



**Havering**  
LONDON BOROUGH

19/02 +  
appendices 1 & 2,  
EXEMPT appendix  
3  
DECISION TO BE  
MADE

## Notice of KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix 3 is not available for public inspection as it contains exempt information within the meaning of paragraph no. 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to commercially sensitive information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Subject Heading:</b>	Approval to award contract for the Integrated Reablement Service for a period of three years with the option to extend for a further two years.
<b>Cabinet Member:</b>	Councillor Jason Frost, Cabinet member for Health and Adult Care Services
<b>SLT Lead:</b>	Barbara Nicholls, Director for Adult Services and Health
<b>Report Author and contact details:</b>	Jonathan Cassidy, Senior Commissioner & Projects Manager, Jonathan.Cassidy@havering.gov.uk
<b>Policy context:</b>	Supports priorities in the Joint Health & Wellbeing Strategy: <ul style="list-style-type: none"><li>• Better integrated support for people most at risk</li><li>• Quality of services and patient experience</li></ul>
<b>Financial summary:</b>	The finances are based on a 3 year contract plus 2 year extension option. This gives a total contract value of £9,075,000. The annual contract value is £1,815,000

Key Executive Decision

<b>Reason decision is Key</b>	(a) Expenditure or saving (including anticipated income) of £500,000 or more
<b>Date notice given of intended decision:</b>	7 <sup>th</sup> November 2018
<b>Relevant OSC:</b>	Individuals
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

**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

The current contract for the Integrated Reablement service in Havering ends on 17th April 2019. The service needs to be re-commissioned as it supports people to remain independent in their own home and recover effectively at home following a hospital admission.

It is recommended that the contract is awarded to Provider C following a competitive procurement process.

### AUTHORITY UNDER WHICH DECISION IS MADE

In Havering's constitution Part 3 paragraph 2.5(h): To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £5,000,000 and up to £10,000,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council.

### STATEMENT OF THE REASONS FOR THE DECISION

Following approval at Checkpoint 2 Panel, we wish to gain approval to award the contract for the Integrated Reablement Service. The current contract with North East London Foundation Trust (NELFT) expires on 17<sup>th</sup> April 2019. This service needs to be re-commissioned because it supports people to remain independent in their own home and recover effectively at home either following a hospital admission or following a crisis at home.

#### Background

The current reablement service was specified to deliver an integrated model of care with the rehabilitation service also provided by NELFT (but separately commissioned through the CCG) ensuring the delivery of care is coordinated as much as possible without commissioning the services as a single entity. In addition to the integration with rehab there were some other key changes to the service that were developed as part of the system wide design process. They included:

- Direct referral to the service from hospital therapists, eliminating duplication of assessment inherent in the previous process
- Contractual requirement to complete a reablement assessment at the service users home within 24 hours.
- A requirement to continually review progress against goals and a more in depth review at approx. 4 weeks to determine if further care is required post reablement.

### **Duties under the Care Act 2014**

The Care Act 2014 (Part 1, Section 3) requires that Local Authorities exercise their functions with a view to ensuring the integration of care and support provision with health provision and health-related provision where it considers that this would:

- a) promote the well-being of adults in its area with needs for care and support and the well-being of carers in its area,
- b) contribute to the prevention or delay of the development by adults in its area of needs for care and support or the development by carers in its area of needs for support, or
- c) improve the quality of care and support for adults and of support for carers, provided in its area (including the outcomes that are achieved from such provision).

