



## MAYOR AND CABINET

### **Report title: Approval for a Single Tender Action for New Hope Supported Housing Project**

**Date:** 24 March 2021

**Key decision:** Yes

**Class:** Part 1.

**Ward(s) affected:** All wards

**Contributors:**

Director of Integrated Commissioning – Dee Carlin

Executive Director for Community Services – Tom Brown

### **Outline and recommendations**

Mayor and Cabinet are recommended to give approval for officers to negotiate a contract with Penrose (Social Interest Group) for the delivery of the New Hope Mental Health Supported Housing Project for the period of 1 August 2020 to March 2022.

The local authority is one of three commissioning authorities (LBL, SEL Clinical Commissioning Group and South London and Maudsley MH Trust – SLaM) that have been funding this contract since the early 2000's. SLaM previously managed the service on behalf of the three authorities. Subsequently there was an agreement to novate the contract to the Council in December 2020.

## 1. Summary

- 1.1. This report seeks approval to commence single tender action with Penrose for the direct contract award of contract for the delivery of the New Hope Mental Health Supported Housing project.
- 1.2. The New Hope Supported Housing project is a 12 bedded property that has been a long standing component of the borough's approach to supporting individuals that have complex needs related to their mental health and/or offending histories returning to the community from detention in inpatient care and in most instances as requirement of a Community Treatment Order.
- 1.3. As result of the COVID pandemic response the negotiation or renewal of contract was formerly suspended (in accordance with all NHS organisations) therefore the Penrose contract was not extended beyond its expiry date of July 2020. Nonetheless the service provider continued to deliver the service and SLaM continued to manage the contract up to December 2020 on behalf of the three commissioning agencies taking a lead role in negotiating service and quality improvements during the life of the contract. Funding for the service is managed by the Council, with partial costs claimed back from CCG and SLaM.
- 1.4. Whilst there are no specific performance or delivery concerns related to the project the commissioning partners agreed that the current service model will need to be aligned with the proposed service improvements that will be generated by the re-configuration of the Mental Health Supported Housing Pathways which is being led and by the Council.
- 1.5. It was subsequently agreed that lead responsibility for the service would revert back to the Council to enable the Integrated Commissioning team to lead negotiations of the development of a revised service model that will lead to overall service improvement and efficiencies with the provider Penrose during the proposed contract period.

## 2. Recommendation

- 2.1. Mayor and Cabinet are recommended give approval for officers to award a contract with Penrose (Social Interest Group) for the delivery of the New Hope Mental Health Supported Housing Project for the period of 1 August 2020 to March 2022.

## 3. Policy Context

- 3.1 The provision of Mental Health Supported Housing is an integral component of Local Authority and Clinical Commissioning Groups statutory duty under s117 of the Mental Health 1983 to fund or provide aftercare service for all individuals that have been subject to detention within inpatient services under the Section 3 of the Mental Health Act.
- 3.2 The local authority is also required to meet the social care needs of individuals with Mental and physical health issues that have been deemed eligible under the Care Act 2014.
- 3.3 Other national statutes and policy guidance related to the council and CCGs duty to commissioned and/or provide the service are as follows;

### National

- Care Act 2014
- Health and Social Care Act 2012
- Public Health Act 1986

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- Health Protection (Coronavirus) Regulations 2020 Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013
- National Health Service Act 2006
- Mental Health Act 2007
- Mental Health Capacity (Amendment) Act 2019
- NHS Long Term Plan
- Improving access to mental health services by 2020

#### Local

- Corporate Strategy 2018/22
  - **Open Lewisham** – a place of safety for all
  - **Tackling the housing Crisis** – everyone has a decent home that is secure and affordable
  - **Giving children and young people the best start in life** – every child has access to an outstanding and inspiring education and given the support they need to keep them safe, well and able to achieve their full potential
  - **Delivery and defending: health, social care and support** – ensuring everyone receives the health, mental health, social care and support services they need
  - **Building safer communities** – every resident feels safe and secure living here as we work together towards a borough free from the fear of crime
- Lewisham Health and Wellbeing Strategy 2013/23
- Lambeth, Southwark and Lewisham (LSL) Sexual and Reproductive Health Strategy 2019/24

