

Chief Officers: The Chief Executive and the Director of Director of Corporate Services

Date: **Enter Details**

Wards: All Wards

Subject: Contract for Residential Respite Service for Adults with Learning Disabilities in the Borough of Merton

Lead officer: Phil Howell, Interim Head of Operations and Commissioning, Adult Social Care

Lead member: Councillor Tobin Byers, Cabinet Member for Adult Social Care and Health

Contact officer: Nick Robinson, Procurement Officer for Adult Social Care, nick.robinson@merton.gov.uk; 020 8545 4734

Recommendations:

- A. That a contract is awarded for the provision of a 6 bed Residential Respite Service for Adults with Learning Disabilities at a single location.
- B. That the contract shall operate for an initial period of 2 years from 21 April 2019.
- C. That the contract term may be extended, at the council's sole discretion, for up to 2 further years, 12 months at a time, subject to satisfactory performance on the part of the provider and a continuing need for the service. This decision to be delegated to the Director of Community & Housing.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to seek the approval of the Chief Executive and the Director of Corporate Services to award a new contract for the provision of a residential respite service running 365 days a year; 24 hours a day for up to 6 adults with learning disabilities.
- 1.2. In support of the recommendations, the report describes the commissioning and procurement processes carried out and includes the decisions taken by the tender evaluation panel.

2 DETAILS

- 2.1. The existing contract for this Residential Respite service is due to expire on 20th April 2019; there are no further options to extend the contract term. This is only service of its type for adults with learning disabilities operating in the borough.

Following the approval of DMT in April 2018 to re-commission the service, tender documents were prepared to enable competition under the 'open'

tender procedure. Small and Medium Enterprises (SMEs) alongside larger organisations were all given the opportunity to tender for the service.

2.2. Aims of the Service

The primary purpose of the service is to deliver residential respite care to meet the assessed needs of customers with learning disabilities, their carers and families and to fulfil the outcomes set out in individual care and support plans. The service will be delivered at a single location in an adapted ground floor property.

Key aspects of service delivery are to:

- give carers a break from caring;
- enable carers to continue in full or part time employment;
- enhance the health, well-being and quality of life of carers and those cared for;
- enable the carer and cared for to be part of their wider community by maintaining independence, reducing isolation and increasing social networks and friendships;
- balance the needs and wishes of both the carer and cared for, making best use of person-centred planning.

The service will offer flexible respite care and support to adults with learning disabilities including those with multiple diagnosis (Autism Spectrum Disorders, physical disabilities etc.).

In addition to the existing service, under the new contract the provider will also:

- adapt its models of care to accommodate young people coming through transitions;
- cater, where possible, for customers with highly challenging and complex needs.

2.3. Overview of the Commissioning & Procurement Processes

The specification for the service along with method statement questions forming part of the Invitation to Tender were drafted by adult social care commissioners in consultation with members of the current service's Care Group. Legal Services provided draft contract terms and conditions covering the proposed service and the Adult Social Care Procurement Officer produced the complete set of tender documents.

The opportunity was advertised on the council's web based E-tendering system Pro Contract (through which it was managed) as an 'open' tender, in accordance with the council's Contract Standing Orders. The tender was also advertised in both the Official Journal of the European Union ('OJEU') and Contracts Finder (the UK's single publishing portal for all public sector procurement opportunities).

Bidders were advised that the Transfer of Undertaking (Protection of Employment) Regulations (TUPE) could apply to those staff currently delivering the service. Relevant information about service staff in this respect was provided to those bidders who completed the required Confidentiality Agreement.

2.4. Evaluation of Tender Responses

Tender documents advised bidders that the award of a contract would be based on the offer which constituted the most economically advantageous tender ('MEAT') to the council. For the purpose of this tender, evaluations were based on Quality @ 90% and Contract Price @10%.

The evaluation panel for this tender consisted of the following officers working in adult social care:

- The Commissioning and Income Manager;
- The Team Manager for People with Learning Disabilities;
- The Learning Disability Team's Highly Specialist Occupational Therapist.
- The Procurement Officer for Adult Social Care, who acted as the Evaluation Panel's Moderator.

Three providers submitted bids, of which two were assessed to be non-compliant. The successful and unsuccessful bidders are described in Appendix 1 of this document which also contains details of the evaluated scores. Evaluations were carried out in accordance with the criteria set out in the package of tender documents and reproduced in Appendix 2 of this document.

3 ALTERNATIVE OPTIONS

3.1. The following alternative options were considered but rejected:

a) Do nothing.

