

Subject:	Commissioning of Domestic Violence and Abuse Services		
Date of Meeting:	11th March 2021		
Report of:	Director of Housing Neighbourhoods and Communities		
Contact Officer:	Name:	Jo Player	Tel: 292488
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Ward(s) affected:	All		

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that a proper appraisal of the issues raised and an evaluation of the options could not be completed in time for the report to be despatched with the agenda. Given the need to progress this matter urgently, including the request in the Member letter, this matter cannot wait until the next scheduled meeting of the Committee and the Chair is has agreed that it can be added to the agenda as an urgent item.

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Following the agreement to re-commission Domestic Abuse, Domestic Violence and Sexual Violence services by the Neighbourhoods Inclusion, Communities and Equalities Committee in October 2018, in Autumn 2020 Brighton & Hove City Council (BHCC) along with East Sussex County Council (ESCC) and the Office of the Sussex Police and Crime Commissioner (OSPCC) launched a procurement exercise for the re-commission of these services in the City and across East Sussex. Following the award of the contract in January 2021, concerns have been raised that the current incumbent had not been awarded the new contract.
- 1.2 A petition will be presented to Policy & Resources committee on 18th March 2021 setting out those concerns.
- 1.3 The Chair of Tourism, Equalities, Communities and Culture (TECC) requested that a report come to this committee setting out the process regarding the re-commission and recommending that a further report goes to Policy & Resources Committee requesting that a member oversight group is set up.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the contents of this report.

- 2.2 That the Committee recommends to Policy & Resources committee the establishment of a Cross Party Member Working Group to:
- (i) Review the Council's policy and practice regarding social value and community wealth building from a commissioning and procurement perspective including the Domestic abuse contract
 - (ii) Recommend any necessary changes and actions for improvement.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Joint Unit for Domestic Abuse Service between Brighton & Hove and East Sussex has been in place for at least seven years. The Joint Strategic Commissioner is jointly funded by BHCC and ESCC to deliver work that benefits both organisations. East Sussex and Brighton & Hove provide 2 partnership development officers and jointly fund a MARAC (Multi Agency Risk Assessment Conference) team leader.

Having a joint unit reduces costs for the support team which can be put into the commissioning budget. A joint commission with East Sussex County Council allows both authorities to benefit from economies of scale and develop more efficient communication and integrated services with providers and partners for the benefit of those accessing the services.

The development of a new Pan Sussex Domestic Abuse/Violence strategy represents a commitment through partnership, to using the resources we do have most efficiently, and a commitment to improve cross sector and cross area working relationships to unlock new opportunities. A Pan Sussex DA framework has been in place since 2014.

- 3.2 The existing contract for Domestic Abuse, Domestic Violence and Sexual Violence services was due to end in September 2018 and so in July 2018 a report was considered by Neighbourhoods, Inclusion, Communities and Equalities Committee (NICE) setting out proposed re-procurement of Domestic Abuse services in the City. (Domestic and Sexual Abuse: Future Commissioning Options).

At that committee the report was not agreed, and a further report was requested setting out more detail including full costings and options. This report is attached at Appendix 1. In October 2018 a further report was presented. This is attached at Appendix 2. This report was considered by NICE (Options for the Commission of Domestic Violence and Abuse and Sexual Violence Services) and the following recommendations were agreed:

- Note the intended timescales and development plan as set out in Appendix 3 of this report for the redevelopment of the Domestic Violence and Abuse and Sexual Violence Strategy will inform the recommissioning of Domestic Violence and Abuse and Sexual Violence services.
- Approve the extension of the current Portal contract until 30th November 2019.

- Grant delegated authority to the Executive Director, Neighbourhoods, Communities and Housing to participate in the joint commission of Domestic Violence and Abuse and Sexual Violence services in Brighton and Hove and East Sussex and refuge provision in Brighton and Hove only, and including the procurement process and contract award with services to commence in December 2019.
- Agree to establish a Cross Party Member Working Group to provide oversight on the commission and request that the officers report to the working group at key stages throughout the procurement process.

3.3 In March 2019 a further report – (Domestic and Sexual Violence and Abuse against Women and Girls Strategy and Action Plan) went to NICE regarding the Violence Against Women and Girls (VAWG) strategy. This report is attached at Appendix 3 and contains a copy of the draft strategy. The report indicated that the strategy had been developed reflecting government guidance (VAWG Commissioning Toolkit) by working with partner agencies across Brighton and Hove and East Sussex on a broad stakeholder engagement programme to develop the new strategy.

