

55/13



Havering
LONDON BOROUGH

Notice of NON KEY Executive Decision by individual Cabinet member

<p>Subject Heading:</p>	<p>To waiver the use of a competitive process when approving providers for the alternative education approved provider list.</p> <p>To hold a list of approved alternative education providers.</p> <p>To continue to allow the use of the approved provider list with schools, academies, PRU's, Special Educational Needs, Looked after Children & Troubled Families teams.</p>
<p>Cabinet Member:</p>	<p>Cllr Paul Rochford</p>
<p>CMT Lead:</p>	<p>Joy Hollister Group Director, Social care & Learning</p>
<p>Report Author and contact details:</p>	<p>Lee Clegg Lee.clegg@havering.gov.uk 01708 431251</p>
<p>Policy context:</p>	<p>Alternative Education Approved Provider List</p> <p>To manage & administer the commissioning & selection process that identifies and develops a quality provider base, for schools, PRU's Special Educational Needs, Looked after Children & Troubled Families teams to use.</p>
<p>Financial summary:</p>	<p>No direct financial implications arising as a result of:</p> <ul style="list-style-type: none"> • Wavering the competitive process • Holding an approved provider list • Giving schools, academies and LA teams access

Member Non-Key Decision

Relevant OSC:	Children & Learning
Is this a Strategic Decision?	Yes
If it is a Strategic Decision, when should this matter be reviewed?	Yearly
Is it an urgent decision? If so, please refer to the note at the end	Yes

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

- Ensuring a clean, safe and green borough
- Championing education and learning for all
- Providing economic, social and cultural activity in thriving towns and villages
- Valuing and enhancing the lives of our residents
- Delivering high customer satisfaction and a stable council tax

Part A

DETAIL OF THE DECISION AND RECOMMENDED ACTION

1. To waiver the use of a competitive process when approving providers for the alternative education approved provider list.
2. To hold a list of approved alternative education providers.
3. To continue to allow the use of the approved provider list with schools, academies, PRU's, Special Educational Needs, Looked after Children & Troubled Families teams.

The London Borough of Havering currently hold and manages an Approved List of Alternative Education providers that is reviewed and authorised on a yearly basis.

This Executive Decision is under the Council's Contract Procedure Rules, so that new alternative education provider applications can be received and processed as soon as the providers become known to the LA. It also enables programmes to be commissioned at the point of need and be in response to the specific needs of these young people as they arise.

This Executive Decision is to seek authority to provide schools, academies, PRU's, Special Educational Needs, Looked After Children and Troubled Families Teams access to the Approved Provider List sharing contracting templates and processes to enable early intervention, to reduce exclusion or rapidly respond to the specific needs of the young people as they arise.

Note: It is noted each referral will have an Individual Placement Agreement with its own executive decision, outlining the student's individual costs and specifications that were decided upon and agreed at the point of need.

AUTHORITY UNDER WHICH DECISION IS MADE

Power to waive competitive requirements under Paragraph 27 (b) of the Council's Contract Procedure Rules and to award contracts, where external funding is guaranteed and there is no longer term financial commitment to the Council under Part 3 section 2.5 (h).

The delegated authority of the Head of Service of Learning & Achievement under section 3.5.4 of the constitution and the delegated authority of all Heads of Service under section 3.4 of the constitution to take any steps necessary for the proper management and administration of their allocated portfolios.

STATEMENT OF THE REASONS FOR THE DECISION

The London Borough of Havering has a duty to have available suitable educational options for the young people who have been permanently excluded, and for other pupils who – because of illness or other reasons – would not receive suitable education without such arrangements being made.

The London Borough of Havering's commissioning process is a short 12 week process that includes a Pre-Qualification Questionnaire (PQQ) and audit for new providers. Providers are vetted using the PQQ process which enables successful organisations to join the London Borough of Havering's approved provider list for a period of 3 years, subject to them maintaining their standards and performance as set out in their Contract of Professional Services.

Through the continuation of this policy & framework, the London Borough of Havering will be able to respond to their duty of ensuring suitable learning options are available to their young people, whilst maintaining value for money with places only being purchased when needed on a spot purchasing basis.

Providers are chosen only from the list, usually on a mini-tender basis with a separate decision form being completed for each young person. The process is open fair and transparent enabling any provider to apply, with only those who are eligible being put through as an approved provider. The application process is open on an on-going basis and the list is frequently updated when new providers are approved.

All funding for Practical and Applied Learning within the DSG has been devolved back to schools and academies. This has meant that the current funding methodology of providing schools with a block payment based on their KS4 numbers regardless of their engagement with the programme, along with targeted match funding for referred students in unsustainable.

The proposal below therefore outlines how the current service will be sustained ensuring the LA maintain their duty to provide for students who are permanently excluded, and for other pupils who – because of illness or other reasons – would not receive suitable education without such arrangements being made, whilst still supporting and enabling early interventions, improving behaviour and reducing fixed term and permanent exclusions.

