

Report for: Cabinet Member Signing – 24 March 2022

Title: Award of Contract for the Provision of Positive Behaviour Support (PBS) Service – Care and Support for Person A

Report authorised by: Charlotte Pomery, Assistant Director for Commissioning

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Ward(s) affected: All

Report for Key/ Non-Key Decision: Key Decision

1 Describe the issue under consideration

- 1.1 This report details the outcome of a mini-competition process conducted via the Council's Adults Supported Living Dynamic Purchasing System (DPS) for Positive Behaviour Support (PBS) Services and seeks approval to award a 'Call-Off' contract (hereafter Service Agreement) to the successful tenderer (identified in Appendix 1 - Part B (exempt information) of this report) in accordance with the Contract Standing Order (CSO) 9.07.1 (d) and 16.02
- 1.2 The successful service provider will deliver the PBS Services to Person A (service user – identified in Appendix 1 – Part B (exempt information) of this report) in a property based in Milton Keynes. The provider will be required to provide care and support as defined by the needs of Person A and be responsible reporting for the Health and Safety of the building to landlord on behalf of Person A.
- 1.3 Subject to approval, the Service Agreement will be awarded for a period of (7) seven years commencing from 1st April 2022 and (unless terminated earlier in accordance with law, placement breakdown or any provisions within the Supplier Agreement) will remain in force until 31st March 2029.

2 Cabinet Member Introduction

- 2.1 Not applicable

3 Recommendations

The Cabinet Member for Health, Social Care and Well-Being is asked:

- 3.1 In accordance with Contract Standing Order 9.071 (d) and 16.02, to approve the award of a Service Agreement to deliver PBS Service care and support to Person A to successful tenderer (identified in Appendix 1 - Part B (exempt information) of this report) for a period of seven (7) years commencing from 1 April 2022 to 31 March 2029 at the estimated cost of £5.1 million (breakdown

of cost is described in Appendix 1 – Part B (exempt information) of this report) inclusive of London Living Wage for first 18 months.

- 3.1.1 To vary the contract price annually commencing from 1 October 2023 to provide annual uplift. The annual price uplift will be capped to a maximum of London Living Wage (LLW) rate of inflationary increase as published by the Living Wage Foundation periodically; and
- 3.1.2 To waive Contract Standing Order (CSO) 9.08.8 (requirement to execute the contract under seal as a deed where value of the contract is above £250,000) as permitted under CSO 10.01.1(a) as the Service Agreements are electronic on the Council's Adults Supported Living Dynamic Purchasing System (DPS).

4 Reasons for decision

- 4.1 The decision to award a Service Agreement to the successful tenderer is based on the conclusion of a competitive procurement process. The proposed recommendation to award the Service Agreement is made according to the outcome of the Most Economically Advantageous Tender, as detailed in section 6 of this report.
- 4.2 The recommended service provider is one of the country's largest not-for-profit organisations and has extensive experience in supporting people with learning disabilities, autism, behaviours of distress and those with complex health needs. The provider has submitted a strong tender bid that clearly demonstrates significant expertise and commitment to providing the appropriate and relevant care and support to Person A. The organisation also has a strong track record of delivering Positive Behaviour Support services to the Transforming Care cohort.
- 4.3 Positive behaviour support (PBS) is a person-centred framework for providing long-term support to people with a learning disability, and/or autism, including those with mental health conditions, who have, or may be at risk of developing, behaviours that challenge. It is a blend of person-centred values and behavioural science and uses evidence to inform decision-making.
- 4.4 The use of the PBS Framework will bring several benefits: Services will be based on a PBS approach to improve life outcomes of vulnerable service users who present 'challenging behaviours' to live in a community setting. The provider's performance will be judged according to the extent to which the agreed outcomes are met and the extent to which an individual's independence is maintained with stable or decreased care and support needs. All providers on the framework, in partnership with the Council, will be expected to measure and record achievement of individual outcomes and meet the requirements of the Council's Performance Monitoring Tool where the outcomes payments will be based.
- 4.5 The Service Provider will be required to ensure that all staff engaged in the delivery of the Services to Person A are rewarded fairly without unreasonable deductions from pay and will be paid hourly rates no less than the London Living Wage (LLW) in line with our wider commitment to paying LLW across all care services.