### Background and approach

- 4.1 New Hope Supported Housing Project is 12 bedded property that provides a high level of support to adults with section 117 and Care Act eligible mental health needs. Staff are on-site 24 hours a day, seven days a week and will provide support to service users as required to help develop skills for independent living and to engage with the community.
- 4.2 Lewisham has one of the highest prevalence rates of severe mental illness in the country therefore the borough continues to require the provision of supported housing for people with mental illness. New Hope Supported Housing Project was specifically developed to provide an effective pathway for people experiencing severe and enduring mental health problems who are leaving inpatient care.
- 4.3 The primary aim of the service is to support rehabilitation and recovery, enabling people with long-term mental health needs to lead fulfilling lives in the community, maximising life opportunities and independence. The service forms part of the Mental Health Complex Care pathway in Lewisham for people aged over 18 years with severe and enduring mental illness. Residents would be supported to step down to less intensive support within the mental health accommodation pathway and to alternative housing options, wherever possible.

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- 4.4 Comprehensive support plans will be in place to ensure residents have the right support to maintain and/or enhance the skills they already possess including the following areas:
- Daily Life skills for independent living
  - Engaging with social and/or recreational activities
  - Finance and budgeting
  - Maintaining health and wellbeing
  - Medication management
  - Nutrition
- 4.5 Lewisham Community Forensic service generally has the second largest caseload of all the four SLaM borough's (Lambeth, Southwark, Lewisham and Croydon). As stated above Lewisham is also above the national and regional rate of serious mental illness. Overall demand for community services is not forecast to reduce within this patient group therefore it is essential that we continue to offer care pathways and services that enable our services to transition from inpatient, to community services and eventually where possible independent living arrangement in fluid manner.
- 4.6 The New Hope Supported Housing Project is currently registered as a Care Home with the Care Quality Commission as such the local authority and partners fully fund the cost of the beds. In the new financial year the project will be de-registered within the next few months in order to transition to a Supported Housing Scheme and resident will claim housing benefit which will offset the budget reductions being applied by LB Lewisham.

## **5. Single Tender Action**

- 5.1. In December 2020, there was an agreement that the lead responsibility for the delivery of the New Hope Supported Housing Contract would revert to the Council to ensure that there was alignment with our overarching revision of our Mental Health Supported Housing Pathways. As a result of the COVID pandemic the previous contract with Penrose had not been formally extended or updated. There is now an urgent need for the Council to establish a new contract.
- 5.2. The ongoing demand and requirement for the supporting housing beds for individuals within complex mental health needs and/or offending histories that are being discharged from inpatient care remains consistent based on severity of mental health needs within the borough's overall population.
- 5.3. As stated the New Hope Supported Housing project provides management and support of higher risk complex services with severe and enduring mental illness and often serious offending histories. The Provider (Penrose) have developed significant expertise in not only delivering support to this cohort but also establishing the confidence of Ministry of Justice, SLaM and other local partners which significantly contributes towards the effective transitions of these service users from inpatient to community settings. Based on this considerable experience and established expertise the Penrose are deemed to be specialist provider as there are currently not other providers that would be able to maintain continuity of provision with the service users and other key partners whilst managing the level of risk that is present within this client group at this point in time.
- 5.4. Based on the Council's understanding that the contract between SLaM and Penrose continued on a rolling basis, Penrose have been paid for the full value of the contract in 20/21 despite the contract not being formally extended or renewed. There is now the urgency to establish a contract as quickly as possible to provide a clear legal agreement between the Council and Penrose from 1 August 2020 to March 2022. This

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would enable a full appraisal of the service and implementation to be carried out in collaboration with the other commissioning authorities to determine the most appropriate procurement approach.

- 5.5. To ensure quality standards, performance indicators, service improvement and efficiencies are either maintained or achieved a time limited negotiation process will be initiated to ensure that contract is in place as soon as possible following the approval to award.
- 5.6. Officers therefore recommend that Mayor and Cabinet agrees to the Single Tender Action approach for a direct award of contract to Penrose (Social Interest Group).

