



## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Approval to proceed with an open tender process for a Semi Independent providers to join a Dynamic Purchasing System
<b>Cabinet Member:</b>	Councillor Robert Behnam
<b>SLT Lead:</b>	Robert South, Director of Children Services
<b>Report Author and contact details:</b>	Georgina Shapley <a href="mailto:Georgina.shapley@havering.gov.uk">Georgina.shapley@havering.gov.uk</a> 01708 433404
<b>Policy context:</b>	At a local level, this contract supports Havering Council meet its priorities in its Corporate Plan 2019/20. This plan sets out how the Council intends to invest and transform the borough with an emphasis on improving the lives of vulnerable children, adults and families. In summary, this contract ensures the Council fulfils its aim of ensuring that the needs of the most vulnerable are met and that people are supported to be healthy and active.
<b>Financial summary:</b>	Forecasted yearly spend at £1.5 Million, over 5 years is approximately £7.5 Million
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	Yes

Non-key Executive Decision

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

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The purpose of this report is to seek approval to commence an open tender process for a Dynamic Purchasing System for Semi-Independent Placements for young people leaving care operating on the Council's ATLAS platform with 5 categories:

1. 16-17 Yrs. Complex 24 hours semi-independent accommodation
2. 16-18 Yrs. Low level support semi-independent accommodation
3. 18 + Personalised support, Supported accommodation
4. Supported accommodation for young people who are parents
5. Standalone accommodation

for a term of 5 years, with a 2 year extension.

### AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution, Part 3.3 Powers of Members of the Corporate Management Team; Contract powers (a) To approve commencement of a tendering process for all contracts above a total contract value of £500,000.

### STATEMENT OF THE REASONS FOR THE DECISION

#### 1. Background

#### Provision of Semi Independent Living Services

The main purpose of the Children (Leaving Care) Act 2000 and Volume 2 & 3 of the Children Act (Care Planning/Transition to Adulthood) is to help Young People **aged 16-18+** who have been looked after by a local authority move from care into living independently in as stable a fashion as possible.

To do this it amends the Children Act 1989 to place a duty on local authorities to assess and meet need. The responsible Local Authority is under a duty to assess and meet the care and support needs of eligible and relevant Children and Young People and to assist former relevant children, in particular, in respect of their employment, education and training.

#### Semi-Independent Framework

## Non-key Executive Decision

Havering Council currently has a framework agreement for provision of semi-independent living accommodation. The Semi Independent Framework has ten providers on it and acts as an approved provider placements list for the commissioning of non-registered residential accommodation and support services. Only six out of the ten providers actively engage with the framework. The framework expires on 31 July 2020.

The current framework for commissioning of Semi Independent provision has been reviewed and despite staff are utilising capital sourcing, there remains limited engagement from providers on the framework. It has been identified that the current framework remains inflexible and does not meet the level or complexity of demand which is resulting in an increase in spot purchasing taking place outside the framework.

### **2. Current Issues of the framework**

#### **Inflexible framework**

The current framework is inflexible and does not meet the level of demand across the borough. It has a fixed number of Providers and does not allow for new providers to be added. This means that when the suppliers on the framework do not have capacity or cannot meet the specific requirements of an individual child, the children's placements team are forced to go outside of the framework to purchase the required semi-independent provision.

This is resulting in a number of spot purchases taking place outside the framework. These spot purchases are usually at a higher cost than the agreed rates from the framework providers.

#### **Demand issues**

The demand for semi-independent accommodation is increasing. It is anticipated that this demand will continue to rise, as there are increasing numbers of young people coming into care in their teenage years. In addition with the increased responsibility placed on LA's there is a need to further support young people ages 18+.

The needs analysis work that has been undertaken shows an ongoing demand for semi-independent accommodation. Due to preventative work by the operational services, the number of children coming into care at earlier ages is decreasing whilst the number arriving at 16+ has dramatically increased since 2014/15 – partly as a result of a significant increase in unaccompanied asylum seeking children. This has been putting pressure on service availability and leading to a significant number of older children being placed out of Borough.

