


Cabinet Decision 1 December 2015	 TOWER HAMLETS
Report of: Luke Addams, Director of Adult Services	Classification: Unrestricted
Procurement of Public Health Services (0-5 years): Health Visiting service and Family Nurse Partnership – Contract Award	

Lead Member	Councillor Amy Whitelock-Gibbs, Cabinet Member for Health
Originating Officer(s)	Esther Trenchard-Mabere, Associate Director of Public Health Katie Cole, Senior Specialty Registrar in Public Health
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A healthy and supportive community

Executive Summary

1. From 1st October 2015, Local Authorities became responsible for commissioning public health services for children aged 0-5 years (Health Visiting and Family Nurse Partnership). The previous NHS contract was novated to the Council and runs up to 31st March 2016.
2. The universal elements of the Health Visiting service are nationally mandated because of their importance in ensuring the health and wellbeing of 0-5 year olds.
3. Following an extensive engagement process and localisation of the national service specifications, the Council has conducted a procurement process for Health Visiting Service and Family Nurse Partnership. Approval to procure these services was obtained from the Competition Board, Corporate Management Team, Mayor's Advisory Board and Cabinet prior to inviting tenders on 31st July 2015.
4. The procurement process has been completed and the recommendations for contract award have been approved at Competition Planning Forum on 9th November 2015 and will be considered at Competition Board on 23rd November 2015.
5. Cabinet is asked to approve the recommendations for award of these two contracts, subject to confirmation of these recommendations by Competition Board (that will be confirmed by 23rd November 2015).

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the award of Public Health Services (0-5 years) contracts as follows:-
 - Lot 1 Health Visiting to be awarded to Tower Hamlets GP Care Group CIC as the prime contractor, with Compass Wellbeing CIC as a subcontractor.
 - Lot 2 Family Nurse Partnership to be awarded to Compass Wellbeing CIC as the prime contract, with Tower Hamlets GP Care Group CIC as the subcontractor.
2. Agree that the Director of Public Health be delegated to make the contract awards as at recommendation 1 above.
3. Authorise the Service Head, Legal Services, following consultation with the Director of Public Health to execute all necessary contract documents in respect of the awards of contracts referred to at recommendation 1 above.

1. REASONS FOR THE DECISIONS

- 1.1 From 1st October 2015 Local Authorities became responsible for commissioning and delivering public health services for children aged 0-5 years. The current NHS contract was novated to the Council and runs up to 31st March 2016 therefore a new Council contract is required from 1st April 2016. Due to the size of the contract, a full three month mobilisation period is required to ensure service stability.
- 1.2 In recognition of their potential impact on long term health and wellbeing and inequalities, the Health Visiting service and Family Nurse Partnership have been prioritised nationally for additional investment and expansion of the workforce. In addition, the universal elements of the Health Visiting service are nationally mandated.

2. ALTERNATIVE OPTION

- 2.1 Extend the existing contract with Barts Health from 1st April 2016. However, legal advice is that, given the size of the contract and the long notice periods required, it would be strongly advisable not to extend the current NHS contract beyond the 31st March 2016.

3. DETAILS OF REPORT

3.1. Summary of requirements

3.2. The Health Visiting service is a workforce of specialist community public health nurses who provide expert advice, support and interventions to families with children in the first years of life to help empower parents to make decisions and access services that affect their family's future health and wellbeing. It is planned that there will be a continued increase in staffing of qualified health visitors up to the National 'Call to Action' target of 95 WTE which will enable a significant strengthening of the service. Additional funding has been provided from the Department of Health to support this. This service is led by health visitors and supported by a skill mix team.

3.3. The Family Nurse Partnership (FNP) is an evidence-based, licensed service of specially trained family nurses who provide extra support to vulnerable, first time mothers aged 19 years and under, from early pregnancy until the child is aged two in order to improve the long-term health and social outcomes for the children.

3.4. Procurement process

3.5. Approval for the proposed procurement was obtained from the Competition Board, Corporate Management Team, Mayor's Advisory Board and Cabinet prior to inviting tenders. Advice was sought and obtained from LBTH Procurement and Legal Services at every step of the process.

