

**Cabinet Member for Health and Adults' Services and
Cabinet Member for Finance and Resources**

**Ref No:
HA11(12/13)**

**Commence a Procurement for Day Services (Adults
with Learning Disabilities)**

**Key Decision:
Yes**

**Part I with a Part
II Appendix**

Report by Executive Director Health & Social Care

**Electoral
Divisions: All**

Executive Summary

This report seeks approval to commence a procurement using competitive dialogue for day services provided in the independent sector for adults with learning disabilities across West Sussex.

The funding agreements with the providers of day services for adults with learning disabilities have expired. In line with the Council's Standing Orders on Procurement and Contracts it is a requirement to tender for these services.

The proposal is to put in place contracts for Day Services for Adults with Learning Disabilities. Funding will continue from the existing budget.

Recommendations

- I. The Cabinet Member approves, the commencement of a competitive dialogue procurement process with providers in the independent sector for the Adults with Learning Disabilities Day Services.
- II. Following the tender exercise, award the contracts for 5 years with the option to extend up to a further 2 years to a maximum of 7 years with an annual value of up to £3,232,600 (maximum of £22.6 million over the course of the contract, including extension period.)
- III. The Cabinet member delegates authority to the Executive Director for Health & Social Care to award the contract(s) and to extend if appropriate in accordance with Standing Orders on Procurement & Contracts.

1. Background

- 1.1. This procurement of the Services is one of a number of procurements which the Council is required to undertake over the next 3 years in order to ensure that services to meet the needs of adults with learning disabilities are both available and effective.
- 1.2. The Learning Disabilities (LD) Contracting & Procurement Plan 2012-2015 was approved by the Executive Director Finance & Performance and Head of Procurement, Property & Environment in July 2012. The Plan outlines the

procurements which need to be undertaken and what is expected will be achieved from them. The Plan outlines that the procurements aim to:

- improve health and social care services for people with learning disabilities over the 3-year period 2012-15;
- ensure all commissioned services have clear and up to date service specifications in line with national and local policy;
- that the service specifications are outcome focussed, support personalisation, have clear quality measures and key performance indicators;
- ensure all contracts have up to date terms and conditions;
- strengthen the arrangements for providing support to people with personal budgets;
- ensure that all contractors have met the minimum qualification, technical and commercial requirements set by the Council;
- comply with the Council's Standing Orders on Procurement and Contracts.

2. Discussion

- 2.1 This procurement is required to safeguard the continued provision and development of day services for adults with learning disabilities across West Sussex.
- 2.2 Historically a number of day services for adults with learning disabilities have been provided by the independent sector across West Sussex using annual service and funding agreements which roll forward each year.
- 2.3 Existing agreements for the Services have expired and action must be taken to ensure that there is a continuation of services.
- 2.4 In line with the Council's Standing Orders on Procurement and Contracts, the procurement of the services is subject to a formal open tender process.
- 2.5 Approximately 250 adults with learning disabilities use these services at any one time and value them as do their family carers, day services provide an invaluable break from their caring role.
- 2.6 It is important that the contractual arrangements for these Services are in line with Council's Standing Orders; and that the opportunity is taken to introduce a new commercial model and to develop a contemporary service specification that clearly sets out the required standards and outcomes to be delivered by these Services in line with personalisation.

3. Proposals

- 3.1 The procurement will follow a full OJEU process by competitive dialogue to take into account each day service in the independent sector offers a bespoke service and has developed innovative and creative service solutions, in many cases through fund raising and/or applying for funding from external sources.
- 3.2 It is proposed that the Council will put in place new contracts for Day Services for Adults with Learning Disabilities.

- 3.3 This will be an open contract effective from 1st September 2013 until 31st August 2018, with the option to extend up to 2 years to a maximum of 7 years until 31st August 2020.
- 3.4 The current budget commitment is approximately £3,232,600 per annum (maximum contract value of £22.6 million over 7 years, including extension period) which is a reconfiguration of existing resources that currently fund these Services. This funding is part of the overall Learning Disabilities budget it is not ring-fenced funding. The contract will have strong price review mechanisms to look at price reductions if necessary, or terminate and retender if we believe there are better options available.
- 3.5 Where current providers demonstrate their technical and financial capability to deliver these services their current business would be 'passported' (transferred) onto the new contract. It is not expected that there will be any significant change to service provision or current funding levels.
- 3.6 New providers wanting to join the new contract will be able to do so subject to them also demonstrating their technical and financial capability.

4. Consultation

- 4.1 A working group has been set up with membership from Adults' Operations, LD Contracts and Commissioners, Legal and Procurement.
- 4.2 The group has undertaken market consultation with current providers. The participants in the market consultation exercise understand and support the need to develop a new contract, service specification and commercial model and have been and will continue to contribute to the development of this work.
- 4.3 The Learning Disabilities Provider Forum and Learning Disabilities Partnership Board have been consulted on the Learning Disabilities (LD) Contracting & Procurement Strategy 2012-2015 and support the plans.

5. Customer Focus Appraisal

- 5.1 A Customer Focus Appraisal has been undertaken and is attached at Appendix 1.

6. Resource Implications and Value for Money

- 6.1 Every procurement aims to ensure that contracted service provision offers both the Council and the Council's customers best value for money.
- 6.2 Further details of costs, savings and risks in relation to this are provided in Appendix 2. Financial analysis and summary in appendix 2 are available to members of the Council only in Part II, by virtue of Paragraph 3 Schedule 12A Local Government Act 1972; information relating to the financial or business affairs of any particular person (including the authority holding that information).

- 6.3 Savings achieved through this procurement will not arise until September 2013. In line with the LD pooled budget any savings realised will be apportioned 81.33% to WSCC and 18.67% to NHS West Sussex (Clinical Commissioning Groups).
- 6.4 Resources are required to administer the tender process and to evaluate the bids. This is a necessary investment to ensure that the process complies with the Council's Standing Orders. This will be drawn from existing resources and hence there is no requirement to fund additional posts.
- 6.5 Undertaking a tender process will promote competition which will ensure that bids are evaluated against both quality and cost and therefore Best Value is achieved.

7. **Risk Management Implications**

- 7.1 The key risks associated with undertaking a tender for this service are detailed below, together with the actions that are being taken to address these risks.
- 7.2 There is a risk:
- That the tender process fails to provide bids which can be selected and thus deliver the services. This risk is low given the number of current and prospective providers who would be interested in bidding. The risk will be further mitigated by advertising widely on the Council's website and through the LD Provider Forum. If the risk is founded and successful providers cannot be selected the process will ensure that this is known approximately in advance of the current arrangements ending. This situation would lead to the working group and legal and procurement services determining the most appropriate course of action to prevent a gap in service provision.
 - That as the contract period is lengthy the Council may decide to terminate the contracts earlier depending on priorities. This will be mitigated through a robust termination clause being written into the contract.
 - The recommendations proposed will be subject to the EU Regulations and the Council's standing Orders which will need to be complied with.

8. **Crime and Disorder Act Implications**

- 8.1 None applicable.

9. **Human Rights and Equality Act Implications**

- 9.1 There are no Human Rights Act implications applicable and Equality Act implications have been considered through the Customer Focus Appraisal outlined in 5. 10.

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Appendices

Appendix 1 - Customer Focus Appraisal

Appendix 2 - Part II Financial Analysis.