


Individual Mayoral Decision 15 November 2017	 TOWER HAMLETS
Report of: Denise Radley, Corporate Director, Health, Adults & Community	Classification: Unrestricted
Additional Capacity for Adult Social Care Assessments	

Lead Member	Councillor Denise Jones, Cabinet Member for Health & Adult Services
Originating Officer(s)	David Jones, Interim Divisional Director Adult Social Care
Wards affected	All wards
Key Decision?	No
Community Plan Theme	A healthy and supportive community

Executive Summary

Approval is requested to procure additional capacity from an external organisational to undertake Adult Social Care assessments as a one off action to reduce the current backlog. The value of this procurement is above officer delegations and Mayoral approval is therefore required.

Funding from the Improved Better Care Fund is being used to address pressures within Adult Social Care (the fund's intended purpose) and this will impact positively on those currently waiting for a non-urgent assessment and also on social care staff working at the front door of Adult Social Care.

Recommendations:

The Mayor is recommended to:

1. Approve the procurement of an external service from Skylakes to complete Adult Social Care assessments.
2. Approve a virtual tollgate which is to be presented to competition board for information.

1. REASONS FOR THE DECISIONS

- 1.1 Adult Social Care has been unable to keep pace with the increasing demand for assessments to comply with the Care Act 2014. A waiting list for non-urgent assessments is being held and this is not sustainable as it requires regular review and triage creating additional pressures for staff as well as waits for our residents. This initiative will substantially reduce the backlog whilst work is underway to redesign services as part of the restructuring and align with Health including the establishment of a Single Point of Access and the roll out of our demand management work.
- 1.2 The proposal will provide dedicated capacity through a contract to undertake 390 assessments which comply with the Care Act 2014 and local policies and procedures. Skylakes, which is part of Sanctuary Personnel Ltd, has experience of successfully providing this type of service to other local authorities. Meetings with their representatives have satisfied officers that a high standard of service will be provided by very experienced social workers and this number of assessments will be completed and quality assured within a 20-week period.

2. ALTERNATIVE OPTIONS

- 2.1 Alternatives such as increasing the number of agency social workers have not reduced the backlog and previous attempts to set up an in-house project team to tackle backlogs in reviews did not have the desired impact and also required additional management capacity which is not available. It is, therefore, considered essential to acquire some one-off additional external capacity as the Assessments and Intervention Team is not coping with the current level of demand.
- 2.2 Skylakes has a proven track record of providing this type of service to other local authorities and has a model contract and procedures which would enable the work to commence within two weeks of formal approval being given.
- 2.3 Although there are other companies in the market, Skylakes are best placed to meet our quality, value for money and early delivery requirements.

3. DETAILS OF REPORT

- 3.1 The necessity of this initiative has been detailed above. Staff and Trade Unions are aware of the proposal and their main concern is that this is a one-off action and the underlying problems and pressures are tackled so it will not be necessary to seek further external support in the future. Assurances have been given in this regard.
- 3.2 In some cases, holding a waiting list results in more urgent care being provided which increases dependency and adds to the service's budget

difficulties. It is also probable that earlier assessment will reduce the number of emergencies which may in turn reduce care home admissions.

- 3.3 The model contract covers all the requirements considered essential by officers.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The proposed price for the completion of 390 assessments is £284,364 plus VAT. This will be met from Improved Better Care Fund (IBCF) resources earmarked for this purpose.

- 4.2 A model contract has been provided by Skylakes, which is part of Sanctuary Personnel Ltd.

