

## MUNICIPAL YEAR 2018/2019 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

**OPERATIONAL DECISION OF:**  
Executive Director Resources &  
Executive Director Place

**REPORT OF:**  
Executive Director Place

**Agenda – Part: 1**

**KD Num: KD3687**

**Subject:** Electric Quarter: Ponders End  
General Vesting Declaration

**Wards:** Ponders End

Contact officer and telephone number:  
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### 1. EXECUTIVE SUMMARY

- 1.1 On 17 June 2015 Cabinet (**KD4076**) resolved to make a Planning Compulsory Purchase Order (PCPO) under section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of land and new rights within the area known as the Electric Quarter Ponders End described in the report and shown edged red on the plan attached. (**Order Land Red Line Plan Appendix 1**).
- 1.2 The same Cabinet meeting delegated authority to the Executive Director of Regeneration and Environment, acting in consultation with the Executive Director of Finance, Resources, and Customer Services, to acquire all necessary land and property interests within the area subject to the PCPO either by agreement or compulsorily.
- 1.3 On 10<sup>th</sup> February 2016 Cabinet (**KD4229**) authorised a budget of £10.08 m to acquire the balance of land and property interests needed to enable land assembly for completion of Phase A and B of the Electric Quarter where a viable development opportunity supports the economic and housing growth objectives of the London Borough of Enfield.
- 1.4 On 15 March 2016 Cabinet authorised the signing of the Phase A Lease agreement with the Development partner Lovell Limited and subsequent start on site (**KD4261**) Phase A of the Electric Quarter development is now nearing practical completion.

## EXECUTIVE SUMMARY (CONTINUED)

- 1.5 On 16<sup>th</sup> June 2017 The **London Borough of Enfield (Ponders End Electric Quarter) Planning and Compulsory Purchase Order 2016** was confirmed by the Secretary of State for Communities and Local Government.
- 1.6 Please refer to Part 2 of this report.

## 2. RECOMMENDATIONS

It is recommended that the Executive Director Resources in consultation with the Executive Director Place:

- 2.1 Authorise the making of the Ponders End Electric Quarter General Vesting Declaration 2018.
- 2.2 Please refer to Part 2 of the report.
- 2.3 Authorise the serving of Notice to Treat (NTT) and Notice to Enter (NTE) on those with a minor interest in the Order Land.
- 2.4 Please refer to Part 2 of this report.
- 2.5 Authorise the commencement of possession proceeding where occupiers have not vacated the Order Land on the Vesting Date.

## 3. BACKGROUND

- 3.1 The **London Borough of Enfield (Ponders End Electric Quarter) Planning and Compulsory Purchase Order 2016** was confirmed by the Secretary of State for Communities and Local Government on the 16<sup>th</sup> June 2017. The Council began negotiations with all land and property interest holders within the Order Scheme, known as the “Electric Quarter Development” Phase A and B prior to confirmation of the **PCPO**. This process has continued post confirmation.
- 3.2 Phase A has delivered 61 units comprising of 40 three and four-bedroom freehold town houses and 21 one, two, and three-bedroom affordable flats to rent all of which are sold and allocated. Phase B will deliver 22 private houses, 52 private flats and 31 affordable units. Five commercial units will be provided on the ground floor of the blocks. The scheme also incorporates parking, improved access roads and public realm works within a total development area of 12,810 sqm (3.1 acres). The remaining land and property interests to be acquired for Phase B are detailed in the Schedule of Interests

(Appendix 2) and are the subject of the **General Vesting Declaration, Notice to Treat and Notice to Enter**.

- 3.3** The Council appointed legal and property consultants Bevan Brittan LLP and GVA Grimley LLP to provide specialist compulsory purchase, acquisitions, valuation, and property advice. They are tasked with negotiating Heads of Claims and Terms for all Freehold and Leasehold acquisitions in compliance with the Compensation Code as well as processing legal documentation from exchange to completion. In addition, they provide specialist PCPO advice and guidance to ensure statutory procedures set out by the authorising authority are complied with in a timely manner.