A small cross sector working group with representation from BHCC, ESCC, OSPCC and the local Voluntary Sector developed the Strategy Framework presented to the NICE Committee. The report included the draft strategy (the Partnership Domestic and Sexual Violence and Abuse and VAWG strategy) and explained how this linked to the re-commissioning of specialist domestic and sexual violence and abuse services across Brighton and Hove and how it was proposed to progress the commissioning process. The following recommendations were agreed:

- That the Committee approves the Strategy Framework as set out at Appendix 3;
- That the Committee notes the planned further stakeholder engagement work as set out at Appendix One to develop the full Strategy and Action Plan.

3.4 In June 2019 NICE committee was decommissioned and Tourism Equalities Culture and Communities committee was created. In July 2019 a report updating on the work of the community safety strategy (Community Safety and Crime in Brighton and Hove) was considered by TECC committee (which was now the committee with responsibility for this area). Whilst there were no recommendations about the re-commissioning of domestic abuse services, it did reference a stakeholder event to be held in November 2019 to start to engage with stakeholders to develop the specification of the commission based on the VAWG strategy.

3.5 In November 2019 the stakeholder event, involving existing service providers including RISE, victims of domestic abuse and key strategic partners such as the Police, Probation, Health colleagues and services such as Housing from within the council, took place. Alongside this main event there had been a series of other engagements with stakeholders between January 2019 and October 2019 which included a primary research report produced by Against Violence and Abuse (AVA -research carried out in 2018), followed by a structured programme

of stakeholder discussions, focus groups and workshops to explore key themes and the needs of people with a range of protected characteristics including women and girls, the LGBTQ+ community, people with a disability including mental health need, people from ethnic minorities, older people, children and young people, those involved in sex work, those with multiple and complex needs, and victims of harmful practices.

- 3.6 The initial contract for DA etc services started on 1st October 2015 and was due to run until end of September 2018. A six-month extension to 31st March 2019 was agreed by the then Executive Director to allow for the development of the strategy and commission as the Joint Strategic Commissioner felt that further engagement would be beneficial.

A further extension was agreed by councillors at NICE committee as set out above until November 2019. Officers had also had discussions with the then Executive Director about extending the existing contract to February 2020 as there had been some slippage on the process due to some personnel issues. This was agreed.

Due to the COVID pandemic it was further agreed with the Executive Director that it would be appropriate to further extend the existing contract until November 2020 so as not to put additional pressure on potential bidders. This was because of an increase in cases and staff shortages due to the pandemic.

These extensions were agreed with the Executive Director in line with the delegated authority granted to them by NICE committee in October 2018.

- 3.7 During September 2020, the legal and financial implications of the commission were signed off by both relevant legal and finance colleagues in both Brighton & Hove and ESCC. It had been agreed that ESCC would provide procurement support whilst BHCC would provide legal support to the process.

Following this, the Official Journal of the European Union (OJEU) notice was issued on 9th October 2020 and the Invitation to Tender was issued on the 12th October 2020. Included in the Invitation to Tender were the outcome of those engagement events mentioned above as a key reference document, along with Equality Impact Assessments which had been signed off by equalities lead officers for both authorities.

Bidders had until 28th October to seek clarification on the tender specification with bids to be submitted by 10.00am on 11th November 2020. The bidders had an opportunity to ask questions to clarify points which they were uncertain of.

During December 2020 evaluation and moderation of the bids took place. This involved, members of the evaluation panel scoring the bids individually and then meeting to finalise the scores.

On 6th January 2021 the contracts were awarded. The new contracts are due to go live on 1st April 2021. The successful bidders have been formally notified in accordance with the requirement of the Public Contracts Regulations 2015 that they are the successful bidders.

- 3.8 The existing contracts for DVA services terminate at the end of March 2021 and the council is required to re-procure them in compliance with the Public Contracts Regulations 2015. This requires officers to follow a formal, regulated process and

advertise the opportunity so that any service providers can submit a bid. The council must say at the start of the procurement how it will evaluate bids and will be in breach of the regulations if it does not apply that criteria.

