

Birmingham City Council

Report to Cabinet

8th September 2020



Subject: PUTTING PREVENTION FIRST: CONTRACT EXTENSION REQUEST FOR THE COMMISSIONING OF VULNERABLE ADULTS SUPPORT FOR DISABILITIES AND MENTAL HEALTH

Report of: Professor Graeme Betts
Director for Adult Social Care

Relevant Cabinet Member: Cllr Paulette Hamilton - Health & Social Care
Cllr Tristan Chatfield - Finance & Resources

Relevant O &S Chair(s): Cllr Robert Pocock - Health and Social Care
Cllr Sir Albert Bore - Resources

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 007923/2020		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 The purpose of the report is to approve the extension of the Prevention Services (CO218) contract (Tranche 2) Vulnerable Adults, Disabilities and Mental Health for one year from 1st July 2021 to 30th June 2022. The contracts were awarded

for a period of three years from 1st July 2016 with potential extension of two years. There are eight mental health and eleven disability contracts, which provide accommodation, floating support and an enablement service for learning disabilities.

- 1.2 These services are vital in delivering against several Council priorities, which include corporate parenting, improved health and wellbeing, building resilient and independent communities and access to suitable and sustainable housing options for the most vulnerable.
- 1.3 Co-design activities had commenced with providers, key stakeholders and service users to begin to develop a picture of what the current market looks like and what we may wish to see in the future. This will help inform the consultation documents and shape future services.
- 1.4 Further targeted engagement, workshops and coproduction activities with providers, stakeholders and service users were planned to run alongside the proposed online consultation from 26th March 2020 – 6th May 2020.
- 1.5 Cabinet approval had been granted on 17th March 2020 to initiate the proposed online consultation via Be-Heard.
- 1.6 Because of circumstances related to Covid-19 it was proposed to defer the consultation period to progress in alignment with the new proposed commissioning timetabling requirements and was approved by Cabinet on 26th May 2020. This will involve extending current contracts for a period of 12 months to enable providers to focus on delivering services to vulnerable people during these challenging times.
- 1.7 The current contracts are due to expire 30th June 2021 and had been extended by two years to the full life of the contract. The contracts were awarded for a period of three years from 1st July 2016 with potential extension of two years. The contracts were then extended for two years from 1st July 2019. Circumstances related to Covid-19 has impacted on both providers and users of the services. Service users are vulnerable due to a disability or poor mental health and during these challenging times priorities have changed. For example, service users with poor mental health may feel more anxious and unable to adapt to the changes required. Many service users have not been able to obtain their prescribed medication or attend appointments with psychologists and our providers have been working to address the gaps throughout Covid-19 lockdown for example collecting and delivering prescribed medication to service users. Service users with a disability and mental health issues have had difficulties in obtaining basic provisions and our providers have been delivering food parcels to those service users who were unable to approach food banks.
- 1.8 Providers are continually adapting services for example changing from face to face contact with service users to telephone support and more staff focusing on frontline delivery. This has meant many changes to services and it will take time

to revert back once the pandemic has passed. Therefore, to enable providers to focus on service users and deliver the appropriate services in these challenging times the proposed one-year contract extension would enable both a focus on current service delivery and in turn allow enough time for services to readapt. In addition, it will mean refreshed timetables for the recommissioning of these services and therefore providers will not have to divert from front line services to writing bids. A risk assessment can be seen at **Appendix 1**.

- 1.9 Legal and procurement advice has been sought. Legal advice was required regarding extending contracts under Public Contract Regulations to ensure the correct legislation and sections were used, for which they provided the formal wording and agreed contracts could be extended. Procurement advice was regarding not going out to market, for which a Procurement Risk Assessment is provided (**Appendix 3**). Legal comments can be seen at 7.2

2 Recommendations

- 2.1 That Cabinet approves:
- A one-year to the extension Prevention Services (CO218) contract (Tranche 2) Vulnerable Adults, Disabilities and Mental Health up to 30th June 2022.

