

Cabinet Decision 6 November 2013	 TOWER HAMLETS
Report of: Robert McCulloch-Graham; Corporate Director: Education, Social Care and Wellbeing	Classification: Unrestricted
Mental health day opportunities and support services contracts	

Lead Member	Cllr Abdul Asad, Cabinet Member for Health and Wellbeing
Originating Officer(s)	Deborah Cohen, Service Head Commissioning and Health
Wards affected	All wards
Community Plan Theme	A Healthy and Supportive Community
Key Decision?	Yes

Executive Summary

1. The Council currently holds 13 contracts for day opportunities and support services for people with mental health problems of working age. Total spend on the 13 contracts amounts to £999,425 including a £106,869 contribution from NHS Tower Hamlets Clinical Commissioning Group.
2. In partnership with NHS Tower Hamlets Clinical Commissioning Group, the Council undertook a strategic review of mental health day opportunities and support services in early 2013/14. This work has contributed to the development of the draft Health and Wellbeing Board Mental Health Strategy, which was the subject of consultation in September / October 2013. Further work will be required, following the adoption of the Health and Wellbeing Board Mental Health Strategy, to determine the optimum configuration of day opportunities and support services so that competitive tenders can be advertised and new contracts awarded.
3. Given the timescales required to complete this further work, and in order to ensure service continuity for mental health service users, it is recommended that new short-term contracts are issued to the existing providers of mental health day opportunities and support services from current contract expiry until 31 March 2015.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Note that further work will be required to determine the optimum configuration

for mental health day opportunities and support services following the adoption of the Health and Wellbeing Board Mental Health Strategy;

2. Agree that new short-term contracts be let to existing providers of mental health day opportunities and support services, for the period from current contract expiry to 31 March 2015, in order to ensure continuity of support for mental health service users.

1. REASONS FOR THE DECISIONS

- 1.1 To provide continuity of provision for mental health service users while a strategic direction for the future shape of service is determined, and subsequent competitive tender exercises completed.

2. ALTERNATIVE OPTIONS

- 2.1 The Mayor in Cabinet could decide not to award new short-term contracts to cover the period until 31 March 2015. This option is not recommended as it would potentially leave vulnerable mental health service users without access to services which they rely on for support in maintaining their mental health and wellbeing.

3. DETAILS OF REPORT

- 3.1 The Council currently holds 13 contracts for day opportunities and support services for people with mental health problems of working age. These contracts are detailed in the table below. Two contracts, Working Well Trust Employment Service and Mind in Tower Hamlets and Newham Inclusive Mental Health Support Service, expire before 31/3/14, whilst the remaining 11 expire on 31/3/14.

Provider	Service	Current contract term	Length of requested contract	2013/14 annual contract value	2013/14 LA funding	2013/14 NHS funding
Beside	Beside	31/3/14	12 months	£58,654	£58,654	
Community Options	Voluntary Sector Network	31/3/14	12 months	£8,318		£8,318
Community Options	Service User Involvement Project	31/3/14	12 months	£84,034	£45,596	£38,438
Mind in Tower Hamlets & Newham	Evening Service	31/3/14	12 months	£68,201	£12,088	£56,113
Mind in Tower Hamlets & Newham	Inclusive Mental Health Support Service	31/1/14	14 months	£234,427	£234,427	
Mind in Tower Hamlets & Newham	Welfare Rights	31/3/14	12 months	£69,962	£69,962	
Mind in Tower Hamlets & Newham	Complementary therapies	31/3/14	12 months	£28,815	£28,815	

Praxis	Support Project	31/3/14	12 months	£43,805	£43,805	
St. Hilda's	Bondhon Project	31/3/14	12 months	£42,819	£42,819	
Social Action for Health	Mellow Project African Caribbean Support Group	31/3/14	12 months	£13,992	£13,992	
Vietnamese Mental Health Organisation	Support Group	31/3/14	12 months	£42,024	£42,024	
Working Well Trust	Employment Project	30/11/13	16 months	£299,874	£299,874	
Bangladeshi Mental Health Forum	Forum	31/3/14	12 months	£4,500	£500	£4,000
Total				£999,425	£892,556	£106,869