## **6. Financial implications**

- 6.1. For the 20/21 financial year LB Lewisham currently funds approximately 50% of the annual contract value of the New Hope Supported Housing Project. LB Lewisham contribution to annual contract value will reduce considerably over the new two years as a result of a reconfiguration of the current service model.
- 6.2. The LB Lewisham contribution to the project is funded via the Adult Social Care Mental Health Budget and the savings highlighted above are a component of the Community Services Directorates saving plan.
- 6.3. SLaM and SEL CCG financial contributions to the contract are outlined in the 21/22 budgets.

## **7. Legal implications**

Under the Council's Contract Procedure Rules ("CPR") the possible contract to Penrose would be a Category A contract given the value would be over £500,000. The contract is a light touch contract and the contract value would be above the EU financial threshold for light touch contracts under the Public Contracts Regulations 2015, as amended by Brexit provisions including the Public Procurement (Amendment etc.) (EU Exit) Regulations 2020 SI 2020 No.1319.

- 7.1 Category A contracts would normally require tendering by public tender.
- 7.2 The Contract Procedure Rules anticipate that a competitive process will usually be carried out. Where such a process is not to be followed, an exemption from Contract Procedure Rules is to be sought. Under paragraph 18 of the Contract Procedure Rules an exemption can only be given in exceptional or unforeseen circumstances. When consideration is to be given as to whether an exemption should be approved, the following matters should be considered:
  - the nature of the market for the services to be provided has been investigated and is such that the proposed approach is justifiable; or the contract is for services that are required in circumstances of extreme urgency; or there are other circumstances which are genuinely exceptional;
  - it is in the Council's overall interest; and
  - there is no breach of legislation.
- 7.3 The circumstances for negotiating with single providers are set out the body of the report at paragraph 5. It is for Mayor and Cabinet to be satisfied after considering this report whether an exemption should be approved to carry out single tender action to award the contract to Penrose.

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- 7.4 The proposal to carry out single tender action to award the contract to Penrose carries some risk as it is not being competitively tendered and could be subject to legal challenge. It could be treated as a wrongful award of a contract and a successful challenge could result in the award of damages and a declaration that the contract with Equinox was ineffective. To minimise the legal risk, the contract should be for the minimum period possible to allow for the procurement to be carried out.
- 7.5 The award of the contract is key decision and should go in the Forward Plan.
- 7.6 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between people who share a protected characteristic and those who do not
  - foster good relations between people who share a protected characteristic and those who do not.
- 7.7 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 7.8 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>.
- 7.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty.
- 7.11 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required,

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as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **8. Equalities implications**

- 8.1. The Council's Comprehensive Equality Scheme for 2012-16 will provide an overarching framework and focus for the Council's work on equalities and help ensure compliance with the Equality Act 2010.
- 8.2. One of the key quality criteria measured during any commissioning process is "Processes for addressing equality and diversity". All the services contained in this report will be subject to robust contract monitoring processes which include evaluating fair access to services for all.

## **9. Climate change and environmental implications**

- 9.1. The Council has made a commitment to making the borough carbon neutral by 2030.
- 9.2. The contracts set out in this report will not have any negative impact on the rate of energy consumption or increase of carbon admissions.
- 9.3. Buildings are maintained by various landlords and RSL's and the energy efficiency of services including numbers of transistions to SMART meters etc will be discussed in contract monitoring meetings and assessed durineg Quality Assurance visits.
- 9.4. Recycling should be proactively promoted within the contracts and will be monitored during scheme visits and will be dicussed with residents.

