

Forward Plan reference number: not applicable

Report title: Approval of contract award following a tender for the Care and Support within a Supported Living Scheme in Little Clacton	
Report to: Nick Presmeg, Director Adult Social Care	
Report author: Phil Brown, Associate Director Specialist Learning Disability Health Commissioning, (Phil.Brown@essex.gov.uk)	
Date: 28 th July 2019	For: Decision
Enquiries to: Phil Brown, Associate Director Specialist Learning Disability Health Commissioning, (Phil.Brown@essex.gov.uk)	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1. To report to the Director for Adult Social Care on the outcome of the competitive procurement process for the care and support within a Supported Living scheme in Little Clacton.
- 1.2. To obtain approval to award a contract to the candidate whose application was deemed to satisfy the Council's qualitative and quantitative requirements of the procurement process, as detailed in the report below.

2. Recommendations

- 2.1. Agree to enter into a 4-year contract with the provider stated within paragraph 3.8 of this report for the reasons set out below, subject to the successful completion of the Standstill Period, at an estimated cost of up to £2.6m over the life of the contract.

3. Summary of issue

- 3.1. On 16th April 2019 the Cabinet Member for Health and Adult Social Care approved the procurement of the care and support within a Supported Living scheme in Little Clacton. Authority to award the contract for this service was delegated to the Director of Adult Social Care.
- 3.2. Following confirmation of the aforementioned decision an open single stage procurement process was conducted in accordance with the Public Contracts Regulations 2015, using ECC's eSourcing portal allowing bidders to view full tender documentation and submit a tender response for evaluation.
- 3.3. Twelve tender submissions were received in respect of this procurement opportunity. Each of these bids were evaluated against the published scoring criteria for this procurement by the evaluation panel. Subsequently a moderation meeting was convened to determine the consensus scores for this

tender. The component elements of the tender which were evaluated under this process are detailed below.

- 3.4. The first stage of the evaluation process consisted of minimum standards and mandatory and discretionary rejection criteria such as legislative & insurance requirements. All submissions were evaluated in accordance with the published minimum standards and assessed to have met the minimum requirement of this stage of the evaluation.
- 3.5. The second stage of the evaluation process involved a consideration of the candidates' responses to the Technical and Commercial section of this tender process.
- 3.6. The evaluation was conducted in line with the criteria which were set out within the tender documentation with a percentage weighting of 60% price and 40% quality applied to the evaluators' scores to determine an overall mark for the submission responses. The consensus scores of the candidates' price submissions were combined with the results of their qualitative responses in order to gain an overall total weighted score for each provider. This evaluation process established the following results:

Supplier Name	Mandatory Questions Pass/Risk	Qualitative Score	Pricing: Weighted Score	Overall %	Ranking
Thera East	Pass	29.2	60	89.2	1 st
Supplier B	Pass	29.6	54.22	83.82	2 nd
Supplier C	Pass	26.4	57.16	83.56	3 rd
Supplier D	Pass	35.6	47.65	83.25	4 th
Supplier E	Pass	28	54.67	82.67	5 th
Supplier F	Pass	29.2	52.96	82.16	6 th
Supplier G	Pass	26.4	55.52	81.92	7 th
Supplier H	Pass	20.8	56.89	77.69	8 th
Supplier I	Pass	21.6	55.27	76.87	9 th
Supplier J	Pass	14.4	58.98	73.38	10 th
Supplier K	Pass	11.2	56.93	68.13	11 th
Supplier L	Pass	24.8	0	24.8	12 th

- 3.7. Suppliers H to K inclusive failed to secure the requisite minimum score of 3 or above for all of their qualitative responses and therefore the Council is using its discretion to reject these suppliers from the process as per the guidance within the bidders' guidance which was issued to all candidates as part of the tender pack. Supplier L submitted a price that fell outside the specified parameters issued to all candidates as part of the tender pack.

- 3.8. On the basis of the results of the evaluation, it is recommended that a contract in respect of the care and support for the Supported Living scheme in Little Clacton is awarded to Thera East subject to the successful completion of the Standstill Period.
- 3.9. This decision will have a direct impact on delivering the priorities in the Council's 2017-2021 Organisation Strategy. In particular:
- Enable more vulnerable adults to live independent of social care
 - Improve the health of people in Essex

4. Options

- 4.1. Do nothing – this would not be recommended as it would effectively leave vulnerable service users without support contrary to the Council's statutory duties under the Care Act. In addition, as the preferred provider has satisfied all the Council's qualitative and quantitative evaluation criteria for this procurement, it would be difficult to justify not awarding a contract on this occasion. Furthermore, this option may undermine the providers' perception of the Council which may adversely affect our ability to maintain a positive rapport with providers who deliver other adult social care services and lead to reputational damage in the event of media representation on the basis of unreasonable treatment.
- 4.2. Award the contract to Thera Trust. This is the recommended option for the reasons detailed within the paper – i.e. their bid satisfied all the evaluation criteria and represents the most economically advantageous tender.