5. LEGAL COMMENTS

- 5.1. In respect of the recommendations contained in the report, the Council has a duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness by virtue of section 3 of the Local Government Act 1999. This is known as its Best Value Duty.
- 5.2. The Council has a duty under Sections 9 of the Care Act 2014 ('the Act') to assess whether an adult who appears to have care needs does in fact have a need for care and support. Where that assessment concludes that they do have eligible care needs, there is a duty under s18 to meet those needs if they are ordinarily resident in the Council's area and their financial means are below the financial limit. The assessment and eligibility process provides a framework to identify any level of need for care and support so that local authorities can consider how to provide a proportionate response at the right time, based on the individual's needs, and this is detailed in Chapter 6 of the Care and Support Statutory Guidance, last updated on 17 August 2017 ('the Guidance').
- 5.3. Section 27 of the Act then requires the Council to review the individual's care and support plan, at regular intervals as well as upon request of the individual or their carer. Chapter 13 of the Guidance clarifies that the Council should establish systems that allow the proportionate monitoring of both care and support plans and support plans to ensure that needs are continuing to be met (paragraph 13.11).
- 5.4. The current backlog of assessments clearly indicates that the Council could be challenged on its compliance with the Care Act 2014.
- 5.5. Section 79 of the Act permits the Council to delegate its functions under the Act to any person or corporate body ('the contractor'). However, s79(6) specifies that anything done or omitted to be done by the contractor, in relation to that function is to be treated for all purposes as done or omitted to be done by the Council. As a consequence, in the event that the reviews

undertaken by Skylakes were not compliant with the requirements of the Act of Guidance, the Council would be liable for those failings and cannot contract out of these duties. It is therefore essential that the Council maintains oversight of the assessments and that good governance is in place to ensure that the assessments undertaken are legally compliant.

- 5.6. The Public Contracts Regulations 2015 requires the Council to subject purchases of various goods works and services to competition. However, these services are of a type listed in Schedule 3 of the regulations and the purchase price does not exceed the higher Schedule 3 threshold and therefore the regulations do not apply to this procurement.
- 5.7. The Parking Brixen case requires the Council to subject procurements to a reasonable level of competition where the regulations do not apply. However, under regulation 32 it would be permissible to enter into a contract with one supplier for reasons of urgency. Whilst the regulations do not apply to this procurement it is considered Best Practice to follow the rules with below threshold contracts.
- 5.8. In these circumstances it is clear that there are risks and disadvantages of holding a waiting list and that the appropriate assessments need to take place urgently. The Council has taken some reasonable steps by employing more staff to try and meet the demand, however, despite this the need for the assessments has continued. Therefore, the reasons for the urgency appear to be some way out of the control of the Council and point at the necessity for this one off appointment.
- 5.9. The Council will still have to benchmark the final cost of this contract against other existing contracts and or the cost of resourcing similar services internally in order to demonstrate that the services represent Best Value.
- 5.10. When developing a strategy to address the backlog of care reviews, regard must be given to the public sector equalities duty to eliminate unlawful conduct under the Equality Act 2010. The duty is set out at Section 149 of the 2010 Act. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimization and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The backlog of assessments is having an impact on residents in the borough who potentially have care and support needs.
- 6.2 It is likely that there will be a disproportionate percentage within Protected Groups affected by the delays.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 These considerations have been evaluated and the proposed option is the most appropriate way of meeting Best Value requirements.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 Skylakes would be responsible for recruiting staff for this initiative. They will be home based and visits will be coordinated by their support staff to minimise travel and maximise productivity.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There are individual and reputational risks associated with a waiting list. Mitigation of safeguarding risks through regular triage of the waiting list is inefficient and costly. It is proving increasingly difficult to manage the waiting list even though most people have some short-term support. Skylakes would deliver an average of 20 assessments a week and 390 during the period of the initiative which will rapidly reduce the level of risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There is a possibility that some residents waiting assessment could be victims of crime and disorder and advice, signposting and support might be arranged sooner if there is an earlier response to requests for assessment.

11. SAFEGUARDING IMPLICATIONS

- 11.1 Although mitigation is in place and efforts are made to screen out safeguarding concerns and respond to these very promptly, some may not be very apparent until a full assessment is undertaken. The procurement of capacity to address the waiting list therefore has a positive impact in safeguarding terms.

Linked Reports, Appendices and Background Documents

Linked Report

- List any linked reports [if Exempt, Forward Plan entry MUST warn of that]
- State NONE if none.

Appendices

- List any appendices [if Exempt, Forward Plan entry MUST warn of that]
- State NONE if none.

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- List any background documents not already in the public domain including officer contact information.
- These must be sent to Democratic Services with the report
- State NONE if none.

Officer contact details for documents:

Or state N/A