



## London Borough of Hammersmith & Fulham

### CABINET

7 SEPTEMBER 2015

#### YARROW HOUSING CONTRACT AWARD

**Report of the Cabinet Member for Health and Adult Social Care : Councillor Vivienne Lukey**

#### OPEN REPORT

A separate report on the exempt part of the Cabinet agenda provides exempt financial information.

#### Classification - For Decision

**Key Decision: Yes**

**Wards Affected: All**

**Accountable Executive Director:** Liz Bruce, Executive Director for Adult Social Care

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## 1. EXECUTIVE SUMMARY

- 1.1. This report requests approval to waive the Contract Standing Orders to allow the Council to agree to directly award a 1 year contract with Yarrow Housing (Yarrow) from 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016 to enable the Council to complete a comprehensive service review, and subsequent procurement, to ensure Service Users' current and future needs are met.
- 1.2. This award will allow the current arrangement in regard to the block contract for the provision of 7 supported accommodation services and 2 registered care homes to be extended by one year, with the option to extend for up to an additional 3 months should they be required to facilitate the completion of the review and procurement.

- 1.3. This contract will deliver supported accommodation and accommodation based registered care for 43 people with learning disabilities in the London Borough of Hammersmith and Fulham (LBHF).
- 1.4. The contract award will benefit the Council as it will offer service continuity and sustainability while officers, in consultation with stakeholders, develop a more personalised approach to commissioning future supported accommodation to meet local need. Local authorities have a duty under the Care Act 2014 of market shaping to ensure a viable market delivering choice for customers.
- 1.5. Yarrow has agreed to deliver savings of at least £33,722 over the core contract extension period. There are on-going discussions between the Council and Yarrow to realise further efficiency savings.

## **2. RECOMMENDATIONS**

- 2.1. To waive the Contract Standing Orders that require a minimum of five tenders to be sought for contracts of £172,514 or greater total estimated value to allow the Council to directly award a contract to Yarrow from 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016.
- 2.2. To directly award a contract for 12 months with a maximum annual contract value of up to £2,664,019 to Yarrow, the incumbent provider, under the existing terms and conditions of the existing contract, with an option to extend, if approved, for a period of up to 3 months at a maximum contract value of £666,005.
- 2.3. That the authority to realise any additional contract efficiency savings during the term of the contract, as noted in section 1.5 of the report, be delegated to the Cabinet Member for Health and Adult Social Care, in consultation with the Executive Director of Adult Social Care.
- 2.4. To delegate the authority to the Cabinet Member to vary the interim contract should the 3 month additional period be required.

## **3. REASONS FOR DECISION**

- 3.1. This contract meets the Council's statutory duty to provide supported accommodation to people with learning disabilities. A strategic review has identified continued high demand for this type of service. The continuation of this service is beneficial to the Council as it is effective in helping customers remain in their local community with appropriate support, improving their health and well-being and building skills for independence, whilst preventing them having to be placed in costly out of borough settings. As there is no contractual provision to extend, a direct award of contract is therefore required to ensure the Council meets its statutory obligations.
- 3.2. As outlined in section 5 and 6 of this report (as set out in both open and exempt reports), in order for the Council to meet their statutory duty to provide this

service, the project team believe this is the best option available.

- 3.3 A year long extension of existing terms is sought to enable the Council to undertake a comprehensive and holistic service review to ensure the service can meet the changing needs of the current cohort and future customers. The Care Act 2014 gives local authorities a duty to shape the market to ensure customers have a variety of options to consider when making up their personal support plan. The Care Act also requires local authorities to ensure the availability of a range of methods through which people with care and support needs are able to manage their personal budgets.
- 3.4 The additional 12 month period would enable the Council to: work with Yarrow and other providers in the market to develop approaches to, and respond to, the changing needs of the cohort (which includes increasing physical disabilities and complex needs) and the new personalised models of purchasing care that the Care Act demands; benchmark service provision and undertake research to identify best practice regarding building provision; carry out complex consultations and discussions with the customers, many of whom are party to assured tenancy agreements and lack capacity to understand any proposed changes; agree a service model; and finally go back out to market to procure the agreed services. Details of the streamlined project timetable we would adhere to, should the recommendations be approved, is provided at clause 5.2 for reference. The additional 3 month extension period is sought to provide some contingency in case there is slippage in this timetable.
- 3.5 A shorter extension period is not considered viable owing to the complexities of the service, as detailed at clause 6.2 (as set out in both open and exempt reports).
- 3.6 Extending contractual provision with the existing provider, who is seen to be of strategic importance in assisting people with learning disabilities to remain in the community, will enable the Council to focus on the complex remodelling of the service that is required to ensure people with learning disabilities across LBHF continue to receive high quality personalised support in the coming years.

