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REPORT

Cllr Cole-Morgan : Cabinet Member for Community & Housing

SUPPORTING PEOPLE – COMMISSIONING BOARD AGREEMENT

1. Purpose

- 1.1 To address Members concerns following deferral of the original report considered on 7th April 2004.

2. Background

- 2.1 Members expressed concern that Wiltshire County Council's (WCC) stance on not amending their Standing Orders, to remove the need to tender services such as the Community Scheme Manager Service, was inflexible and threatening.
- 2.2 Having contacted a number of other local authorities the stance taken by WCC is the same in all but one authority in the South West, that being Gloucestershire. In the main, local authorities have all adopted specific schedules that address the way the Administering Authority, which in our case is WCC, administers its Contract Regulations.
- 2.3 WCC did consider a range of advice and guidance on how best to meet its duty to competitively tender services, recognising the potentially significant implications to some existing providers if this process is applied and they lose the contract. The outcome, which is in accordance with Government and Audit Commission guidance, has been to publish a specific schedule- as attached.
- 2.4 The schedule provides a mechanism for the provider through the Commissioning Body to seek an exemption from the competitive process.

3. Risks for the District Council

- 3.1 There are potential risks to the Council in respect of its Community Scheme Managers, Control Centre and Mental Health Floating Support Services – all of which receive funding from Supporting People.
- 3.2 To mitigate the risk of losing the funding it is imperative that each service ensures that it meets the requirement of the "Quality Assessment Framework" which is part of the inspection process that informs the decision on the future funding.
- 3.3 Presently all three services are being improved in order to meet and exceed these requirements, to demonstrate best value and as such be confident of achieving an exemption to being tendered.

- 3.4 In addition the Schedule has specifically identified the particular difficulty of tendering services such as those delivered by the Council; for example where Community Scheme Manager and Housing Management service is provided by the same organisation and that organisation is also the landlord and owner of the property.
- 3.5 If however, there was an adverse recommendation in that one of our services was required to be tendered then the Council has the opportunity of following a disputes procedure. This is unlikely since the council should already be aware of any failing services and have taken appropriate action to either remedy the problem or cease the service.
- 3.6 Officers are satisfied the Schedule represents the best compromise and affords the Council reasonable protection from having to face tendering any of its services subject to them showing continuous improvement.

3. Recommendations

It is recommended that Members approve Schedule 9 – Application of the Administering Authorities Contract Regulations.

4. Background papers

Implications

Financial: None in this report.

Legal: The County Council's standing orders in relation to procuring services will apply to the agreement but the agreed method of applying them is a good compromise and acceptable to this council.

Human Rights: None in this report

Personnel: None at this stage

Community Safety: None.

Environmental: None at this stage.

Council's Core Values: It is likely that this proposal will meet a number of SDC core values.

SCHEDULE 9 – Application of the Administering Authority’s Contract Regulations

The Administering Authority is tasked with carrying out service reviews of each service provided under the Programme in line with the Directions and the Conditions.

The information collected during the service review will be used to determine whether the service should be re-commissioned, re-modelled or de-commissioned.

This decision will be taken by the Commissioning Body. All Commissioning Body Members will be invited to contribute to the review of each service, both in terms of commenting specifically on service delivery and on strategic relevance and value for money.

Where the service is to be re-commissioned or re-modelled, the Administering Authority’s contract and procurement regulations must be adhered to. Procurement procedures require that Best Value as defined in Section 3 of the Local Government Act 1999 is demonstrated, either through a competitive tendering exercise, or where an exemption to tendering is recommended, by other means.

Competitive tendering may cause particular difficulties for services to be delivered under the Programme in the following circumstances:

- *Where housing related support and housing management are provided by the same organisation and that organisation is also the landlord and owner of the property*
- *Where existing management agreements exist between support providers and RSL landlords*
- *Where the Programme Funding is a minority element of the overall service cost*
- *Where very small or specialist providers are providing a support service and they may be disadvantaged by a competitive process*

The above is not an exhaustive list but gives some indication of the circumstances in which an exemption from competitive tendering may be recommended by the Commissioning Body.

Where the Commissioning Body decides that it is not appropriate to competitively tender services to be delivered under the Programme the Administering Authority will need to demonstrate that

Best Value can be evidenced in order that an exemption to tendering can be agreed under its Contract Regulations.

The Commissioning Body may propose block exemptions from competitive tendering where there is a number of similar services to be delivered under the Programme meeting the above criteria, which are being reviewed at the same time.

Where the Commissioning Body is seeking an exemption from competitive tendering in respect of a service to be delivered under the Programme, it must therefore be able to demonstrate that Best Value is being achieved in the following ways:

- The service is meeting identified need for housing related support in Wiltshire
- The service is strategically relevant to all Commissioning Body Members, with particular reference to the Strategy and Annual Plan
- The service is operating in compliance with the Directions the Conditions
- Minimum standards of service delivery, as defined by the ODPM monitoring and review framework, are being achieved
- The service provides value for money, within the ODPM and local benchmarking frameworks
- Service users are satisfied with the service

The service review will address these issues and the service review paperwork must evidence that the above criteria are met in order to seek exemption.

Where the Administering Authority demonstrates that Best Value is achieved via the criteria set out above, the Administering Authority's representative on the Commissioning Body will notify the Administering Authority's Strategic Procurement Officer of the case for exemption. The Administering Authority's Strategic Procurement Officer may ask to see the review paperwork as evidence that Best Value can be demonstrated.

Where the Administering Authority's Strategic Procurement Officer's recommendation is against exemption then the matter will be brought back before the Commissioning Body for further consideration. The Commissioning Body will decide how best to proceed in the light of this further advice.

Where agreement cannot be reached, the disputes procedure within this agreement will take effect.