3.6. The service was procured through a restricted tendering route. The tender was advertised on 12th August 2015 with a supplier briefing on 18th August 2015. 14 expressions of interest were received from suppliers representing the local voluntary and community services, NHS providers, social enterprises and consultancy organisations representing other interested parties.

3.7. Two PQQs were received for Lot 1 and three PQQs were received for Lot 2. All PQQs met the minimum threshold therefore all suppliers were invited to submit tenders.

3.8. For Lot 1 Health Visitor service, one tender was received from Tower Hamlets GP Care Group CIC with a bid value of £5,892,744 per annum. Procurement advised that the procurement could proceed and recommend awarding a contract providing the tender met the quality criteria and that new OJEU rules would enable us to negotiate aspects of the methods statement to ensure best value for the local authority.

3.9. For Lot 2 Family Nurse Partnership, two tenders were received:

- Compass Wellbeing CIC. E1 0LR. £550,249.14 per annum
- North East London NHS Foundation Trust (NELFT). SS14 3EZ. £547,084 per annum

- 3.10. Due to the small numbers of tenders received and the quality of PQQs, all bidders were invited to interview on 2nd November 2015. The interview panels consisted of three members of the public health team, colleagues from LBTH Children's Services, the Tower Hamlets Designated Nurse for Safeguarding and national experts on each programme.
- 3.11. Based on the scoring of the price, methods statements and performance at interview, a recommendation was made to award the new contract to the tenderer that received the highest score on grounds of quality and price.
- 3.12. The strengths of the single tender for Lot 1 Health Visiting included:
- Good knowledge of Tower Hamlets and challenges faced by the community.
 - Proposals for better integration with other services, including having named health visitors to link with each children centre, GP surgery and nursery school.
 - Good experience in partnership working including a lead role in the Tower Hamlets Integrated Provider Partnership (THIPP).
 - Strong commitment to local employment and other community benefits
- 3.13. The particular strengths of the highest scoring tender for Lot 2 Family Nurse Partnership included:
- A good understanding of the programme and its ethos, and a strong vision for the service.
 - Good insight into local issues facing the community and individuals.
 - A particularly strong response around supporting staff and supervision, which is critical given the challenges of working with this client group.
 - Comprehensive, strong proposals around the four service levels, particularly around the types of emotional support needed for families with higher levels of need.
 - Synergies as a local existing provider of school health service (5-19 service) and benefits of working in a consortium with Tower Hamlets GP Care Group
 - Strong commitment to local employment and other community benefits.
- 3.14. This recommendation was discussed and approved by the Competition Planning Forum (9th November), Adult Services DMT (11th November) and CMT (18th November).
- 3.15. The contract costs for both the Health Visiting Service and the Family Nurse Partnership will be fully covered by the additional public health grant that is provided to the authority from 1st October 2015. In addition there is a fund for growth of the Health Visiting service which will only be released to the provider if they are able to evidence that there has been a growth in the

number of qualified health visitors towards the full target number for the borough which was set during the national Health Visiting review.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 A budget of £3.855million was transferred from October 1st 2015 to cover workforce related costs until March 2016. The assumption was that the funding for both the Health Visiting (HV) and Family Nurse Partnership (FNP) Services will be recurrent each year, the full year allocation of funding from 2016/17 was expected to be £7.710million.
- 4.2 Central government has recently announced that the level of 2015/16 Public Health grant allocated to Tower Hamlets will be cut by 6.2% (£2.235m), this represents Tower Hamlets share of a £200m reduction nationally.
- 4.3 The reduction also applies to the £3.855m transferred in respect to 0-5 year olds in October, this reduces the allocation for HV and FNP to £3.616m in 2015/16. Based on this revised half year allocation the 2016/17 funding is expected to be £7.232m.
- 4.4 Any contract award would need to be met from within the Public Health grant, the reduced grant overall in 2015/16 inclusive of 0-5 year olds funding is £33.881m.