**4. Statutory Compulsory Purchase Order Challenge**

Please refer to Part 2 of this report.

**5. General Vesting Declaration**

- 5.1** The Council propose to set a general vesting date to acquire all land and property interests within the Order Scheme pursuant to the powers granted by the **Local Government Act 1972, Compulsory Purchase Act (General Vesting) Act 1981 and Compulsory Purchasing of Land (Vesting Declarations) 1990**. The Ponders End Electric Quarter General Vesting Declaration 2018 will vest title to all land and interests within the Order scheme boundary to the Council as the authorised body.

**5.2 Notice to Treat and Notice to Enter**

Please refer to Part 2 of this report.

**5.3 Landlord and Tenant**

Please refer to Part 2 of this report.

**5.4 General Vesting Declaration – Timing**

Please refer to Part 2 of this report.

**6. Electric Quarter Compulsory Purchase Acquisition Costs**

Please refer to Part 2 of this report.

**7. Terms of Acquisition by Private Treaty**

Please refer to Part 2 of this report.

**8. Compensation Code**

Please refer to Part 2 of this report.

**9. General Vesting and Private Treaty Costs**

Please refer to Part 2 of this report.

**10. ALTERNATIVE OPTIONS CONSIDERED**

Please refer to Part 2 of this report.

**11. REASONS FOR RECOMMENDATIONS**

Please refer to Part 2 of this report.

**12. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

**12.1 Financial Implications**

Please refer to Part 2 of this report

**12.2 Legal Implications**

Bevan Britten LLP have provided specialist legal advice and guidance in relation to the compulsory purchase to ensure statutory procedures have been complied with in a timely manner. Under section 226 (1) (a) of the Town and Country Planning Act 1990, a local authority has a power to make a compulsory purchase order for the acquisition of any land in their area in order to facilitate the carrying out of development, redevelopment or improvement in relation to land. The PCPO was confirmed by the Secretary of State for Communities and Local Government on 16<sup>th</sup> June 2017. The Council can now take steps to acquire land either by serving a notice to treat and notice of entry in accordance with the 1981 Act or by serving a general vesting declaration under the Compulsory Purchase (Vesting Declarations) Act 1981. Consideration must be given to the most appropriate route - the Council has sought advice from Bevan Britten LLP in this regard - and the procedure set out by legislation must be followed. The Council has three years from the serving of the Notice of Confirmation in which to execute the GVD or serve a Notice to Treat. A GVD cannot be executed in respect of a specific land interest, until the Notice to Treat has been withdrawn. Persons having interests in the land acquired compulsorily will be entitled to compensation. Payment is in accordance with the 'compensation code' which is the law as set out in the Land Compensation Acts 1961 and 1973 and the Compulsory Purchase Act 1965, as amended by subsequent legislation and supplemented by case law.

**12.3 Property Implications**

Please refer to Part 2 of this report.

### **13. KEY RISKS**

Please refer to Part 2 of this report.

### **14. IMPACT ON COUNCIL PRIORITIES**

#### **14.1 Fairness for All**

The delivery of Phase B of the Electric Quarter development will promote fairness for people in the local community and borough. The Council is committed to delivering affordable residential homes. The homes will be a mixture of tenures, sizes, and designs providing housing options for all people living and aspiring to live in the borough. All people impacted by the Compulsory Purchase Order process will be treated equally, and fairly in line with the Council's corporate policies, obligations, statutory responsibilities and duties.

#### **14.2 Growth and Sustainability**

Growth and sustainability are central to the proposals for Ponders End High Street. The development will contribute to an improved rate of economic growth in the borough through increasing the number of social and affordable homes, improving the quality and quantity of commercial and community spaces and increasing the rate of employment, training, and enterprise opportunities available for local people. In addition to attracting new inward investors all of which contribute to delivering a more prosperous community through effective growth and sustainability interventions a key corporate objective. The Council aim to promote a level of recreational, economic, social inclusivity and access that empowers individuals and families to take advantage of the opportunities that will result from successful delivery of an exemplar housing development programme.

