

Notice of KEY Executive Decision

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| Subject Heading: | Award of contract to provide 35 residential placements for Looked after Children. |
| Cabinet Member: | Councillor Damian White: Leader of the Council |
| SLT Lead: | Tim Aldridge Director of Children's Services |
| Report Author and contact details: | Nick French, Programme Manager, nick.fench@havering.gov.uk |
| Policy context: | This proposal is guided and underpinned by the principles of the Children's Act 1989, The Children's Homes Regulations and Quality Standards 2014 and the Children and Families Act 2014. |
| Financial summary: | <p>The contract is due to begin 14th May 2019 and run for an initial four years until the 13th May 2023, with two further possible extensions of two years each; a total of 8 years.</p> <p>The total value of the contract over eight years will be up to a maximum of £38,383,649.</p> <p>This is a joint commissioning exercise across the Northeast London Local Authorities led by Havering. The financial commitment from existing funds per LA is 1/7 of the contract value.</p> |
| Reason decision is Key | (i) Expenditure of over £500,000; and (ii) Significant effect on two or more Wards |
| Date notice given of intended | 9th May 2019 |

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| decision: | |
| Relevant OSC: | Children's Services |
| Is it an urgent decision? | Yes |
| Is this decision exempt from being called-in? | Yes |
| Exempt information & Grounds | Appendix A of this report is exempt by virtue of paragraph 3 of the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended, in that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). |

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

- Communities making Havering [x]
- Places making Havering []
- Opportunities making Havering []
- Connections making Havering []

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

On 10th October 2019 Cabinet gave authority to proceed to procure a contract for the provision of thirty-five residential placements for Looked After Children within the geographical footprint of Northeast London. A copy of the Cabinet report and minute is attached at Appendix B.

The procurement process is now complete and authority is sought to award the contract.

The proposed contract will be for an initial period of 4 years with two possible extensions of two years each; a potential total duration of 8 years.

- The cost per annum will be up to £4,797,956.
- The cost over the four year contract would be £19,191,824.5.
- Over the potential 8 years if contract extensions are agreed the cost will be up to £38,383,649.

The recommendation is for authority to award the contract as set out in the recommendation in Appendix A

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 [Responsibility for Functions], section 2.1 (General Functions of Cabinet) of the Council's Constitution:

Other Matters

(p) To award all contracts above a total contract value of £10,000,000.

STATEMENT OF THE REASONS FOR THE DECISION

The reason for this decision is to obtain agreement to proceed to contract award following a successful tender process.

On the 20/2/18 The eight Northeast London Boroughs entered into a collaboration agreement and agreed to jointly commission 35 residential placements for looked after children (LAC). The Partnership includes:

- The London Borough of Havering
- The London Borough Barking and Dagenham
- The London Borough of Tower Hamlets
- The London Borough of Newham
- The London Borough of Waltham Forest
- The London Borough of Redbridge

- The Corporation of the City of London
- The London Borough of Hackney

Havering agreed to become the lead authority for the purposes of procuring the contract. Each of the local authorities will transfer their element of the funding for the placements to Havering. There will be one contract between the London Borough of Havering and the successful bidder.

OTHER OPTIONS CONSIDERED AND REJECTED

Three other options for were considered before the Partnership agreed to jointly commission the LAC placements

Option1: Remain as is with each local authority running separate spot purchasing brokerage systems with ever increasing placement costs. The average weekly cost for residential placements in the sub-region has risen 25% in the last two years.

The current commissioning arrangements across the sub-region currently have six main problems.

- Placement instability and unsuitability
- Poor value for money.
- inefficient commissioning arrangements and
- variable quality
- Variable quality of relationships between local authorities and providers
- The vast majority of placements are currently made outside of the Northeast London footprint resulting in breaking down community links and poorer outcomes for LAC

Option 2: Each Local authority separately commissions placements using a block contract.

