



**Haringey** Council

## APPENDIX A

### REPORT TEMPLATE

Agenda item:

**[No.]**

**Procurement Committee Meeting**

**On 24<sup>th</sup> July 2007**

Report Title: Report Title: Waiver of Requirement to tender Residential Mental Health Block Contract

Forward Plan reference number (if applicable): Not applicable

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

Wards(s) affected: All

Report for: Non-key Decision

#### **1. Purpose**

- 1.1 To seek Members approval to waive the requirement to tender as allowed under Contract Standing Orders 7.03 (a) and (d) and to negotiate with the Contractor named in Part B of this report in order to reconfigure and remodel the service to meet current identified need.
- 1.2 To extend the current residential care and support contract with Tulip in order to finalise negotiations for the above.

#### **2. Introduction by Cabinet Member (if necessary)**

- 2.1 The contract referred to in this report has been extended several times as a competitive process was unable to secure an alternative provider due the fact that suitable property is not available within or adjacent to the borough.
- 2.2 Officers have made efforts to source properties on behalf of the sector but were unable to do so.
- 2.3 I therefore, concur with the proposal to negotiate terms with the current provider and renew the contract in order to ensure continuity of service.

### **3. Recommendations**

- 3.1 That Members agree to waive the requirement to tender the residential care and support service as allowed under Contract Standing Order 7.03 (a) and (d) as the nature of the market for the services has been investigated and demonstrated that a departure from the requirements of CSOs is justified and (d) it is in the Councils overall interest that;
- 3.2 Members agree that Mental Health Commissioning negotiates with the contractor named in Part B of this report in order to remodel the service and meet current identified need for dual diagnosis provision. Subject to approval of the waiver, a subsequent report will be presented to the Procurement Committee requesting an award of contract for a period of 3 years with a provision to extend for up to 2 years
- 3.3 That Members agree to extend the current contract with Tulip for a period not exceeding 6 months from 1 October 2007 to allow negotiations, remodelling and reconfiguration of service provision.

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

Contact Officer: **Siobhan Harper, Head of Mental Health Commissioning LBH/PCT 0208 489 3542/ Bobbi Virgo, Contracts Officer, 0208 489 3348**

### **4. Director of Finance Comments**

- 4.1 The Director of Finance has been consulted in the preparation of this report. The initial extension of the current contract for 6 months has no direct financial implications as the costs are already projected within the Mental Health Commissioning budget. The proposed reconfiguration and service remodelling may provide some efficiency savings. Any savings realised will contribute towards containing the budget pressures within Adults Commissioning budgets.

### **5. Head of Legal Services Comments**

- 5.1 Adult, Culture and Community Services Directorate ("the Directorate") seeks a waiver of CSO 6.4 (requirement to tender) in respect of one of its residential mental health block contracts.
- 5.2 The waiver is requested under the grounds specified in CSO 7.03 (a) i.e that the nature of the market has been investigated and is demonstrated to be such that a departure from the requirements of CSOs is justified; and CSO 7.03 (d) that it is in the Council's overall interest.

- 5.3 The Directorate also seeks an extension of contract for a period of up to six months whilst discussion and remodelling of the service takes place.
- 5.4 The service is categorised as a residual service under the Public Contracts Regulations 2006 and therefore there is no requirement to tender in Europe.
- 5.5 The Procurement Committee has power to approve waivers under CSO 7.02 (a). Additionally it has power to approve extensions of contract under CSO 13.02.
- 5.6 Should the Procurement Committee see fit to approve the recommendations in this report, officers will submit a further report to the Procurement Committee at the earliest opportunity, requesting an award of contract.
- 5.7 The Acting Head of Legal Services confirms that there are no legal reasons preventing Members from approving the recommendations contained in this report.

## **6. Comments of the Head of Procurement.**

- 6.1 This request for a waiver is in line with the Procurement Code of Practice.
- 6.2 The re-negotiation of the current block service arrangements should enable the Council to achieve value for money. The future of this service provision will be examined by the new strategic commissioning team, in order to ensure that this can be put to the market in future.
- 6.3 Contract monitoring is in place and ongoing to ensure that the contract is compliant and any risk of service failure is mitigated.

## **7. Local Government (Access to Information) Act 1985**

- 7.1 No background documents
- 7.2 This report contains exempt and non-exempt information. Exempt information is contained in Part B and is not for publication. The exempt information is under the following category (identified in the amended Schedule 12A of the Local Government Act 1972):
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).

## **8. Strategic Implications**

- 8.1 Mental Health Commissioning proposes to waive the requirement to tender and reconfigure the service. This would involve partnership working with the PCT and embedding the service in emergent rehabilitation strategy for Mental Health, which includes identified need for increased dual diagnosis and move-on provision. The Contractor identified in Part B has indicated that it is willing to undertake such a process and terms of negotiation would include inter alia; service, model, partnership arrangements, contract price and duration, as well as monitoring and evaluation.
- 8.2 The contract with Tulip expires on 30 September 2007, and an extension of up to 6 months is sought to allow negotiations and time for any service reconfigurations in line with service user requirements for less group homes and the option to move into individual flats.

