


<p style="text-align: center;"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p style="text-align: center;"><b>CABINET</b></p> <p style="text-align: center;"><b>16 JANUARY 2017</b></p>	
<p><b>AGREEMENT FOR THE DIRECT AWARD OF DAY SERVICES FOR PEOPLE WITH DEMENTIA</b></p>	
<p><b>Report of the Cabinet Member for Health and Adult Social Care: Councillor Vivienne Lukey</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification - For Decision</b></p> <p><b>Key Decision - Yes</b></p>	
<p><b>Wards Affected: All</b></p>	
<p><b>Accountable Executive Director:</b> Liz Bruce – Executive Director of Adult Social Care</p>	
<p><b>Report Author:</b> Lisa Cavanagh, Dementia Services Review Lead, Joint Commissioning Team.</p>	<p><b>Contact Details:</b>  Tel: 020 7641 2631  E-mail:  lcavanagh1@westminster.gov.uk</p>

## 1. EXECUTIVE SUMMARY

1.1. Hammersmith and Fulham Council's Adult Social Care department and Hammersmith and Fulham Clinical Commissioning Group (HFCCG) commission two day services and a Dementia Adviser post in the community that offer support for people with Dementia and their carers. The services are:

- St Vincent's Day Centre run by The Alzheimer's Society
- Dementia Adviser, provided by The Alzheimer's Society
- Activity Plus, Dementia Outreach run by Housing and Care 21.

1.2. The contracts that govern current arrangements are due to expire 30<sup>th</sup> November 2016.

1.3. This report seeks approval to waive the Council's Contract Standing Orders (Under CSO3) of the requirement to seek competitive bids and

approval for the direct award of three contracts for the provision of Dementia services to the incumbent providers.

- 1.4. Housing and Care 21 have recently notified the Council of their decision to withdraw from this sector of the market and are proposing to novate all contracts to Ark Home Healthcare Limited and TUPE staff. In LBHF this affects the Activity Plus service.
- 1.5. Officers are requesting a contract waiver to directly award to Housing and Care 21 to ensure appropriate contracting arrangements are in place whilst Officers undertake the necessary due diligence for the proposed novation to Ark Home Healthcare Limited. Subject to the outcome of the due diligence the contract with Housing and Care 21 would then novate to Ark Home Healthcare Limited. A direct award to Housing and Care 21 at this time will mitigate any risks associated with slippage in the timelines should agreement be given to novate and will also maintain a period of stability for all stakeholders including vulnerable service users during a transition period.
- 1.6. The services and values that are subject to approval for direct awards are set out in Table 1 below.
- 1.7. The total cost of the 16-month contract period, from 1st December 2016 to 31st March 2018, would be (in accordance with current arrangements) £640,476. The total cost of the contract period for the London Borough Hammersmith and Fulham (LBHF) would be £594,476 with the remainder £46,000 of funding provided by HFCCG via Section 75 Agreements.

## **2. RECOMMENDATIONS**

- 2.1. That approval be given to waive the Council's Contract Standing Orders (CSO) 3.1 to directly award three contracts from 1<sup>st</sup> December 2016 to 31<sup>st</sup> March 2018 to the incumbent service providers.
- 2.2. That approval be granted to the Executive Director of Adult Social Care in consultation with Cabinet Member for Adult Social Care and Health to award the three contracts to the incumbent providers as outlined in Table 1 setting out details of the services and values for the contract period.

**Table 1: Contract Values**

Provider	Service Name	Description	Annual Contract Value	ASC Annual Contrib.	HFCCG Annual Contrib	Total Value for Contract Extension 16 months- 01/12/16 – 30/03/18)	Funding Mechanism
Alzheimer's Society	St. Vincent's Day Centre	Day Services for People with Dementia	£305,857	£305,857	Nil	£407,809	LBHF only
Alzheimer's Society	Dementia Adviser	Info Advice and casework support for people with Dementia and Carers	£34,500	Nil	£34,500	£46,000	Section 75 Agreement
Housing and Care 21	Activity Plus	Community Based Outreach Service	£140,000	£140,000	Nil	£186,667	LBHF only
<b>Total</b>			<b>£480,357</b>			<b>£640,476</b>	

2.3. That all contracts referenced in table 1 above include a break clause, which would allow the Council to terminate the agreement with 3 months' written notice, be agreed.