- 3.2 In partnership with NHS Tower Hamlets Clinical Commissioning Group, the Council has undertaken a strategic review of mental health day opportunities and support services during 2013/14. This work has contributed to the development of the draft Health and Wellbeing Board Mental Health Strategy, which was the subject of public consultation from 03 September 2013 to 11 October 2013. Following analysis of consultation responses, it is anticipated that a final draft Strategy will be ready for consideration by the Health and Wellbeing Board, Clinical Commissioning Group and Council in the latter part of 2013/14. Further work will then be required to determine the optimum configuration of day opportunities and support services before competitive tenders can be planned, undertaken and new contracts subsequently awarded.
- 3.3 In view of this timescale, and in order to ensure continuity of service provision for mental health service users, it is recommended that new short-term contracts are issued to the existing suppliers of mental health day opportunities contracts from current contract expiry until 31 March 2015. This will allow time for full consideration of options for the reconfiguration of mental health day opportunities services in light of the finalised Health and Wellbeing Board Mental Health Strategy, and for officers to manage the resulting competitive tender processes with a view to new contracts being in place for 1 April 2015.
- 3.4 NHS Tower Hamlets Clinical Commissioning Group has indicated that it will enter into an agreement with the Council to transfer funds identified in paragraph 3.1 above to the Council for 2014/15.
- 3.5 The Council's Strategic Competition Board has considered the proposal detailed in this paper and supports the recommendation that the Mayor in Cabinet approve the letting of new short-term contracts for mental health day opportunities and support services from current contract expiry until 31/3/15.
- 3.6 A brief description of the services provided within the contracts above is detailed below:

Contract	Description of services
Beside	Group based support for people with mental health problems.
Community Options Voluntary Sector Network	Organises mental health voluntary sector network.
Community Options Service User Involvement Project	Provides support to service user led groups who have been successful in their application for the Mayors programme of user led grants. Organises quarterly Your Say Your Day user involvement events and the Community Options Involvement Network.
Mind in Tower Hamlets & Newham Evening Service	Evening drop-ins for people with mental health problems, twice a week.
Mind in Tower Hamlets & Newham Inclusive Mental Health Support Service	A large range of day opportunities and 1:1 support for people with mental health problems.
Mind in Tower Hamlets & Newham Welfare Rights	Benefits advice and support for people with mental health problems.
Mind in Tower Hamlets & Newham Complementary Therapy Service	A range of complementary therapies for people using MIND services.
Praxis Support Project	Support groups and 1:1 support for people of Somali origin.
St. Hilda's Bondhon Project	Support groups and 1:1 support for Bangladeshi women.
Social Action for Health Mellow Project	Support group and 1:1 support for people of African-Caribbean origin.
Vietnamese Mental Health Organisation Support Group	Support groups and 1:1 support for people of Vietnamese origin.
Working Well Trust Employment Project	Practical employment related support for people with a serious mental illness, including a sewing project and print shop, with a focus on supporting people of south Asian origin.
Bangladeshi Mental Health Forum	Annual conference event for people of Bangladeshi origin and people with an interest in mental health.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The council has a total of 13 contracts in place for the provision of day services for Mental Health Clients. These contracts cost £999,425 per annum, £892,556 funded through council budgets and the remaining £106,869 through NHS contributions.
- 4.2 These contracts are all due to expire by 31/03/2014. However the Health and Wellbeing Board Mental Health Strategy, currently being developed, is likely to have some impact on the services provided through these contracts and thus the retendering process has been rescheduled to take place after the Health and Wellbeing Board Mental Health Strategy is finalised. This means re-procurement of these services is unlikely to be completed before the current contract expiry date and as a result it is necessary to put in place interim arrangements to ensure continuity of service for service users.
- 4.3 This report recommends current contracts be extended until 31/03/2015. The cost of doing this will be met through existing budgets and as there are no specific savings attached to these services, there will however, be no impact on the delivery of directorate savings targets.