3 Background

- 3.1 On 16th April 2019 a report to Cabinet for the recommissioning of 'Vulnerable Adults Housing and Wellbeing Support Services' was agreed. This was part one of commissioning, which included support services for homelessness, domestic abuse, young people, and people leaving institutional settings. These contracts went live on 1st December 2019
- 3.2 We now need to consider the recommissioning that covers the Disabilities and Mental Health client groups.
- 3.3 The approach will be similar to the first phase of commissioning, with a Positive Pathway consideration being used. Commissioners are working closely with CCG partners to ensure that there is a seamless step down for citizens, who move through statutory health and social care services into community-based living.
- 3.4 The current contracts (CO218) contract (Tranche 2) come to an end on 30th June 2021. Due to current circumstances it is proposed to extend current contracts until 30th June 2022 and recommission for a period of five years, up to 30th June 2027, with inclusion of appropriate break clauses.
- 3.5 The annual budget for current prevention services is £7.474m and it is intended to carry this over for the proposed contract extension.
- 3.6 The services are for vulnerable adults who have a learning, physical or sensory disability or have poor mental health.
- 3.7 The types of services to be commissioned include:

- **Universal Prevention** - Services will be available to all vulnerable adults and will focus on self-enablement and accessing local community assets such as Neighbourhood Networks.
- **Targeted Prevention** - Services will be client specific and delivered by a Navigator service to provide face to face support and access to relevant services aimed at providing prevention activity. Part of the Navigator and co-location of Navigator services is being considered with NHS commissioned mental health HUBs to enable support and medical requirements to be accessed in the same place. Lead Workers will provide a longer term and more personalised service including; initial and on-going engagement with clients and development of support plans. The intention is to provide support individuals need to overcome challenges and equip them to face and deal with challenges in the future.
- **Transition** – services will provide support delivered into accommodation and maybe short or longer term delivered by a range of providers. There will also be an enablement service for people with learning disabilities

Further details of the services to be commissioned can be seen in **Appendix 2**.

3.8 Commissioned Services Alignment and Integration:

The design and specification of the services will facilitate clear pathways for support and ensure that a strong prevention first focus is built into every stage.

Dialogue relating to alignment, integration and opportunities for joint commissioning with partners is continually taking place in order to secure access into services for the most vulnerable. These include:

- Development of a joint mental health pathway with CCG and NHS provider trusts.
- Potential to co-locate services with NHS provider trusts.
- Access to community assets and local neighbourhood networks services, migration and resettlement support.

3.9 Existing Contractual Arrangements for These Services:

The existing Vulnerable Adult Support for Disabilities and Mental Health contracts are due to expire on 30th June 2021.

3.10 Proposed Changes:

- 3.10.1 Current contracts are extended for a period of one year up to 30th June 2022.
- 3.10.2 On 17th March 2020 Cabinet approved a 42 days consultation period commencing 26th March to 6th May 2020. But, due to potential changes to the procurement process timetables the consultation needed to be deferred and aligned to progress with refreshed timetabling requirements.

This was approved by Cabinet 26th May 2020. At the time a six month extension was being considered but due to the duration of the pandemic, associated impacts and further dialogue with the market this is now not workable and a 12 month extension required

- 3.10.3 At the current time with the impact of Covid-19 across the country our providers are focused on ensuring vulnerable adults with poor mental health or a learning disability can receive the support they require. Needs may now be new or different due to social isolation such as delivery of food or medication.
- 3.10.4 If the original procurement timetable is followed it would mean providers would have to divert valuable staff resources from the current pressures faced to bid writing and consultation is likely to be a low priority for recipients at this time.
- 3.10.5 A Covid-19 risk assessment can be seen at **Appendix 1**. This was circulated to all providers seeking their views on the best way forward for our vulnerable adult clients. The feedback was in favour of deferring any commissioning plans including:
- All staff resources are being diverted into front line duties.
 - Impact of Covid-19 is likely to continue into the autumn.
 - No resources to write bids.
 - Option 3 of the Covid-19 Risk Assessment to extend current contracts for 6 months was supported as it incurs the lowest risk and supports providers at this time to cover critical provision, but a one-year extension provides the opportunity for providers and service users to stabilise again. Due to the duration of the pandemic, associated impacts and further dialogue with the market this is now not workable and a one-year extension is required
 - Providers are managing to keep services and customers at safe levels at this stage, but it is uncertain what we will face in the future.
 - Focus needs to be on reducing impact for city and NHS.