### **3. REASON FOR DECISION**

3.1 The recommendations are sought to ensure continuity of services to support people with Dementia and their carers / families and ensure the Council is complying with its obligations under the Care Act 2014 whilst a strategic review of Dementia day services, led by Joint Commissioning across the London Borough of Hammersmith and Fulham (LBHF), the Royal Borough of Kensington and Chelsea (RBKC) and Westminster City Council (WCC) is concluded.

3.2 Under the Care Act 2014 local authorities have a statutory duty to provide a diverse range of services that prevent, delay or reduce care needs. These services are key to ensuring that people are supported to live well in the community, preventing the need to access more costly

services. It is envisaged that future demand and activity will increase during the extension period in light of the increase in diagnosis rates in H&F. These services will enable LBHF and HFCCG to support people with Dementia and their carers to live well in the community in line with NHS England's 'Well Pathway' Framework.

- 3.3 If contracts are not awarded this would create a gap in service provision and leave people with Dementia and their carers in Hammersmith and Fulham without the necessary support they require. In addition, without these services in place, the Local Authority would be unable to comply with its obligations as set out in the Care Act 2014.
- 3.4 The award of contract to Housing and Care 21 will also ensure that the Council becomes contract compliant during any period of novation to another provider.
- 3.5 Depending on the outcome of the due diligence process that Officers are undertaking on Ark Home Healthcare Limited a recommendation will either be made to support the novation or consider other options such as a contract variation or direct award to an existing suitable provider.
- 3.6 The strategic three-borough Dementia review has proved complex and has impacted on the original timeline to have a new service model in place in October 2016 resulting in this request for a waiver of the Council's procurement regulations CSO 3.1 to directly award contracts to the services referenced in paragraph 1.1.
- 3.7 Background information on the strategic Dementia review and future procurement including the LBHF services that are within scope are set out in Appendix A.
- 3.8 LBHF and HFCCG have set out in their strategic plans, their commitment to improving the quality of services for people with Dementia and their carers. The proposed contracts will allow commissioners to assess the landscape of Dementia support services which will inform future commissioning and procurement intentions.
- 3.9 Negotiations with the service providers, to identify savings, in return for the award of these contracts have commenced. It should be noted that;
  - Housing and Care 21 as part of the 2015 direct award agreement offered to freeze the costs set out in Table 1 above for the duration of the contract term
  - Alzheimer's Society as part of the 2015 direct award agreement offered a saving of 4.3% of the annual contract value equating to £13,743 per annum across the contract.

- 3.10 Both providers have a long track record of delivering quality specialist Dementia services in Hammersmith and Fulham. The services are working well although the day service at St Vincent's currently has vacancies which are being addressed with the provider. The service is achieving good outcomes for those who attend with no cause for concern, and supports the Council's and HFCCG strategy of enabling people to remain living in their own homes whilst supporting family and carers in their caring role.
- 3.11 The market for providers of Dementia day services is relatively small. Housing and Care 21 also provide similar Dementia outreach services in one of the Council's partner boroughs. Given their decision to withdraw from this sector of the market and novate contracts to an alternative provider market capacity seems likely to be reduced even further.

#### **4. INTRODUCTION AND BACKGROUND**

- 4.1 Building based day service provision at St Vincent's to people with Dementia is currently provided by a longstanding national organisation, the Alzheimer's Society. The service provides a range of care, personalised support, activities, and information and advice. Currently 61 customers are registered with the day service, the majority (70%) with moderate needs, 1 is aged under 65, 11 between the ages of 65 - 74, 26 between the ages of 75 and 84 and 23 aged 85 and over. A range of support is also offered to carers and families. The service is located centrally on Queen Caroline Street and currently shares premises with St. Vincent's House Nursing Home and Hammersmith and Fulham Cognitive Impairment Service (diagnostic service) provided by West London Mental Health Trust (WLMHT).
- 4.2 A Dementia Adviser was introduced in 2015 and this post provides information, advice and signposting to other services as well as support to people with Dementia their carers to live well with the condition. 131 people (56% carers and 44% people with Dementia) are currently supported by the adviser. The post holder works in partnership with the co-located cognitive impairment service to pick up referrals of those newly diagnosed. They also support the Dementia Café which operates monthly on a Saturday.
- 4.3 Housing and Care 21 provides community based outreach to people with Dementia including sheltered housing residents and people with young age onset Dementia. The aim of the Activity Plus service, delivered from Olive House at Imperial Wharf, is to support people to access activities of their choice, which enables them to be meaningfully occupied and provided with stimulation. The service offers time limited intervention and currently supports 47 service users. The service also enables carers to have a break.
- 4.4 The Council directly awarded contracts to both providers for St Vincent's Day Centre and Activity Plus in 2015 and HFCCG agreed

funding via the Section 75 agreement for a Dementia Adviser post. Officers are of the understanding that arrangements have not been formally governed by any contractual documentation. The award of contracts will ensure that the Council becomes contract compliant.