Going out to market for a single borough service would not offer the same opportunities for economies of scale that an eight-borough tender across North East London would offer. There could also be no saving relating to a central brokerage function.

Option 4: Dynamic Purchasing System (DPS)

A number of DPS options were considered. There is consensus across the Partnership that we need to move to a block contract. Dynamic Purchasing Systems are not appropriate for block contracts and are designed to facilitate spot purchases.

The specification for this contract was co-produced by commissioners, providers and young people. Young people are full members of the Northeast London LAC commissioning partnership and have scored the bids alongside professionals. On the 14th April 2018 one hundred and twenty people, including commissioners and providers attended a full day market mobilisation event at Walthamstow Civic Halls. The Partnership outlined its aims, facilitated a number of workshops and along with young people gave a number of presentations. At the end of the event delegates were invited to engage in a process of co-producing the contract specification.

Over the next six months a number of co-production events were held with providers Commissioners and young people. Young people's views were also ascertained through a survey and one-to-one interviews. The Partnership read back the findings of the co-production exercise at a second market mobilisation event at the Museum of London on the 3rd of December 2018.

This co-production will extend into the delivery and administering of placements, the service model and in quality assurance for the duration of the contract.

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

Name: Tim Aldridge

Designation: Director of Children's Services

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. In line with the Council's Constitution and its Contract Standing Orders, this report seeks approval for the Council, acting as lead contracting authority on behalf of seven other North East London councils, to award the "Residential Placements Across the Footprint of North East London" contract ("the contract") following an Official Journal of the European Union (OJEU) compliant procurement exercise. The relevant background is as set out within the body of this report and the appendices to it.

2. The Council has a general power under section 1 of the Localism Act 2011 to do anything that individuals generally may do including the matters set out in this report.

3. Under paragraph 2.1(p) (General Functions of Cabinet) of Part 3 [Responsibility for Functions] of the Constitution the Leader of the Council, exercising any Executive functions personally upon notice to the Proper Officer, has the power to award all contracts above a total contract value of £10,000,000.

4. For reasons of urgency, the decision sought is exempt from the Council's call-in procedure, under rule 18 [Exception to the call-in ("requisition") procedure] – Overview & Scrutiny Sub-Committees Rules of the Constitution.

5. This decision is subject to the standstill period under the procurement regulations. Once the contract is awarded publication of a Contract Award Notice should be placed in the OJEU.

6. The risk is that as the contracting authority, the Council will be primarily responsible to the supplier under "the contract" and further work is underway to amend the indemnity provisions within the existing collaboration agreement between the North East London councils. In the interim to mitigate the risk letters of comfort have been sent which agree the timely conclusion of the collaboration agreement and to indemnify the Council. At the time of writing two authorities (of the seven) returns remain outstanding and it is anticipated that those Councils will do so before the proposed date of formal contract award on 14th May 2019.

FINANCIAL IMPLICATIONS AND RISKS

There is an aspiration to deliver financial savings associated with the contract award.

The estimated value of the 8 year contract across all partners is approximately £38.384m and any savings will only be realised at the point of referral. Although this is a block contract, the local authority will only pay for usage in the first year. A methodology for realigning places and payments over time will need to be designed. The Havering element over the 8 year term (if both 2 year extensions are granted) is £5.483M.

