



Haringey Council

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Agenda item:

[No.]

Cabinet Procurement Committee

On 25th November 2008

Report Title: **Preparation for Personalisation - Extension of Contracts**

Forward Plan reference number (if applicable): [add reference]

Report of: **Director of Adult, Culture & Community Services**

Wards(s) affected: **All**

Report for: **[Key / Non-Key Decision]**

1. Purpose

- 1.1 That Members agree to the provision of a framework which will allow the extension of those current care contracts deemed appropriate for extension for varying times, up to a maximum date of 31st March 2011 to allow the Council to prepare for the Government's Personalisation Agenda.
- 1.2 That Members agree to delegate the Authority to the Director, in consultation with the Cabinet Member for Adult Social Care & Wellbeing, to extend some contracts for up to a further two years.

2. Introduction by Cabinet Member (if necessary)

- 2.1 It is evident that the personalisation agenda represents a significant change for adult social care in the way that services are procured, contracted for and delivered. The Council is committed to this ambitious agenda.
- 2.2 The officers in ACCS are working to efficiently manage the change process surrounding contractual arrangements with the Council's providers. Full consideration is being given to the possible impact of such changes on users of service, whilst maintaining value for money for the Council.
- 2.3 The contract extensions proposed will support the delivery of the emerging personalisation agenda, which gives residents far greater control over the resources used to provide care.
- 2.4 For these reasons, I am happy with and support the approach detailed in this report,

in order to ensure the future delivery of flexible services with providers that offer quality and value for money.

3. Recommendations

- 3.1 That Members agree the contracts/agreements listed at Appendix A (exempt information) be extended for varying periods up to a maximum date of 31st March 2011 with an option to extend for a further two years where necessary.
- 3.2 That Members agree to delegate the Authority to the Director, in consultation with the Cabinet Member for Adult Social Care & Wellbeing, to extend some contracts for up to a further two years

Report Authorised by: **Mun Thong Phung, Director of Adult, Culture & Community Services**.....



Contact Officer: Margaret Allen, Assistant Director of Adult Culture & Community Services – X3719

4. Chief Financial Officer Comments

- 4.1 Contract Standing Order 13.02 allows an Executive Member to vary or extend a contract providing that to do so is consistent with the provisions of Financial Regulations.
- 4.2 This report requests an agreement in principle to extend 26 block contracts and 24 approved list provider contracts to a maximum date of 31st March 2011. These contracts expire between December 2008 and September 2010.
- 4.3 The value of the extensions would be £11.6m, assuming the domiciliary care contracts are extended to 31st March 2010 and the remainder to 31st March 2011. In the majority of the contracts inflationary uplifts are at the discretion of the Council.
- 4.4 In deciding whether an extension to each contract should be offered consideration should be given to whether the existing contract provides a value for money service, and whether negotiations with providers can lead to cost efficiencies during the extended term.
- 4.5 Should demand fall and block contracts no longer provide value for money these contracts allow for termination following a 3-6 month notice period.

5. Head of Legal Services Comments

- 5.1 The Head of Legal Services notes the contents of the report.
- 5.2 The care contracts are classed as residual services under the Public Contracts Regulations 2006 and as such there is no requirement to advertise them in Europe.

- 5.3 There is power under CSO 13.02 for the Procurement Committee to vary or extend a contract providing that to do so is consistent with the provisions of Financial Regulations.
- 5.4 In addition, the Procurement Committee has power under Section 15 of the Local Government Act 2000 to delegate matters to officers.
- 5.5 The Head of Legal Services advises that as there is no requirement to tender these services in Europe, any risk of challenge from domestic tenderers who may be interested in bidding for these contracts, is at best limited.
- 5.6 The Head of Legal Services notes that Adult Services will be involving contractors in the consultation process and working with them in the preparation for the Personalisation Agenda.
- 5.7 In reaching a decision, Members need to weigh up the limited risk of challenge associated with extending the contract against the alternatives of either entering into short term contracts which are likely to be costly or long term contracts which may not be appropriate and may need to be terminated early.
- 5.8 Members should also give consideration as to whether the proposed extensions of contract represent value for money and also whether they will meet the Council's statutory duty to obtain Best Value in its contracting arrangements.
- 5.9 Subject to paragraphs 5.7 and 5.8, the Head of Legal Services confirms that there are no legal reasons preventing Members from approving the recommendations in this report.