## 5. PROPOSALS AND ISSUES

- 5.1 The proposal is to directly award three contracts to the incumbent service providers to ensure contract compliancy and continuity of service whilst a strategic review of Dementia day service provision is concluded and a tender process for a remodelled service carried out, including any necessary staff/public consultations.
- 5.2 The proposed strategic review and procurement timetable for Dementia day service provision is set out in the table below. Officers are exploring options to streamline the governance and retender timeline within the shortest possible timescales to implement a new model within 2017 where possible.

<b>Task</b>	<b>Target Completion</b>
Internal stakeholder engagement	9 <sup>th</sup> November 2016
Soft market testing engagement event	23 <sup>rd</sup> November 2016
Service User and Carer engagement/focus groups	28 <sup>th</sup> November - 9 <sup>th</sup> December 2016
Conclude strategic review and soft market testing	December 2016
Commissioning and procurement strategy recommendations approved/authority to tender	March 2017
Staff/Public Consultation	March - April 2017
Prepare tender	March - April 2017
Issue tender	May 2017
Receive final submissions (tender closes)	July 2017
Evaluate tenders	August - September 2017
Contract award approved	October – December 2017
Implementation Period including 30 day TUPE consultation period	January – March 2018
Contract start date	April 2018

- 5.3 If contracts are not awarded this would create a gap in service provision and leave people living with Dementia and their carers in LBHF without the necessary support they require to live well and as independently as possible in the community. In addition, without these services in place, the Local Authority would be unable to comply with its obligations as set out in the Care Act 2014.
- 5.4 It is noted that the contracts with Alzheimer's Society for St Vincent's Day Centre and Housing and Care 21 for Activity Plus will expire on the

30 November 2016 with no provision to extend for a further period. Officers are of the understanding that arrangements for the Dementia Adviser post have not been formally governed by any contractual documentation. The reasons for proposing the direct award of contracts are set out in the body of the report.

- 5.5 It cannot be said with certainty that there is no risk of challenge, however it is unlikely that there is any cross-border interest in these contracts as services of this type tend to be delivered by local providers.
- 5.6 In mitigation, it is noted that the direct awards are to permit continuity of services whilst a strategic review of Dementia day services is concluded. During the proposed extension period, market consultation and testing to inform a competitive tender will be conducted, with new contracts expected to be in place during 2017/18.
- 5.7 It is essential that the necessary contract documentation is completed in the event that the recommendations are accepted so that the Council is fully protected.

## **6. CONSULTATION**

- 6.1 The current service providers have been consulted and have been advised of the proposed continuation of service.
- 6.2 Housing and Care 21 have confirmed they would be willing to enter into a contract with the Council for the period 1<sup>st</sup> December 2016 to 31<sup>st</sup> March 2018 subject to a Cabinet decision being taken.

## **7. EQUALITY IMPLICATIONS**

- 7.1 The proposal to directly award contracts for day services for people with Dementia will on the whole have a positive impact. It is not anticipated that the services received by people with Dementia and their carers will vary significantly from what is currently offered by awarding these contracts. Eligibility for access to these services is not affected under this process. Future arrangements will continue on the take up of the service by diverse communities through monitoring and in relation to local population data analysis.
- 7.2 Any future proof remodelled service will offer support and be inclusive to the needs of the local diverse population including Black and Minority Ethnic (BME) groups and those who are socially isolated and do not currently access services.