#### **14.3 Strong Communities**

The development and delivery of Phase A and B of the Electric Quarter Scheme is a critical component of the London Borough of Enfield's regeneration priorities aimed at supporting and increasing community resilience, social, and economic growth and the creation of strong and resilient communities. The Electric Quarter development increases the housing options across all tenures, attracts local and new wealth across income streams, supports improvements and enhances quality of life civic pride and the diversity of communities in the area. The development also creates high quality community and commercial spaces, delivers new civic amenity, and provides a range of shopping and leisure opportunities. This combined with other integrated place shaping and transport, projects such as the High-Street Improvement programme will create infrastructure that supports and empowers communities to participate fully in civic, economic, and social life in a revitalised area and high street.

## 15. EQUALITIES IMPACT IMPLICATIONS

- 15.1** The Electric Quarter Ponders End Equalities Impact Assessment (**EIA**) September 2015 submitted as part of the approved planning application of 26 January 2016 (15/04518/FUL) found that the development scheme has responded positively to delivering a development that will promote equality. The **EIA** Matrix sets out the positive aspects of the development which are Involvement; Crime, Fear of Crime; An Affordable Home; A Home to Meet Needs; Access to Facilities and Services, Public Transport and Accessibility; The table below also sets out the impact against the nine Protected Characteristics set out in the Equalities Act 2010. Overall the Equalities Impact Assessment proposes development will respond positively to securing a development that promotes equality.

### **Electric Quarter, Ponders End: Equality Act 2010 Protected Characteristics**

<b>Protected Characteristic</b>	<b>Scheme: Electric Quarter</b>	<b>Mitigation</b>
Disability	Positive	Not applicable
Gender	Neutral	None
Age	Neutral	None
Race	Neutral	None
Religion & Belief	Positive	Not applicable
Sexual Orientation	Neutral	None
Gender Re-assignment	Neutral	None
Pregnancy and Maternity	Positive	Not applicable
Marriage and Civil Partnership	Neutral	None

## 16. PERFORMANCE MANAGEMENT IMPLICATIONS

- 16.1** The Regeneration of Ponders End High Street contributes towards the achievement of:
- Core Policy 41 of the Core Strategy
  - Shaping Enfield's Future
  - North East Enfield Preferred Options Report
  - Ponders End Central Planning Brief (approved for adoption)
  - 5a of the Sustainable Community Strategy 2007-2017
  - 2.10 "Improve the Quality of life for residents through the regeneration of the priority regeneration areas" of the Enfield Council Business Plan.
  - London Plan

## **17. HEALTH AND SAFETY IMPLICATIONS**

- 17.1** In relation to the development works, it will be necessary, through the process of due diligence, to establish the extent of contaminated land and to ensure that appropriate measures are taken to mitigate risks and to ensure its suitability for projected end uses. The Council would also need to ensure any acquired land was managed to provide a satisfactory level of amenity, safety and security.

## **18. PUBLIC HEALTH IMPLICATIONS**

- 18.1** The detailed Planning Application (**15/04518/FUL**) included a **Health Impact Assessment**. It concluded the development will contribute to objectives that have an overall beneficial effect on several determinants of health such as increases in the quality and affordability of housing, supporting active travel, creating a healthy environment and delivering a vibrant neighbourhood. Overall the development has the potential to support the delivery of healthy living benefits and increased quality of life for several vulnerable groups during the pre-and post-construction phases. These groups include the elderly, disabled, unemployed, young people, and children in poverty.

### **Background Papers**

None:

### **Appendices**

Please refer to Part 2 of this report.



## MUNICIPAL YEAR 2018/2019 REPORT NO.

### ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

### OPERATIONAL DECISION OF:

Director – Environment & Operational  
Services

**Agenda – Part: 1**

**KD Number: 4695**

**Subject: Construction of Vaulted Graves  
and Mausoleum Chambers at Southgate  
Cemetery**

**Wards: Southgate**

Contact officer:

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### 1. EXECUTIVE SUMMARY

- 1.1 Enfield's cemeteries are running out of burial space at a time when demand is increasing.
- 1.2 This report seeks approval to begin work to increase burial capacity at Southgate Cemetery using a proven model previously used at Edmonton Cemetery.
- 1.3 The proposal is to widen the options available at Southgate Cemetery and install 284 vaulted graves and 48 mausolea in two phases on land that is currently unsuitable for earth graves.
- 1.4 The proposal will generate income for the council as detailed in Part 2.