5. LEGAL COMMENTS

- 5.1 This report concerns a proposal to enter into two contracts with Tower Hamlets GP Care Group CIC (GP Care) and Compass Wellbeing CIC (Compass) respectfully further to a competitive procurement exercise in relation to the provision of health visiting and family nurse partnership (FNP) services (the Contracts).
- 5.2 On 1 April 2013, the Council assumed responsibility for a number of public health functions, following amendment of the National Health Service Act 2006 (NHS Act) by the Health and Social Care Act 2012. The Council became subject to a general duty to take such steps as it considers appropriate for improving the health of the people of Tower Hamlets. It also acquired specific public health functions, which included functions relating to children aged 5-19, particularly to provide for medical inspection of pupils and for the weighing and measuring of pupils.
- 5.3 The amended NHS Act provided that additional public health functions of the Secretary of State may be transferred to local authorities by way of regulations. The Local Authority (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 (the Public Health Functions Regulations) gave local authorities a number of public health functions from April 2013, including in relation to children aged 5-19. The Government announced that from 1 October 2015, the responsibility for

commissioning public health services for children aged 0-5 will transfer from NHS England to local authorities.

- 5.4 The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) and Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment) Regulations 2015 were made on 23 March 2015 (the Health Regulations). The Health Regulations require the Council, in the discharge of its general public health duty and so far as reasonably practicable, to provide or make arrangements to secure the provision of a universal health visitor review to be offered to specified persons at specified times, namely:–
- A woman who is more than 28 weeks pregnant;
 - A child who is aged between one day and two weeks;
 - A child who is aged between six and eight weeks;
 - A child who is aged between nine and 15 months; and
 - A child who is aged between 24 and 30 months.
- 5.5 The Health Regulations specify that a health visitor must carry out the review, except in two sets of circumstances. First, a suitably qualified health professional or nursery nurse may carry out the review, with guidance from a health visitor, if the health visitor considers it appropriate and the professional or nurse agrees. Secondly, a family nurse may carry out the review if the eligible person is a beneficiary of the family nurse partnership programme who is regularly visited by a family nurse, or if the eligible person is a child aged 24-30 months or a pregnant woman formerly regularly visited by a family nurse under the FNP programme, or a child whose mother who was formerly regularly visited under the FNP programme. By entering into the Contracts, the Council should be satisfied that it will likely discharge its duties under the Health Regulations and generally under the NHS Act in so far as they relate to the services.
- 5.6 By virtue of section 111 of the Local Government Act 1972, the Council has power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. Subject to achieving the appropriate approvals in accordance with the Council's constitution, the Council should be satisfied that it has the power to enter into the Contracts.
- 5.7 The estimated value of the Contracts exceeded the relevant threshold contained in the Public Contracts Regulations 2015 (the Procurement Regulations) and they fell within the remit of "social and other specific services" in accordance with regulations 74 and Schedule 3 of the Procurement Regulations. In view of this the Council was required to fully comply with the Procurement Regulations and through the procurement exercise, subjected the services to a level of competition to ensure compliance with the principles of transparency and equal treatment which would appear to have been complied with. In addition, the Council placed an advert in the Official Journal of the European Union (OJEU) as required by the Procurement Regulations. In addition, the Council's Procurement Procedures and Procurement Policy Imperatives would appear to have been complied

with through the procurement exercise. If the Council is satisfied that the Contracts should be awarded to GP Care and Compass, contract award notices in OJEU must be published.