There are plans to develop 2 semi-independent accommodation schemes in Havering; one to refurbish two existing Council properties for a total of 12 young people between the ages of 16 and 25 years of age, and commission an experienced provider to manage the buildings and deliver support services under a block contract arrangement. In addition there is a business case being developed to build a further 12 self-contained studio flats with some additional communal spaces for young people

## Non-key Executive Decision

leaving care between the age of 18 and 25 years of age. If agreed by Cabinet then this is likely to come on stream mid-2020.

As a consequence of the expansion in local provision, there should be a decrease in demand for placements sourced via the framework and its replacement in the medium term. In the longer term however, the demand is expected to increase further once the new provisions have reached their capacity.

Due to these expected fluctuations in demand for semi-independent provisions in the borough there is no guarantee that a standard framework, which by nature which is unable to flex and expand to meet increased requirements, will be able to provide enough flexibility or capacity to meet the needs of young people in London Borough Of Havering.

As part of stage 3 of the framework review the following recommendations were made;

- Action plan to be followed as 'business as usual' for commissioning of all semi-independent placements until further notice
- Explore the possibility of moving to flexible framework (Dynamic Purchasing System) so that we can build capacity in borough and increase competition.
- Engagement with key stakeholders to fully review the effectiveness of current processes
- Engage with framework providers, wider supplier market and key stakeholders to co-produce a draft service specification and business requirements of a Semi-Independent Dynamic Purchasing System
- Implementation of DPS to attract new suppliers in the market, increase stability and control of spend whilst improving quality

The DPS will be open at set intervals for suppliers to join and may be sub divided into separate categories. All suppliers that meet minimum eligibility criteria for joining a category within a DPS are allowed to join that category. Suppliers may join multiple categories. The proposed DPS will contain the following categories

1. 16-17 Yrs. Complex 24 hours semi-independent accommodation
2. 16-18 Yrs. Low level support semi-independent accommodation
3. 18 + Personalised support, Supported accommodation
4. Supported accommodation for young people who are parents
5. Standalone accommodation

Once the DPS is live, for a requirement to be let an opportunity will be advertised to all the suppliers in the appropriate category on the DPS and all approved providers may bid.

Once the opportunity is closed, the system will rank bids and officers will score them for quality. The bids will be ranked according to the following Most Economically Advantageous Tender evaluation criteria:

### **Quality**

Location 10%

## Non-key Executive Decision

Needs 40%

### **Price**

50%

The intention is that a contract will be awarded to the highest ranked bid however as these are social care type contracts, officers will retain discretion to award other than to the highest placed bidder if in this is indicated (e.g the needs of the service user indicate such a requirement or there are other reasons that a particular placement should be selected).

Whilst current development projects will provide additional capacity for those aged 16+, even with these in place there remains the need to develop this new framework (DPS) to maintain greater control over costs and quality and help further shape the local market, that is not achievable through the level of spot purchasing that currently takes place.

A market information event took place on 24th January, The event provided an overview of what a dynamic purchasing system is, the monitoring system that will be implemented with the DPS, the commissioning processes and timescales and the Councils objectives for semi-independent provisions for young people. There were a total of 34 providers that attended the event.

### **3. Project Management of the Tender**

Ahead of the formal approval to tender and in order to deliver the objectives, a formal project management structure has been implemented including a project board which meets regularly to supervise the project. Project board members include representatives from Children's Placement, Children's Services, JCU and virtual members of Procurement, Finance & Legal. Project board's business includes managing the project through its project plan, action and risk Logs.