Midland Mencap stated “We think it’s best looking objectively at resources and scenarios, that we all focus on caring and protecting the vulnerable”.

4 Options considered and Recommended Proposal

4.1 Option 1:

Procure and award before 1st July 2020. The procurement will take approximately one year and cannot take place without prior consultation which has been delayed as a result of the Covid-19 Emergency. While there is no requirement to go out to formal consultation, for these services, for completeness of the engagement process and best practice a short formal

consultation should be considered. The delays in the consultation mean that the procurement cannot be achieved before the expiry date. A consultation took place with the provider market in March/April 2020 as the emergency was emerging. The feedback was that the market was unable to respond to a procurement during the emergency due to the impact on existing services. It is also likely that Covid-19 will impact future service delivery and this needs to be factored into the procurement. Providers have had to adapt services to meet changing priorities in these challenging times with all staff focused on front line delivery. If the procurement was to go ahead as originally planned and contracts were not extended providers would need have to divert staff to bid writing and associated procurement activity reducing services available to some of our most vulnerable people. Service users would not have the level of service necessary and would begin to struggle with increasingly poor mental health and seeking basic provisions. Services need time to adapt to the changes but also to be able to revert to a more traditional service delivery once the pandemic has passed.

If contracts were not extended for a one-year period there would be an impact on services both current and in the future due to the impact of Covid-19. Providers have had to adapt services to meet changing priorities in these challenging times with all staff focused on front line delivery. If contracts are not extended providers would have to divert staff to bid writing and associated procurement activity reducing services available to some of our most vulnerable people. Service users would not have the level of service necessary and would begin to struggle with increasingly poor mental health and seeking basic provisions. Services need time to adapt to the changes but also to be able to revert to a more traditional service delivery once the pandemic has passed.

Option 2: Recommended Option

To extend current contracts for one year allowing providers time to transition services from the current situation and to focus on developing bids. This will mean higher quality and more informed bids will be received. A 60 day Be–Heard consultation can take place in alignment to refreshed timetabling requirements.

This recommended proposal will demonstrate an openness and desire to harvest any additional thoughts, views and opinions from service recipients, stakeholders and citizens. This will allow sufficient time for stakeholders and citizens to respond to the consultation taking into account their needs and vulnerabilities. By progressing the consultation in alignment to refreshed timetabling requirements citizens and stakeholders will be able to focus on the consultation at reflect their needs which may well be different at this current time due to Covid-19.

It is not possible to properly procure the contacts before the end date of 30th June 2021. A change in priorities related to Covid-19 has meant both providers

and BCC commissioners having to reconsider and refocus service delivery. This has meant appropriate consultation has not been possible or co-design on recommissioned services. Therefore, a robust procurement strategy is not available and in addition there is not insufficient time to go out to market to ensure equity in the bidding process, this is pertinent-particularly if new providers want to express an interest.

5 Consultation

- 5.1 Co design work commenced July 2019, with citizens, providers and a range of key stakeholders. This includes partners from across health, housing, social care, neighbourhoods, community and voluntary sector organisations.
- 5.2 NHS mental health commissioning partners have been involved in the design of the pathway to ensure links to their own commissioned services and pathways.
- 5.3 The vulnerable adults Citizens Panel have been consulted and engaged in the co-design of proposed services.

Alongside the proposed online consultation period, commissioning officers will be meeting with providers, key stakeholders and service users to help to refine commissioning principles. The proposed new timetable, incorporating the requested one-year extension, consultation, procurement and mobilisation for a is shown in the table below.

Activity	Reason	When
Cabinet approval extend current contracts for one year	Covid-19 situation – to enable services to stabilise	September 2020
BeHeard and other consultation	To consult on commissioning proposals to inform procurement strategy.	October 2020 to December 2020
Cabinet approval final commissioning plan (following consultation) procurement strategy and delegated authority to award contract	To feed-back on consultation and gain approval to progress procurement and for delegated authority to award contract	June 2021
PROCUREMENT		
Invitation to Tender – Issue	To begin tender process	July 2021
Invitation to Tender – Return	Deadline for return of tender	November 2021
Evaluation Period	To evaluate and allow for any interviews to take place	December 2021/January 2022
DPR Approval (Award)	To gain award contract	February 2022