6. Head of Procurement Comments (to be added only if the report is progressing to Procurement Committee or if the report requires this information)

The Recommendation for agreement to vary or extend current contracts is in line with the Procurement Code of Practise

The extension to the current Domiciliary care contracts for an additional one year when benchmarked against current market rates seems to represent Value for Money. CPU would not recommend any extension beyond 2010 as the contract has been in place since 2004 and should be market tested. In Regard to the remaining contracts CPU is not able to give a value for Money judgement as there is no comparator information.

Contract monitoring is in place and will be ongoing to ensure that they continue to delivery high quality services.

In deciding whether an extension to each contract should be offered consideration should be given to whether the existing contract provides a value for money service, and whether negotiations with providers can lead to cost efficiencies during the extended term.

7. Local Government (Access to Information) Act 1985

7.1 List of background documents:

- Department of Health: Putting People First: A Shared Vision and commitment to the transformation of Adult Social Care, January 2008
- Social Care Institute for Excellence: Personalisation: A Rough Guide, October 2008-10-28

These documents are available from Commissioning & Strategy, ACCS by contacting:

Barbara Nicholls, Head of Commissioning

2nd Floor, 40 Cumberland Road

Wood Green, London N22 7SG

Tel: 0208 489 3328

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7.2 Exempt information under Schedule 12A of the Local Government Act 1972, namely:

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

8. Strategic Implications

- 8.1 The Government's Personalisation Agenda will radically change the way in which services are provided to clients. These changes will almost certainly negate the need for Haringey to maintain contracts at the current level. It is also envisaged that the type of services required will change radically.
- 8.2 The Council is required to have significantly progressed on its implementation of the Personalisation Agenda by March 2011.

9. Financial Implications

- 9.1 It will not be possible to identify the type or level of services that will be required until the Directorates Commissioning Strategy is formulated, which will be linked to the joint strategic needs assessment and reflecting outcomes of national and local pilots in individualised budgets. National pilot outcomes will be available from late 2008.
- 9.2 There are considerable costs involved in undertaking a competitive process both in time and resources for the Council and prospective providers alike. Provider costs will be passed on to the Council in final contract prices.
- 9.3 It is not considered to be in the best interest of the Council or providers to undertake competitive procedures at the present time.
- 9.4 The likely impact of not achieving the flexible framework around existing care contracts arrangements, would be a destabilisation of provision to the borough and possible loss of providers across the range, thus negatively affecting current (and future) service users support. It is likely that some existing contracts will still be needed, but it is not possible to accurately forecast now which these will be. This will emerge over time.

10. Legal Implications

- 10.1 See legal implications at para five of report.

11. Equalities Implications

- 11.1 Current contracts require providers to comply with all relevant legislation.

12. Consultation

- 12.1 Consultation has been undertaken internally with Director of Adult Culture and Community Services, AD Commissioning & Strategy and AD Adult Services, as well as joint commissioning managers (Haringey Teaching Primary Care Trust and Haringey Council) for Learning Disabilities and Mental Health and commissioning managers in Adult Culture and Community Services