8.3 During the extension, the Tulip contract will continue to be monitored in the same way as the other residential block contracts. Quarterly statistics from the providers are supplied to the contracts department and mental health commissioning manager with information on staffing, training, incidents and accidents as well as annual accounts and insurance certificates. Void monitoring is reported fortnightly, annual service reviews take place and regular monitoring meetings with the Commissioning Manager and contracts.

## **9. Financial Implications**

9.1 See Financial Comment at Paragraph 4

## **10. Legal Implications**

10.1 See Legal Comment at Paragraph 5

## **11. Equalities Implications**

11.1 The contract requires that the service is provided in a manner which recognises and implements equality of opportunity and access, moreover equality issues are discussed in monitoring meeting and are included in quarterly returns. Moreover the proposal provides for suitable accommodation and support for vulnerable residents.

## **12. Consultation**

12.1 The proposal has been discussed between the Head of Mental Health Commissioning, Tulip, Haringey Teaching Primary Care Trust and the Manager of the Supporting People team, and a reconfigured service appears to be the best way forward to resolve the shortage of property and maximise the use of current resources in meeting identified service user need.

## **13. Background**

13.1 The Residential Accommodation Review produced by Mental Health Commissioning in Social Services developed a remodelling of services as a result of the needs analysis and gaps in provision identified in the Review.

13.2 The Director of Social Services and Executive Member for Social Services and Health agreed the strategic direction for accommodation services for adults with mental health problems in September 2003.

13.3 This model introduced new principles into current care provision. The emphasis was on recovery, promotion of independence and long term continued care where required within the specifications for the new services.

13.4 In February 2004, following a tender process based on the above new service model, the Executive Procurement Committee granted approval to the award of

five block contracts to the following providers: Psychiatric Rehabilitation Association, Umbrella, Richmond Fellowship, Mind and Ujima. There were no bidders for a sixth block tendered.

- 13.5 Contracts were awarded for three years with the option to renew them for further periods of up to a maximum of two years.
- 13.6 However, Umbrella was unable to deliver the contract as they were unable to obtain appropriate property from which to carry out the service.
- 13.7 The new contract with Umbrella was therefore terminated by mutual agreement, and approval was obtained from the Director to extend the contract with the outgoing provider Tulip, under the terms of their contract, from 1 October 2004 to 30 September 2005. This extension was intended to allow a re-tender of the contract. However, this was not possible due to scarcity of suitable accommodation.
- 13.8 In 2005 the Executive Procurement Committee agreed a 2-year extension to allow time for suitable property to be located in conjunction with Housing and for the contract to be re-tendered.
- 13.9 However, considerable difficulties remain in obtaining suitable property in borough for specialist care provision. Experience to date suggests that Registered Social Landlords and private sector landlords are reluctant to expend significant capital on property with limited return on contracts of a maximum of 5- year duration, which is insufficient to recoup capital outlay. Additionally despite several meetings and ongoing contact with Housing there is no Council Housing stock that would be fit for purpose.
- 13.10 Currently Mental Health Commissioning is taking part in Supporting People reconfiguration and meeting with more RSLs where the issue of the requirement for residential care property is being raised, as well as, to identify other challenges for RSLs in meeting residential care property and contract requirements. In terms of future requirements this issue will need to be examined by the new strategic commissioning team. Additionally, the Directorate is introducing a brokerage provision for mental health commissioning, which should assist with identifying and locating provision and commissioning trends which would be fed up to strategic commissioning.
- 13.11 In terms of surrounding London Boroughs; Hackney, Camden, Enfield, Barnet, Redbridge and Waltham Forest do not invest in block contract for residential care, Islington, has 2, one of which was tendered with property belonging to the borough.,
- 13.12 The current cost of the service is £283,756 pa and it is envisioned that the proposed reconfiguration and service remodelling should provide some efficiency savings.

- 13.13 Subject to approval of the waiver, Adult, Culture and Community Service Directorate will return to Procurement Committee for award once negotiations have concluded.

#### **14. Conclusion**

- 14.1 Following award of residential care and support contracts by Executive Procurement Committee in 2004 one contract was unable to be let to the successful bidder because it was unable to secure suitable property from which to carry out the service.
- 14.2 The contract with the current provider, Tulip was therefore extended under the contract terms to ensure continuity of service to residents. The contract was subsequently extended by Executive Procurement Committee for a further 2 years to allow time for suitable property to be located in conjunction with Housing in order to re- tender the provision.
- 14.3 Despite several meetings and ongoing contact with Housing, considerable difficulties remain in obtaining suitable property in borough for specialist care provision. There is no Council Housing stock that has been identified as fit for purpose; Residential Social Landlords and private sector landlords appear reluctant to invest considerable capital outlay on property with limited returns on contracts of a maximum of only 5 years which is insufficient to recoup outlay.
- 14.4 Mental Health Commissioning proposes that the requirement to tender is waived and that the service is remodelled and reconfigured with the provider identified in Part B of this report, in partnership with Haringey Primary Care Trust in line with emergent rehabilitation strategy for Mental Health which includes dual diagnosis and move-on provision.
- 14.5 The Contractor is willing to undertake this process and terms of negotiation would include; service model, contract price and partnership arrangements.
- 14.6 The contract expires in September and an extension of the contract is required for up to 6 months to allow negotiations, reconfiguration and remodelling of service provision.

#### **15. Use of Appendices / Tables / Photographs**

- 15.1 N/A