

Notice of Non-key Executive Decision

Subject Heading:	Decision to directly award a 12 week contract to Allied Health Services Limited for the provision of homecare services
Cabinet Member:	Jason Frost, Cabinet Member for Health & Social Care
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	John Green, 01708 433018, john.green@havering.gov.uk
Policy context:	The local authority has statutory duties towards providing care and support services within the Care Act 2014, and the Care and Support Statutory Guidance.
Financial summary:	To provide up to £250k to Allied Health Services Ltd for a 12 week period, using CM2000 to pay for services provided minute by minute.
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	YES

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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 type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To directly award a 12 week contract subject to termination provisions to Allied Health Services Ltd for the provision of homecare services up to the value of £250k, using CM2000 to bill for services provided minute by minute.

AUTHORITY UNDER WHICH DECISION IS MADE

The Havering Constitution:

Part 3: Responsibility for Functions, 3.3 Powers of Members of the Senior Leadership Team

Contract powers

(a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 of the Constitution.

STATEMENT OF THE REASONS FOR THE DECISION

Background and Context

Nestor Primecare Services Limited t/a Allied Healthcare ("Allied HC") is a homecare provider operating across the UK. The organisation provides support to around 13,000 people across the country; working with approx. 84 local authorities.

Havering Council currently contracts with Allied HC to provide homecare services under the Active Homecare Framework, and the organisation provides services to 86 Havering residents.

On 5 November 2018, the Council received notice in writing from the Care Quality Commission of the financial situation within the organisation, with the information that funding to continue providing services was confirmed until 30 November 2018. This funding arrangement was subsequently extended to the 21st December.

The Council sought legal advice and commenced gearing up its contingency plans in the event of catastrophic failure. In line with its plans and advice, the Council issued a notice of termination to Allied HC on 27th November 2018.

Allied HC has since informed the Council that they are entering into a sale of the company to Allied Health Services Ltd ("AHC"), a care provider subsidiary of HCRG

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Group who will take over the performance of the care support provision..

AHC are seeking temporary registration with the Care Quality Commission for a 12 week period to enable them to continue providing services until the complete quality checks have been undertaken.

It is anticipated that AHC will not immediately meet the requirements of the Council's Active Homecare DPS Framework, meaning the current contract with Allied HC cannot contractually be novated over to AHC.

Due to the time constraints, the Council is unable to obtain the full TUPE information from Allied HC and engage with a new provider to continue to deliver the services to the residents under the Active Homecare Framework.

Market position and capacity

Following engagement with the homecare provider market contracted under the Active Homecare Framework, it has been concluded that, although there is enthusiasm, there is no capacity within the market to mobilise against the current 86 packages held by Allied HC with immediate effect. There is ongoing difficulty in recruiting the number of care workers required in the borough to meet capacity.

The home care market faces constant pressure from demand coming from local hospitals and, as Christmas approaches, this demand is likely to increase. The ability to meet Delayed Transfer of Care (DTC) targets has already been compromised to some extent this year because of the increasing pressure on the health service being passed on to home care providers.

The aim of the Council is to get people transferred home quickly and effectively with high quality providers who are able to respond effectively. Keeping people at home is a priority, and any failure in the home care market can lead to unnecessary placements into residential care, which is both higher cost and less beneficial for service users, who may have been capable of being supported at home.

The local branch of Allied HC has been one of the borough's best providers and the carers and office staff employed have shown commitment and professionalism in all our dealings with them. It is reasoned that by establishing an arrangement with the newly formed entity, the high quality services of the local branch will be retained and, consequently, the interests of carers and service users protected.

However there are some risks in this scenario. Carers may move on and uncertainty can unsettle any workforce. Contingencies have been arranged, including contacting other providers both on the Havering framework and outside to check capacity and alert them to the possible need for support. The personal assistant market has been prepared to respond to some demand that may arise if there is any loss of capacity at Allied. It is of urgency however that we try and establish stability and this arrangement is intended to achieve that.

