

Notice of KEY Executive Decision

Subject Heading:	Approval to award a contract for the Healthwatch Service for a period of five years with an option to extend for a further two years.
Cabinet Member:	Councillor Jason Frost, Cabinet member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director for Adult Services and Health
Report Author and contact details:	Sandy Foskett, Commissioner and Project Manager, Sandy.foskett@haverling.gov.uk
Policy context:	Local authorities are required to commission a local Healthwatch organisation under the Health and Social Care Act 2012.
Financial summary:	The proposed tender is for a 5 year contract (plus two year extension option). This gives an estimated total contract value of £821,513. The proposed annual contract value is £117,359
Reason decision is Key	(a) Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	21 st November 2018

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Relevant OSC:	Individuals
Is it an urgent decision?	No
Is this decision exempt from being called-in?	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

This paper is seeking a decision to approve the award of a five year contract (option to extend for two years) to Bidder A for the provision of the Healthwatch Service.

AUTHORITY UNDER WHICH DECISION IS MADE

Authority delegated to individual Cabinet member under which this key decision is made. Individual Cabinet members' responsibilities for functions as set out in Part 3, section 3.3(b) of the Constitution to award contracts of a value between £500,000 and £5,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

Background

Under the Health and Social Care Act 2012, the Authority has a duty to commission a local Healthwatch organisation.

The current grant agreement for the provision of Healthwatch service ends on 30th March 2019. The service needed to be recommissioned in order to go out to the competitive market, as the grant has been continually extended to Healthwatch Havering Ltd since their inception to meet the statutory requirements.

Objectives

The objectives of this tender were to:

- Ensure that the service is commissioned to meet the statutory duties and offer the best value for money
- Ensure the tender follows Corporate and EU Procurement Regulations and Local Authority Financial Regulations

Key Deliverables

In brief, the key deliverables / milestones to achieve the objectives included:

- Production of all required tender and contract documents (including service specification)
- Tender process managed in line with OJEU and Council procurement procedures
- Contract awarded to the tenderer submitting the best / most advantageous bid to the Council
- New contract awarded and mobilised

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The table below presents the key milestones and dates from the project plan are as follows;

Stage	Timescale
Procurement Planning	September-October 2018
Invitation to Tender Published	November 2018
Evaluation	December 2018
Award	January 2019
Mobilisation*	January – March 2019
Contract Start Date	April 2018

Project Governance

In order to deliver this tender, a project management structure was formed in October 2018. This included establishing a Project Board to coordinate and monitor the progress of the project. The Project Board members included representatives from the Clinical Commissioning Group (CCG), Adult Social Care, Commissioning and Procurement. Finance and Legal were consulted and involved at the required stages in the project.

Procurement

This procurement was subject to and adhered to the Council's Contract Procedure Rules. The procurement followed a formal tender process in line with the EU procurement open process in accordance with the Public Contracts Regulations 2015, which require compliance with principles of non-discrimination, equal treatment and transparency. Following these regulations, the Council published the required Contract Notice on 12th November 2018. The incumbent provider, Healthwatch England and local Healthwatch providers were informed of the opportunity prior to the tender being published. Suppliers were invited using CapitalESourcing, the Council's E-Procurement system.

Technical Evaluation

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

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

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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:

- Describe how the service will meet the needs of the whole community and effectively challenge decision makers on their behalf
- Describe how the provider will set up and maintain a network to ensure the service has strong linkages with community and voluntary sector groups
- Describe how the provider will develop communication links between the service and local residents, particularly around working to support adults and young people to become proactively engaged in Health and Social Care issues
- Describe how the provider supports and develops volunteers to be effective local Healthwatch champions, actively participating in decision making and monitoring of services
- Describe how the service can contribute to better decision making in the health and social care system, particularly in relation to the Sustainability and Transformation Plans (STP) and wider Barking and Dagenham, Havering and Redbridge (BHR) integration plans.
- Explain how the provider will develop relationships and work closely with local Healthwatch services, particularly around sharing intelligence and information and collaborating on joint projects.
- Provide an outline mobilisation plan for the delivery of the service from 1st April 2019
- Provide an outline of your approach to safeguarding both children and adults

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

1. Annette Kinsella, Head of Integrated Services
2. Andrew Strickland, Head of Communications, BHR CCGs
3. Sam Saunders, Commissioning Programme Manager – Integration & Partnerships
4. Gillian Grunwell, Quality Outcome Manager
5. Sandy Foskett, Commissioner & Project Manager

Tender Evaluation

In total, two contractors completed and submitted their tender documents by the closing date of 10th December 2018.