This would result in ceasing to provide a service from the point that the current contract expired on 20 April 2019. The absence of alternative respite provision would risk a breakdown in the relationship between the carer and the cared for. The further risk of higher costs of care in other settings would compromise both the need for the council to meet individual needs and to provide a sufficient diverse market of care under the Care Act 2014.

b) Establish a Framework Agreement

This could potentially result in a wider choice of provision but is not guaranteed to do so. The model would take longer to implement; market capability is hard to measure. As demand for the service would be limited, it is unlikely to present itself as an attractive business opportunity to potential suppliers.

c) Transfer Customers to Direct Payment Services

The market in this respect is severely limited and many would likely opt out of the Direct Payment (DP) arrangement. Here too the absence of alternative respite provision risks a breakdown in the relationship between the carer and the cared for.

d) Extend the Existing Contract

This is not viable. The current contract expires on 20 April 2019 and there is no permission to extend it further.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The following key stakeholders were consulted at various stages of the commissioning, procurement and evaluation processes:

Internal

Adult Social Care Commissioning Team;
Adult Social Care Safeguarding Team;
Adult Social Care Learning Disabilities Team;
Commercial Services;
Legal Services;
Corporate Accountancy;

External

Carers Partnership Group

5 TIMETABLE

- 5.1. The timetable for this tender is outlined below:

Stage / Activity	Dates
Publication of ITT	20 November 2018
Closing date for receipt of ITT	20 December 2018
Evaluation of ITT	17 January 2019
Award Report to Democratic Services	By 12 February 2019
Decision by Chief Executive & Director of Corporate Services	By 25 February 2019
Notice of Intention to Award	By 1 March 2019
Standstill Period Ends	By 11 March 2019
Confirmation of Award	By 12 March 2019
Implementation Period	From 12 March 2019
Contract Commencement date	By 21 April 2019

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Tender documents instructed bidders for the new contract that bids in excess of £259,302 per year would be rejected. This price underpins the existing contract which dates back to April 2014.
- 6.2. The price submitted by the recommended bidder is shown in Appendix 1 to this report.

- 6.3. In compliance with corporate requirements, the relevant service accountant has been consulted about this report via the mandatory Corporate Review Stage of the reporting process.
- 6.4. Tender documents advised bidders that the property in which the service was to be delivered was covered by a lease operated by a third party. The specification for the service included details of the third party's draft 'Access Agreement' along with a form it would use to assess any new agency occupying the premises.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The procurement of this service has been managed under the Light Touch Regime of the Public Contracts Regulations 2015 (PCR 2015). There are no prescribed procedures for the procurement of such Light Touch services and Contracting Authorities can be flexible in how they choose to manage the process. However, this must be conducted in a way which complies with both the mandatory requirements of the PCR 2015 and EU treaty principles.

The Council has met the requirements of the Light Touch Regime up to the point of identifying the successful tenderer. The proposed award therefore presents no risk to the Council unless it omits to publish a contract award notice after all internal approvals have been obtained and the decision to award the contract has been concluded.

It is important that a contract (based on the terms that were issued with the ITT) is concluded with the successful bidder

- 7.2. With regard to the provisions for extensions contained in the contract, it is important that conditions in the contract are followed if the Council wishes to take advantage of the extensions. If the Council does not wish to take advantage of the extensions the relevant clauses contained in the agreement must be followed.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

Tender documents required responses from bidders which demonstrated their compliance with Equality and Human Rights legislation. Additionally, bidders were required to confirm the ownership of policies and procedures which covered Human Rights, Equalities and Diversity.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. There are no specific implications affecting this procurement.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. Tender documents required bidders to confirm the ownership and effective operation of policies and procedures to address Risk Assessments & Management, Health & Safety and Business Continuity Planning. These will

be tested as part of the cyclical monitoring of the contracted service. The council will also develop and implement a 6 monthly performance monitoring tool which will require the service provider to report on other key areas of business such as occupancy, referrals, complaints, staff recruitment & retention, checks with the Disclosure and Barring Service (DBS), customer outcomes, customer satisfaction etc..

10.2. The service provider will be required to operate its own quality assurance/control systems to assess and review both the success and effectiveness of the Service. Such systems will cover, but are not limited to:

- The analysis of monthly/quarterly performance information;
- The completion and analysis of an annual quality assurance review;
- The completion and analysis of an annual quality assurance survey.

10.3. The council will perform announced and unannounced visits to monitor the quality and performance of the service and its provider.

10.4. Additionally, in performing the service the provider will be expected to meet the requirements of the Care Quality Commission (CQC). This body exists as the independent regulator of health and social care in England.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix 1 – Tender Evaluation Outcome
- Appendix 2 – Evaluation Process and Award Criteria

12 BACKGROUND PAPERS

The Council's Contract Standing Orders

The Council's Procurement Strategy

Appendix 1 – Tender Evaluation Outcome

This is an exempt or confidential appendix

Appendix 2 – Evaluation Process and Award Criteria

The following is reproduced verbatim from the document 'Guide to the Tender Process' which was issued to all Bidders expressing an interest in the Tender opportunity.

1. Overview

- 1.1 Any Contract awarded as a result of this procurement process will be awarded on the basis of the offer that is the Most Economically Advantageous Tender ('MEAT') to the Council. The Award Criteria are:
- Pass/Fail Compliance Checks
 - 90% Quality
 - 10% Price

The Council's e-procurement system, the London Tenders Portal, will log all ITT submissions upon receipt. Late submissions will not be considered under any circumstances.