- 4.6 The Positive Behaviour Support model gives the flexibility to step down Person A's package of care over time. The payment model for a PBS provider on the Framework is outcomes related; 80% of flat weekly fee will be paid monthly in arrears based on sustainment of placement and remaining 20% of flat weekly fee will be paid pro-rata, quarterly in arrears linked to delivery of basket of outcomes. When services are sourced using the PBS Framework agreement, 15% of the Care and Support costs will be paid by the Big Lottery, Commissioning Better Outcomes Fund.

5 Alternative options considered

- 5.1 No alternative option was considered as Person A has had a number of discharges to supported living, residential care and direct payment provision resulting in re-admission to hospital (one placement lasting no more than 15 days). Taking all this into account a clinical decision was reached that Person A required a bespoke service to be developed to enable him to transition successfully from hospital to the community.
- 5.2 Person A's needs are highly complex resulting in him having spent a considerable amount of time in a long stay Assessment and Treatment Unit in hospital. In light of this, the future care and support offer must be able to meet Person A's needs and be able to respond to his highly challenging behaviours. PBS is a person-centred approach to supporting people who display or are at risk of displaying behaviours, which challenge. It involves understanding the reasons for the behaviour and considering the person as a whole - including their life history, physical health and emotional needs - to implement ways of supporting them. It focuses on creating physical and social environments that are supportive and capable of meeting people's needs, and teaching people new skills to replace the behaviours, which challenge. In the opinion of practitioners, the PBS approach will support Person A, who presents 'challenging behaviours' to live in a community setting and develop within a safe and nurturing environment.
- 5.3 Seeking the delivery through the Positive Behaviour Support Framework from an external provider was selected as the optimal way to meet the needs of Person A at the outset and over time as it allows for a high level of care from the start to support Person A to settle into the new and different environment of a supported living setting.

6 Background information

- 6.1 There is a shortage of specialist skilled and experienced service providers and adapted supported accommodation in the borough to support transforming care patients to discharge safely in the community. These are mainly adults and young people with complex needs (including learning disabilities and/or autism), those who display behaviour that challenges and those with mental health conditions.
- 6.2 Lack of suitable accommodation alongside a provider with the specialist skill and experience was recognised as a barrier to safely discharge Person A. To be able to meet Person A's very challenging needs a different approach was

needed which required developing a bespoke service. Accommodation was recognised as a significant barrier to Person A's discharge, in 2019 NHSE provided capital funding of £750k, for the purchase and adaptations of a 'forever home' for Person A, suitable for his needs. A property was identified in Milton Keynes after a 2years search of multiple locations and is now ready for Person A to move in.

6.3 The proposed Service Agreement award represents an opportunity for a PBS provider to create a physical and social environment that is supportive and capable of meeting Person A's and teaching him new skills to replace the behaviours, which challenge.

6.4 **Procurement Process:**

6.4.1 A Market Engagement event was held on 7th September 2021. This event was intended to communicate and share information with potential providers to help them understand the commissioning intentions and offer potential suppliers the opportunity to raise any questions and present their views.

6.4.2 The Market Engagement event indicated that this was a specialist service. Therefore, it was decided to use the existing Dynamic Purchasing System (DPS) set up specifically for PBS Service as the most efficient route to market as there were over 40 organisations already enrolled onto the DPS. Also, DPS enables prospective providers to join at any time and submit their bids prior to tender deadline.

6.4.3 All providers enrolled onto the DPS, for the provision of Positive Behaviour Services were invited to submit offers to deliver wrap around Care and Support package for Person A at a property based in Milton Keynes.

6.4.4 By the deadline of the 15th November 2021, less than 5 tenderers submitted a bid.

6.4.5 The submitted tenders were checked for completeness and compliance with minimum requirements prior to full evaluation. Tenders were evaluated on the basis of the Most Economically Advantageous Tender (MEAT) methodology with a split of 60% price and 40% quality, as set out in the tender documentation.

6.4.6 Information about the tender evaluation is contained in Appendix 1 (Part B Exempt Information) of this report.

6.5 **Transition and Contract Management**

6.5.1 The Service Provider will manage the transition of Person A from his existing placement to the property in Milton Keynes. It is envisaged that the transition period would take approximately 3 months, from the commencement of the Service Agreement to Person A moving to his new home in Milton Keynes. However, this period may be amended depending on the circumstance, as the transition progresses. The transition plan and activities will be reviewed weekly.

6.5.2 Contract management will be incorporated into the Service Agreement. Key Performance Indicators and methods of measurement are integrated within the service specification and will be monitored through contract monitoring meetings and reports. Monitoring meetings will be held weekly for the first six months and monthly thereafter. The purpose of weekly monitoring meetings will be to examine the implementation of the service. The provider will be required to make available evidence and other necessary information as requested by the Council to enable effective monitoring of the service at an operational level and to foster partnership working to facilitate early resolution of issues that may arise.