The level of demand arising from Allied could only be met by other providers in its entirety if the workforce of the original provider transferred to a new provider. This option has been considered but we now face a position where this would mean TUPE

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transfers and a handover of resources that would be difficult to manage in the short timescales available and with the changing nature of the Allied sale and possibly expose service users to more risk than is necessary. This risk could be to life or limb in the most extreme case.

Funding and payments

The provider will be paid using CM2000 under a minute by minute arrangement. Costs, estimated in advance, will be up to the value of £250k for the 12 week period, based on costing information. The final and actual cost will ultimately depend on the number of hours actually delivered over the 12 week period.

End of 12 week period

It is assumed that during the 12 week period, the Council will aim to develop robust options and contingency arrangements for a long-term more stable solution.

Recommendation

It is recommended that the local authority enter into a direct award to AHC for homecare services under a new contract to continue supporting the 86 Havering residents for a 12 week period thus enabling some stability to carers and residents and to allow the Council time to develop and undertake alternative, long-term arrangements.

It is proposed that the contract start with Allied Health services on 4.12.18 and end on 25.2.19

OTHER OPTIONS CONSIDERED AND REJECTED

1. Transfer current contract under the Active Homecare Framework from Allied HC to AHC

Due to how AHC is currently set up it would not immediately meet the requirements of the Active Homecare Framework, this option has been rejected.

2. Engage with a new provider to deliver the services and TUPE the staff employed by Allied Healthcare under the Active Homecare Framework

TUPE information is either not immediately available or not being transferred readily from Allied HC at this time and due to the time constraints, it is not possible to engage with a new provider to immediate deliver the services and TUPE the staff.

3. Do nothing – continue operating at majority acute referrals

There is no option to do nothing as the local authority would not be meeting its statutory duties of ensuring residents receive the support expected and pre-arranged to meet their eligible needs and to have continuity of care provided to residents.

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PRE-DECISION CONSULTATION

None

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

Name: John Green

Designation: Head of Commissioning

Signature: 

Date: 4 December 2018

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council is under a statutory duty to provide care and support to adults in need as provided under the Care Act 2015, sections 18-19. Further section 8 of such Act provides for the way in which the Local Authority can do this: (1) (b) care and support at home or in the community. The Council has an additional duty under section 48 of the Act to ensure it meets the needs in its locality.

Officers have obtained waiver of the Council's Contract Standing Orders relating to advertising the opportunity on Contract Finder. A Direct Award of the contract has been made due to the urgency (life and limb) now facing the Council due to the incumbent provider failure in the market place. The Council is capable of making this contract award in line with part 3 of the Councils Constitution.

The value of the award is under Public Contracts Regulations 2015 Schedule 3 light touch regime threshold and is not subject to the full advertisement regime.

Any contract with the new provider will be subject and not limited to appropriate registration, authorisations and insurance arrangements.

FINANCIAL IMPLICATIONS AND RISKS

There are no additional financial implications anticipated from the award. This assumes existing rates agreed through the framework apply for the 12 week period, and there is currently no indication of any change to this arrangement.

In addition, risk of financial loss for the authority should be minimal due to using an electronic time recording system (CM2000) to monitor actual delivery, for which the provider will be paid in arrears - once verified by council staff. Any other risks relating to increased demand and potential impact on existing budgets will be managed as part of the ongoing financial management framework, and would not ordinarily be a result of the contract award.

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

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

However, TUPE (Transfer of Undertakings (Protection of Employment) Regulations) is likely to apply if the contract is awarded to a different provider and the service contract continues to provide the same homecare services to the 86 Havering residents. The 12 week period is an interim position. Therefore, if applicable, the incumbent provider and new provider will need to adhere to the legislation and start discussions as soon as possible. Allied should be able to provide the TUPE information on their Staff assigned to this contract.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EqHIA is not considered necessary regarding this matters raised in this report, although this may be reviewed at a future date

BACKGROUND PAPERS

None

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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

Details of decision maker

Signed



Name: Barbara Nicholls

CMT Member title: Director of Adult Social Care

Date: 6/12/18

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 6th December 2018

Signed 