Reablement services are provided under a statutory duty in Section 2 of the same Act which stipulates that Local Authorities must provide or arrange services, resources or facilities that maximise independence for those already with such needs, for example, interventions such as rehabilitation/reablement services

### **Tender Criteria and Evaluation**

The procurement was undertaken using the open competitive tender procedure with negotiation under the Public Contract Regulations 2015. The service falls within the description of services covered by the Light Touch Regime under the Public Contracts Regulations 2015. The value of the contract is above the threshold; therefore, the tender opportunity was advertised in the Official Journal of the European Union (OJEU) as required by the Regulations, Contracts Finder and the Council's procurement portal (CapitalESourcing). Bidders were required to respond to technical method statement questions to assess Quality which had a weighting of 100%. The decision to go with 100% quality and leave the financial criteria out of the evaluation was justified because if cost is put into the tender as a factor, where it could have a material impact on the outcome, the consequence could be a lower cost provider that compromises on quality, beating higher cost high quality competition. This would secure them the tender but leave vulnerable people with a potentially poorer service and other parts of the system (including from within Havering council) having to pick up costs generated from failure demand created by the service. The way that the service has been tendered has allowed for real competition based on quality. As a result we received three viable responses via CapitalEsourcing and each bid was evaluated in line with the tender evaluation criteria. Providers have matched costs but varied in their understanding and response to the need for high quality services, building independence in the individual. The decision to tender on 100% quality is borne out of a detailed analysis and understanding of the service and system in which it operates, safeguards built into the model, and an understanding of wider consequences.

### **Technical Evaluation**

Responses to each technical question were assessed and scored on the 0 – 5 range marking schemes shown in the table below:

## Key Executive Decision

Scoring evaluation	Score
No evidence of how this will meet the Council's requirements	0
Unsatisfactory response suggests supplier would have difficulties meeting Council's standards/requirements.	1
Some effort made to meet requirements but significant detail missing, or inappropriate.	2
Broadly meets requirements; satisfactory.	3
Good understanding and proposals.	4
Excellent; exemplary with all areas understood and covered to a very high standard	5

### **Method Statement**

The Tenderer's scores for individual method statements were calculated by dividing the Tenderer's actual score by the maximum obtainable score per section and then multiplying this by the % weighting allocated for each quality element. The key areas and issues addressed by the questions were broadly:

- Provide an understanding of how the provider will report outcome activity both at an individual and service level
- Describe how the provider will approach the integration of Reablement with partner organisations, with particular reference to the rehabilitation service, which would enable people to achieve their wider goals effectively , reduce duplication and enable sustainable outcomes
- Provide examples which demonstrate the providers experience of integrated working in a health and social care service delivering Reablement and/or Rehabilitation services and how this has been effective for both the service user and the service (efficiencies)
- Provide a detailed service mobilisation plan
- Describe how the service will ensure it delivers against the levels of capacity and respond to referrals on same day as discharge
- Provide an outline staffing structure, including plans for recruitment and retention
- Provide staff training planning – focus on reablement skill development and change needs of the user group
- Describe how the service will develop, measure, record and evaluate goals/outcomes with service users

The tender submission was evaluated independently by a panel consisting of:

1. Jackie Lawson, Service Manager of Integrated Health & Social Care
2. Frankie Jackson, Team Manager Joint Assessment & Discharge Team
3. Damon Warden, Adults Placements Team Manager
4. Sam Saunders, Commissioning Programme Manager – Integration & Partnerships
5. Jonathan Cassidy, Senior Commissioner & Projects Manager

## Key Executive Decision

Final scores for each bid were agreed by all evaluators in a moderated meeting facilitated by the Lead Officer for the Procurement, Mike Parrott, Senior Procurement Specialist, OneSource.

### **Final Scores**

<b>Provider</b>	<b>Technical Score</b>
<b>Provider A</b>	43.6%
<b>Provider B</b>	75.8%
<b>Provider C</b>	82%

It is recommended that the contract is awarded to Provider C on the basis of scoring highest in the technical score, with the agreement of all members of the Evaluation Panel.

### **Service Activity**

The provider will be expected to provide accurate / up to date performance / activity data in line with the agreed outcomes for the service. This should include undertaking regular service user satisfaction surveys. The provider will be expected to produce a management plan to evidence how this will be achieved; this will be agreed as part of the mobilisation plan and monitored through the contract monitoring. Contract monitoring meetings will be held monthly with the provider.