- 3.9 The procurement principles underlying any procurement exercise are that each economic operator (i.e. potential bidder) is treated equally and without discrimination, and that the council as contracting authority acts both transparently and proportionally.

The contracting authority should seek to establish a level playing field as far as possible between potential bidders whether they are incumbent providers, those new to the market, whether they are small or medium sized enterprises or larger organisations. It is not permissible to favour local bidders.

Regulation 18 of the Public Contracts Regulations 2015 prevents contracting authorities from designing a procurement with the intention of narrowing competition by unduly favouring or disadvantaging certain economic operators. It would be unlawful to design the procurement to make it more likely that the incumbent provider won the contract or for the council to show bias towards RISE or any other organisation during the evaluation process.

- 3.10 The Procurement Regulations require contracting authorities to select the best tender which has the highest score based on the criteria set out at the start of the process. The contracting authority must assess objectively against the published criteria the responses of the providers to determine which is the most economically advantageous tender (Regulation 67). It is not permissible to take into account the performance of the incumbent provider in the evaluation process.
- 3.11 Councillors are not involved in evaluating bids and evaluation requires specialist knowledge of the services being procured.
- 3.12 Awarding public contracts is tightly regulated to ensure all bidders are treated equally and to ensure the process is non-discriminatory and transparent. It is unlawful to design a procurement to artificially narrow competition. The council must try to ensure a level playing field for all bidders and must evaluate tenders objectively.
- 3.13 Throughout the process, the Procurement Officer acting as moderator ensured that no information relating to external knowledge of any bidder was introduced into the discussion, and that no assumptions were made that could not be evidenced within a bidder's specific response to each specific question. Those involved in the scoring each part of the bid were not aware of the overall score so were not aware of the impact their score would have on the outcome.
- 3.14 The three contracting parties to the tender (ESCC, BHCC, Sussex Police and Crime Commissioner) considered that the services required as part of the tender were best let in separate Lots, not least because of the different geographic spread of the services, and so as to enable a wide variety of bidders with expertise in specific areas, such as stalking and sexual violence and abuse. It was also considered that not all bidders would have the experience to deliver effectively all the separate categories of services required. This approach was widely discussed during the engagement exercises with both incumbent service providers and broader

stakeholders and was both anticipated and welcomed. The lots were designated as follows:

1. Brighton & Hove community domestic violence and abuse services
2. East Sussex community domestic violence and abuse services
3. Pan-Sussex Sexual Violence and Abuse Services
4. Pan-Sussex Stalking and Harassment Services (new contract)
5. Brighton & Hove refuge service

3.15 The tender specification and quality questions were drafted in line with the Brighton & Hove Social Value Framework and the Social Value Act. The Council's Social Value Framework sets out the following definition of social value

'Social Value is about securing maximum impact on local priorities from all public investment. The city will maximise social value by focusing particularly on strengthening communities through collaborative working across the public, private and community and voluntary sectors.'

The Social Value Act considers social, economic and environmental benefits, within a procurement. BHCC is satisfied that it met its duty regarding consideration of Social Value. Social Value was embedded throughout the questions to bidders.

3.16 BHCC Council provides support to third sector organisations to complete funding bids through funding to Community Works. Following Budget Council approval in February 2021, a new role is being created in the council's Procurement team which will be solely focussed on creating Social Value and sustainability in the Council's procurement processes.

3.17 Following evaluation of the bids, Lot 1 was awarded to Victim Support and Lot 5 awarded to Stonewater. The contracts will last for five years with the possibility of an extension for a further two. Providers during the consultation phase had expressed a wish for longer contracts to ensure stability and continuity of funding.

3.18 The Victim Support team is Sussex-based and supported by over 79 Sussex resident volunteers. The organisation will take a proactive and collaborative approach to engaging stakeholders and developing the service to the needs of the service users. Last year Victim Support Sussex handled 3,402 referrals regarding survivors of domestic violence and abuse living in Brighton & Hove. Victim Support will be offering a 24/7 helpline which is above what was requested in the specification and webchat service along with online support tools 1-2-1, group and peer support. The service will include a programme of education, training, and community activities to promote safe and healthy relationships and the wider support services available.