## **10. Crime and disorder implications**

- 10.1. Provision of suitable services to support rough sleepers links directly to the delivery of S17 of the Crime and Disorder Act. Section 17 of the Act recognises that there are key stakeholder groups who have responsibility for the provision of a wide and varied range of support services to and within the community. In carrying out these functions, section 17 places a duty on partners to do all they can to reasonably prevent crime and disorder in their area.
- 10.2. The purpose of section 17 is simple: the level of crime and its impact is influenced by the decisions and activities taken in the day-to-day of local bodies and organisations. The responsible authorities are required to provide a range of services in their community. Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making.
- 10.3. Research by the Home Office has shown that stable housing is a significant factor in reducing the likelihood of people re-offending. For example, stable accommodation reduces the potential for committing further crime by offenders within the community by about 20%.

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## 11. Health and wellbeing implications

- 11.1. The services in this report will have a positive impact on health, mental health, and wellbeing by providing shelter, housing and support to rough sleepers in the borough.
- 11.2. The services in this report will have a positive impact on social, economic and environmental living conditions that indirectly affect health by providing good quality accommodation with support to address health issues early on and to ensure wrap around services are in place.

## 12. Social Value implications

- 12.1. Penrose is an organisation delivering support to vulnerable residents in the borough independently of local authority funding, promoting a range of social value in the borough.
- 12.2. The council is an officially accredited London Living Wage (LLW) Employer and is committed to ensuring that, where appropriate, contractors and subcontractors engaged by the council to provide works or services within Lewisham pay their staff at a minimum rate equivalent to the LLW rate. Successful contractors will be expected to meet LLW requirements and contract conditions requiring the payment of LLW will be included in the service specification and contract documents
- 12.3. The incorporation of Social Value into Lewisham contracts will significantly help the Council to deliver on its strategic corporate and Mayoral priorities and deliver added value for the borough as a whole.

### Background papers

n/a

## 13. Glossary

<b>In-house</b>	Services delivered by the Council instead of commissioning third parties.
Innovative	New; pioneering. Delivering services in ways which use imagination and new ideas about delivering services. Innovation is at the core of the Council's aspiration to deliver better services to local communities

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In-Source	The process from delivering a service by a third party to delivering a service by the Council.
Integrated Care System (ICS)	Joined up, coordinated health and social care that is planned and organised around the needs and preferences of the individual, their carer and family. This may also involve integration with other services for example housing.
Integrated Community Based Care	Coordination of care services for defined groups of people, e.g. older people, people with learning disabilities, etc. (King's Fund)
Lay Visitors	Citizens taking part in the contract monitoring process with an aim to give an independent perspective of how services are run. They are usually volunteers with an interest in local services and communities. Their views are valued and included in the monitoring reports produced by Council officers
Lead Providers	Three homecare providers who were awarded contracts by the Council in 2016 to provide all homecare services in the borough. They are each allocated a geographical area within which they have the sole responsibility to provide home care.
Lewisham Health and Care Partners	Lewisham Health and Care Partners is a partnership of the main health and care commissioners and providers in Lewisham. The partners include NHS Lewisham Commissioning Group, Lewisham Council, One Health Lewisham Ltd GP Federation, South London and Maudsley NHS Foundation Trust and Lewisham and Greenwich NHS Trust (Lewisham CCG)

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Market Shaping	Working together with other partners to encourage services to meet local need and ensuring there is enough supply of different types of services.
Market Sustainability	Ensuring a robust and a varied local market of providers by awarding financially viable contract to a range of providers; avoiding to rely on a small number of providers who may be too 'big to fail'.
Multi-Disciplinary Team (MDT)	A Multidisciplinary Team is a group of professionals from one or more clinical disciplines who together make decisions regarding recommended treatment of individual patients/service users. MDTs may include social care professionals and independent providers.
NHS Fully Funded Continuing Healthcare	Ongoing care outside hospital for someone who is ill or disabled, health care arranged and funded by the NHS. This type of care can be provided anywhere, and can include the full cost of a place in a nursing home. It is provided when your need for day to day support is mostly due to your need for health care, rather than social care. The Government has issued guidance to the NHS on how people should be assessed for continuing health care, and who is entitled to receive it.
Options Appraisal	The options appraisal allows a number of different delivery model options to be explored and evaluated against a set of agreed criteria, leading to the selection of the preferred option. This stage can commence once the function of the service has been clearly defined. ( <a href="http://www.gov.uk">www.gov.uk</a> )
Outcome Focussed Care	In social care, an 'outcome' refers to an aim or objective you would like to achieve or need to happen – for example, continuing to live in your own home, or being able to go out and about. You should be able to say which outcomes are the most important to you, and receive support to achieve them.

