

**LONDON BOROUGH OF HACKNEY**  
**CABINET PROCUREMENT COMMITTEE**

**Monday, 15 February 2021**

**RECORD OF DECISIONS TAKEN**

This document outlines the decisions taken at the above Cabinet Procurement Committee meeting.

Unless otherwise indicated, executive decisions listed in this document will come into force and may then be implemented 5 working days after publication of this document unless the decision is called in. During that period the Director of Legal & Governance

may call-in a decision for scrutiny if so required by no fewer than 5 Members of the Council ( Part 4 of the Council's Constitution; Scrutiny Procedure Rules: Call-in Procedures).

**Date of Publication:**

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**Last Date for Call-In:**

23 February 2021

Contact: Clifford Hart, Senior Governance Services Officer

[Clifford.hart@hackney.gov.uk](mailto:Clifford.hart@hackney.gov.uk)

**8. Provision of extra care for Limetree Court and St Peter's House - Contract Award - Key Decision No. CACH R 41**

**RESOLVED:**

- i. That approval be given to award the tender for Extra Care services at Limetree Court and St Peter's House to Provider A, for a duration of two years, retrospectively commencing on 1st April 2020, with the option to extend for a further 1 year; and**
- ii. That officer report in approx 12 months (February 2022) on progress with the implementation of the contract in terms of performance and progress.**

## **RELATED DECISIONS**

The first business case was signed off by the Director of Adult Services, Childrens, Adults, and Community Health Directorate, on 3rd May 2019. Key decision Ref CACH Q26

## **REASONS FOR DECISION/OPTIONS APPRAISAL**

In 2012/13, at the request of the Council, Family Mosaic (who merged with Peabody Trust and is now known as Peabody) was asked to apply for a capital grant of £4m from the (then) Homes and Communities Agency to redevelop two of their sites to create Extra Care services. The Council then agreed to fund a further £300k in capital costs to ensure that the new service was designed specifically for residents with dementia and mental health issues. This was on the understanding that these services would assist in delaying or preventing the need for residential care and avoiding costs to health and social care services. This became the St Peter's House site. Separately, Hanover (who merged with Anchor Trust and is now known as Anchor Hanover) had also developed Limetree Court as a purpose built scheme and that presented an opportunity for Extra Care provision in both buildings to be delivered by one provider.

Extra Care Housing is housing designed with the needs of frail, older people in mind, with varying levels of care and support available on site. People who live in Extra Care Housing have their own self contained homes, their own front doors and a legal right to occupy the property. This type of provision means that people can retain their independence for longer, delaying and often completely avoiding the need for residential care. This model promotes the Council's vision to promote independence and to ensure that people are valued members of their community. This model also avoids higher cost placements in residential care.

Provider A has been delivering care and support at both schemes to date, on an interim basis. There are 43 flats for residents that are aged over 55 and with a care need. Facilities include a residents' lounge, guest room and laundry, plus attractive maintained gardens. An estate manager looks after buildings and grounds maintenance and repairs, as well as assisting residents to access further help and support if required. St Peters House has been designed for older people living with dementia, with 13 of the flats specifically assigned for people with care needs.

Before the pandemic, the medium to long term aim of the Council was for care at both schemes to be considered insourcing through delivery by the Council's Provider Services team in Adult Social Care. Currently, the Council

is not in the position to undertake this objective as the service is being reviewed, particularly in response to recent CQC inspections. There are also a number of other factors outlined in this report (see 5.9).

In 2019, an open tender process was undertaken in order to select a suitable agency for three years to provide care and support across both settings on an ongoing basis until the Council was ready to in-source the delivery of care at both schemes.

The winning bid was significantly lower than the majority of other bids and this was interrogated and the contract awarded. However, the decision was challenged and further analysis revealed that the London Living Wage was not systematically applied across the bid and in consultation with legal colleagues, the bid was disqualified.

Following this, the Council took the opportunity to revisit the model and explore further innovation in the context of wider strategic objectives and the initial preferred commissioning option, which was for the provision of care services to be delivered by the Council's in-house Provider Services team.

As mentioned above, this preferred option could not be the immediate option due to the service's CQC inspection rating "Inadequate". While the department undertook a series of actions to rectify and improve their rating, at the time of the tender process, there was a re-inspection of the service. The rating improved to "Requires Improvement", which meant there were still some areas in the service that needed further work. The provider at Lime Tree Court and St Peters currently has a good CQC rating and has worked well with the Council. The current CQC rating gives the Council some reassurance that the quality of care and support provided at these two schemes are of a good standard.

The outbreak of Covid-19 and the necessity to ensure the continuity of wider and urgent social care services has severely impacted this ambition with teams diverted to support care homes, those who are shielding and infection control. The situation is further exacerbated by the cyber attack which has impacted Council IT systems. The directorate is not currently able to put this service out to tender; the contract award enables stability of provision and continuity of staff and care for residents at a time of great change and uncertainty.

