



## Notice of KEY Executive Decision

<b>Subject Heading:</b>	Two year contract extension of Health Visiting and School Nursing contract (The 0-19 Healthy Child Programme) with the current provider North East London Foundation Trust (NELFT)
<b>Cabinet Member:</b>	Councillor Jason Frost
<b>SLT Lead:</b>	Mark Ansell, Acting Director of Public Health
<b>Report Author and contact details:</b>	Rebecca Smith Senior Commissioner & Project Manager. Rebecca.amy-smith@havering.gov.uk
<b>Policy context:</b>	Local Authorities became responsible for commissioning School Nursing services in 2013 and Health Visiting services in 2015. The two services together form the 0-19 Healthy Child Programme. The HCP is the universal clinical and public health programme for children and families from pregnancy to 19 years of age. The HCP, led by health visitors and their teams, offers every child a schedule of health and development reviews, screening tests, immunisations, health promotion guidance and support for parents tailored to their needs, with additional support when needed and at key times.
<b>Financial summary:</b>	The value of the 2 year extension will be £5,190,000.00

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<b>Reason decision is Key</b>	<b>The value of the 2 year extension will be £5,190,000.00</b>
<b>Date notice given of intended decision:</b>	<b>28 May 2018</b>
<b>Relevant OSC:</b>	<b>Health OSC</b>
<b>Is it an urgent decision?</b>	<b>No</b>
<b>Is this decision exempt from being called-in?</b>	<b>No</b>

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The initial three years of the contract for the Health Visiting and School Nursing service with the Provider NELFT came to an end on 31<sup>st</sup> March 2018. The contract's terms and conditions include a clause for the Council to offer a two year extension of the contract to the Provider. The value of the contract is £2,595,000 per annum (a total of £5,190,000 over two years).

Notice of this decision was first made on 28<sup>th</sup> February 2018, but following Procurement advice, a Prior Information Notice (PIN) and Voluntary Ex Ante Transparency Notice (VEAT) were published to inform the market of our intention to extend the current contract, and recommission and award a new contract for 2020/21 onwards. These notices were required to expire before the decision could be sought, to ensure that any market feedback was included in the decision.

Having consulted with the provider, and following positive response from the market to the notices published, it is recommended that the current contract is extended in whole for the additional two years, until 31<sup>st</sup> March 2020. The Council is mandated to ensure that the health checks delivered by the Health Visiting Service are available and as such it is recommended that the current provider continues to deliver the service while a recommissioning exercise is carried out, and a new contract is awarded from April 2020.

### AUTHORITY UNDER WHICH DECISION IS MADE

London Borough Of Havering Contract Procedure Rules (19) whereby an extension to a contract may be made by a Lead Member where the value is greater than £5,000,000.

### STATEMENT OF THE REASONS FOR THE DECISION

- In April 2013, Local Authorities took on additional responsibilities for Public Health as set out in the Health and Social Care Act 2012. One such responsibility was to commission the School Nursing element of the Healthy Child Programme. This was successfully tendered during 2014. At this time, Health Visiting commissioning was the responsibility of NHS England. Responsibility for Health Visiting was transferred from NHSE to the local authority in October 2015 and delivery of 5 universal health checks was mandated. The two services were joined to create a single local authority commissioned Health Visiting and School Nursing contract.
- The Healthy Child programme is the key universal Public Health service for improving the health and wellbeing of children through health and development reviews, health promotion, parenting support, screening and immunisation

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programmes.

- Excluding the immunisations element of the programme which is commissioned from another provider by NHS England, Health Visiting and School Nursing are directly responsible for the greater part of the programme's delivery.
- The service is funded from the ring fenced Public Health Grant and the value of the contract has been included in the service plan as part of the local authority's budget setting for 2018/19. Elements of the Health Visiting service are mandated and the sole responsibility of the local authority. As such its continuance is essential.
- The 0-19 Healthy Child service has continued to maintain delivery of mandated checks at a level similar to if not better than that achieved prior to handover from NHS despite severe resource limitations and growth in number of children and young people resident in the borough. The latest performance data is included within this paper (Appendix A).
- Public Health England data  
<https://www.gov.uk/government/publications/health-visitor-service-delivery-metrics-2017-to-2018> shows that delivery of the checks that the commissioner has agreed as being priority is similar to, or better than the national and London average.
- The School Nursing contract was awarded on the 22<sup>nd</sup> December 2014. It was awarded under the Corporate Management Team power under Part 3 paragraph 3.3 following a tender process. The term of the contract was for three years (from 22<sup>nd</sup> December 2014 to 31<sup>st</sup> March 2018), with a two year extension clause, and for an annual value of £590,000. The School Nursing Contract was a Schedule B service under the 2006 Public Contract Regulations.
- The School Nursing Contract was varied in February 2015 to accommodate the Health Visiting Service, which was subsequently transferred in whole from NHS England on the 1<sup>st</sup> October 2015, with an annual value of £2,005,000. This made the total value of the contract £2,595,000 per annum.
- The two year extension will run until 31<sup>st</sup> March 2020, thus concluding the full five year term. The value of the 2 year extension, at £2,595,000 per annum, will be £5,190,000. The provider is in agreement with the contract extension.
- Once the extension of the contract has taken place there will be a variation to the contract relating to the Key Performance Indicators, which all parties are aware of and agreeable to.
- The contract extension will provide time to consider if/what changes might be needed to ensure that Health Visiting and School Nursing services complement the Council's Children's centres and early help offer ahead of a

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re-procurement exercise to award a new contract by April 2020. The current provider is committed to supporting this work. However, this will be subject to future funding arrangements after 31<sup>st</sup> March 2020, when the Public Health Grant is expected to be replaced by business rate retention; the overall value is expected to be equivalent to the value of the PH Grant in 19/20.