#### **4. BACKGROUND**

- 4.1 As part of the LBHF Accommodation and Support Strategy for People with Learning Disabilities 2013 – 2016 (The Strategy), a needs analysis and supply mapping of current local housing and accommodation was undertaken. One of its key findings was that an estimated 86 people with learning disabilities would require supported housing services over the next three years. This is a result of: people transitioning from Children's Services to Adult Services; existing customers returning from expensive out of borough placements; and new customers needing to move from their current housing either because their housing no longer meets their needs, or their ageing carers can no longer support them.
- 4.2 The Strategy demonstrates the commitment of Adult Social Care, Housing and Health to work collaboratively to meet local priorities to improve the health and

independence of people with learning disabilities by offering greater local choice of housing and support options as alternatives to residential care.

- 4.3 LBHF has a limited range of housing models available which offer people the opportunity to live independently in their own home whilst sharing support. Evidence nationally and from other London boroughs shows that significant savings can be achieved by moving from models of residential care to supported living.
- 4.4 The Project Board has developed an action plan which highlights short, medium and long-term actions to remodel housing options in the borough. This will be done by working with Yarrow and other providers to identify emerging needs in their customer group and collaborating with staff and customers about how we improve the local housing offer.

## 5. PROPOSAL AND ISSUES

- 5.1 It is proposed that Cabinet agrees to directly award a contract to Yarrow for 12 months from 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016, with the option to extend for up to a further 3 months if required and to be subsequently approved by the Cabinet Member.
- 5.2 The 12 month extension will allow more time to complete the review and procure the remodelled service as outlined below:

Placement of Prior Information Notice explaining that ASC will commit to this timetable and undertake a thorough service review which will result in market activity in 2016.	July 2015
Carry out a strategic review of current service and alternative options including: liaising with stakeholders (service users, carers, operational teams, and providers); exploring options with the market; benchmarking with other Councils; reviewing research and best practice regarding buildings, personalisation and other key service factors; and forecasting need. Develop new service model using review findings.	Now – end of October 2015
Service model including outline procurement strategy presented to CoCo, Adults Leadership Team and the Cabinet Member for sign-off to commence formal consultation	End of October 2015 – Mid November 2015
Formal consultation with: <ul style="list-style-type: none"> <li>- Service Users – including advocates and carers where necessary</li> <li>- Stakeholders</li> <li>- The market</li> <li>- Yarrow staff</li> <li>- Operational staff</li> </ul>	Mid November 2015 – End of January 2016

Report back to service users, carers and stakeholders and the Cabinet Member on outcome of consultation and final agreed services model (following ALT approval)	End of January 2016 to Mid-February 2016.
Final procurement strategy and competition documents developed and signed off by CoCo, CAB and Cabinet Member	Mid February 2016 to End of March 2016
Go out to market	Early April 2016
Live Tender period, evaluation and award process	Early April 2016 to Mid July 2016
Implementation period including: <ul style="list-style-type: none"> <li>- Building and resources put in place</li> <li>- Handover period between old and new provider including customers, family members and care staff</li> <li>- Staff transfer to new provider (if applicable)</li> <li>- Operational service transfer</li> </ul>	Mid July 2016 to late September 2016
Contract Start	1 <sup>st</sup> October 2016

- 5.3 Officers consider that this contract period will provide continuity and stability to part of the housing pathway while The Project Board works to plan, design and deliver an innovative pathway of accommodation opportunities for people with learning disabilities. A period of core market stability would also provide continuity for customers and enable the Council, in partnership with Yarrow and other providers, to develop the full range of models of supported accommodation that are required to meet the emerging needs of this cohort.

## 6. OPTIONS AND ANALYSIS

- 6.1 **The proposed recommendation: Directly Award a Contract for One Year (1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016) with an option to extend for up to a further three months if approved (the proposed option)**

Directly awarding a contract for one year from 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016 will allow the Council to review and remodel supported accommodation service provision, as outlined in section 5, so that the new service can best meet the needs of current and future customers. As noted previously, this review is essential if the Council is to continue to provide high quality care to vulnerable residents of the borough via this statutory provision.

- 6.2 **Directly Award a Six Month Extension (1<sup>st</sup> October 2015 to 31<sup>st</sup> March 2016) to procure a new service for 12 months under the same specification, and then procure a new service after completion of the review**

### **6.3 Append the contract to an existing service**

### **6.4 Do Nothing**

The Council has a statutory obligation to provide supported accommodation to people with learning disabilities, which this contract meets. As the current contract is due to expire on 30 September 2015 to do nothing would breach the Council's statutory duties. This option would also pose a risk to vulnerable customers if alternative arrangements are not in place before the contract ends. There is also a risk to the Council of operating out of contract as the service provision will not immediately cease with the expiration of the contract. This option is not recommended.

