



Author/Lead Officer of Report: Andy Wallace, Commissioning Officer
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Report of: John Doyle, Director of Strategy and Commissioning

Report to: Councillor Bob Johnson, Leader of the Council

Date of Decision: 21 April 2021

Subject: Supported Accommodation Service for People with Mental Health Conditions who have No Recourse to Public Funds

Is this a Key Decision? If Yes, reason for Key Decision: Yes No

- Expenditure and/or savings over £500,000

- Affects 2 or more Wards

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 No

If YES, what EIA reference number has it been given? 1279

Does the report contain confidential or exempt information? Yes No

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 asylum seekers who have had their application refused, but who have a diagnosed mental health condition and who therefore cannot be repatriated.

The current contract with Thames Metropolitan to deliver this service has been extended until the end of September 2021. In order to remain compliant with statutory duties, provision of this service needs to continue. This report sets out the basis for the proposed procurement and recommissioning of the service.

Recommendations:

It is recommended that the Leader of the Council:

- Approves a procurement exercise to identify a preferred provider for a five-year contract in accordance with the required service specification to meet the statutory duties as outlined in this report.
- Delegates authority to the Head of Commissioning for Vulnerable People in consultation with the Director of Legal and Governance and the Director of Finance and Commercial Services to agree the terms of the contract, including any appropriate variations, to the new provider.
- To the extent not already delegated to them by the Leader’s Scheme of Delegation, delegates authority to the Director of Strategy and Commissioning, in consultation with the Director of Legal Services and the Director of Finance and Commercial Services, to take any other decisions necessary in order to meet the aims and objectives of the report.

Background Papers:

None

Lead Officer to complete:	
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: Ann Hardy
	Legal: Gemma Day
	Equalities: Ed Sexton
<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	EMT member who approved submission: John McIlwraith
3	Cabinet Member consulted: George Lindars-Hammond
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.
	Lead Officer Name: Andy Wallace Job Title: Commissioning Officer
	Date: 17 March 2021

1. PROPOSAL

Background

- 1.1. Under the Immigration and Asylum Act 1999, and the Care Act 2014, the Council has a duty to provide accommodation to those who are without recourse to public funds where certain circumstances apply. This includes some asylum seekers who have had their application refused, but who have a diagnosed mental health condition and who therefore cannot be repatriated.
- 1.2. There is clear national evidence that mental health trauma for people seeking asylum is significant. Traumatic events, loss and displacement increase the risk of a range of mental disorders. Up to 61% of asylum seekers experience serious mental distress (Refugee Council UK 2021). Gov.uk suggests that there is a 3-4% projected prevalence of severe mental disorders such as psychosis, severe depression and disabling anxiety disorder after their emergency/crisis situation (compared with 2-3% before the crisis) and 15-20% projected prevalence of mild or moderate mental disorders (compared with 10% before the crisis).
- 1.3. As a City of Sanctuary, Sheffield has offered a supported accommodation programme for several years. The service aims to support to those whose asylum application has been refused and who have significant mental health problems. The service users are housed in flats or shared housing and receive a weekly visit to ensure that their personal care, medication and wellbeing needs are maintained.

Current position

- 1.4. Thames Metropolitan currently supports 19 people, in a variety of housing arrangements, from 3 to 4 sharing a house to some in single accommodation. A number of these properties are leased from private landlords and the leases are managed by Thames Metropolitan. The age of service users ranges from 18 to 65.
- 1.5. Stringent checks are undertaken to ensure that clients meet the eligibility criteria for this service. There is a multi-layered assessment process which includes:
 - A legal and immigration check – involving a check with UK Border Agency (UKBA) records.
 - A biographical history.
 - A medical assessment to confirm the mental disorder/illness, including treatment arrangements and community mental health team support.
 - A National Assistance (Assessment of Resources) Regulations (NAA) assessment with specific references to Council policy. The NAA assessment itself has to combine both a health assessment and a social care assessment. It is therefore a more detailed assessment than the standard one carried out by community mental health teams.

- Exceptionally the European Convention of Human Rights assessment is also done.
- 1.6. There are some circumstances where additional support is needed. Currently the Private Rented Service/Gateway team within Council Housing Solutions also provide a service on behalf of Adult Social Care, and Mental Health service users can access this support occasionally where there are reasons to do so.
- 1.7. The provider delivers support to a varying number of people. Our duty to individuals ceases when their status changes or they are deported, so there is a small monthly turnover. Placements are made through the mental health care purchasing arrangements at an annual budgeted cost of up to £250,000.
- 1.8. Through the Council's care purchasing budget, those in receipt of the service also receive a weekly payment to enable them to buy food and other subsistence items. At the height of the pandemic this amount was increased by £10 per week to enable those in receipt of the money to shop safely and less frequently.
- 1.9. The current service is due to be retendered ready for the new service to start in September 2021. The service is currently provided by Thames Metropolitan, who deliver basic subsistence including accommodation, and monitoring and support around mental health. This support has continued over the past year during the pandemic, albeit with some amendments.

Proposal

- 1.10. The contract is currently under a six-month waiver ending 30th September 2021. In order to remain compliant with statutory duties, the provision of this service needs to continue. It is therefore proposed to carry out a full procurement exercise to contract with a provider to run this service in line with current guidance from Commercial Services.
- 1.11. A procurement strategy has been agreed with Commercial Services which includes:
- Going out to tender with a similar specification and contract model to the present service, lasting five years.
 - A costing model based on a tariff with no minimum guaranteed volumes to ensure the Council does not have to fund vacancies.
 - Social Value is included with a weighting of 15%.
- 1.12. The tenders will be moderated by a multi-disciplinary panel.
- 1.13. Once the commissioning exercise is complete, commissioners will work with the provider to ensure it is fit for purpose and achieves the best possible and highest quality outcomes for service users within the financial envelope available. This could also include developing more flexible provision on a framework.

