



## Notice of NON KEY Executive Decision

<b>Subject Heading:</b>	Approval to waiver the Council's Contract Procure Rules for the Best Interests Assessor Tender
<b>Cabinet Member:</b>	Councillor Jason Frost, Cabinet Member for Adult
<b>SLT Lead:</b>	Barbara Nicholls, Director for Adult Services
<b>Report Author and contact details:</b>	Jonathan Cassidy, Senior Commissioner & Projects Manager, Jonathan.Cassidy@havering.gov.uk
<b>Policy context:</b>	This contract supports duties placed on the Local Authority set out in the Mental Capacity Act 2005 and the Care Act 2014.
<b>Financial summary:</b>	There are no committed financial costs associated with this decision.
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	No

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

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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 decision paper seeks approval to waive the Contract Procedure Rules in relation to the quality/price weightings for the Best Interest Assessor tender.

### AUTHORITY UNDER WHICH DECISION IS MADE

#### **Section 14.3 ii of the Council's Contract Procedure Rules:**

Exceptions to competitive requirements:

- ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a)

### STATEMENT OF THE REASONS FOR THE DECISION

- 1.1. The Mental Capacity Act Deprivation of Liberty Safeguards (MCA DoLS) came into effect on 1st April 2009. MCA DoLS provides for the lawful deprivation of liberty of those people who lack the capacity to consent to arrangements made for their care or treatment in either hospitals or care homes, but who needs to be deprived of liberty in their own best interests, to protect them from harm.
- 1.2. Local Authorities (designated as 'Supervisory Bodies' under the legislation) have statutory responsibility for operating and overseeing the MCA DoLS whilst hospitals and care homes ('Managing Authorities') will have responsibility for applying to the relevant local authority for a Deprivation of Liberty authorisation.
- 1.3. The Local Authority is responsible for completing and coordinating the assessment process, including the involvement of appropriately trained doctors, and independent advocates where necessary, and undertaking an assessment of the individual (involving their family where appropriate). The assessment must conclude whether or not the individual's liberty is being deprived, and if this is assessed as being in that individual's best interests, then the 'DoLS' is authorised. The assessments are undertaken by trained Best Interest Assessors (BIA's) who are usually qualified social workers, who undertake additional training to become BIA assessors, and who are usually employed by a local authority.
- 1.4. Additional resources are therefore still required to keep waiting lists to a minimum and to deal with the increasing numbers of requests for assessments. In line with these duties, the Council has contracted with providers on a yearly basis for the provision of these services. The current contracts for these services ends on 7<sup>th</sup> of March 2020.
- 1.5. The Council seeks to award a one year contract for the provision of these services from the 8<sup>th</sup> April 2020 to 7<sup>th</sup> March 2021, with the option to extend for a further three months.
- 1.6. The procurement is subject to and will adhere to the Council's Contract Procedure

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Rules. The procurement will follow a formal mini tender process in line with relevant procurement regulations and in accordance with the Public Contracts Regulations 2015, which require compliance with principles of non-discrimination, equal treatment and transparency.

- 1.7. Havering Council has sought to attract suitably experienced organisations to bid for the provision of best interest assessment services.
- 1.8. Due to the nature of the service, the Council needs to ensure that the successful provider can evidence sufficient levels of quality to deliver the service. The BIA's are supporting some of Havering's most vulnerable residents and therefore evaluating providers higher on quality during the tender is critical.
- 1.9. It is therefore recommended to waive the Council's Contract Procedure rules and ensure the tender evaluation focuses on examining how proposals will deliver a quality service by assigning a 60% weighting, with the cost of the service weighted at 40%.

**OTHER OPTIONS CONSIDERED AND REJECTED**

**Do nothing and evaluate providers at 70% price 30% quality:** This option was rejected, as the tender evaluation could not ensure the provider meets the sufficient quality levels to deliver the service. There is a risk that a low quality provider is successful due to submitting the lowest price.

**PRE-DECISION CONSULTATION**

The pre-decision consultation has involved engagement with key stakeholders including Head of Procurement, legal, and finance business partners.

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

Name: Jonathan Cassidy

Designation: Senior Commissioning & Projects Manager

Signature:



Date: 23/01/2020

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

**LEGAL IMPLICATIONS AND RISKS**

The contract is subject to the Council's Contract Procedure Rules (CPR)

CPR 18.4 provides that Tenders must be evaluated against pre-determined best price-quality ratio of 70% cost and 30% quality weighting.

CPR 14 provides that an exception to the competition requirements may be made where an individual Cabinet member has approved the waiving of the rules.

The decision maker must be satisfied that value for money is being achieved.

**FINANCIAL IMPLICATIONS AND RISKS**

There are no direct costs as a result of the decision; however there is a slight risk that the contract value may be higher than it would have been if a 70% price 30% quality ratio had been used in the scoring.

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

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

**BACKGROUND PAPERS**

None

**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: Councillor Jason Frost

Cabinet Portfolio held: Cabinet Member for Health and Adult Care Services

CMT Member title:

Head of Service title

Other manager title:

Date: 27/01/2020

In consultation with:

Signature:

Director of Legal and Governance

Signature:

Chief Executive

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

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**For use by Committee Administration**

This notice was lodged with me on 27/01/2020

Signed J. J. [Signature]