3.19 Stonewater Ltd deliver services in Brighton & Hove and across the UK and are a provider of commissioned housing and support services. The service provides added value with move-on social housing options for refuge residents. They provide services nationally and deliver a number of specialist domestic abuse services embedded within their local communities. They evidenced track record

of working with survivors of domestic abuse, including those with multiple complex needs. They are also the providers of an industry leading LGBTQ+ Safe Space that provides accommodation and support for people who identify as LGBTQ+ and have experienced domestic abuse and/or hate crime.

- 3.20 Concern has been raised that services specifically for women will be affected by the new contract. This is not the case.

BHCC is aware that domestic abuse disproportionately affects women and women with children and we have commissioned services that prioritise women's safety as the highest group of people affected.

- 3.21 The commissioners from all three commissioning bodies (BHCC ESCC OSPCC) will support the new providers through the mobilisation/transition phase, when the contract goes live on 1st April 2021 and continue to monitor the contract and performance throughout its lifetime.

- 3.22 The Public Contracts Regulations 2015 require the council to award the contracts to the providers who had the highest scores based on the quality of their bids.

If the council was to reverse its contract award decision, the winning providers might bring a challenge under the Regulations. The outcome of a challenge could be either to force the council to award the contract to the winning bidder or to require the council to pay the winning bidder damages.

- 3.23 Concern has been expressed that a Cross Party Member Working Group referenced in paragraph 3.2 above which should have been set up was not arranged.

This was a result of the existing contract being extended to November 2019, key people leaving the organisation and unfortunately it coincided with a time when officer capacity was very stretched in dealing with the Covid 19 pandemic.

Nonetheless, the officer team are mindful of this oversight it is hoped that the Cross Party Member Working Group will consider how best to keep members informed of technical procurement processes in future.

- 3.24 Councillors may be aware that the city council has been awarded just over £600k by the Ministry for Housing Communities and Local Government (MHCLG) for domestic abuse services to ensure that we meet our duties under the new Domestic Abuse Bill. This money has not yet been received. The funding will be provided by way of a grant or contract following an appropriate selection process.

The awarding of this money will be a committee decision as a committee report is required to allocate funding of this size to comply with Contract Standing Orders (if it is a contract) or to establish a transparent and fair process (if it is a grant).

- 3.25 It is proposed that TECC recommend to Policy and Resources (P&R) committee that a Cross Party Member Working Group be established to:

- review the council's policy and practice regarding social value and community wealth building from a commissioning and procurement perspective including the Domestic Abuse contract

- recommend any necessary changes and actions for improvement including member oversight.

P&R committee will be asked to approve terms of reference for the Member Working Group. The terms of reference will propose that the Member Working Group works closely with the Procurement Advisory Board which is the permanent Member Working Group which advises the P&R on procurement matters.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The procurement process for commissioning DV services is complete and no actions are required to ensure services for DV victims in B&H can continue under the new contracts in line with the strategy agreed by NICE in March 2019. TUPE arrangements are in place for existing staff to transfer to the new providers if they chose.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 This is set out in the body of the report.

6. CONCLUSION

- 6.1 This report is to provide an update of the current domestic abuse and violence commission and to invite any comment.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

There are no direct financial implications arising from the recommendations made in this report.

The maximum total value of the BHCC commissioned contracts (*Lots 1 and 5*) over seven years (*contracts will last for five years with possibility of an extension for a further two*) is approximately £5.178m.

	Annual	Total contract Period 7 years (5+2)
	£	£'000
BHCCC element	£609,680	£4,267,760
OSPCC	£80,000	£560,000
Brighton & Hove CCG	£50,000	£350,000
Brighton & Hove Commissioned Contracts	£739,680	£5,177,760

Finance Officer Consulted: Michael Bentley

Date: 04/03/21

Legal Implications:

The Council is required to comply with the Public Contracts Regulations 2015 when procuring contracts. Further details are set out in the body of the report. The council's Policy & Resources Committee has responsibility for procurement so is the appropriate committee to set up the working group.

Lawyer Consulted: Alice Rowland

Date: 2/3/21

Equalities Implications:

- 7.3 There are no equalities implications arising from this report. In depth equality impact assessments were carried out as part of the procurement process. The Council recognises the importance of these services to all of our communities, in particular women who are disproportionately affected by Domestic Abuse.

Sustainability Implications:

- 7.4.1 None