## **7. RISK**

7.1 Adult Social Care are responsible and accountable for risk management within their service. This would include the strategic risks associated with the report content as noted on the Shared Services risk register. A direct award may be seen as contrary to the Council's Contract Standing Orders and EU Procurement Regulations. The department should therefore be confident that they are aware of, and accept, the risks of any potential challenge to a direct award being made. Market testing, achieving best value to the taxpayer is a strategic risk, number 4 on the register, service continuity is number 6 on the Shared Services risk register.

7.2 Risk Implications completed by: Michael Sloniowski, Risk Manager, 020 8753 2587.

## **8. CONSULTATION**

8.1 Mencap conducted a consultation with customers and their families in December 2013 to identify needs around accommodation for people with learning disabilities. The recommendations from this consultation have been incorporated into the LBHF Accommodation Strategy for People with Learning Disabilities.

8.2 The social work team gain the customers' views via annual review to ensure the service is meeting their needs.

8.3 Collaborative work is on-going with the Learning Disabilities Housing Sub Group which consists of Mencap staff, parent carers and customer representatives.

8.4 As noted throughout the report, a thorough consultation will be carried out with customers and all relevant stakeholders during the review process to ensure the service can meet the needs and wishes of the current cohort and future customers.

## **9. PROCUREMENT & IT STRATEGY IMPLICATIONS**

- 9.1 Section 3 paragraph 12.3 of the Contract Standing Orders states that for contracts of £172,514 or greater total estimated value, a minimum of five tenders should be sought and Cabinet is responsible for award.
- 9.2 Approval for a waiver of the requirement to conduct a competitive exercise is being sought in order to directly award a contract to the existing service provider to ensure service continuity while the Council undertakes the strategic wholesale review of Learning Disability supported accommodation. A waiver is being sought in accordance with Section 3 of the Contract Standing Orders which states that a prior written waiver to these CSOs may be agreed by the appropriate persons if they are satisfied that a waiver is justified insofar as they relate to the Council's own competition rules governing quotes and tenders.
- 9.3 However, there can be no waiver of the legal requirements contained in the Public Contract Regulation 2015 which requires all Social and Other Specific Services that have an estimated value exceeding € 750,000 (i.e. £625,050) to be subject to an open, transparent and non-discriminatory procurement process.
- 9.4 Failure to comply with the Regulations may lead to the decision being challenged. The options available to the court would be to declare the contract with Yarrow ineffective, and may order it to be terminated. In addition the Council would have to pay damages and civil financial penalty (i.e. a fine). In defending such an action the Council would spend considerable sums.
- 9.5 In light of the above, the Director for Procurement & IT Strategy supports the placing of a PIN as this should help deliver a number of positive outcomes. It:
- i) will indicate the short-term interim nature of the extension to the current arrangement;
  - ii) will signal clearly to the market the Council's intention to run a transparent fully regulated competition in 2016;
  - iii) will provide an opportunity to gain early expressions of interest from potential providers, and then engage with these so that their views can help inform both future service improvements and the commercial viability of the new service model and contract;
  - iv) should, taking the above three factors into account, whilst not remove, help reduce the risk of a challenge being brought.
- 9.6 Implications completed by Joanna Angelides, Procurement Consultant, H&F Procurement Team, FCS. 020-8753-2586.

## 10. EQUALITY IMPLICATIONS

- 10.1 Yarrow is a service offering supported accommodation to people with learning disabilities and is therefore a protected group. There are no equality issues associated with the recommendations in this report. The requested extension will offer service continuity and support the improvement of the local supported housing pathway, service delivery, quality and offer more choice. This recommendation should have a neutral or positive impact on people with learning disabilities in LBHF.

## 11. LEGAL IMPLICATIONS

- 11.1 As set out in the exempt report on the exempt Cabinet agenda.

## 12. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE & CORPORATE GOVERNANCE

- 12.1 This contract award covers the period 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2016 at the values of £2,664,019 and delivers savings of £33,722, as detailed in the table below. Should the option to extend for an additional 3 months be required to facilitate the completion of the procurement, an additional paper will be submitted through governance processes, to be approved by the Cabinet Member.
- 12.2 Negotiations are on-going with Yarrow Housing to deliver further efficiency savings and if realised it is requested that authority be delegated to the Cabinet Member for Health and Adult Social Care, in consultation with the Executive Director of Adult Social Care, to update the contract accordingly.
- 12.3 Financial implications completed by David Hore – Finance Manager 020 8753 4988

### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1	<b>Care Act 2014</b> <a href="http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted">http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted</a> Care Act 2014: statutory guidance for implementation (published)	Linda Burke, Commissioner <a href="mailto:Linda.Burke@lbhf.gov.uk">Linda.Burke@lbhf.gov.uk</a> 020 8753 1631	

**LIST OF APPENDICES:** None