In the event of there being significant capacity issues with the service and the provider is unable to deliver the commissioned level of activity, the council will need to commission this reablement support on a case by case basis from homecare providers. Delivery will be monitored against the planned average activity of 1300 episodes per annum (108 per month) – under delivery up to 10% will be managed via the performance meetings. Under delivery (due to capacity) above 10% will result in the withholding of payment.

<b>Under Delivery below expected average</b>	<b>Withheld Payment</b>
10-15%	The lesser of - exact cost of commissioned 'emergency reablement' or 2% of monthly payment
15-20%	The lesser of - exact cost of commissioned 'emergency reablement' or 4% of monthly payment
20-25%	The lesser of - exact cost of commissioned 'emergency reablement' or 6% of monthly payment
25-30%	The lesser of - exact cost of commissioned 'emergency reablement' or 8% of monthly payment
30%+	The lesser of - exact cost of commissioned 'emergency reablement' or 10% of monthly payment

## **OTHER OPTIONS CONSIDERED AND REJECTED**

### **1. Do Nothing**

This was not deemed as a viable option as the current contract expires on April 17<sup>th</sup> 2019 and doing nothing would result in LBH not having a Reablement contract in place and therefore not meeting the Care Act statutory requirement to “provide or arrange services, resources or facilities that maximise independence for those already with such needs, for example, interventions such as reablement.”

### **2. Extend the current contract**

Contracts have already been extended and so this approach would contravene the Council's Contracts Procedure Rules.

### **3. Commissioning Reablement jointly with LB of Barking & Dagenham and LB of Redbridge**

This was not deemed as a viable option as the other Local Authorities do not currently operate within the same service delivery parameters and our commissioning timelines do not align at this stage. As Havering has a statutory duty to provide this service there is a need for us to proceed with this procurement exercise and explore joint commissioning in the future.

### **4. Undertake a procurement exercise to jointly recommission intermediate care services with the Clinical Commissioning Group**

BHR CCGS have stated their preference for the integration of intermediate care services is by developing an intermediate care pathway as part of the emerging ICS model. CCG are currently not in a position to progress with the joint commissioning of a service, however service development for both organisations is aligned to a joint vision. Prior to seeking tenders Havering held marking engagement with interested providers, however only 2 providers attended the event. This demonstrated little market interest in the reablement service and it was not guaranteed there would be adequate response to successfully re commission the service either alone or jointly with the CCG.

## **PRE-DECISION CONSULTATION**

The pre-decision consultation has involved engaging with a number of stakeholders to award the contract. This has included the Public Health, Procurement, Legal and Finance teams.

Key Executive Decision

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

Name: John Green

Designation: Head of Joint Commissioning

Signature:



Date: 30/11/2018



## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

The Care Act 2014 came into force on 1st April 2015 and provides an updated legal framework for care and support and introduces a number of new rights, responsibilities and processes. Of particular note is the new duty under sections 3, 6, and 7 of the Act which requires Local Authorities to:

2. Carry out their care and support responsibilities with the aim of promoting greater integration with NHS and other health-related services
3. Cooperate generally with relevant partners in performing their functions related to care and support and
4. In specific individual cases cooperate in performing their respective functions relating to care and support.

The department's recommended option is in compliance with the Care Act 2014.

Following the assistance of the Procurement unit, the client department has undertaken a tender process which is allowable under the Public Contracts Regulations 2015, including the award selection using the MEAT criterion.

The most economically advantageous tender (MEAT) criterion enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.

Following the evaluation of the tenders by the Procurement unit and the client department, it has been determined that Provider C should be awarded the contract based on the MEAT criterion which was advertised.

The Public Services (Social Value) Act 2012 applies to framework agreements and to contracts accessing them. The author of this report has described within the body of the report, how the contracting authority has in this framework secured benefits that might improve the environmental, social and economic wellbeing of their area, and by extension, of any authority accessing the framework.