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All evaluations focused on examining how the proposals will deliver a quality service (technical) and the cost of the service (commercial). Cost was evaluated at 70% of the total score. Suppliers submitted a cost for the service that was within the parameters set by the Council with scores weighted in favour of the lowest price. The quality factors were weighted according to their importance with 30% percent of the total score assigned to quality.

The Project Board members evaluated the bids over a one week period from 10th December 2018 to 17th December 2018 meeting at the end of this period to consider the commercial and technical scores as well as comment on the quality of the submissions. 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

Bidder	Commercial Score	Technical Score	Total Score
Bidder A	65.52	20.40	85.92
Bidder B	70.00	15.6	85.60

Having been approved by the Checkpoint Panel held on 21st December 2018, all suppliers who submitted bids will be informed of the Council's decision following the approval of this key decision paper to award the contract. Following this, arrangements will be put in place with Bidder A to sign the contract and submit a structured and comprehensive plan for the mobilisation of the service.

TUPE

There will be no duty of transfer applicable for this award of contract, as the provider has not changed.

OTHER OPTIONS CONSIDERED AND REJECTED

1. Do nothing

The grant agreement has already been extended and so this approach would contravene the Council's Procurement Regulations.

2. Tender for a BHR Healthwatch Integrated Service

The Council have considered a Barking, Havering and Redbridge (BHR) Healthwatch, however the issues of local demographics, budgets, geographical coverage and

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contract timelines makes this approach difficult to negotiate at present.

There is an expectation set out within the service specification that Healthwatch Havering establish a good working relationship between the different Heathwatch's for the benefit of service users.

PRE-DECISION CONSULTATION

The pre-decision consultation has involved engaging with a number of stakeholders to award the contract. This has included the Clinical Commissioning Group, Adult Social Care, Procurement, Legal and Finance teams.

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

Name: John Green

Designation: Head of Joint Commissioning



Signature:

Date: 02/01/2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. The re-procurement of a Local Healthwatch provision was consistent with statutory requirements (Health and Social Care Act 2012) and with the stated aims and objectives of the Council underpinning its strategic objectives of stronger economy, stronger communities.
2. Section 182 to 184 of the Health and Social Care Act 2012, and regulations subsequently issued under these sections, govern the establishment of Healthwatch, its functions and the responsibility of local authorities to commission Local Healthwatch services.
3. Local Healthwatch organisations are bodies corporate, but are subject to provisions under the Health and Social Care Act that govern their organisational structure and status and are required to exercise their functions in an effective, efficient and economic manner.
4. The procurement exercise has been conducted in accordance with the Council's policy and legal obligations, specifically in compliance with the Council's Contract Procedure Rules ("CPR") and the Public Contracts Regulations 2015, and supported by relevant officers, as set out within the body of the report.
5. 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.
6. 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,

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pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7. 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.
8. Where TUPE applies, both the outgoing and incoming supplier will have obligations to give information to representatives of their affected employees, and will potentially be obliged to consult. Furthermore, where TUPE applies, each outgoing supplier is obliged to supply information relating to its relevant employees to the new supplier.
9. Employees of the existing suppliers who are part of an organised group whose main purpose is to perform this contract may have the right to be transferred to the new supplier, on the same terms and conditions and with their employment law rights preserved.
10. The legal requirement to comply with TUPE obligations (if any) falls on the respective suppliers.
11. 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 service is funded in its entirety from the annual “Local Reform And Community Voices” grant from the Department of Health and Social Care. The 2018/19 grant for Havering is £141,556, with the balance of £24,197 funding other complementary and statutory services within the Adults Protection area. Although there is currently no indication that this grant will cease in the near future, part of the conditions within the contract will include a break clause to reflect the risk associated with the funding source. However, the expectation is for this service to continue to be fully funded from central government as a statutory function over the 5 year term of the contract (including any extension period as necessary).

Being a fixed price contract with a total cost of £821,513 over the full term (on a 5 plus 2 year extension profile), the risk to the Authority of any material price fluctuation over the contract term is minimal and will be borne by the winning Provider. All grant income and expenditure for this service will be recorded within the Council’s financial recording and management system against the budget code A32691.

**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;
- (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.

BACKGROUND PAPERS

Appendix 1 – Non-Key Executive Decision November 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

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 _____