5. LEGAL COMMENTS

- 5.1 The Council is required by section 47 of the National Health Service and Community Care Act to carry out needs assessments of people to whom it may provide community care services and who appear to be in need of such services. After assessment, the Council must decide whether the identified needs call for the provision of community care services. Such services may include day opportunities and support services of the kind covered by the proposed contracts.
- 5.2 The Public Contracts Regulations 2006 apply in circumstances where the value of the contract exceeds the relevant threshold, which is currently £173,954 for present purposes. Two of the proposed contracts have values exceeding the threshold, which means the Council must comply with the requirements of the Public Contracts Regulations.
- 5.3 Contracts for the provision of day opportunities and support services are Part B services contracts within the meaning of the Public Contracts Regulations 2006. Whenever the Council seeks offers in relation to such contracts, it is subject to specified provisions of the Public Contracts Regulations. Part 1 of the Regulations applies and, specifically, Regulation 4(3) provides that the Council (as the contracting authority) shall –
- (a) treat contractors, suppliers and services providers equally and in a non-discriminatory way; and
 - (b) act in a transparent way.

- 5.4 Even though the Public Contracts Regulations do not apply to eleven of the proposed contracts, the Council will still have to comply with general principles of EU law if the contracts have potential cross-border interest (which is considered to be the case here). The requirement to comply with general EU principles arises because some of the provisions of the Treaty on the Functioning of the European Union have direct effect in the UK. The general provisions include the requirement for equal treatment and transparency.
- 5.5 In relation to the requirements to treat contractors, suppliers and services providers equally and to act in a transparent way, the Council is effectively in the same position in relation to all thirteen of these contracts. The requirements of equal treatment and transparency have been the subject of comment by the European Court of Justice and by the European Commission in its interpretative communication (2006/C 179/02) on the Community law applicable to contract awards which are not or are not fully subject to the provisions of the Public Procurement Directives.
- 5.6 In 2006 the Commission issued guidance on the requirement to advertise contracts for Part B services (and below threshold contracts) which can be summarised as requiring an assessment of the following facts to determine if the procurement opportunity should be advertised in the Official Journal of the European Union :-
1. The value of the contract
 2. The nature of the market for these services (how international is the provision of these services?)
 3. If any providers in other member states are currently offering similar services to other authorities or private buyers in our region.
 4. If other authorities have tendered similar services and received expressions of interest from providers based in other EU member states
 5. Whether or not a local presence is necessary and if the contract is of sufficient value to make it worthwhile for an outside organisation to establish such a presence
 6. Whether or not the contract is for services which are highly prestigious or specialised .
- 5.7 As under the Localism Act 2011, local authorities can now be liable for fines resulting from breaches of EU law, these provisions are assuming a higher priority and an analysis of the 6 questions should be completed for every procurement of Part B services where the total cost of the contract for its duration is above or approaching the EU threshold , currently £173,934
- 5.8 It is the officers' assessment that as these services need to be delivered in the borough it is unlikely that there would be any expressions of interest from other EU member states nor would an outside organisation be likely to want to establish a presence in the borough it would not be appropriate to advertise in the OJEU, as there is unlikely to be cross border interest and the Council will be advertising these opportunities when these extended contracts expire.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The services that form the subject of this report are delivered to a particularly vulnerable group of borough residents. Additionally, a number of the services are tailored to meet the needs of specific communities within the borough. Prior to finalising the future strategy for commissioning the equivalent services for 2015 and beyond the proposals will be tested via an Equality Analysis to ensure that any potential adverse implications of the proposed configuration and reach of the services to be commissioned are appropriately mitigated.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 The proposals set out in this report do not generate any adverse environmental impacts.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1. Approval of the proposals will ensure continuity of service for vulnerable individuals for whom the Council has statutory duties under the National Health Service and Community Care Act and associated acts and regulations.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 9.1 The services that form the subject of this report are all designed to support the wellbeing of mental health service users. Without these services being in place there is some potential risk that individuals may engage in unlawful activities. Maintaining continuity of provision will continue to mitigate this risk.

10. EFFICIENCY STATEMENT

- 10.1 This report recommends current contracts be extended until 31/03/2015. The cost of doing this will be met through existing budgets and as there are no specific savings attached to these services, there will however, be no impact on the delivery of directorate savings targets.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- NONE

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

- NONE

Officer contact details for documents:

- N/A