The pandemic has also delayed the overarching Housing with Care service review, which this service contract is aligned to. The Housing with Care Service review is an integral piece of work that needs to be carried out to explore how, if and when the in-house Provider Service Team could possibly deliver the care at Lime Tree Court and St Peters.

This review seeks to identify £1m. of savings over a two year period - 2021 to 2023. This saving target is part of the current saving programme for Adult Services.

The review itself has also been further complicated by the recent cyber attack on the Council which has meant that the data that would have been used to feed into the review is not currently available.

These factors impact our ability to review this service quickly. The current contract ended in March 2020. It is therefore requested that this contract award via direct negotiation, applies until at least 31st March 2022, with the ability to extend for up to a further 12 months to 31st March 2023 (i.e. Covid-19 pandemic and the current cyberattack on the Council) in order to enable continuity of service for our vulnerable residents as well as the completion of the Housing with Care service review as outlined above. This timeframe should also allow the department to fulfil its commitments to achieve savings and fully explore the possibility of the care provision being insourced and delivered by our Provider Services team. If the situation is stabilised earlier, e.g. through effective vaccination, the contract will be terminated earlier and the provision either re-tendered or brought in-house.

### **ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)**

<b>Option</b>	<b>Update</b>	<b>Advantage</b>	<b>Disadvantage</b>
i. Do nothing	The original STA has expired and cannot be further extended, therefore, this is not an option.  A break in service is not acceptable as	N/A	N/A

	we cannot be without a care service in place for vulnerable residents at these schemes.		
ii. Open procurement for a single provider	A procurement process was undertaken but the contract award could not be implemented.	N/A	The requested contract duration has already commenced and the initial contract period proposed will finish in or around the timeframe it would take to undertake a re-procurement process and service implementation if awarded to a new provider. In addition, the timeframes against the new service to be brought in-house may deem the contract duration uneconomically variable for bidding providers. The complexity of the current situation, re: COVID, cyber attack on the council means that it is not the right time to go out to procurement. In particular, we need to ensure effective infection control at these sites (e.g. staff stability)
iii. Extend existing arrangement via negotiated procedure		<p>Enables continuity of care to be delivered to the residents at both schemes in the interim short-mid term; mitigates service disruption which re-procurement process</p> <p>Ensure effective infection control.</p> <p>Ensure staffing stability at time of pandemic.</p> <p>Extension period allows us to mitigate against further impacts of COVID - e.g. peak expected winter 2021/22</p>	Risk of challenge from providers who bid for the previous tender

**9. Provision of Temporary Workers - Key Decision FCR R 6.**

**It was noted that recommendation 3.2 circulated within the original report was deleted and the insertion of two new recommendations 3.2 and 3.3, which were agreed by the Committee. The amendments to the recommendations did not affect the essence and intentions of proposals of the report.**

## **RESOLVED**

- i. That the various options considered regarding engagement of temporary workers as detailed in the report be noted;**
- ii. that approval be given to the procurement strategy detailed in the report, to appoint an Agency Staff Service Provider, by direct award process via the London Collaboration Call-Off contract awarded under the ESPO MSTAR 3 Framework; and**
- iii. that approval be given to the appointment of Matrix SCM (the Council's incumbent supplier), as the Service Provider (Neutral Vendor), for an initial term of 2 years and with a provision to extend the contract for 1 + 1 years subject to satisfactory performance.**

## **RELATED DECISIONS**

A report considering the option of in-sourcing the procurement of temporary workers was produced for the Group Director, Finance and Corporate Services; it is attached as Exempt Appendix One.

## **OPTIONS APPRAISAL AND BUSINESS CASE (REASONS FOR DECISION)**

The current contract for the provision of agency workers is due to expire on 10 July 2021 for the Council and 1 September 2021 for Hackney Education (formerly Hackney Learning Trust). Since the contract was let, the agency worker supply market for local government and public sector organisations has changed significantly. In view of the challenges posed by Fair Funding, Brexit and the recent COVID pandemic, it is a near certainty that austerity measures will be in place for the foreseeable future. In addition, the reduction in local government funding places pressure on the Council's ability to deliver services to the residents of Hackney. In view of this there is a need for the Council to continually review options for saving money, and it is appropriate to use the end of the incumbent's contract term as an opportunity to further seek improved value for money.

The Council has looked and continues to seek ways to reduce its expenditure on the supply of agency workers and improve supply rate to ensure directorates and service areas secure the right people to deliver their services. The fixed margins, no temp to permanent fees and tenureship fees has contributed to a reduction in spend. Some directorates have implemented processes to reduce agency spend, for example moving agency workers from temp to permanent and decision making panels on agency recruitment.

The current contract provides a neutral vendor solution wherein the principal (Matrix SCM) manages the supply chain of agencies. Matrix SCM is not an agency. Agencies that have enrolled in specific job categories, supply agency workers to the Council through Matrix SCM.

