

Brighton & Hove City Council

Cabinet

Agenda Item 195

Subject: Transfer of Adult Social Care Learning Disability Services

Date of meeting: Thursday, 24 April 2025

Report of: Cabinet Member for Adult Social Care, Public Health and Service Transformation

Lead Officer: Name: Corporate Director for Homes & Adult Social Care

Contact Officer: Name: Lou Aish, Commissioning Manager

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Ward(s) affected: Regency, Preston Park, Hollingdean, Wish

Key Decision: Yes

Reason(s) Key: Expenditure which is, or the making of savings which are, significant having regard to the expenditure of the City Council's budget, namely above £1,000,000 and is significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions (wards).

For general release

1. Purpose of the report and policy context

1.1 It is essential that social care services for adults are good quality and represent good value for money. The Council still has a relatively high proportion of directly provided 'in-house' services and the direction of travel is to reduce the number whilst ensuring these services are only transferred to very good external providers. This report seeks approval to conduct a procurement exercise to appoint suitably experienced and qualified provider/s to take over four Council run services for people learning disabilities some of whom are also autistic. The aim is to ensure both cost-effectiveness and high quality care.

1.2 The proposal aligns with the Council Plan's goals of:

Outcome 2 Creating a fair and inclusive city: it is important that the people who are affected by this proposal continue to thrive in the communities that they have been living in and with this proposal they will be able to remain in the accommodation specified below (clauses 3.5 and/or 3.6) which was originally provided by the Council, but under a new service provider.

Outcome 3 A healthy city where people thrive: potential providers will have to evidence how they promote health and wellbeing, reduce health inequalities and support people to live independent and fulfilling lives, both at the tender stage and throughout the life of the contract.

Outcome 4 A responsive council that listens to its communities: officers are engaging, where possible, with the people currently supported by these services and with their representatives and the staff that support them and their feedback is being used to identify what is important to them in a future provider/s.

2. Recommendations

Cabinet delegates authority to the Corporate Director for Homes & Adult Social Care, in consultation with the Cabinet Member for Adult Social Care, Public Health and Service Transformation, to:

- 2.1 Take all necessary steps to procure and award contract/s for the provision of residential and supported living services for adults with learning disabilities and autism;
- 2.2 Take all necessary steps to award repair and maintenance leases for the 4 buildings described in 3.5 and 3.6;
- 2.3 Agree the anticipated maximum value of the contract/s of £31m, subject to final confirmation of pension contributions; and
- 2.4 Agree to initial five (5) year terms for the contracts and leases, with the option to extend for a period or periods of up to five (5) additional years, subject to paragraph 2.2.
- 2.5 Cabinet delegates authority to the Corporate Director for Homes & Adult Social Care, in consultation with the Cabinet Member for Adult Social Care, Public Health and Service Transformation, to grant the optional extension of the contract/s referred to in 2.1.1 and the leases in 2.2.2, subject to satisfactory performance of the provider/s.

3. Context and background information

- 3.1 Under the Care Act 2014, local authorities have a statutory duty to ensure the availability of a diverse and high quality care market that provides choice to individuals requiring support. In Brighton & Hove we have a large pool of charities and care organisations that provide excellent support to people with learning disabilities and who are also autistic.
- 3.2 Adult social care services provided by organisations external to the Council and not directly provided make up about 92% of the local care market. The remaining 8% is provided by the Council, the 2nd highest proportion of in-house provision in the south east. It is evident from benchmarking information that our in-house Adult Social Care provision is considerably higher than our comparators in both unit cost (£4,291 compared to £2,049 in the independent sector) and spend per capita (£34 compared to £10 SE average).
- 3.3 When considering which services the Council should provide directly, the Council must also assess:

- The current and future needs of the people within the services;
 - The value for money and quality of the in-house services;
 - The local external market and its ability and expertise to meet these needs; and
 - The benefits to recommissioning services, both to the people needing the services and the staff. These benefits may include access to more specialist expertise and best practice, progression for service users and staff, innovation and greater use of telecare/telehealth and capacity to build and develop new services.
- 3.4 On 27th February 2025, Budget Council approved the recommissioning of four Council run learning disability services to ensure that the Council remains a provider only where it is the most suitable and cost-effective solution. This report therefore seeks approval to undertake a procurement exercise to appoint suitably qualified and experienced provider/s to outsource the services to.
- 3.5 The services comprise of three small residential care homes and a supporting living service. The three residential care homes include:
- Preston Drove which supports five people, with sixteen staff;
 - Leicester Villas which supports three people (there is currently one void), with eight staff; and
 - Windlesham Road which supports five people, with sixteen staff.
- 3.6 The supported living service at Burwash Lodge, consists of two blocks of accommodation. There are six people living in the first block and three people living in the second block (with one void flat). One person in the second block is not currently living there and will be not returning to their flat which will mean there will be an additional void in due course. Currently seven staff support all clients at Burwash Lodge. The Council has another supported living service (Ferndale Road) that now only has one resident who will move to one of the flats at Burwash Lodge and be part of the bigger service.
- 3.7 The buildings from which the services are currently delivered are owned by the Council and the three residential homes have NHS covenants attached which means they must be used for social care purposes. As part of the procurement potential providers will be expected to lease the properties from the Council and repair and maintain them to a high standard. The leases will need to be co-terminus with the contracts, meaning the lease terms will need to end at the same time as the contract terms. As there is a shortage of adult social care accommodation in the City the properties are being retained by the Council.
- 3.8 The needs of the people who use these services are paramount so only very experienced and suitably qualified providers will be considered as part of the procurement. A similar exercise was undertaken in 2017 and 5 supported living services were successfully transferred to the charity, Grace Eyre Foundation. The residential services were not outsourced at the time as the bids received did not meet the quality expectations.

- 3.9 There are some areas in which the services could benefit from a transfer to the external market. This includes better access to the use of technology such as digital care records, the ability of external organisations to invest in the upkeep/development of buildings and increased staff progression options.
- 3.10 With regard to the quality of external provision 85% of services in the city are rated as 'good' or 'outstanding' by the Care Quality Commission (CQC) with currently no 'inadequate' services. Adult Social Care already has well established contractual and quality assurance process in place which are used to oversee and monitor the providers currently commissioned. We have clear contractual agreements with performance metrics and regular monitoring mechanisms. Regular audits and user feedback are used to ensure that services meet the required standard.
- 3.11 Potential savings of £0.400m have been identified from a full review and re-provision of directly provided Learning Disability services. The 2025/26 revenue budget for the in-house Learning Disability services overall is £5.908m (excluding corporate overheads) and the average unit cost for a person in the 4 services being considered in this report was £2,483 per week in 2023/24. It is expected that there will be efficiencies from the maximization of income streams and other efficiencies including the consolidation of Ferndale Road with Burwash Lodge.
- 3.12 If authority is granted, it is anticipated that a tender will be issued in July, and contracts awarded in October with the new service/s commencing in February 2026.
- 3.13 Providers will need to demonstrate quality in a number of key areas that include mobilisation, service delivery, staffing and organisational management, alongside commitment to social value and sustainability. The contract will include ongoing performance management via Key Performance Indicators (KPIs) and outcome monitoring.

4. Analysis and consideration of alternative options

- 4.1 An alternative option would be to close the services and find alternative provision for each of the people supported. This option has not been recommended as it would be very disruptive to the people supported, many of whom have lived in these services for a long time, and there is a shortage of suitable accommodation with support locally for them to move to.
- 4.2 Another option is to do nothing and retain the services in-house but for all of the reasons set out above in this report this does not provide the most suitable or cost effective solution.

5. Community engagement and consultation

- 5.1 **Engagement with people who live in the services.** Whilst the needs of the individuals living in the services varies, a significant number of individuals as a result of the level of their learning disability would find it difficult to understand the proposal and its current abstract nature. Where it is deemed

that individuals do have capacity to understand the proposal, and where it is felt that talking with them about this will not adversely affect their wellbeing, engagement will take place. This will be tailored to meet individuals' needs to ensure it accessible and meets their preferred communication methods. Where possible we will seek to undertake this engagement with an independent advocacy service provider in the city.

- 5.2 **Engagement with the families and carers** of the people who live in the services has taken place via meetings and they have also received written responses to their questions. Families were particularly interested in the potential future providers, how they would be sourced, what it means for the current staff and how quality would be ensured. They also asked about the ongoing future care and support for their loved ones and have been given reassurance that when services transfer to another provider the Council still has a statutory duty of to ensure people's individual needs are met via social care reviews, feedback from the individuals and their families and carers and the other measures set out in 3.10 above.
- 5.3 Some families are keen to be involved in the evaluation and selection of the new provider/s and they have been asked to identify any particular requirements that they would expect of a potential provider and a small number of family members will develop and evaluate a question for bidders.
- 5.4 **Engagement with staff in the services** affected by this proposal has taken place and staff were particularly concerned about continuity of care for the people they support, the future of their jobs, protection of their terms and conditions, security for temporary staff working in the services. Staff were reassured that Transfer of Undertakings (Protection of Employment) regulations (TUPE) will apply and staff would transfer with their current pay, pension benefits and terms and conditions.
- 5.5 There is also the opportunity for staff to contribute to the service specification and quality expectations of the new provider. Staff have been keen to know that people using the service will still receive the same levels of support and have access to day opportunities. This will be included in the service specification and all people currently in receipt of support are having their needs reviewed and prospective bidders will be asked to evidence how they will meet these needs.
- 5.6 Formal consultation in line with the statutory requirements will take place with staff affected once the contract is awarded. The contract will include clauses on TUPE and pension arrangements as well as expectations around staff training, development, supervision, health and safety and wellbeing.
- 5.7 A Trade Union representative will be invited to ask a question about bidders' recognition of unions and how they consult and engage with unions and / or the workforce to ensure best practice in terms of employee relations.
- 5.8 **Engagement with providers of services to people with learning disabilities** has taken place to ascertain how much interest there is in the services and what information providers need to be able to bid. Feedback