### 2. RECOMMENDATIONS

It is recommended that the Director of Environment and Operational Services

- 2.1 approves the commencement of burial capacity improvements at Southgate Cemetery starting Autumn 2018 which will include installing vaulted graves and mausolea, sections 3.3 to 3.12.
- 2.2 delegates authority to the Director of Environment and Operational Services to approve minor alterations to the scheme, section 3.10.
- 2.3 approves the creation of a fixed term staffing post required to deliver the programme, 3.9.
- 2.4 approves the use of the existing contractor F.D Welters Ltd ('Welters') to deliver phase 1, section 3.11 and 5.4. Approves phase 2 delivery under a new framework contract, section 3.12.
- 2.5 approves the investment and add the cost of the project to the capital programme £1.14million (see part 2). approves the release of capital funding (see part 2) to complete burial capacity increases as agreed by cabinet under DAR4073.

### **3. BACKGROUND**

- 3.1 In 2012 (ENV 12/5 and ENV13/60) trials began in Edmonton Cemetery to provide 178 vaulted graves and 78 mausoleum chambers. The trial was successful with 180 units sold to date.
- 3.2 The trial highlighted four main benefits for vaulted graves and mausolea: they can be installed on land which is not suitable for earth graves as the drainage works required can be incorporated into the construction of the chambers; they return higher net income than earth graves; they can be sold in advance of a burial; there is a significant and growing market for vaulted graves and mausolea.
- 3.3 Over the last 20 years, one of the Council's direct competitors, the privately run New Southgate Cemetery and Crematorium, has capitalised from the closure of Southgate Cemetery.
- 3.4 In April 2017, there was an opportunity to address the loss of business and re-open Southgate Cemetery. Two overgrown areas were cleared to create approximately 200 earth graves.
- 3.5 The third area of land has been identified as unsuitable for earth graves. However, the land is viable for the provision of 332 burial spaces, 284 vaulted graves and 48 mausolea chambers. The vaults and mausolea option will increase choice and enhance the profile of Southgate Cemetery. In addition, it ensures the Council remains competitive with New Southgate Cemetery who are currently offering the same options.
- 3.6 To mitigate financial risk the project shall be delivered in two phases with the income generated from phase one contributing to development costs of phase two.
- 3.7 Phase one of the project will involve preparing the whole site, installing land drainage across the whole site and constructing up to 65 vaulted graves and 48 mausoleum chambers.
- 3.8 Phase two will fully utilise the remaining pre-prepared land with up to an additional 219 vaulted graves.
- 3.9 The project will require additional staff resources to manage. This will entail 50% of a suitably qualified FTE officer responsible for project delivery and further internal support at design and construction phases.
- 3.10 There may be a requirement to change the ratio of vaulted graves to mausolea depending on demand. There may also be a need to increase the number of construction phases depending on: demand; funding availability; and contract limitations. In view of this it is proposed that the Director, Environment and Operational Services has

delegated authority to agree such changes to ensure the overall viability of the scheme is maintained.

- 3.11 Phase 1 of the Southgate Cemetery project shall be delivered under the existing framework contract (with specialist provider Welters) as was used for Edmonton Cemetery.
- 3.12 Due to value limitations on the Welters framework contract, phase 2 of the Southgate Cemetery project shall be delivered using a new supplier framework contract recently procured by the Council