- 1.14. There are two main risks to be aware of as part of this procurement approach:
- Risk 1: The timescale needed to go through a full tender process is very tight. If the timescales are not met, an interim position would be required or willingness on the part of the current provider to continue providing the service until the new arrangements are in place. This could have the potential of disruption for clients/service users.
 - Risk 2: The combination of shared housing and leasehold arrangements mean that it would be difficult to re-provide for this group of very vulnerable people in a short space of time, for example if Thames Metropolitan did terminate the contract.
- 1.15. These risks will be mitigated by efficient tender process which allows for a three-month implementation period, alongside continued communication with the current provider about service delivery.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1. This service provides a haven for those who would otherwise be homeless and ensures that their mental health conditions are addressed by a specialist service. As well as being a statutory duty, it is an important part of Sheffield's responsibility as a City of Sanctuary to provide this level of support.
- 2.2. The recommendations in this report will ensure continued compliance with our statutory duty, minimal disruption for current service users and the communities they live alongside, and stronger market provision in the long term.
- 2.3. A competitive process in the longer term will help to ensure that the service is sustainable and provides value for money.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1. We have consulted with our partners at the Sheffield Health and Social Care Trust (SHSCT), who speak of the benefits of having this service, and who wish for it to continue in its current format.
- 3.2. The Voluntary, Community and Faith (VCF) sector has also praised Sheffield for its approach to supporting people entering our country when seeking asylum. Discussions with the regional Refugee Council were also positive when speaking about the Sheffield offer and its status as the City of Sanctuary.
- 3.3. We will continue to work with SHSCT and our VCF partners as we seek to implement the new contract.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1. Equality of Opportunity implications

4.1.1. As a Public Authority, we have legal requirements under Sections 149 and 158 of the Equality Act 2010. These are often collectively referred to as the 'general duties to promote equality'. Section 149(1) contains the Public Sector Equality Duty, under which public authorities must, in the exercise of their functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is connected to protected characteristics and prohibited by or under this Act.
- Advance equality of opportunity between those who share a relevant protected characteristic and those who do not.
- Foster good relations between those who share a relevant protected characteristic and those who do not.

4.1.2. We have considered our obligations under the Duty and determined that the proposal described in this report is pursuant to those aims.

4.2. Financial and Commercial implications

4.2.1. The contract itself does not have a value as it is a means to identify the "preferred provider/s" so that we can legitimately purchase services from them to meet our legal duties. The provision in the budget for 2021/22 is up to £250,000, but the budget also pays for weekly subsistence payments.

4.2.2. It should be noted that the budget line has historically over-spent; however, this has been captured and managed within the risk share arrangements in the mental health purchasing budget, meaning Sheffield City Council hasn't borne all the overspend solely.

4.2.3. As the pressure cannot be quantified and may not result in a future pressure this contract hasn't formed part of business planning to allocate additional funding.

4.3. Legal implications

4.3.1. The Localism Act 2011 provides local authorities with a "general power of competence" which enables them to do anything that an individual can do as long as the proposed action is not specifically prohibited. A purpose of the Act is to enable local authorities to work to develop services that meet local need.

4.3.2. The Council has a duty under section 18 of the Care Act 2018 to meet an adult's needs for care and support in specified circumstances.

- 4.3.3. The duty under section 18 of the Care Act 2018 to meet needs for care and support may not apply to adults to whom section 115 of the Immigration and Asylum Act 1999 applies and whose needs for care and support have arisen solely due to destitution or the physical effects or anticipated physical effects of being destitute. The duty only arises if such people have additional needs beyond destitution (sometimes described as “destitute plus”), such as those who require care and attention due to their mental health conditions.
- 4.3.4. 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.
- 4.3.5. A decision to procure a new contract as outlined in this report would enable the Council to continue to meet its statutory duties with regards to provision of supported accommodation to failed asylum seekers with mental health conditions who cannot be repatriated.
- 4.3.6. The proposed procurement outlined in this report has a value in excess of the threshold for contracts for services in accordance with the Public Contracts Regulations 2015, therefore the procurement and contract award processes to be followed will be subject to those Public Contracts Regulations.
- 4.3.7. The procurement process and any contract awards must also be undertaken in accordance with all relevant provisions of the Council’s Constitution including its Contracts Standing Orders.
- 4.3.8. The successful supplier chosen by the Council following a compliant procurement process will be required to enter into formal written legal contract with the Council.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Alternative option 1: Do nothing. This would mean the current provision for this vulnerable group would cease to exist on 1 October 2021. This is not a viable option given the Council’s statutory duties.
- 5.2 Alternative option 2: Cease to provide a specialist service but instead place service users in standard residential home accommodation for those with a mental health condition. This would be a more expensive option than the one proposed in this paper: using a ballpark figure of £700 per week per resident per standard mental health residential home, the annual cost for an asylum seeker without recourse to public funds would be £36,400. Due to s117 regulations, the Council would pay half of this, costing £18,200 per person. This would mean an annual cost of £345,800 to the Council. Therefore, the service model proposed in

this paper is a cost-effective way of providing the support the Council is statutorily obliged to provide.

6. REASONS FOR RECOMMENDATIONS

6.1. These options have been recommended because they provide a personal service to those in need of support, housed in independent settings that support recovery. As a City of Sanctuary, Sheffield has offered a supported accommodation programme for several years, and this is the right kind of service to be providing.

6.1 The proposed service is more cost-effective than alternative options.