from the market is that providers are interested in all four services however some asked about the Council's future direction of travel and views on Care Quality Commission (CQC) registration. They asked about whether the three group homes that are registered with CQC as residential care homes have to remain registered as such or if there is the opportunity to change the registration to supported living. If the successful provider/s assess that a change of registration from residential to supported living provides the best outcomes for individuals this would be supported by the Council.

6. Financial implications

- 6.1 The review of directly provided Learning Disability accommodation services is expected to deliver savings across the Council's medium term financial plan from a reduction in ongoing revenue costs associated with these services. A full-year savings target of £0.400m for 2025/26 was agreed at Budget council, leaving a net budget for in-house Learning Disability services of £5.908m for 2025/26 (excluding corporate overheads). There is a risk that this review will only deliver part-year savings for 2025/26 and alternative in-year efficiencies will need to be identified.
- 6.2 The unit costs for the current in-house services are high on average compared to care procured through the independent sector, as outlined in paragraph 3.11.
- 6.3 Consideration will need to be given to issues such as TUPE of staff, including pension entitlements and possible redundancy costs.
- 6.4 If the proposals are not approved, then alternative savings measures would need to be identified for the medium-term financial plan.

Name of finance officer consulted: Sophie Warburton

Date consulted: 24/03/2025

7. Legal implications

The Council is required to comply with the Procurement Act 2023 in relation to the procurement and award of contracts above the relevant financial thresholds for services, supplies and works. The Council's contract standing orders will also apply.

Name of lawyer consulted: Manjinder Nagra Date consulted: 26/03/2025

8. Risk implications

- 8.1 There is a risk that the voices of the people currently in receipt of these services are not heard. The engagement methods set out in section 5 will ensure that the views of the people currently in the services feeds into the specification and selection of the prospective provider/s.
- 8.2 There is a risk that there is not sufficient interest from the market or that the bids received are not of sufficient quality. To mitigate against this engagement

has taken place with providers and as set out in paragraph 5.5, and a range of providers have expressed an interest in bidding.

- 8.3 There is also a risk that recommissioning may not achieve the expected savings. Alternative savings measures would need to be identified for the medium-term financial plan if this is the case.
- 8.4 To mitigate against any risks of a reduction in quality once outsourced, the services will be required to submit quarterly and annual performance indicators and be monitored against the expectations in the service specification and terms and conditions.

9. Equalities implications

- 9.1 An Equalities Impact Assessment (EIA) has been completed to assess any potential disproportionate impact and the severity of the impact of this proposal on the people receiving support in these services. The EIA has identified that a larger proportion of people in the service are over 50 years old (71% or fifteen people) and there are a higher proportion of women than men with a number of women of menopause or peri-menopause age. Everyone has a learning disability and eight people also are autistic. The majority of people are white British with only one person from an other black background.
- 9.2 Mitigations will focus on ensuring within the tender process that any potential provider must evidence their skills and experience in supporting people with learning disabilities who are also autistic, but also evidence that they can support people in their older age and are proactive in supporting women through the menopause. Whilst the majority of people are white British, providers will need to evidence how they support people from different ethnic backgrounds. This will be addressed through the bid evaluation process and the contract and specification that is put in place. Ongoing mitigations will also be addressed through key performance indicators and equalities monitoring data completed by the new provider.
- 9.3 An Equalities Impact Assessment has also been completed to assess any potential disproportionate impact and the severity of the impact of the proposal on affected staff working in the services. The EIA has identified the dominant demographic of staff affected by the restructure is white (59.2%). BME representation is 25.93% overall but drops significantly in Middle grades (15.38%) and Upper grades (0%). While white British staff are overrepresented at senior levels (100% in Upper grades). Gender is relatively even (51.55% Female, 48.45% Male), though there are notable differences across grades. Women are overrepresented in Middle and Upper grades (66.67% in both) compared to Lower grades (48.09%). Changes affecting senior positions would disproportionately impact women, with a higher proportion being white British. A significant concentration of staff are in the 45-59 age range (48.45% combined), with particularly high representation in the Upper grades for ages 55-59 (66.67%) and 40-44 (33.33%). It could disproportionately impact the older workers. Whilst there has been no cumulative or complex impact identified relating to intersectional

characteristics this could have more complex impacts, and additional support may be required.