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

To end the contact at the end of the three year and initiate a new tender process. This was rejected because the service is meeting its key performance indicators and is collaborating with the local authority on the integration of services. It is also important to have sufficient time to engage with the market, service users and key stakeholders and to ensure that the recommissioned service is well designed and meets the needs of the population. Extending the contract provides the council with the time to carry out a thorough procurement exercise.

### **PRE-DECISION CONSULTATION**

A PIN and VEAT notice were published in May 2018, which informed the market of the council's intention to extend the current contract with the current provider, and invited expressions of interest in the contract for the recommissioned service. The aim of this was to consult with the market regarding the extension. No objections were made by the market to the contract extension, and expressions of interest were made in the contract for 2020/21.

The current provider has been consulted and is agreeable to the contract extension.

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

Name: Rebecca Smith

Designation: Senior Commissioner & Project Manager

Signature:



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Date: 27 June 2018

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

- 1.1 The request is for a decision to approve the two year contract extension for the School Nursing Service which incorporates the Health Visiting service. The report confirms that the original contract permits the two year extension. The value of the 2 year extension covering both services is the annual value of the current contract £2,950,000, times 2.
- 1.2 The report states that the original contract was tendered as a Part B service under the 2006 Public Contract Regulations, the contract was varied with the addition of the Health Visiting Services in February 2015, though transfer of the whole service was completed in October 2015. As a Part B service it is unlikely that the variation rules in the Presstext case were applicable. Legal has been advised that the variation took place before the Public Contract Regulations 2015 ('Regulations') came into force at the end of February 2015.
- 1.3 The proposed contractual 2 year extension will commence on the 1<sup>st</sup> April 2018. Regulation 118(5) of the Regulations, as amended, now states expressly that the provisions on contract amendments (regulation 72) apply to contracts which commenced before that date. The interpretation is the Regulations will be applicable to pre 2015 awards where the variation came into force, after the 2015 Regulations, it is the date on which the amendment is made that matters, not the date when the contract was first awarded. The Supreme Court took the same view in its judgment in *Edenred* in July 2015. Section 72 (1) of the Regulations permits extension where there is a specific clause in the contract. The report states that the contract permits a 2 year extension of the entire contract provided the permitted variation does not alter the overall nature of the contract, then the variation will not be in breach of the Regulations. .
- 1.4 A Voluntary ex ante transparency (VEAT) notice was published in May 2018. A VEAT notice can be used in certain circumstance to protect the Council from the action of a third party, the protection commences after the expiry of the 30 days from service of the VEAT notice, however the VEAT notice protection will only apply where the contracting authority considered it could make the award without publishing a notice in OJEU. In addition the contract cannot be entered into before the end of a period of at least 10 days, beginning with the day after the date on which the VEAT was published in the OJEU.
- 1.5 Council Contract Procedure Rules (19) permits an extension to a contract under £5,000,000 by a member of the SLT.
- 1.6 This is a key decision and under the constitution key decisions are subject to 28 days public notice.

### FINANCIAL IMPLICATIONS AND RISKS

The contract extensions will be funded from the annual Public Health Grant to deliver the mandated outcomes as reflected in the following table:.

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Contract	Funded from:		PH Grant allocation £m
	Cost Centre	Public Health Outcome	
School Nursing	A48017	Children 5-19 PH Programmes (HCP) - Block Contract Element - Outcomes Based Element (Earned Income)	0.400 0.130
Health Visiting	A48006	Healthy Child Programme	0.060
	A48019	Children's 0-5 PH Programmes	2.005
<b>Annual Contract Value</b>			<b>2.595</b>
<b>2 Year Extension - Contract Value</b>			<b>5.190</b>

The Public Health grant is subject to annual reductions until 31<sup>st</sup> March 2020, when alternative funding arrangements are expected to be in place. As part of the local authority's Medium Term Financial Strategy (MTFS) and in anticipation of the expected changes, the council has undertaken financial modelling of the service's commitments against available funding over the period and has determined that there is minimum risk to both the authority and the service in continuing to fulfil its obligations within available resources, including the ability to draw on existing Public Health Reserves should the need arise.

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

Report is cleared in terms of no HR risks to the council's workforce if the contract is extended with the existing provider. However, if this does not change and an extension is not agreed, then the HR implications will need to be reviewed.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

There are no direct Equalities implications to requesting contract extension under the same terms and conditions, as it would continue to have a positive impact on service users (school age children and young people).

In addition, the review of Key Performance Indicators does consider the equalities implications.

### **BACKGROUND PAPERS**

None

### **APPENDICIES**

**Appendix A** Healthy Child Programme Key Performance Indicators  
SCHOOL ACADEMIC YEAR SEPTEMBER 2017 - AUGUST 2018



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**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

Proposal NOT agreed because

**Details of decision maker**

Signed

Name: **Councillor Jason Frost**

Cabinet Portfolio held: Cabinet Member for Health & Adult Care Services

**In consultation with:**

**Councillor Damien White, Leader of the Council**

Date:

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_

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