2. Evaluations & Moderation

2.1 Evaluation Methodology – Compliance Questions

Responses to *Part 2, Section 1: Potential Supplier Information*, will be checked to ensure that all questions have been answered and that other relevant details, including completion of the declaration, have been provided. In the event that a Supplier is unable to provide a response to any question, or a suitably detailed reason as to why a response cannot be given, the Authority may either exclude the Supplier from further participation in the Tender process or, at its sole discretion, may seek clarification. In the case of the latter, a failure by a Supplier to provide a satisfactory response within the deadline specified in the request for clarification may, at the council's sole discretion, result in its exclusion from the Tender process.

Following a Supplier's response to *Part 2, Section 2: Grounds for Exclusion*, if any of the Grounds for Mandatory and Discretionary Exclusion apply or the bidder is unable to meet any specified minimum requirements, the Authority shall, at its sole discretion, exclude the Supplier from the Tender process.

Responses to *Part 2, Section 3: Technical Issues* will involve the following:

- a) The Authority will undertake a financial analysis of each bidder in respect of *Economic and Financial Standing*. In doing so, the Authority will use published results for Turnover to assess the capacity of each Supplier to perform the contract. The Council may, at its sole discretion, exclude the supplier from the Tender process if the information submitted in respect of Economic and Financial Standing, including (where it applies) the provision of accounts in respect of a parent company, is unsatisfactory.
- b) The Authority will also undertake an analysis of *Technical and Professional Ability*. Any bidder failing any 'Pass / Fail' question will be excluded from the Tender process.

2.2 Evaluation & Scoring Methodology – Method Statements

All responses which pass the Compliance questions within this tender will be issued to the Council's *Evaluation Panel* for the scoring of Method Statements. The panel will consist of a minimum of 3 members.

Each member of the panel will independently score each response. Scoring will be based on a scale of 0-to-4 as shown in Tables 1 and 2 which follow below.

2.3 Moderation of Method Statement Scores

Following the completion of individual scoring, a moderation exercise will be undertaken involving all panel members to compare each evaluator's score and, where there is a difference in the scoring of any question, reach agreement on the final score to awarded. Final scores will be recorded on a master sheet.

2.4 Evaluation & Scoring Methodology – Price

The Supplier with the lowest overall price will be awarded the highest score i.e. 10%. Other suppliers will be awarded a percentage of the total available marks, dependent upon the percentage difference between their tendered price and that of the lowest tender price, rounded to the nearest whole percentage. *It should again be noted that any bid which includes a price higher than the specified sum will be rejected.*

2.5 Overall Award Criteria

The Council's criteria for selection of the successful Bidder are based on the highest moderated scores arising from the evaluations of **Quality** (i.e. via Method Statements) and **Pricing**.

Quality will account for **90%** and Price **10%** of all bidders' total scores.

Table 1 – Profile of Weightings according to Method Statements & Price

Method Statements (90%)	Question	Available Marks	Weighting (%)	Total Score (%)
1. Previous Experience	1.1	0 – 4	10%	
2. Knowledge	2.1	0 – 4	9%	
	2.2	0 – 4	6%	
3. Service Delivery	3.1	0 – 4	5%	
	3.2	0 – 4	5%	
	3.3	0 – 4	5%	
	3.4	0 – 4	5%	
4. Outcomes	4.1	0 – 4	9%	
	4.2	0 – 4	6%	
5. Partnership Working	5.1	0 – 4	7.5%	
	5.2	0 – 4	7.5%	
6. Implementation	6.1	0 – 4	15%	
Price (10%)			10%	
TOTAL SCORE			100% (maximum)	

Table 2 - Justification of Scoring

A score ranging from 0 – 4 will be used for evaluating each response to a Method Statement question.

Score	Justification
0	Completely unsatisfactory/unacceptable response No response to the question or serious deficiencies in meeting the required standards set out in the contract documents.
1	Poor response The response significantly fails to meet the required standards set out in the contract documents, contains significant shortcomings.
2	Partially Compliant response The response is partially compliant with shortcomings in meeting the required standards set out in the contract documents.
3	Average response The response is compliant and meets the basic contract standards set out in the contract documents. Any concerns are only of a minor nature.
4	Good response The response is fully compliant and clearly indicates a full understanding of the contract documents so as to consistently deliver the service in line with all the required standards.

2.6 Example of Scoring Methodology using Method Statement 2 ('Knowledge')

Based on an evaluator's marks of *3 out of 4* for question 2.1 and *2 out of 4* for question 2.2, the weighted scores for each part of Method Statement 2 would be:

$$\text{Q2.1} - 3 \text{ (actual score)} \div 4 \text{ (maximum score)} \times 9\% \text{ (weighting)} = 6.75\%$$

$$\text{Q2.2} - 2 \text{ (actual score)} \div 4 \text{ (maximum score)} \times 6\% \text{ (weighting)} = 3.00\%$$

It follows that the **total weighted score** would be **9.75%**