- 9.4 Mitigations to address the potential impact on staff will be through a range of measures that include: clear consultation information with individual meetings for staff and opportunities to ask questions, support from managers, trade union and HR. There may also be the need for additional bespoke support where this is necessary including where English is an additional language as well as support around mental health, financial and redeployment (if appropriate). Additional advice will be sought from the Business Disability Forum and Equality, Diversity & Inclusion Team as required.

10. Sustainability implications

- 10.1 As part of the tender, bidders will be assessed and scored on their proposals regarding transport, including Active Travel and their approach to managing/minimizing waste, including Personal Protective Equipment (PPE), and they will be asked for their Carbon Reduction Plan.
- 10.2 Bidders will also be evaluated on how they will ensure a sustainable workforce and asked to demonstrate how they ensure staff are supported in their roles and how the organisation retains staff, including their approach to ongoing training and staff development.

11. Health and Wellbeing Implications:

- 11.1 The proposal promotes health and wellbeing and reduces health inequalities by specifying that any potential provider must
- ensure that people access health and preventative services such as health screening and health checks;
 - develop Hospital Passports and Health Action Plans and
 - ensure registration with a GP and dentist; and
 - support people to have a healthy diet and engage in regular physical activity.
- 11.2 Also within the specification potential providers must ensure, when developing an Individual's support plan, that the person's health and wellbeing is included and that general health and wellbeing needs around smoking, diet, physical activity, alcohol use, loneliness, sexual health and mental health form part of the support planning, as addressing these lifestyle factors can support improvements in other areas of an Individual's life

Other Implications

12. Procurement implications

- 12.1 This project was listed in the Annual Procurement Forward Plan approved by Cabinet in February 2025. The project was marked as *Option 4: For the project not to proceed to market until it has come to Cabinet with a full report* (this report).

- 12.2 The procurement will be run as a Competitive Flexible Procedure under the Procurement Act 2023, with an initial assessment of bidders against “conditions of participation” to ensure only suitable organisations proceed to full evaluation.
- 12.3 The procurement will run as two lots - one lot for the three residential services and a second lot for the supported living service.
- 12.4 Bids will be evaluated based on Price and Quality. Quality evaluation criteria will include areas such as Mobilisation, Service Delivery, Staffing and Organisational Management, Social Value and Sustainability.
- 12.5 The tender will also include a question relating to trade union recognition and managing employee relations.

13. Social value and community wealth building considerations

- 13.1 Social value benefits will form part of the evaluation of bids for the contract/s in line with the council’s Social Value Framework, providing 10% of the total quality score.
- 13.2 At all stages of the commissioning process the Council will work in line with The Social Value Act 2012 and consider the economic, social, and environmental improvements from which the local area can benefit. Providers will need to demonstrate how they will achieve or exceed the requirements specified by the Council.
- 13.3 Providers will be asked to provide evidence of how the service will maximise social value and impact on local priorities and meet the following outcomes:
- Support prevention campaigns by amplifying education and publicity campaigns (e.g. support staff/residents/service users to stop smoking/increase their physical activity/access money advice/achieve a healthy weight).
 - Initiatives to support older, disabled and vulnerable people by creating community networks
 - Volunteering with local community projects

14. Crime and disorder implications

- 14.1 There are no crime and disorder implications.

15. Conclusion

- 15.1 The key reasons for the decision to transfer the Adult Social Care Learning Disability Services is rooted in the need to ensure value for money and high quality care for people with learning disabilities who may also be autistic. The direction of travel is to reduce the amount of in-house provision and by recommissioning these services, the Council aims to gain from the expertise and innovation of external providers. The procurement process will ensure

that only experienced and qualified providers are considered, maintaining the quality of care and support for the individuals involved.

- 15.2 This proposal is recommended as it offers a sustainable solution that addresses the current and future needs of the people within the services while ensuring value for money. The proposed procurement exercise will involve a competitive process to find suitably experienced and qualified providers who can lease and maintain the properties, thereby retaining the adult social care accommodation in the city. The transfer is expected to deliver savings across the Council's medium-term financial plan, with a target of £0.400m for 2025/267. Furthermore, the engagement with families, carers, and staff has been thorough, addressing concerns about continuity of care, future jobs, and quality of services.

Supporting Information:

None