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<p>Personal Budgets</p>	<p>Money that is allocated to you by your local council to pay for care or budget support to meet your assessed needs. The money comes solely from adult social care. You can take your personal budget as a direct payment, or choose to leave the council to arrange services (sometimes known as a managed budget) – or a combination of the two.</p> <p>An alternative is an individual service fund, which is a personal budget that a care provider manages on your behalf. A personal health budget may also be available: it is a plan for your health care that you develop and control, knowing how much NHS money is available.</p>
<p>Personalisation</p>	<p>The principle behind the current transformation of adult social care services, and also related to health services. Personalisation refers to the process of providing personalised, flexible care that is intended to promote the independence of those who need care.</p>
<p>Primary Care Networks</p>	<p>From 1 July 2019, all patients in England will be covered by a primary care network. They aim to integrate primary care with secondary and community services, and bridge a gap between general practice and other types of healthcare services. Primary Care is health care services provided in the community as the first point of contact, e.g. a GP or an advice clinic (includes GPs, community pharmacists, dental, optometry (eye health)).</p>
<p>Procurement</p>	<p>The process of buying or purchasing goods or services.</p>
<p>Public Health</p>	<p>“Public health is generally thought of as being concerned with the health of the entire population, rather than the health of individuals – and therefore requiring a collective effort – and as being about prevention rather than cure. The three areas of public health are: health improvement; health protection; and health services.</p> <p>Under the Health and Social Care Act, responsibility for public health is to be taken over from the NHS by local government. A national public health service, Public Health England will also be created.</p>

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Social Prescribing	Connecting people to community groups and services, for example, a local arts and crafts group. Primary purpose of social prescribing is to combat social isolation and to help people take part in meaningful activities.
Stakeholder	A person with an interest or concern in something, community services in this case.
Sustainable Community Strategy	The role of the sustainable community strategy is to set out the strategic vision for a place. It provides a vehicle for considering and deciding how to address difficult cross-cutting issues such as the economic future of an area, social exclusion and climate change. (www.local.gov.uk)
Sustainable Provider Operating Costs Tool (SPOCT)	A costing mechanism developed by ADASS, which aims to help commissioners and providers decide on rates that are sustainable and effective
The Care Act	A law passed in Parliament in 2012, bringing together various pieces of legislation and setting out new duties and expectations from local authorities
Time and Task	Care activity delivered at a specific time

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Tissue Viability	Tissue viability is a relatively new discipline, which started in the 1980s and has been defined as a growing speciality that primarily considers all aspects of skin and soft tissue wounds, including acute surgical wounds, pressure ulcers and all forms of leg ulceration (Tissue Viability Society, 2014).
Urgent Community Response Accelerator Scheme	South East London's Integrated Care System (ICS) is to become one of seven new urgent community response accelerator sites across the country. It aims to provide an assessment in a patient's home if they are in a crisis.
Wellbeing	Used by the World Health Organisation (1946) in its definition of health as "a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity". More recently the concept was described as "feeling good and functioning well" (New Economics Foundation, 2008). Creating wellbeing (of which good physical health is a component) requires the mobilisation of the widest assets to ensure community cohesion, safety and so on.
Workforce Development	Support for workers to become capable, skilled and confident.

#### **14. Report author and contact**

14.1. Kenneth Gregory

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#### **15. Comments for and on behalf of the Executive Director for Corporate Resources**

15.1 Yusuf Shaibu, Group Finance Manager, Community Services Directorate

15.2 [Yusuf.Shaibu1@lewisham.gov.uk](mailto:Yusuf.Shaibu1@lewisham.gov.uk)

#### **16. Comments for and on behalf of the Director of Law, Governance and HR**

16.1. Stephanie Fleck Principal Lawyer  
0208 314 9968

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