- The LA will continue to use the current PQQ process to vet Alternative Education Providers and hold them on an Approved Provider List.
- Give access to schools, academies, PRU's, Special Educational Needs, Looked After children and Troubled Family teams, to enable individualised alternative education programmes to be made available for their young people, which aims to engage children and families and reduce exclusions.
- Will not continue to make any direct allocation to schools.
- Will not continue to make a matched funding allocation to schools of up to £1000 per referred student.
- Devolve the 2012/13 budget for Practical and Applied Learning from DSG back

Member Non-Key Decision

to schools.

- Provide clarity around devolved funding amounts with schools, ensuring these funds can be identified within their schools budgets and used for early interventions to reduce exclusions.
- Provide access to approved provider list so they can commission options at the point of need.

It is noted for clarity that Council is not "procuring" the providers but is simply ensuring those providers procured meet appropriate standards with regard to quality by ensuring appropriate audit and quality checks are carried out, both before they are placed on the approved list and during the academic year. It will be for each school to enter into an individual Contract of Professional Services with each provider they use in the same way as the LA will be doing for its PRU and inclusion programmes.

When procuring services for its PRU's the Council's rules/procedures regarding procurement will need to be complied with and separate decisions taken at the point of commissioning.

By allowing access to all schools and LA services the spot purchasing model enables economies of scale, which contributes towards provider sustainability.

OTHER OPTIONS CONSIDERED AND REJECTED

Open and competitive tendering process for alternative education provision is deemed not an appropriate option for the reasons given above:

- Immediate access to provision is required at the point of need.
- Funds are not available to be able to initiate an open competitive tendering process.
- Planned numbers are not available to be able to initiate an open competitive tendering process.

A commissioned framework option was considered and rejected due to the funding for this activity being subject to reductions due to Local Authority Central Services Equivalence Grant (LACSEG) being recouped by schools when they converted to an academy.

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

Name: Lee Clegg

Designation: Young Peoples Learning Manager

Signature:



Date: 4th March 2013

Part B

LEGAL IMPLICATIONS AND RISKS

While there is no specific rule contained within the contractual procedure rules which relates to an approved provider list this has been dealt with by obtaining this exception to the rules.

Each provider will need to be appropriately vetted with regard to all relevant criteria prior to being entered on the approved providers list and Council will need to ensure that they continually audit the Providers to ensure they maintain the standards required while they remain on the list.

As long as this is achieved, the appropriate documentation is put in place for any contractual relationship with Schools and PRU's and the contractual procedure rules where relevant are complied with at all times I see no other legal implications in CMT maintaining an approved providers list.

The commission of a placement using the list will occur as the need arises – it is the responsibility of the person placing the student in question to ensure that all procurement laws and procedures are being complied with at that point.

Kelly Hateley - Locum Lawyer (contracts)

FINANCIAL IMPLICATIONS AND RISKS

The costs of implementing a provider list will be met from within existing Learning & Achievement resources. There are resource implications due to the Councils ongoing responsibility to maintain the list, which will also be met from within existing budgets.

There is the potential financial risk that should proper and appropriate provider checks not be carried out and maintained, or contractual arrangements not properly documented, some liability could possibly fall back to the Council. This should be mitigated by ensuring robust processes and procedures are in place, and that documentation is clear, to avoid any ambiguity.

As stated within this report setting up a supplier list will not circumvent the need to adhere to the Councils procurement framework, as necessary.

Caroline May, Strategic Finance Business Partner

Member Non-Key Decision

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

There are no direct HR implications or risks arising from the recommendations made in this report that can be identified at this time.

Eve Anderson, Strategic HR Business Partner, (Children's, Housing & Adults)

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no Equalities implications and risks at this stage. Attached is a completed London Borough of Havering Equality Analysis.

BACKGROUND PAPERS

Improving Alternative Education – Charlie Taylor–The Governments Expert Advisor on Behaviour Sep12
DCSF, Back on Track - Commissioning Alternative Provision Guidance for Local Authorities and Schools
DCSF, Key Stage 4 Engagement Guidance
White Paper Dec 2010
DfE, Work Review
March 2011

Member Non-Key Decision

Confirmation of decision

I confirm that 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.

Signed



Name: Cllr Paul Rochford

Portfolio held: Children & Learning

Date:

13.5.2012

Lodging this notice

This notice should be delivered to the proper officer, currently Ian Buckmaster, Committee Administration & Member Services Manager in the Town Hall. A copy of this notice should be retained by the individual Cabinet member making the decision in question.

Urgency

Where the executive decision recorded in this notice has been made in accordance with the special urgency provisions of the Overview & Scrutiny Procedure Rules, a copy of the written agreement obtained under rule 18 must be attached to all copies of this notice.

For use by Committee Administration

I confirm that this notice was lodged with me on

22 MAY 2013

Signed