5. Financial Implications

- 5.1. The proposed contract is expected to have a revenue cost of between £2m and £2.6m over the four years of the contract. A range has been used to take account of the potential variation in the hours of support.
- 5.2. The total annual cost of care provision based on the highest support hours modelled is £653,000 with a part year impact in 2019/20 based on anticipated start date of the contract of £272,000, assuming a two-month mobilisation period from 1 September 2019.
- 5.3. The funding of these placements is anticipated to be partly via transfer of funds from Health with the balance being met by Essex County Council.
- 5.3.1. One person is included within the current Transforming Care Pooled Budget arrangement and, as per the Section 75 agreement, their costs will be fully funded by the CCG's contribution to the pool.
- 5.3.2. One person is being discharged to ECC from an NHS England funded Specialist Commissioning service. The funding transfer for 2019/20 from NHS England to Local Transforming Care Partnerships is a minimum of £1.26m to cover costs of all NHS England discharges. Based on the latest estimated costs for this cohort this would cover 64% of costs.

- 5.3.3. The third person is not currently included within the pooled fund arrangement. When their Section 117 aftercare plan has been finalised and costs are known their aftercare plan will be presented to the Essex Section 117 panel to determine the proportion of the contribution from ECC and the proportion of the contribution from Basildon and Brentwood CCG. Previous similar cases have resulted in an agreed 50/50 funding arrangement.
- 5.4. The following table summarises the funding requirement in each financial year, along with the contributions that could be expected based on the position set out in paragraph 5.3.

	2019/20	20/21 onwards
Total Annual Contract Cost	£272,111	£653,066
Funded by:		
Pooled Fund Contribution*	£115,218	£276,523
NHS England Contribution to NHSE Discharge**	£50,206	£120,494
B&B CCG Contribution to NHSE Discharge***	£39,223	£94,136
Total Health Funding	£204,647	£491,153
ECC Funding Required	£67,464	£161,913
* Assumed 100% Contribution from CCG to cost of Adult 1		
** Assumed 64% contribution from NHSE to cost of Adult 2		
*** Assumed 50% contribution from B&B CCG to cost of Adult 3		

It is anticipated the ECC funding requirement detailed above will be met from within the existing budget provision of £3m for demographic growth for people with learning disabilities. This will be monitored as part of the monthly outturn process with a view to ensuring all growth seen across the learning disabilities budget is being contained within the envelope provided.

- 5.5. No specific provision has been built into the MTRS in respect of the people being discharged to this provision, given the expectation that they would be funded by the transfer from Health or discharge was not anticipated at the point the budget was set, however we do budget for demographic growth each year and this would be met by that budget allocation.
- 5.6. The table in paragraph 5.4 assumes that the funding transfer from NHS England will fund approximately 64% of the on-going revenue costs. Negotiations with Health, regarding these transfers and including provision for managing inflationary pressures, are still on-going. As such it should be noted that there is currently no legal agreement in place to facilitate this funding transfer and in discharging this patient there is a financial risk to ECC if the transfer does not take place or is of a lesser value, of up to £50,000 in 2019/20 increasing to £120,000 in subsequent years.
- 5.7. In addition, there is an assumed 50/50 joint funding arrangement with Basildon and Brentwood CCG for the third individual. The actual shares will only be determined by the S117 Panel review. It should therefore be noted that any variation increasing ECC's share of costs will result in a pressure of up to £39,000 in 2019/20 increasing to £94,000 in subsequent years.

- 5.8. If the pressures identified in 5.6 and 5.7 materialise it is expected they would be met from the LD demographic growth element of the budget. This will be closely monitored and the risk to future years budget highlighted as there is a risk that this would create growth against the corporate gap.
- 5.9. The funding requirement articulated, and the potential funding risk should be viewed in the context of, had the national Transforming Care Programme not been being undertaken, under business as usual arrangements, the totality of the cost of a community package for any patient discharged from hospital would be borne by ECC, and need to be met from the provision made in the budget for demographic growth..
- 5.10. The contract for care services will not guarantee the provider a minimum number of care hours and will be at a fixed hourly rate for the life of the contract.
- 5.11. The costs associated with both establishing the contract and its management will be met from within the existing staffing budget.

6. Legal Implications

- 6.1. The care and support for the Supported Living scheme at Little Clacton falls within 'social and other specific services' within Schedule 3 of the Public Contracts Regulations 2015 (the "Regulations"). As per the commentary in section 3, a compliant competitive process was undertaken in accordance with the 'Light Touch Regime' of section 7 of Chapter 3 of the Regulations and ECC procurement rules.
- 6.2. The process was conducted in accordance with the approval from the Cabinet Member of Adult Health and Social Care and published evaluation criteria via ECC's official e-Sourcing tool.
- 6.3. On completion of the internal governance process and provided the Standstill Period concludes without any legal challenges being raised by unsuccessful providers, a contract for the services will be sent to the successful provider to commence on 1st September with a phased implementation period to enable the individuals to acclimatise to their new surroundings and accommodation.

7. Equality and Diversity implications

- 7.1. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3. The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The EqIA is at Appendix 1.

8. List of Appendices (available at www.essex.gov.uk if not circulated with this report)

Appendix 1 – [Equality Impact Assessment](#)

9. List of Background Papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
Nick Presmeg (Director for Adult Social Care)	29th July 2019