In summary, the scope of the project board includes the following key tasks:

- Review of service specification
- Production of new service specification
- Developing the procurement pack and contract documents in line with OJEU and Council procurement procedures
- Managing the tender process
- Evaluating bids
- Awarding the contract

In brief, once the decision to proceed with the tender is approved, the key milestones from the procurement timetable for the tender of the service are as follows:

#### **Stage**

Procurement Planning

#### **Timescale**

Jan-April 2019

## Non-key Executive Decision

Invitation to Tender Published	Oct 2019
Evaluation	Nov 2019
Award	Dec 19-Jan 2020
Launch DPS	Mid Feb 2020

We have considered collaborative working and discussions have taken place with London Borough of Newham. Due to expiry of the current framework in July 2020, the Council requires an immediate procurement exercise. Newham's timescales are more long term and discussions have therefore not progressed further. The business case for developing a marketable DPS is currently in progress.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

**1. Do nothing - This option is not recommended.**

The current framework expires in July 2020. A replacement solution is therefore required in order to ensure that the Council remains compliant with the Public Contracts Regulations 2015.

**2. Procure a similar replacement framework to the existing framework- This option is not recommended.**

The current framework does not meet the Council's needs as it is inflexible and new providers are not able to join as they enter the market, leading to a high number of spot purchases at costs higher than those offered on the framework. It is likely a similar framework will present the same challenges.

**3. Procure a replacement contract via an existing framework arrangement - This option is not recommended.**

Available frameworks have been considered however they present a significantly higher cost profile than the recommended solution.

**4. Procure a DPS to meet the Council's requirements for semi-independent accommodation upon expiry of the existing framework in July 2020- Recommended**

A DPS will be flexible and will allow new providers to join during the term of the contract. It is less likely to lead to higher value spot purchases and is considered to be the most cost effective option available. The DPS will incorporate choice of provider for each contract which will ensure that the Council is able to best meet the needs of each service user. The Council will run the DPS on its own bespoke ATLAS system and [there will not therefore be a significant additional cost of managing and running the DPS.

Non-key Executive Decision

**PRE-DECISION CONSULTATION**

A market-engagement event has taken place with Semi-independent providers on 24<sup>th</sup> January 2019.

A total of 64 providers were invited to the event and 34 individual providers attended the event.

The agenda for the day consisted of;

- An overview of the DPS, Objectives of Children's services and how DPS will support this
- Workshop – Achieving independence
- Tender timeline
- Care Standards
- Questions

A stakeholder engagement workshop took place with social care, to understand and address the current issues.

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

Name: Georgina Shapley

Designation: Senior Commissioner and Project Manager

Signature: G.Shapley

Date: 01/08/2019



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

### **LEGAL IMPLICATIONS AND RISKS**

The Council is a Contracting Authority for the purposes of the Public Contract Regulations 2015 (PCR 2015). The value of the contract exceeds the EU threshold for Light Touch Services of £ 820,370. A Public Contracts Regulations 2015 (PCR 2015) compliant procurement is therefore required.

The proposed procurement is for services which fall within Chapter 3 of PCR 2015 and is "light touch". The Council may therefore design the procurement of the DPS and its call off process to meet its needs and does not have to strictly adhere to the rules for operation of a DPS set out in PCR 2015 s.34. As long as the rules for procurement and call off are specified in clear and unequivocal terms within the procurement documentation for the DPS, the procurement and operation of the DPS will be PCR 2015 compliant. The Council should ensure in particular that the operation of the DPS including appointment of new providers to the DPS and rules for awards of individual call off contracts are clear and precise and the procurement and call off rules must comply with the Treaty principles of equality of treatment, transparency, non discrimination and proportionality.

The award of the DPS is a Key Decision. A Cabinet decision will be required following evaluation of the initial applications to join the DPS to authorise initial award of contracts and to delegate authority to award contracts to new entrants on an ongoing basis and throughout the term of the DPS.

### **FINANCIAL IMPLICATIONS AND RISKS**

The proposal is seeking approval to commence an open tender process for providers to join a Dynamic Purchasing System (DPS) for Semi-Independent Placements for young people leaving care. The DPS will operate for 5 years with an option of a 2-year extension commencing in February 2020.

The proposed contract is in accord with the Council's statutory duties to help Young People who have been looked after by a local authority move from care into living as independently as possible. The authority has to assess and meet the care and support needs of Young People transitioning from care particularly in respect of employment, education and training.

