been working in partnership with Agilisys in order to reach this recommendation.
- 3.2 The rationale behind this recommendation is that the planning, reviewing & remodelling involved in order to be in a ready state to go out to the market and the subsequent tender process will take at least 18 months. In order for the programme of re-registration to be successful it will be essential for Council officers to work in partnership with the existing provider.
- 3.3 It has been acknowledged that the borough is currently over-reliant on registered care homes and that people with learning disabilities should have a greater range of housing options available to them. Early

indicators of the current Joint Strategic Needs Assessment place Hammersmith & Fulham at 5<sup>th</sup> lowest borough in London for people with learning disabilities who live in settled accommodation. The programme of re-registering existing homes will increase the proportion of people in settled accommodation significantly.

- 3.4 It would be beneficial to the Council if the homes were re-registered by the existing provider prior to re-tendering as to include this in a tender process as a requirement for the new provider is likely have implications on timing, cost and market interest.
- 3.5 A follow up report will be brought to Cabinet one year into the extension i.e. in October 2014 that makes recommendations about the future of the service. This will allow sufficient time to put in place a robust plan for the future of the service beyond this contract's expiry in October 2015.

#### **4. BACKGROUND, INCLUDING POLICY CONTEXT, AND ANALYSIS OF OPTIONS**

- 4.1 LBHF does not formally have a contract with Yarrow Housing for the 9 registered care homes in the "block contract". The contracts were signed by Ealing, Hammersmith and Hounslow Health Authority in 1995 and 1996. LBHF took over the management of the cases and initially paid for them from the pooled budget under a s.31 agreement.
- 4.2 A programme of work is underway to work together on a programme to re-register 7 of the registered care homes. The benefit of this is that re-registration fits with the commissioning intention of allowing service users to have greater independence and more choice by moving to a supported living model of service provision. It also offers savings to the adult social care budget through it not being liable for the rent costs and through the delivery of the service being more flexible and responsive to need.
- 4.3 Over the years, a number of attempts were made to negotiate a new contract with Yarrow. Following the introduction of Tri-Borough, managers in Procurement and Commissioning Team agreed to go to the Tri Borough Commissioning and Contracts Board to request that notice should be served and preparations be made to go out to tender. The decision was based on the fact that the annual contract value is £3m therefore exceeding the thresholds that require public bodies to go out to the market.
- 4.4 After some negotiation with Yarrow Housing and on the recommendation of Agilisys this decision was reviewed. Consideration was given to offering them an extension to the current arrangement contingent on Yarrow delivering significant efficiencies during the term of the contract.

## **5. EQUALITY IMPLICATIONS**

- 5.1 The Yarrow Housing is a service for people with learning disabilities therefore a protected group. The main objective for the re-commissioning and re-registration of the service is to provide the opportunity to deliver services that are more flexible and responsive to service users' needs in more cost effective way. The recommendation to extend the contract for 2 years offers the opportunity to provide service continuity and improvement. This recommendation should have a neutral or positive impact on people with learning disabilities in LBHF.

## **6. LEGAL IMPLICATIONS**

- 6.1 It appears that there are no formal written contracts in place for the arrangement which are recommended to be formalised and extended under this report. However, there will be an implied contract in place the terms of which will be based upon any earlier written conditions, any agreed terms and the course of conduct of the parties. In the absence of an express notice period for termination a 'reasonable period' (determined by the circumstances) must be given to terminate the contracts.
- 6.2 The service described in this report is a Part B service under the Public Contracts Regulations 2006 and is therefore not subject to the full regime of those Regulations. However, the Council should still seek to comply with general treaty principles of transparency, equal treatment, non-discrimination and proportionality. On this basis, contracts should not generally be extended beyond the term for which they were originally advertised and procured not awarded without competition. The reasons for seeking to award these contracts directly are set out in the body of the report.
- 6.3 Legal comments implications verified/completed by: Catherine Irvine – 020 8753 2774

## **7. PROCUREMENT CODE IMPLICATIONS**

- 7.1 Clause 12.2 of the contract standing order requires that the appropriate Cabinet Member be responsible for approving the relevant Business Case / procurement strategy at the beginning of the procurement process for all tenders regarding services where the estimated value exceed £1M. It is recommended that this be presented to the Cabinet Member for Community Care for approval before going to full Cabinet in October.

- 7.2 Clause 12.3 requires the submission of a minimum of 5 tenders if the total estimated value is over £1M per annum. An exemption to this clause is being sought in order to award the contract to Yarrow.
- 7.3 Procurement comments implications verified/completed by: David Goulding - 020 8753 5070

## **8. FINANCIAL AND RESOURCES IMPLICATIONS**

### **Budget/funding arrangements**

- 8.1 The budget holder for the Yarrow contract is Mary Dalton – Head of Complex Needs Commissioning.
- 8.2 The contract is to be awarded for two years from October 2013 to September 2015.
- 8.3 Further comments are in the separate report on the exempt Cabinet agenda.
- 8.3 Finance comments implications verified/completed by: Prakash Daryanani – 020 8753 2523

### **LOCAL GOVERNMENT ACT 2000**

#### **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
	None.		