Following a detailed review of the current contract and drawing from lessons learned from the operation of the contract since 2017, it has been clear that the neutral vendor solution has been a more flexible contract, that combines the benefits of a single management arrangement with access to a broad array of talents that resides in the supply chains of generic, specialist, interims and education categories, than the master vendor arrangement under the previous contract which ended in 2017. The current contract allows managers to engage with the appointed service provider in a way that will ensure that they secure the workers they require using the appropriate route to the supply market as opposed to one size fits approach which has huge limitations. In addition, the continued master vendor arrangements with the incumbent for Environmental Operations has proven to be very successful.

The current contract has highlighted the importance of simplifying the contracting burden on the Council (i.e. we only contract with one principal rather than multiple agencies). The incumbent has demonstrated experience and capacity to manage the network of supply options, and has shown its ability to ensure that indemnities are back to back with a third party supply chain so that the Council has the right of redress directly through them. This has been successful, especially with changing the master vendor arrangements for Hackney Education.

There is no provision to extend the contract, but if necessary it can be mutually agreed with the incumbent supplier to extend the contract for a short period to allow the procurement process to be completed.

The options for future service provision have been explored and discussed in this report. The in-house option is unlikely to be cost effective relative to the neutral vendor model currently operated

because of the fixed margins, expertise etc. A contracted partner has the advantage to be able to reduce the overall cost to the Council due to economies of scale, bargaining power and expertise in the market. Further exploration of the costs of the in-house option can be found in Exempt Appendix One.

## **ALTERNATIVE OPTIONS (CONSIDERED AND REJECTED)**

The options considered are listed below:

- Do Nothing
- Insourcing
- Collaboration models
- Full OJEU Process
- External Framework
- Temporary recruitment delivery models

### Do Nothing

This is not a viable option. The current contract expires in July 2021 and the Council requires agency staff, available on a flexible basis, particularly for specialist areas, to be supplied after that date.

### Insourcing

The Council has the option to bring the service fully in-house. To do this would require the Council to TUPE the existing contractor workers, and if required in the future to align their wage/salary structure to Council pay scales with associated on-costs. A detailed analysis of the in-house option has been produced for consideration and is appended to this report as Exempt Appendix One.

### Collaboration Models

With the continual focus on Local Authority cost savings, Commercial Services (Kent County Council) has provided an option to work with other local Authorities to efficiently implement a number of recruitment of temporary worker solutions through the Teckal, Hamburg exemptions or Section 95 models, or a blend of each. This model is in its infancy stage as only 1 County Council has so far adopted this model. This option, and the reasons for not utilising it, have been included in the in-house option analysis.

### Full OJEU Process



A full OJEU process could be run to identify a new supplier. A procurement via a Restricted OJEU process would be time consuming - nine to twelve months, and the market is healthy so a large number of compliant bids would be expected. It would also be costly in terms of staff time and resources. Further, there is no guarantee that the rates provided under a full OJEU tender would offer better value than those offered in a Framework, the opposite may be true where the potential for multiple clients offered by a Framework may promote better pricing.

This option has been discounted as there are a number of Frameworks available which include a wide spread of agency staff suppliers and offer a shorter and EU compliant route to market.

#### External Frameworks

There are a number of external Frameworks available, which were reviewed to see if they could meet the Council's needs. A summary of the options is provided below:

##### Crown Commercial Services (CCS)

CCS manages a number of Frameworks around temporary recruitment, however these do not offer the Master Service Provider (MSP) model that the Council requires.

##### Yorkshire Purchasing Organisation (YPO)

The YPO Framework for Managing Temporary and Permanent Recruitment (942), launched in January 2020, does offer the MSP model required and a previous iteration of this Framework was used to procure our current supplier in 2016. Analysis and benchmarking of this Framework showed that whilst this is a strong option, the preferred route via the London Collaboration offers better value for money in terms of the fees and margins charged.

##### ESPO Managed Services for Temporary Agency Resources (MSTAR 3)

ESPO introduced their new MSTAR 3 framework in 2019, offering three lots including Managed Service Provision with both Neutral Vendor and Master Vendor options. The Framework is open to public sector bodies and YPO members are eligible for a financial rebate based on spend against the Framework. The Framework meets the Council's requirements for a Master Service Provider, and Neutral Vendor, and offers a strong and compliant solution. However, analysis of the rates and margins available under this Framework illustrated that, despite the potential rebate, the costs offered under the preferred option, provide better value for money for the Council.

## **10 . Information Item - Update in respect of the long term contract for**

**provision of statutory, testing, inspection, repair, and maintenance services in preparation for competition and potential insourcing of service elements**

**Noted that the information report was not circulated due to officers being unable to meet the agenda publication deadline and will be considered by the Committee on 8 March 2021**

**Exempt Items 14 & 15**

The exempt appendices detailed in Items 14 & 15 in relation to Items 8 & 9 above were noted and agreed without discussion.

Duration of meeting - 17.00hrs - 17:45hrs.