The DPS Framework will replace the current 'Semi-Independent Framework', which was set up to commission placements of children leaving care into semi-independent accommodation. While the aim was to develop the framework as an approved provider placements list, it has been found to be inflexible, doesn't allow for new providers to be added, and fails to provide for the level of complexity of demand. Consequently, the service is increasingly resorting to spot purchasing outside of the framework and usually at a higher cost than the agreed rates within the framework.

Although the authority is developing semi-independent provision in the borough in 2019, and further provision in 2020, the development of a DPS framework will complement the strategy in the immediate to add further capacity. It will form a central part of the response as demand is expected to continue to grow especially once the new provision has reached capacity.

### Non-key Executive Decision

The budget to fund this contract currently sits within the Looked After Children, Leaving Care and Asylum Seekers services, against cost centres:

- A38320 (LAC Placements)
- A38420 (Section 23 & 24 Children's Act)
- A39320 (Unaccompanied Minor under 18)
- A39340 (Over 18 Asylum Seeker)

The total projected spend for 2019/20 is currently £2.35M, for Semi-independent Care and Support (based on Case Management system ContrOCC client actual spend data for the period 1 April to 16 Sept 2019). This is against a revised budget for 2019/20 of £1.66m for the same cost centres, as shown in Table 1 below.

**Table 1 – Semi-Independent Care Support for LAC, leaving Care and Asylum Seekers 2019/20**

Cost Centre	Subjective	Revised Budget 2019/20	19/20 Projected Full-Yr Client spend ContrOCC *
A38320 LAC Placements	651680 Semi-Independent Care	1,286,500	1,508,333
A38420 Section 23 & 24 Children's Act	651680 Semi-Independent Care	226,000	79,683
A39320 UASC Under 18's Costs	651680 Semi-Independent Care	150,000	747,678
A39340 Asylum Seekers Over 18's	651680 Semi-Independent Care	0	10,578
<b>Total</b>		<b>1,662,500</b>	<b>2,346,271</b>

*\* based on current client activity data on ContrOCC*

The current framework is made up of 11 Providers. By contrast, the service currently procures semi-independent care support with 36 Providers, which includes 2 from the current framework. Review of the current 127 agreements in place, indicates that 98% by number, and 75% by value, have been placed with providers on a 'Spot' basis outside of the Framework contract (see Table 2 which provides a breakdown of the current Agreements).

This reinforces the proposal for an open market exercise to establish a DPS Framework for Semi-Independent complex care support to bring on board the requirements to commission these placements through an established procurement method rather than relying on expensive spot purchasing of placements.

## Non-key Executive Decision

**Table 2 – Number and Value of Care Support Agreements arranged for the period 1 April 2019 to September 2019**

<b>Agreements</b>	<b>No.</b>	<b>Value</b>	<b>No. %</b>	<b>Value %</b>
Current Framework	2	214,407	2.44%	26.29%
Spot Purchase	80	601,260	97.56%	73.71%
<b>Total</b>	<b>82</b>	<b>815,667</b>	<b>100.00%</b>	<b>100.00%</b>

There is clear pressure on the Leaving Care and Asylum Seekers budgets in this financial year, especially due to growing demand on the service and specifically the growing complexity of care required. The open market exercise provides a strategic opportunity to more effectively manage the semi-independent care provider market and potentially drive better value and savings to contribute to addressing the pressure.

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

There are no HR implications or risks arising from this report.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

#### **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 APPENDICES**

- Workshop session feedback – Appendix A

Non-key Executive Decision

- Presentation – Appendix B
- Invite List – Appendix C

Non-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: Robert South  
Acting Director of Children's Services

Cabinet Portfolio held:  
CMT Member title:  
Head of Service title:  
Other manager title:

Date: 31/10/19

**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.

<p><b>For use by Committee Administration</b></p> <p>This notice was lodged with me on <u>6/11/19</u></p> <p>Signed <u>A-h. am</u></p>
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