7 Contribution to strategic outcomes

7.1 This project proposal helps to support the Priority 2 outcomes as outlined in the Borough Plan 2019 – 2023.

8 Statutory Officers comments (Director of Finance (including procurement), Head of Legal and Governance, Equalities)

8.1 Finance

8.1.1 The Contract price of £5.1m over its 7-year life, is based upon the estimated weekly cost of £12,951, the estimated costs of the transition period, £87,220, and a 5% contingency to allow for any price changes following the full assessment of the client.

8.1.2 Funding has been secured to meet the costs of the care and support costs for Person A.

8.1.3 NHS North Central London CCG will fund 80% of the costs, subject to periodic reviews.

8.1.4 Big Lottery, Commissioning Better Outcomes Fund, will provide for 15% of the costs

8.1.5 The estimated net annual cost to London Borough of Haringey will be £36,429. This will need to be managed within the existing Learning Disabilities Care Purchasing budget (see table below).

	£
Estimated Contract Value (7 years)	5,100,000.00
Estimated Annual Cost of Contract	728,571.43
Estimated Annual Joint Funding Contribution (80%)	-582,857.14
Estimated Annual Big Lottery Funding (15%)	-109,285.71
Estimated Net Annual cost to LBH	36,428.57

8.2 Procurement

8.2.1 The contract award is subject to the Light Touch Regime of the Public Contracts Regulations 2015 (the Regulations). The Dynamic Purchasing

System from which the call-off was made was duly advertised and let in line with the requirements of Regulation 34

8.2.2 The call off under the DPS is made in accordance with Contract Standing Order 9.04.1 and CSO 16.02.

8.2.3 The contract represents best value for the Council as it was the most economically advantageous bid. The cost of the provision will be largely met by the CCG with a small percentage being contributed via the Big Lottery Fund under the terms of the Positive Behaviour Support DPS payment by result provision, as well as the Council.

8.2.4 The contract will be closely monitored at inception with weekly meetings; thereafter contract and performance management will be on monthly basis to ensure a smooth transition, key performance indicators can be met, as well as to establish, and foster partnership working

8.3 **Legal**

8.3.1 The Head of Legal and Governance (Monitoring Officer) has been consulted in the preparation of the report.

8.3.2 The contract which this report relates to has been procured under the Council's Adults Supported Living Dynamic Purchasing System. This is in compliance with the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.

8.3.3 Pursuant to Contract Standing Order 9.07.1(d) and Contract Standing Order 16.02 the Cabinet Member having the relevant portfolio responsibilities has authority to approve the recommendations in the report.

8.3.4 The Head of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the Cabinet Member for Health Social care & Wellbeing from approving the recommendations in the report.

8.4 **Equality**

8.4.1 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between people who share those protected characteristics and people who do not;
- Foster good relations between people who share those characteristics and people who do not.

8.4.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

- 8.4.3 As an organisation carrying out a public function on behalf of a public body, the successful will be obliged to have due regard for the need to achieve the three aims of the Public Sector Equality Duty as stated above. Appropriate contract management arrangements will be established to ensure that the delivery of the major works does not result in any preventable or disproportionate inequality.
- 8.4.4 The decision is to award a Service Agreement to deliver care and support to Person A to successful tenderer for a period of seven (7) years commencing from 1st April 2022 to 31st March 2029. The decision is being taken on the back of a competitive procurement process.
- 8.4.5 Person A has complex care needs. These needs have been carefully considered as a part of this decision. The recommended service provider is one of the country's largest not-for-profit organisations. They have extensive experience in supporting people with learning disabilities, autism, behaviours of distress and those with complex health needs. They have submitted a strong tender bid that clearly demonstrated their expertise and commitment to providing the care and support to Person A.
- 8.4.6 This is an award of contract to support Person A to be discharged from hospital to a forever home with a provider. The providers approach will support Person A to live in a community setting, thereby promoting equality of opportunity.

9 Use of Appendices

- 9.1 Appendix 1 – Part B Exempt Information

10 Local Government (Access to Information) Act 198

- 10.1 This report contains exempt and non-exempt information. Exempt information is contained in the exempt report and is not for publication. The exempt information is identified in the amended schedule 12 A of the Local Government Act 1972 under the following category (3) information in relation to financial or the business affairs of any particular person (including the authority holding that information).