



**Author/Lead Officer of Report:** Dave Luck  
**Tel:** 2734762

**Report of:** People Services, Jayne Ludlam  
**Report to:** Individual Cabinet Member for Health and Social Care, Cate Mcdonald  
**Date of Decision:** June 23rd 2017  
**Subject:** Supported accommodation for failed asylum seekers with mental health disorders

Is this a Key Decision? If Yes, reason Key Decision:-	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
- Expenditure and/or savings over £500,000		<input checked="" type="checkbox"/>		
- Affects 2 or more Wards		<input type="checkbox"/>		
Which Cabinet Member Portfolio does this relate to? Health and Social Care				
Which Scrutiny and Policy Development Committee does this relate to? Healthier communities and adult social care scrutiny and policy development committee				
Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given?	1279			
Does the report contain confidential or exempt information?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

**Purpose of Report:**

The Council has a duty under the Care Act 2014 to provide accommodation to those who are without recourse to public funds where certain circumstances apply. This includes some “failed asylum seekers” with a mental health condition and who cannot be repatriated. The current contract with Metropolitan to deliver this service ceases at the end of March 2018 with six months’ notice required on properties.

In order to remain compliant with statutory duties, provision of this service needs to continue. The report sets out the basis for the proposed procurement and recommissioning of the service.

**Recommendations:**

It is recommended that the Individual Cabinet Member for Health and Social Care :

- approves the development and agreement of a procurement strategy for the provision of supported accommodation to failed asylum seekers with mental health condition who cannot be repatriated, based on a clear rationale and criteria;
- delegates authority to award of contract in accordance with the said strategy to the Executive Director of People Services, in consultation with the Directors of Commercial Services and Legal and Governance; and
- delegates authority to the Executive Director of People Services, in consultation with Directors of Commercial Services and Legal and Governance, to negotiate and agree terms of the engagement with the successful provider and complete all the necessary documentation for the commissioning of the service.

**Background Papers:**

None

<b>Lead Officer to complete:-</b>	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: <b>Anne Hardy</b>
	Legal: <b>Lawrence Gould/Janusz Siodmiak</b>
Equalities: <b>Ed Sexton</b>	
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	<b>EMT member who approved submission:</b> Jayne Ludlam
3	<b>Cabinet Member consulted:</b> Cate McDonald
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.

	<b>Lead Officer Name:</b> Dave Luck	<b>Job Title:</b> Commissioning Officer
	<b>Date:</b> <i>June 2017</i>	

## 1. PROPOSAL

- 1.1 The Council has a duty under the Care Act 2014 to provide accommodation for failed asylum seekers who are deemed to be 'destitute plus' as a result of their mental health condition.

Since 2015 this service has been provided by Metropolitan who provide accommodation and a weekly visit to provide monitoring and support around people's mental health to around 35 people. The current contract with Metropolitan to deliver this service ceases at the end of March 2018 with six months' notice required on properties. In order to remain compliant with statutory duties provision of this service needs to continue. This report proposes that the service is recommissioned from April 2018 until the end of March 2021.

Placements are made through the mental health care purchasing arrangements at an annual cost of about £250,000 per year or £750,000 over the course of the contract.

Stringent checks are undertaken to ensure that clients meet the eligibility criteria for this service. There is a multi-layered assessment process which includes:

- Legal and immigration check – involving a check with UKBA records
- A biographical history
- A medical assessment to confirm the mental disorder/illness, including treatment arrangements and community mental health team support.
- Care Act assessment with specific references to Council policy

The assessment itself has to combine both the health assessment and a social care assessment undertaken by the Sheffield Health and Social Care (SHSC) assessor acting on behalf of SCC and implementing SCC policy. It is therefore a more detailed assessment than the standard one carried out by Community Mental Health Teams (CMHT's) and specifically addresses the criteria set down in statute. The European Convention of Human Rights assessment is also carried out.

The service users are housed in flats or shared housing and receive a weekly visit to ensure that the person's care/medication/wellbeing needs are maintained. This service does not provide personal care or any other CQC regulated activity. Ages range from 18 to 65. Our duty to individuals ceases when their status changes or they are deported, so there is a small monthly turnover.