## **8. LEGAL IMPLICATIONS**

- 8.1 This report is seeking approval of the Cabinet Member for the direct award of three (3) contracts for the provision of Dementia Day services

within Hammersmith & Fulham and the legal comments for each contract are supplied below:

**Alzheimer's Society (St. Vincent's Day Centre)**

- 8.2 The value of the proposed direct award for 16 months (£407,809) which is below the Social Care procurements threshold under the Light Touch Regime (LTR) of the Public Contracts Regulations, 2015 ("the Regulations"). The effect of this is that a regulated procedure is not required to procure these services.
- 8.3 Although this qualifies as below-threshold procurement, since a direct award is being sought, there will be no advertisement of the opportunity, and a waiver of the Council's Standing Orders (CSOs) would be required.
- 8.4 Paragraph 3.1 of the CSOs state the grounds on which waivers will be granted as follows:
- the nature of the market for the works to be carried out, or the goods to be purchased, or the services to be provided has been investigated and is demonstrated to be such that a departure from these CSOs is justifiable; or
  - the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
  - the circumstances of the proposed contract are covered by legislative exemptions; or
  - it is in the Council's overall interest; or
  - there are other circumstances which are genuinely exceptional.
- 8.5 From the report, the Council has a statutory duty to provide these services under the Care Act 2014 ("the Act") and to do otherwise would be a breach of the Act. Secondly, if no provision is put in place for the proposed term, there would be no other provision available to the service users who are vulnerable people. It would therefore be in the Council's overall interest to waive the requirement to run a procurement exercise for the services so as not to breach the Care Act.
- 8.6 By granting this waiver and approving the direct award, the Council risks the possibility of a challenge of the award especially because of the contract value. This risk would be mitigated if, as proposed, a regulated procurement is commenced before the end of the term of this proposed contract as that is the remedy which a prospective challenger would be entitled to.



## **Dementia Adviser**

- 8.7 The value of this contract over the proposed period will be £46,000, which is well below the LTR threshold set by the Regulations for such contracts.
- 8.8 There is normally a requirement to have regard to possible cross-border interests in determining whether or not to advertise such contracts. However, due to the nature and value of this particular contract, the probability of cross-border interest in the contract is highly unlikely.
- 8.9 The risk to the Council if the direct award is granted is therefore likely to be minimal.

## **Housing and Care 21 (Activity Plus)**

- 8.10 Whereas the antecedents of this contract are similar to that of the St. Vincent's provision because it was also the subject of a previous direct award in June 2015, the value of the proposed contract is much lower at £186,667.
- 8.11 The comments in paragraphs 8.3 – 8.5 above would apply to this contract.
- 8.12 If the waiver is granted and a direct award approved, there is a minimal level of risk to the Council owing to the value of the contract and the fact that the likelihood of there being cross-border interest in the contract is very slim.
- 8.13 The Provider has notified the Council of its intention to withdraw from the provision of these services and novate its existing contracts to another Provider. In such circumstances, the contract ought to be re-procured, so as not to breach the Regulations. The risk of challenge of the novation would be mitigated if the Council's plans to commence a formal procurement exercise are followed. This is also because the remedy a likely challenger would be entitled to would be the chance to participate in the tender.
- 8.14 In conclusion, if the waiver is granted and the contracts awarded as proposed, the contractual documentation for the newly awarded contracts as well as the 2015-2016 extensions should be drafted for execution by the parties.
- 8.15 Legal implications verified by Tolu Akinosun, Senior Solicitor (Contracts). Tel: 020 8753 2136

## **9. FINANCIAL AND RESOURCES IMPLICATIONS**

- 9.1 Budgetary allocation figures relating to these contracts are set out in the tables below.
- 9.2 The proposal to award two direct contracts for the provision of Dementia Day services to the Alzheimer's Society and Housing and Care 21 will cost £305,857 and £140,000 respectively per annum with effect from 1 December 2016 and £407,809 and £186,667 respectively over the lifetime of the new contract to 31st March 2018. These costs can be met from the existing Community Commissioning general fund revenue budget.
- 9.3 The proposal to award a contract to the Alzheimer's Society to fund a Dementia worker will cost £34,500 per annum and £46,000 over the 16 month lifetime of the new contract to 31st March 2018. Please note this funding is from Hammersmith and Fulham Clinical Commissioning Group (HFCCG) via a Section 75 Agreement. Continued funding of this post beyond the 31st of March 2017 is dependent on a similar S75 agreement at the same level of £34,500 being agreed with HFCCG. At this current point in time the 2017/18 Section 75 agreements have not been finalised. Should HFCCG decide to cease funding £34,500 for the dementia post Adult Social Care will not become liable for this amount and notice will be served on the contract.
- 9.4 Officers have commenced discussions with the service provider to identify savings in return for the award of these contracts.
- 9.5 Financial implications verified by Cheryl Anglin Thompson – Principal Accountant ASC, Financial Planning & Integration Team [cheryl.anglin-thompson@lbhf.gov.uk](mailto:cheryl.anglin-thompson@lbhf.gov.uk) - 020 8753 4022.