13. Background

- 13.1 Members are aware that the Department of Health has issued guidance to support the *Transformation of Social Care*.
- 13.2 The guidance states that by March 2011, people who use services and their carers, frontline staff and providers should experience significant progress in all local authority areas. The DH expects improvements to be evident between now and then.
- 13.3 A report published by Social Care Institute for Excellence in October 2008¹ "*Personalisation: A Rough Guide*, notes that an increase in the use of self-directed support and personal/individual budgets are beginning to transform the way social care services are being conceived, commissioned and delivered.
- 13.4 Implementation will therefore require a significant change to the way the Council currently provides Social Care Services to residents which will require wide consultation with stakeholders, new processes to be developed and staff trained in usage of same. In the meantime the Council will need to continue to provide services.
- 13.5 During the consultation and implementation process patterns will emerge that will inform the Directorates Commissioning Strategy and it will be possible to engage in meaningful competitive processes to commission services that have been identified as being required for the future. It is unlikely that all of the services currently commissioned will be fit for purpose.
- 13.6 Where the need for new services is identified, it will be necessary to work with providers, from all sectors, to assist them to diversify and effectively 'make markets'.
- 13.7 As part of the preparation process, it will be possible to work with willing providers to set up small pilots for innovative ideas that emerge around service delivery or the provision of new services.
- 13.8 It is considered that the Council will be at considerable risk if tendering processes are undertaken to enter into long term contracts at this stage as there is a likelihood that it would be necessary to terminate some contracts early if it transpired that there was no further need for same. By the same token processes to let short term contracts would not be cost effective and would be unlikely to generate interest from providers. Economies of scale would be lost and any bids received would need to include all

¹ <http://www.scie.org.uk/publications/reports/report20.asp>

provider costs over a short term as well as the costs associated with the tendering exercise itself.

- 13.9 It is also considered that the resources required by both the Council and prospective providers to engage in any competitive processes would seriously impede their ability to engage fully in the preparation for personalisation.
- 13.10 There is a slight risk of challenge from external providers who may feel that extensions to current contracts will deprive them of the opportunity to bid to provide these services however this risk is felt to be minimal especially as it is intended to include ALL local providers in the consultation and preparation process including any opportunities offered, see paragraphs 13.5 and 13.6.
- 13.11 The quality of services being provided under the contracts listed at Appendix A is considered to be of a high standard and would continue to be closely monitored by the Contracts Team under the terms of those contracts to ensure continued quality of service and value for money.
- 13.12 All current and prospective providers will be consulted and kept fully engaged with the preparation process and updated on the Council's progress on implementation by way of regular meetings and updates to ensure that appropriate markets are available as need is identified. However this will not extend to guaranteeing continuation of contracts for those providers who are either unable to adapt their services or where their strategic fit is not evident
- 13.13 The vast majority of the providers listed at Appendix A are based in Haringey and therefore contribute to the local economy.

14. Conclusion

- 14.1 Contract Standing Order 13.02 allows a the Cabinet to 'vary or extend a contract providing that to do so is consistent with the provision of Financial Regulations'. Should Members agree to the proposals set out in this report it would allow the Director of Adult, Culture & Community Services the flexibility to either continue to commission or decommission services as necessary depending on need identified by the consultation and preparation exercise previously mentioned.
- 14.2 It is considered to be in the best interest of the Council to extend current contracts as set out at Appendix A (1.0; 2.0; and 4.0) up to a maximum date of 31st March 2011.
- 14.3 It is considered to be in the best interest of the Council to extend current contracts as set out at Appendix A (3.0) up to a maximum date of 31st March 2010.
- 14.4 This will allow for the development of the Directorate's Commissioning Strategy and the implementation of the Government's Personalisation Agenda.
- 14.5 A complex tendering exercise requires a period of at least 18 months to complete, it is therefore considered to be in the best interest of the Council to delegate the authority to the Director of Adult, Culture & Community Services, in consultation with the Cabinet Member for Adult Social Care & Wellbeing, to further extend contracts for up to two years, as necessary, for services that are of a complex nature and that are identified towards the end of the implementation process to allow adequate time in which to complete thorough tendering processes.

15. Use of Appendices / Tables / Photographs

- 15.1 Appendix A – List of Contracts to be Extended
- 15.2 Appendix B – Value for Money