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Improve the site to be suitable for earth graves by installing a bespoke land drainage system. The land drainage system for lawn graves will be considerably more expensive and earth graves achieve approximately 45% less income than vaulted graves.
- 4.2 Allow Enfield cemeteries to reach full capacity and close cemeteries once full. This option would be detrimental to families that require burials close to home.
- 4.3 Once full capacity is reached, only provide burials in re-used graves. Re-used earth graves will return less profit than vaulted graves and mausolea. This option may also prove difficult to market.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 There is a need to increase burial capacity borough wide as well as within the Southgate area to compete with the neighbouring private sector facility at New Southgate Cemetery This project will fulfil this need.
- 5.2 Providing an additional 284 vaulted graves and 48 mausolea will generate much needed income for the Council.
- 5.3 Increasing the variety of plots in Southgate Cemetery will provide choice and benefit the local community.
- 5.4 A suitable single-supplier framework contract is currently in place with a specialist provider (Welters) following a competitive tender process. The provider performed well with the Edmonton Cemetery project. Using the existing contract for Phase 1 (but not Phase 2 due to limits on the contract value) reduces procurement costs and resources and enables delivery within a shorter timeframe. Similarly, using the new framework contract (see 3.11 above) will avoid additional procurement costs and delay.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

**See part 2 of this report**

### **6.2 Legal Implications**

- 6.2.1 The Council is a burial authority by section 214 of the Local Government Act 1972 (LGA) and has the power to maintain cemeteries inside and outside its area.
- 6.2.2 Section 3 of the Local Authorities Cemeteries Order 1977/204 (Cemeteries Order) gives a burial authority the general powers of management, to do all such things as they consider necessary or desirable for the proper management, regulation and control of a cemetery.
- 6.2.3 Section 4 of the Cemeteries Order also gives the burial authority the power to embellish and improve their cemeteries from time to time in a manner as they see fit.
- 6.2.4 Section 111 of the LGA permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their duties. Creation of a fixed term staffing post facilitates the Council in discharging their duties as a burial authority by maintain and improving cemeteries.
- 6.2.5 The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles.
- 6.2.6 As the anticipated contract value exceeds £250,000, this is a Key Decision and the Council must comply with the Key Decision procedure.
- 6.2.7 As set out in sections 3.9 and 3.10 above, it is intended to use two frameworks contracts already procured by the Council. The use of frameworks is permitted by the Council's Contract Procedure Rules ('CPRs') provided certain conditions are met – including the requirement that the use of the framework represents best value, and any call-off is made in accordance with its terms.
- 6.2.8 The client has confirmed that the Southgate works are within the scope of the existing Welters framework (Phase 1) and the new framework recently procured (Phase 2).
- 6.2.9 As each of the Phase 1 and Phase 2 works exceeds £250,000, requiring sufficient security from the contractors involved should be considered to manage risk.

- 6.2.10 The Council must be continually mindful of its duty of Best Value under the Local Government Act 1999.

### **6.3 HR Implications**

Staffing resources are covered under a separate DAR. Costs for staff resources are included in part 2.

### **6.4 Procurement Implications**

- 6.4.1 All procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).
- 6.4.2 The procurement for the Phase 2 works framework was undertaken via the London Tenders Portal, with 7 companies invited to quote, but only 2 rather than the required 5 responses were received back.
- 6.4.3 In accordance with the CPR's an exception was sought and obtained from the Head of the Procurement and Commissioning Hub to confirm the proposed award.
- 6.4.4 The award and future management of the contract must be managed through the London Tenders Portal.

## **7. KEY RISKS**

- 7.1 Reputational risk - Failing to provide adequate burial space within the borough is detrimental to reputation. Enfield residents have strong preferences to use bereavement facilities and services within the borough.
- 7.2 Financial risk - Cemeteries require long term maintenance which must be funded. Income generated from burials helps pay for this maintenance and reduces the burden of maintenance costs on the Council.
- 7.3 Financial risk – Neighbouring boroughs have identified this growing market and have also taken the opportunity to construct vaulted graves and mausolea. This has placed the Council's bereavement services at risk from competition.
- 7.4 Financial risk – Failure to maximise income opportunities from Council assets will place additional financial pressure upon the Authority.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The objective of the proposal is to ensure that all residents are offered a range of burial options close to home.