## **10. RISK MANAGEMENT**

- 10.1 This report recommends the direct award of three contracts as set out in section 2 for 16 months from 1 December 2016 to 31 March 2018.
- 10.2 If the contracts are not directly awarded there will be a no provision of preventative day services for people with Dementia and risk number 8, compliance with laws and regulations as noted on the three boroughs corporate risk register, putting resident's health and wellbeing at risk. The likelihood of the Council meeting a range of local authority and health authority strategic objectives (see section 3 of this report) would also be significantly reduced.
- 10.3 Risk of challenge to the extension, relating to risk number 4 market testing on the three boroughs corporate risk register has been considered and endorsed by legal services.

- 10.4 Negotiations to achieve continued value for money, efficiencies and improved quality from the incumbent providers have commenced. Further efficiencies will be sought during the joint re-procurement of OP and Dementia services in 2017. The risk of directly awarding contracts for service that may not meet the needs of residents, or strategic objectives of the local authority and health authority over the next 16 months has therefore been mitigated in accordance with maintaining service continuity, risk number 6 on the risk register. Procurement risk management remains the responsibility of the procuring department who manage risk within a departmentally agreed framework.
- 10.5 Risk implications verified by Michael Sloniowski, Risk Manager, telephone 020 8753 2587.

## **11. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 11.1 Matters affecting procurement are incorporated throughout the main body of the report. Ensuring that services are governed by appropriate contractual arrangements is critical to reducing compliance risk. As such the recommendation to award contracts to the two incumbent service providers is preferential to the current arrangements.
- 11.2 Ensuring that services are governed by appropriate contractual arrangements is critical to reducing compliance risk. As such the recommendation to award contracts to the incumbent service provider is preferential to the current arrangements.
- 11.3 The recommended contract terms of up to 16 months will allow officers a suitable and sufficient length of time to conclude the strategic review of services and conduct a competitive tender process.
- 11.4 H&F Contract Standing Orders (CSO) 12.3 provide:
- i) That for contracts with a value from £25,000 to £99,999 a minimum of three written quotations or tenders should be obtained; and
  - ii) That for contracts with a value of £172,514 or more a minimum of five tenders should be obtained.
- 11.5 The proposals contained in this report are for direct awards of £46,000, £186,667 and £407,809. A waiver for the Contract Standing Orders is therefore required.
- 11.6 CSO 3.1 provides for a waiver of the CSO's to be agreed by the Appropriate Persons if they are satisfied a waiver is in the Council's overall interests.
- 11.7 CSO 3.1 defines Appropriate Persons to agree waivers with an estimated contract value of £100,000 or more as the appropriate Cabinet Member and the Leader of the Council.

11.8 CSO 3.2 states that all waivers with an estimated value of £25,000 and more, and the reasons for them, must be detailed in a report either to the appropriate Cabinet Member or the Cabinet.

11.9 None of the three contracts proposed for direct award has a value above the current threshold of £589,145 for social and other specific services and therefore do not need to be advertised and are not subject to the full extent of EU procurement rules. The requirement to conduct procurements in a transparent, fair and proportionate manner remains and the proposal to make three direct awards of contracts is in part mitigated by the proposed contracts having a duration of only 16 months to allow for a full appraisal of future service design and contracting models to inform a full and open procurement exercise.

11.10 Procurement implications verified by Tim Lothian, Procurement officer  
020 8753 5377

## **12. SOCIAL VALUE**

12.1 Social Value is intrinsic to the delivery of Dementia services as they seek to reduce social isolation; maximise individual and community assets; promote choice and control and offer support to families and communities who care for someone with Dementia.

12.2 The award of these contracts will also offer continued support and stability to local third sector providers who offer much valued services to the local community.

## **13. PRIVACY IMPACT ASSESSMENT**

13.1 A full PIA will be undertaken prior to the joint procurement of OP and Dementia services as there may be new providers which need to hold or share information about individuals.

### **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>
1.	None		

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Appendix A - Dementia Strategic Review

Appendix B - Proposed Dementia Hub and Spoke Model

Appendix C – Proposed Savings