

17/39



# Havering

LONDON BOROUGH

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	<b>Authority to waive standing orders to award a works contract directly to Valuegrade for an extension to the 16+ SEN facility at the Avelon Road Centre.</b>
<b>Cabinet Member:</b>	<b><i>Cllr. Robert Benham-Lead member for Children and Learning</i></b>
<b>SLT Lead:</b>	<b><i>Tim Aldridge-Executive Director for Children's Services</i></b>
<b>Report Author and contact details:</b>	<b><i>Andy Skeggs-Head of Technical Services</i> <u><a href="mailto:andy.skeggs@onesource.co.uk">andy.skeggs@onesource.co.uk</a></u> 01708 433600</b>
<b>Policy context:</b>	<b><i>Provision of places for SEN 16+</i></b>
<b>Financial summary:</b>	<b><i>There is a risk that direct appointment of a contractor could result in higher costs than through a competitive process. However this must be balanced against costs of using expensive out of borough placements should the build works be delayed due to a competitive process.</i></b>
<b>Relevant OSC:</b>	<b><i>Children and Learning</i></b>
<b>Is this decision exempt from being called-in?</b>	<b><i>Yes – waiver agreed and granted by Chair of Overview and Scrutiny Board</i></b>

**he subject matter of this report deals with the following Council Objectives**

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

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## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

*Authority to waive standing orders to enable a contract to be placed with Valuegrade.*

### AUTHORITY UNDER WHICH DECISION IS MADE

*Authority of individual cabinet member under 14.1 & 14.3 to approve an exception to the Contract Procedure Rules.*

### STATEMENT OF THE REASONS FOR THE DECISION

#### **Current demand/ how the provision is growing at a higher rate than predicted**

An urgent need has arisen to make provision for additional students aged between 16 and 25 with special educational needs. As such, it is proposed to waive the competitive process in accordance with clause 14.1 of the Contract Procedure Rules and negotiate a contract with Valuegrade to build an extension to expand the existing facility established last September.

The post-16 provision is linked to the Basic Needs Expansion in Havering and maximising the use of this new provision will be key to continuing to meet the increasing complexity of need within the borough. Current analysis of levels of need at Corbets Tey School demonstrate an increase in complex needs, particularly complex ASD. Children with moderate learning difficulties now make up less than 50% of the school's intake.

Already there is higher than expected demand for the post-16 provision with 16 students having been confirmed at panel to start in September 2017. This will make a total of 27 students from September. Six of the students accepted for September 2017 have significantly complex level of need which, without Corbets Tey at the Avelon (provision operator) would require out of borough placements costing in the region of £100,000 per student.

#### **Procurement**

The requirement for the additional space for this facility was originally envisaged for 2018 and the current numbers was not known until March of this year. As such, it was not possible to procure using the recommended procurement process. The Contract Procedure Rules incorporates provision for the Lead Member to authorise waiving the competitive process via the Approval Form- Competition Financial Thresholds Exceptions and this form has been duly signed as being 'in the best interests of the Council' (clause 14.6.6). The cost negotiated by Valuegrade will be based on rates used for successful tenders previously submitted. In addition, Valuegrade have a proven track record of delivering projects in advance of expected timescales.

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Valuegrade has successfully completed the first phase of the works that enabled the provision to be established at short notice in September 2016. This contractor is Havering based and regularly submits the lowest and most advantageous tenders for this type of work within the borough including Newtons Primary, Harold Wood Primary, Scotts Primary, Broadford Primary, Parsonage Farm Primary, Towers Infants, Mead Primary and Brookside Infants insurance reinstatement, bulge classrooms at Pyrgo Priory Primary, Suttons Primary and Gidea Park Primary . All contracts have been completed on time and within budget. As a local company it has demonstrated its commitment to the borough by resolving issues outside of the normal guarantee periods. Valuegrade is currently the preferred tenderer (subject to contract) for two current contracts for the Council and has indicated that it has capacity to complete all three contracts within the programme dates subject to receiving prompt instruction to proceed.

This particular site caters for vulnerable people and therefore requires an outstanding degree of flexibility and sensitivity. Valuegrade has demonstrated the ability to provide this and both users have provided requests that it be appointed to complete the works.

The building will not be complete for the start of the new academic year in September therefore contingency arrangements are currently being considered for the interim period. The costs of which will be significantly less than external placement.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

To follow the normal procurement route would only deliver the facility by February 2018 and this would not meet the current demand and could result in the Council being unable to provide places for students that have already been offered places

### **PRE-DECISION CONSULTATION**

Detailed discussions have taken place in respect of the provision and a positive request has been strongly indicated by the existing users of the building for Valuegrade to complete the works.

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Andy Skeggs

Designation: Head of Technical Services

Signature:



Date: 18/5/2017.

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Council's Contracts Procedure Rules 14.3 exceptions to competitive requirements have been satisfied as the contract falls within one of the exceptions listed in this Rule and a Competition Financial Thresholds Exceptions, has been fully and properly completed and signed by the relevant Member of CMT, and the officer awarding the contract has demonstrated that the contract represents the best value that can be obtained in the circumstances.

Rule 14.6.6 is one of the exceptions to competitive tendering requirements and this contract is in Best Interests of the Council or the Borough for a provision in these Rules to be waived to enable a contract procurement to be rapidly progressed while still complying with European procurement rules.

Although this contract is below threshold, the EU Treaty Rules of awarding fairly, transparently and without discrimination apply. The Officers need to satisfy that the general principles of EU law have been applied to ensure that the award process is suitably transparent and conforms to the principles of equal treatment and non-discrimination.

The budget has been approved however officers will need to satisfy that best value will be met and that the cost of placing children out of borough whilst the works are completed are proportionate with building costs. Officers have confirmed that it is unlikely that the new build element will be ready for the start of the 2017 academic year, and contingency arrangements are being considered for a short period of time, no more than for a period of 7 weeks.

Rule 16.3 states that Works contracts in respect of the Council's buildings and assets where the total contract value is between the EU threshold for Supplies and Services and the EU threshold for Works are awarded by Heads of Services. This contract's anticipated budget is £1,655,000.

### FINANCIAL IMPLICATIONS AND RISKS

Whilst there are no financial implications arising from the decision to waive standing orders there is a risk that best value will not be achieved by awarding a contract .

These risks are somewhat mitigated from past experience of this contractor submitting the lowest and most advantageous tender for similar work combined with the fact they have then delivered on time and within budget.

There is also a risk that competitors could challenge the direct award of a contract resulting in financial implications for the Council. However, these risks must be balanced with those of delivering the works later than required, should a competitive tendering process be undertaken, and the resulting need to place pupils in expensive out borough placements.

Sam Gable, Strategic Business Partner

Non-key Executive Decision

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no human resource implications attached to this proposal.

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

There are no Equalities issues attached to this proposal.

**BACKGROUND PAPERS**

None

Non-key Executive Decision

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

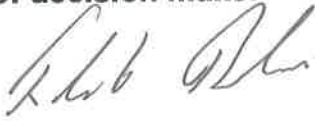
Proposal agreed 

*Delete as applicable*

Proposal NOT agreed because

**Details of decision maker**

Signed



Name: Councillor Robert Benham

Cabinet Portfolio held: Lead member for Children and Learning

CMT Member title:

Head of Service title

Other manager title:

Date: 18/5/2017

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on 18/5/2017

Signed