## **8.2 Growth and Sustainability**

The proposed arrangements are designed to increase burial capacity, increase income and inform future efficiencies in bereavement services delivery.

## **8.3 Strong Communities**

Burials are a requirement for some family, community, ethnic or religious groups. Providing adequate burial space demonstrates council commitment to minority groups.

## **9. EQUALITY IMPACT IMPLICATIONS**

Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment/analysis is not relevant or proportionate for the proposal.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

Once the construction is completed the sales and interments at the new facilities will be managed through the existing bereavement services team in line with current procedures. This includes regular scheduled contract meetings with Welters and provision of performance data to Assistant Director Commercial Services.

## **11. HEALTH AND SAFETY IMPLICATIONS**

11.1 This is a civil engineering construction project and it shall be completed under Construction Design and Management: 2015 (CDM:2015) legislation.

11.2 The specialist service provider (Welters) has been selected and approved using the competitive tender process. They have recently completed an identical multi-phase construction contract at Edmonton Cemetery with no health and safety incidents.

## **12. PUBLIC HEALTH IMPLICATIONS**

None

## **Background Papers**

None

## MUNICIPAL YEAR 2018/2019 REPORT NO.

### OPERATIONAL DECISION OF:

Operational Decision by:  
**Bindi Nagra, Director of  
Health and Adult Social  
Care**

Key Decision: **KD 4657**

REPORT OF: **Doug Wilson,  
Head of Strategy and Service  
Development**

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### Agenda – Part: 1

### Item:

Subject: **Contract award of the Tri-Borough  
IMCA/IMHA/DoLS, Care Act Advocacy**

**Wards: All**

Cabinet Member consulted:  
**Cllr Alev Cazimoglu**

## 1. EXECUTIVE SUMMARY

- 1.1 This report provides background information in relation to the award of contract for the tri borough (Barnet, Enfield and Haringey) service for Independent Mental Capacity Advocacy (IMCA and Deprivation of Liberty Safeguards (DoLS), Relevant Person Representative (RPR), plus Independent Mental Health Advocacy (IMHA) Advocacy.
- 1.2 Details of the quality scoring and pricing can be found on part 2 of this report.
- 1.3 The operational decisions for the recommendations in part 1 and part 2 of this report will be taken by the Director of Health and Adult Social Care.

## 2. RECOMMENDATIONS

- 2.1 This report is noted for information and approval for contract award is granted based on the details in part 1 and part 2 of this report.
- 2.2 It is recommended that the contract is in a form approved by the Director of Law and Governance.

### **3. BACKGROUND**

- 3.1 On 21<sup>st</sup> September 2017 a business case for retendering was approved by the Procurement and Commissioning Review Board. The Delegated Authority Report was signed on the 12<sup>th</sup> January 2018.
- 3.2 Haringey Council was the lead borough on the; Enfield, Barnet, Haringey tri-borough retender.
- 3.3 The tender was divided into three lots:

Lot 1	Independent Mental Health Advocacy (IMHA)
Lot 2	Independent Mental Capacity Advocate (IMCA)/ Deprivation of Liberty Safeguards (DoLS) Relevant Person's Representative (RPR) plus Care Act Advocacy
Lot 3	Children's Advocacy service

Lot 3 has been dealt with under a separate report dated signed on the 13<sup>th</sup> March 2018

Details of the tender submissions against each lot can be found in part 2.

- 3.4 Contract start date is aimed for the 1<sup>st</sup> November 2018. As part of the arrangement, LB Haringey will collect the contract price from the other boroughs and pay the contractor in a single quarterly payment. Details of this arrangement and how the relationship is managed will be confirmed in a three borough Partnership Agreement.

### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 As there is a statutory requirement for the provision of these services, it was agreed at the Procurement and Commissioning Review Board that there was limited alternative to this consolidated and joint arrangement.

### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 See part 2 of this report

### **6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

#### **6.1 Financial Implications**

See part 2 of this report

## **6.2 Legal Implications**

- 6.2.1 Section 111 of the Local Government Act 1972 permits local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions. The recommendations in this report will enable the Council to fulfil its duties under the Mental Capacity Act 2005 (as amended).
- 6.2.2 Furthermore, the Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to Public Law principles.
- 6.2.3 Although Haringey has led the procurement exercise, the Council must ensure that the tender process is compliant with the Public Contracts Regulations 2015. Council officers have confirmed that the selection process was fair, transparent, proportionate and non-discriminatory. An open procurement procedure was conducted under the 'Light Touch Regime'. Light Touch Regime services (including health, social and related services) over a specified value must be advertised in OJEU and on Contracts Finder. At the time of publication of the OJEU Notice the threshold for services governed by the light touch regime was £589,148 or more. The OJEU notice (publication number 2017/S 214-444900) was published on 08/11/2017.
- 6.2.3 The services must be procured in accordance with the Council's Constitution, in particular, the Contract Procedure Rules. As the anticipated contract value exceeds £250,000 this is a Key Decision and the Council must comply with the Key Decision procedure.
- 6.2.4 Throughout the contract the Council must comply with its obligations of obtaining best value, under the Local Government Act 1999. The Council must keep a clear audit trail of its decision to award these services to demonstrate that best value has been, and will continue to be, obtained for the Council.
- 6.2.5 A formal Partnership Agreement has been drawn up regulating the relationship between the London Boroughs of Haringey, Barnet and Enfield during the procurement process and beyond. At the time of this Report, the Partnership Agreement was awaiting execution by the three boroughs.
- 6.2.6 Any resultant contracts must be in a form approved by the Council's Director of Law and Governance.
- 6.2.7 For contracts between £250,000 and £1,000,000 instructing officers should consider whether to require security from the contractors to

manage risk. Evidence of the form of security required, or why no security is required, must be stored and retained in the E-Tendering Portal for audit purposes. A decision should be taken by Haringey Council as the lead borough on whether a form of security is required.

6.2.8 Instructing officers must be mindful that TUPE may apply to any future service provision change, and appropriate steps should be taken to protect the Council's interests.

6.2.9 Further legal comments are contained in Part 2 of this report.

### **6.3 Property Implications**

6.3.1 No property implications have been identified.

### **6.4 Procurement Implications**

6.4.1 This opportunity was advertised in the OJEU and on Contracts Finder using the London Borough of Haringey's electronic tendering system and the tender process met the requirements of the relevant EU Procurement Rule and the Public Contracts Regulations.

## **7 KEY RISKS**

7.1. These are statutory services that help protect and assist vulnerable service users. The contract will be robust enough to ensure quality and safety. The current contract has been extended to the end of June 2018 to allow appropriate time for a safe hand over of service users.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The advocacy services provide support for highly vulnerable people and those less able to represent themselves and be able to be heard. The services will therefore contribute towards the Council's aim of serving the whole borough fairly.

### **8.2 Growth and Sustainability**

Helping people be supported and to have a voice will help individuals and families lead a sustainable community life which will contribute towards the Council's aim of encouraging sustainability.

### **8.3 Strong Communities**

Independent Mental Capacity Advocacy, the Deprivation of Liberty Safeguards Paid Representative and the Independent Mental Health Advocacy services will contribute towards reassuring vulnerable people that they are protected against practices that fall short of standards. The outcome of these services will have a positive contribution towards

building strong and inclusive community. This service will benefit the most vulnerable children and young people in Enfield.

**9 EQUALITIES IMPACT IMPLICATIONS**

No equality impact assessment was undertaken because there is no negative service change proposed in either volume terms or client type.

**10 PERFORMANCE MANAGEMENT IMPLICATIONS**

The contracts will be measured on a quarterly basis with additional feedback being received from officers in Safeguarding and on the wards in the Trust.

**11 HEALTH AND SAFETY IMPLICATIONS**

No Health & Safety implications have been identified.

**12 HUMAN RESOURCES IMPLICATIONS**

None. Enfield Council will not employ the staff.

**13 PUBLIC HEALTH IMPLICATIONS**

This is an important service that will safeguard vulnerable residents and represent those with less able to represent themselves.

**Background Papers**

None