As for the general requirements of consultation, they are set out in the case of *R v Brent LBC ex parte Gunning* (1986) 84 LGR 168, which has been approved by the Court of Appeal and the Supreme Court, and they are as follows: (i) consultation must be at a time when proposals are at a formative stage; (ii) that the proposer must give sufficient reasons for any proposal to permit intelligent consideration and response; (iii) adequate time must be given for consideration and response; and (iv) the product of consultation must be conscientiously taken into account in finalising any statutory proposals.

The Council's Contract Procedure Rule 3 provides that a contract may only be awarded if the expenditure has been included in approved revenue or capital estimates or has been otherwise approved by, or on behalf of the council. The body of this report confirm the relevant financial implications arising from the council's proposed award of the contract.

## Key Executive Decision

The SLT Member will be aware of the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010. At each stage, in exercising its function (and in its decision making processes) the council must have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation or other prohibited conduct;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
- c) foster good relations between person who share a relevant protected characteristic and those who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The body of the report sets out the Council's compliance with its PSED.

The proposed service delivery options set out in this report, will have a bearing on the application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). A change in the supplier of the existing services is likely to amount to a service provision change under TUPE, though whether or not TUPE will apply will depend on the specific circumstances of the proposed arrangement. The body of the report sets out the status of the current contract, and how the issue of TUPE was addressed during the tendering and evaluation process.

The Legal and Governance officers are available to assist the client department in finalising the terms and conditions of the proposed contract between the parties.

## **FINANCIAL IMPLICATIONS AND RISKS**

The contract has been let for a value of £1.815m. The reasons provided for the increase is to build sufficient capacity into the contract in meeting anticipated demand. The current £300k increase for the one year extension was funded from iBCF, which may not be available beyond 2021 and as such ongoing funding will need to be identified to meet the increased costs from either core budgets or additional contribution from the BCF. . Given the pressure of the council's core budgets, there is an opportunity to mitigate the impact on these by allocating a greater share of BCF funding to fund the contract. However the spend from the BCF would have to be agreed with Partners and reported to the Health and Wellbeing Board. Resources will however need to be reallocated within the approved service budgets to contain this additional contract cost within the existing budget envelope.

The actual level of spend on reablement will be closely monitored and considered alongside other service contracts and outcomes as part of the allocation of the funding available across the whole service.

	2017/18			2018/19		
	Revised Budget £m	Actual £m	Variance £m	Revised Budget £m	Forecast £m	Forecast Variance £m
Core	0.683	0.866	0.183	0.683	1.004	0.321

### Key Executive Decision

funded BCF	0.865	0.865	0	0.882	0.882	0
Funded iBCF				0.321	0	(0.321)
Funded	<b>1.548</b>	<b>1.731</b>	<b>0.183</b>	<b>1.886</b>	<b>1.886</b>	<b>0.000</b>

### Contract sums

<b>Contracted spend</b>	<b>Maximum spend £m</b>
Annual Contract value	1.815
Total for initial 3 years	5.445
possible 2 years extension	3.630
<b>Total potential 5 year maximum contract value</b>	<b>9.075</b>

A methodology will be developed to demonstrate how the spend on reablement delivers the outcomes outlined in the contract and to establish the benefits both financial and non financial to the council and to the whole system that accrue from this investment

Contract management and monitoring processes will be established to ensure the spend and outcomes from the service are measurable and satisfy the requirement to demonstrate the value for money to be gained from the reablement. The council has an obligation to demonstrate value for money from these investments and further work is required by Finance team to model how savings accrue to the service from the investment in reablement.

### **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 directly or indirectly affect either the Council or its workforce.

### **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;

### Key Executive Decision

- (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 Equalities Impact Analysis (EIA) has been completed (see Appendix 1) and approved by the Corporate Equalities Officer. The analysis has found that awarding the contract will have no negative impact on the nine protected characteristics as set out in the Equality Act 2010.

### **BACKGROUND PAPERS**

None

### **APPENDICIES**

**Appendix 1 – Equalities Impact Assessment November 2018 (Open)**  
**Appendix 2 – Non-Key Executive Decision September 2018 (Open)**  
**Appendix 3 – Provider Details (Exempt)**

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:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

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 \_\_\_\_\_