| Financial Year (s) | | | 2019 / 2020 | 2020 / 2021 | 2021 / 2022 | 2022 / 2023 | | 2023 to 2025 | | 2025 to 2027 | |
|-------------------------------------|-------------|---------------------------|-----------------------|--------------|--------------|--------------|-----------------------------|----------------------------|-----------------------------|--------------------------------|-----------------------------|
| | Nos of Beds | Annual Cost per Bed £000s | Yr 1 £000s (see note) | Yr 2 £000s | Yr 3 £000s | Yr 4 £000s | Max - Initial 4 Years £000s | Initial 2 Year Ext'n £000s | Max with 2 Year Ext'n £000s | Addit ional 2 Year Ext'n £000s | 8 Year Contract Value £000s |
| NE London Commissioning Area | 35 | 137 | 4,798 | 4,798 | 4,798 | 4,798 | 19,192 | 9,596 | 28,788 | 9,596 | 38,384 |
| Distributed between: | | | | | | | | | | | |
| LB Havering | 5 | | 685 | 685 | 685 | 685 | 2,742 | 1,371 | 4,113 | 1,371 | 5,483 |
| Remaining 6 Partners | 30 | | 4,113 | 4,113 | 4,113 | 4,113 | 16,450 | 8,225 | 24,675 | 8,225 | 32,900 |

Note:

Year 1 costs will only occur at the point of referral into any of the commissioned beds, chargeable directly to the partner

However, the costs quoted in this report (illustrated above) are based on full occupancy and current average costs across the whole Partnership, and as such should only be viewed as indicative figures for individual Boroughs, including the element calculated as attributable to Havering.

The actual savings for Havering will be dependent upon the number and value of Havering placements relocated under the block contract and any move of existing looked after children , future referrals will be cost avoidance. A cohort of mainly high cost placements is likely to deliver greater savings opportunities, but the true impact of the new block contract can only be assessed after placements have occurred.

It is also likely that at some point during the 8 year contract, if placements are made directly into the block contract rather than being relocated from other areas, the benefits arising will be in the form of cost avoidance rather than savings as highlighted above.

The primary risk associated with any block contract is 'under occupancy'. Under the proposed contract the financial risk of vacancies sits with the Local Authorities not the provider. However, the risk can (and will) be mitigated by careful contract management to ensure that:

- There is a cohort of suitable placements available to transfer into the new provision,
- Only places that can be filled are commissioned initially and gradually increased up to 35 as and when they are required,

In addition to this an internal market is being developed between the Local Authorities enabling vacant placements allocated to one authority to be purchased by another authority.

Additional risks include;

- not having sufficient demand within the foot print,
- Havering has other initiatives which may impact the benefits and likely savings.

LB Havering would be responsible for all initial payments to providers, and will need to ensure that:

- Each Local Authority is charged accurately for its usage under the contract
- Havering receives prompt reimbursement for costs incurred on behalf of other Boroughs to cover the functions it undertakes on behalf of partners once the

innovation fund has been exhausted.

In the first two years the joint commissioning and contract management costs will be funded from the DfE Innovation Grant. The DfE Innovations Fund allocation is £782,750 with a further £53,000 dependent upon satisfactory evaluation of the project.

Beyond that contributions from all partners will contribute to the ongoing administration costs of £70,000 per annum. The LBH contribution has been estimated at approximately £10,000 and should ideally be contained within existing budget envelope.

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

There are no Human Resources implications of, and risks relating to, the proposed decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The proposed contract award will impact on Looked after Children. The contracted service will contribute towards reduced levels of placement disruption for those children in care.

The proposed contract will ensure that potentially vulnerable children and young people are safely housed and supported based on their needs, is a fundamental responsibility for the Council, staff and Members. Indeed, this is a responsibility for all Members as corporate parents.

The proposed contract award will enable children and young people to be safeguarded while being housed and allows them to experience services within the community in a safe way, thereby, contributing to positive life Chances, educational and social development.

BACKGROUND PAPERS

None

Appendices:

Appendix A –Exempt information

Appendix B – Cabinet report of 10/10/2018

Part C – Record of decision

To award the contract for the provision of 35 residential placements for Looked after Children in line with the recommendation set out in Appendix A.

Decision

Proposal agreed

Proposal ~~NOT~~ agreed because

Details of decision maker

Signed



Name: Damian White

Cabinet Portfolio held: Leader of the Council

CMT Member title:

Head of Service title

Other manager title:

Date: 13/05/2019.

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 13/05/2019

Signed J. J. M.