- 5.8 The Council has reserved the right not to award the Contracts in the procurement documents and if a decision were taken not to award them to GP Care and Compass, they would have to be informed of the Council's decision. If a decision is made not to award the Contracts, the Council would need to enter into an interim arrangement for the provision of services until a further procurement can be carried out in order to comply with its statutory duties. This would likely require the direct award of a contract in the form of a grant of a new contract with another contractor.
- 5.9 Any direct contract award would likely be contrary to the requirements of the Procurement Regulations (at least to the extent that the Procurement Regulations requires a fair and transparent process) and would expose the Council to legal proceedings in respect of that illegality. In particular, a claim might be brought by GP Care and Compass claiming damages in respect of the lost opportunity and an application to have any direct award contract annulled. A decision of the Council not to award the Contracts may also lead to allegations that the Council is failing to comply with European law in relation to public procurement, particularly principles such as equal treatment and transparency and non-discrimination under the Treaty on the Functioning of the European Union. This may expose the Council to scrutiny from the Cabinet Office and further, to the imposition of financial penalties by the European Commission.
- 5.10 The Council is required by the Public Services (Social Value) Act 2012 to consider how its procurement activities might secure the improvement of the economic, social and environmental well-being of Tower Hamlets. The Council should be satisfied that due regard has been given to these duties in the procurement exercise for the award of the Contracts.
- 5.11 The Council has an obligation as a best value authority under section 3 of the Local Government Act 1999 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." Compliance by the Council with its own Procurement Procedures and complying with the requirements of the Procurement Regulations in tendering for the services should assist to satisfy these requirements. However, the Council would also need to be satisfied that entering into the Contracts and the engagement of GP Care and Compass will also provide best value.
- 5.12 When considering its approach to contracting, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not (the public sector equality duty). Officers are expected to continuously consider, at every stage, the way in which procurements conducted and contracts awarded satisfy the requirements of the public sector

equality duty. This includes, where appropriate, completing an equality impact assessment which should be proportionate to the function in question and its potential impacts.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The population of Tower Hamlets is affected by serious levels of health inequality. Interventions that target children and young people such as the School Health service are critically important to improving health and wellbeing and reducing inequality.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The procurement utilised a competitive tendering process. The values for both recommended contract awards are within agreed financial envelopes and met the quality criteria.

- 7.2 The evaluation concluded that tender for Lot 1 provided value for money for the following reasons:

- The tender was within the financial envelope for the contract award
- The majority of the costs associated with the contract relate to staffing. The staffing model was in line with the service specification. There is limited flexibility to reduce staffing costs owing to TUPE requirements and national staffing paycales.
- The other major cost driver was estates. The bid included a sum for estates that was lower than the figure provided by the incumbent. It is understood that the tenderer may be able to reduce estates costs, as the service can be provided from GP premises. This will be further clarified in mobilisation.
- As there is only one tenderer for Lot 1, there is an opportunity under new OJEU rules to negotiate details of the contract to ensure good value for the Council.

- 7.3 For Lot 2, the two tenders were of very similar value but the recommended tender scored slightly higher on pricing due to lower management costs with more of the costs funding service quality.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no significant implications, but the tender for Lot 1 did confirm their commitment to recycling.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 A risk analysis has been undertaken and has identified the following key risks:
- Delay in decision to award contracts. This could compromise the mobilisation period with risks to service stability. Alternatively, if delay was sufficient to require extension to the current contract, this could lead to deterioration of service quality.

- Reduction of public health grant in 2016-17. The contract award for Lot 1 Health Visiting service is only for the current staffing and there is additional funding in the DH allocation for growth. If necessary a reduced target could be set for future growth of health visitors. This decision would be taken as part of a broader review of public health contracts as the universal element of health visiting service is a mandated service.
- Recruitment and retention of workforce due to uncertainty and change. This will be mitigated by prioritising staff engagement and communication during the mobilisation period.
- Ensuring information systems are compatible with existing systems in the borough. This will be addressed during mobilisation.
- Ensuring affordability of estates. The recommended provider for Lot 1 Health Visiting service already provides a significant proportion of the accommodation for the current service. For Lot 2, the small service size makes this less of a risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There is international evidence that Family Nurse Partnership can reduce involvement in the criminal justice system in the longer term.

11. SAFEGUARDING IMPLICATIONS

- 11.1 Both services have important roles in relation to safeguarding children that have been evaluated in the written tenders and presentation sessions. We ensured a high-quality evaluation of safeguarding proposals by including the CCG Designated Nurse for Safeguarding Children on the evaluation panel.
- 11.2 The tenderers for both lots agreed in the clarification session to work closely with the CCG Designated Nurse for Safeguarding Children in any recruitment for senior posts to ensure adequate safeguarding expertise in the service. They also agreed to ensure sound safeguarding systems are put in place during mobilisation.
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Linked Reports, Appendices and Background Documents

Linked Report

- Cabinet Report, 28th July 2015, “Transfer of commissioning responsibility for early years (0-5 years) public health services from NHS England to the local authority”

Appendices

- NONE

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

- NONE

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