Contract Award	To award contract	April 2022
Contract Start	To commence contract	1 st July 2022
Mobilisation Period including TUPE Transfer	To enable provider to mobilise	1 st July – 30th November 2022
Contracts Start	Contracts up and running but first six months will have a mobilization period if required	1 st July 2022

6 Risk Management

The risk management of this commissioning is overseen by the Vulnerable Adults and Housing Board which has formal responsibility for the Commissioning of these services. The Board is chaired by the Assistant Director of Commissioning Adult Social Care.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The recommended decisions are consistent with the Council's priorities, plans and strategies and supports the Vision and Priorities in the Council Plan 2018-2022 as agreed by Cabinet across four priority areas:

- Children – an aspirational city to grow up in: We will inspire our children and young people to be ambitious and achieve their full potential.
- Jobs and skills – an entrepreneurial city to learn, work and invest in: We will create opportunities for local people to develop skills and make the best of economic growth.
- Health – a fulfilling city to age well in: Citizens and communities will have choice and control over their care and improved resilience and independence.
- Housing – a great city to live in: We will work with our partners to build a fair and inclusive city for all.

7.1.2 The decision within this report will contribute and support the delivery of the following strategies:

- Vision and Strategy to Modernise Adult Social Care 2017+
- Health and Well-Being Strategy 2017+
- Homeless Prevention Strategy 2017+
- Financial Inclusion Strategy 2016+
- Domestic Abuse Prevention 2018+
- Transition Strategy 2018+

7.2 Legal Implications

- 7.2.1 Public Contract Regulations (2015) (PCRS) regulation 72(1) permits the modification of contracts during their terms subject to certain criteria being met.
- 7.2.2 Regulation 72(1)(c) makes provision for the modification of a contract where (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen; (ii) the modification does not alter the overall nature of the contract; (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.
- 7.2.3 The contracts made provision for an extension of the contracts until 30th June 2021. As a result of the ongoing pandemic, Covid-19, the Council will be unable to carry out a compliant procurement process for the award of contracts to commence on 1st July 2021.
- 7.2.4 The current contracts need modification in order to permit the Council to extend the current contracts for a period of one (1) year from 1st July 2021 to 30th June 2022.
- 7.2.5 The need for modification has been brought about by the Covid-19 pandemic which the Council could not have foreseen and which applies nationally and not just to Birmingham. Furthermore, the overall nature of the contracts will not be altered and any increase in price will not exceed 50% of the original value of the contract.

7.3 Financial Implications

- 7.3.1 The Adults Commissioning Budget includes provision of £7.473m in respect of these Mental Health and Learning & Physical/Sensory Disability Contracts.
- 7.3.2 The contracts are currently partly funded by a contribution from Public Health totalling £3.710m. The detail application of Public Health funding within social care is currently subject to review. Although the total Public Health funding to Adults will not change, the balance of base budget/public health funding of individual contracts may be amended. However, this will not change the total funding available for the contract.

7.4 Procurement Implications (if required)

- 7.4.1 These are dealt with in paragraph 7.2 above.

7.4.2 Birmingham Business Charter for Social Responsibility (BBC4SR) will be applied within the threshold of the Charter requirements and contract value. None identified for this proposed decision.

7.4.3 A Procurement Risk Assessment can be seen in **Appendix 3** and an award notice will be published to minimise our liability for damages should there be a successful challenge.

7.5 Human Resources Implications (if required)

7.5.1 None identified

7.6 Public Sector Equality Duty

7.6.1 A relevance test to decide whether the planned recommissioning and procurement of the vulnerable adults and housing support has any relevance to the equality duty contained within Section 149 of the Equality Act 2010 of eliminating unfair/unlawful discrimination and to promote equality and human rights commenced February 2019. The screening identified that there was no requirement to assess this further at this stage. As part of the re-commissioning the relevant risk logs will be maintained to allow further consideration which include contract award and mobilisation. The consultation will inform and help develop an Equality Assessment.

8 Appendices

Appendix 1 - Covid-19 Risk Assessment

Appendix 2 - Key components

Appendix 3 - Procurement Risk Assessment