The current service specification and criteria will also be reviewed for the procurement and recommissioning of this service, and amended as appropriate, to provide for effective service delivery.

## **2. HOW DOES THIS DECISION CONTRIBUTE?**

- 2.1 This proposal contributes to the Council's policy of better health and well-being by seeking to support failed asylum seekers in the city with mental health disorders to manage their conditions and reducing their symptoms and need for formal services.

## **3. HAS THERE BEEN ANY CONSULTATION?**

- 3.1 There has been no consultation on the proposal as it relates to a specific duty relating to a small cohort of people.

## **4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

### **4.1 Equality of Opportunity Implications**

- 4.1.1 This is a service targeted at a small cohort of approximately 35 people to deliver a statutory duty – as such the proposal meets the Council's responsibilities towards a vulnerable group of people, enabling them to receive the support they need. To put this in context Sheffield has around 900 asylum seekers living in the city – the figure as of April 2017 was 866 people supported.

### **4.2 Financial and Commercial Implications**

- 4.2.1 The contract is a call off order. This means there is no guarantee of business but up to £250,000 per year is available.
- 4.2.2 The proposed service will be purchased through the Adult Mental Health Care Purchasing budget for three year terms of contract..

### **4.3 Legal Implications**

- 4.3.1 The duty under section 21 of the Care Act 2014 is a retention of the duty under section 21 of the 1948 National Assistance Act. The duty to provide accommodation when care and attention are needed because of age, illness or disability and are not otherwise available does not apply to people without recourse to public funds when the need for care and attention is due only to destitution or the effects of being destitute. The duty only arises if such people have additional needs beyond destitution (sometimes described as "destitute plus"), such as failed asylum seekers who require care and attention due to their mental health conditions.
- 4.3.2 Accommodation cannot be provided under homelessness or housing legislation because people without recourse to public funds are among the persons subject to immigration control who are ineligible for homelessness assistance or an allocation of social housing.

- 4.3.3 Failed asylum seekers who have refused to cooperate with removal directions are further made ineligible for section 21 support by Schedule 3 of the Nationality Immigration and Asylum Act 2002 unless and to the extent that failure to perform the duty would result in a breach of human rights or EU Treaty rights. An assessment under the European convention of Human Rights would be done in these circumstances. The decision would allow the Council to continue to meet its statutory duties with regards to provision of supported accommodation to failed asylum seekers with mental health condition who cannot be repatriated. .
- 4.3.4 Officers are mindful of the importance of putting into place appropriate arrangements to secure the desired outcomes, ensure compliance with legal requirements and protect the Council's position.
- 4.3.5 The Council's Contracts Standing Orders, including the European Union Procurement Rules, will be adhered to throughout the recommissioning. The tender will be competitive and follow the principles of transparency and non-discrimination, and facilitate the achievement of value for money.
- 4.3.6 The successful tenderer will be required to enter into a formal written contract with the Council which will provide for effective service delivery at levels that accord with the Council's requirements.

## **5. ALTERNATIVE OPTIONS CONSIDERED**

### **5.1 Option 1 – No service**

The Council could choose not to provide any service to those designated as 'destitute plus' due to their mental health disorder. In this case it would be open to judicial review for failing to meet its statutory duties.

### **5.2 Option 2 – Procure a new provider**

The Council could choose to procure a new provider for supported accommodation for failed asylum seekers with mental health conditions who cannot be repatriated, as described in the Report.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 Option 2, for the reasons outlined in the Report.

## **7. Recommendations**

It is recommended that the Individual Cabinet Member for Health and Social Care :

- approves the development and agreement of a procurement strategy for the provision of supported accommodation to failed asylum

seekers with mental health condition who cannot be repatriated, based on a clear rationale and criteria;

- delegates authority to award of contract in accordance with the said strategy to the Executive Director of People Services, in consultation with the Directors of Commercial Services and Legal and Governance; and
- delegates authority to the Executive Director of People Services, in consultation with Directors of Commercial Services and Legal and Governance, to negotiate and agree terms of the engagement with the successful provider and complete all the necessary documentation for the commissioning of the service.