



Havering
LONDON BOROUGH

Notice of NON KEY Executive Decision

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| Subject Heading: | Contract Award for Best Interest Assessment Services |
| Cabinet Member: | Councillor Jason Frost, Cabinet Member for Adult |
| SLT Lead: | Barbara Nicholls, Director for Adult Services |
| Report Author and contact details: | Jonathan Cassidy, Senior Commissioner & Projects Manager, Jonathan.Cassidy@havering.gov.uk |
| Policy context: | This contract supports duties placed on the Local Authority set out in the Mental Capacity Act 2005 and the Care Act 2014. |
| Financial summary: | The estimated value of the contract is £150,000 inclusive of a three month extension option. Expenditure will only be incurred when referrals are made. |
| Relevant OSC: | Individuals |
| Is this decision exempt from being called-in? | Yes, it is a non-key decision by a member of staff |

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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 decision paper seeks approval to award a one year contract from 8th April 2020, with an option to extend for a further three months, to Reed Specialist Recruitment for the provision of Best Interest Assessment Services at an estimated value of £150k as set out in this report

AUTHORITY UNDER WHICH DECISION IS MADE

3.4 Powers of Second Tier Managers

Contract powers

- (a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

STATEMENT OF THE REASONS FOR THE DECISION

1. Background

- 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. The application of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), will normally amount to a Service Provision Change under the TUPE, where there has been a change in the provider of the existing services provision. However, whether or not TUPE will apply is a matter for current and future provider to determine after seeking their own legal advice on the issue.

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- 1.5. 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 7th of March 2020.
- 1.6. This decision paper seeks approval to award a one year contract for the provision of these services from the 8th April 2020 to 7th March 2021. The contract will include the option to extend the contract for an additional three months up to 7th June 2021. The estimated value of the contract is £150,000 inclusive of a three month extension option. Expenditure will only be incurred when referrals are made and delivered by the service.
- 1.7. The contact has been commissioned on a short team basis to allow the Council to measure the impact of the change in legislation from Deprivation of Liberty Safeguards to Liberty Protection Safeguards, which is expected to be implemented in October 2020. The service specification for the new contract includes requirements for the provider to manage the change of legislation to ensure the Local Authority is meeting its statutory obligations.

2. Procurement

- 2.1 Havering Council sought to attract suitably experienced organisations to bid for the provision of best interest assessment services.
- 2.2 The objectives of the tender were to:
 - To ensure that services are commissioned to meet the priorities of the Council and offer the best value for money.
 - To ensure the tender follows corporate and EU procurement regulations and Local Authority financial regulations.
 - To implement robust pricing, quality assurance and performance management arrangements.
- 2.3 The procurement was subject to and adhered to the Council's Contract Procedure Rules. The procurement followed 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. Providers that contacted the Council in response to a Prior Information Notice were informed of the opportunity. Suppliers were invited to access the tender using CapitalEsourcing, the Council's E-Procurement system.

3. Evaluation

- 3.1 In total, five suppliers completed and submitted their tender documents by the closing date of 11th December 2019.
- 3.2 All evaluations focused on examining how proposals will deliver a quality service (technical) and the cost of the service (commercial). Cost was evaluated at 40% of the total score. Suppliers submitted a cost for the service and scores were weighted in favour of the lowest price. The quality factors were weighted according to their importance with 60% of the total score assigned to quality.
- 3.3 Bids were evaluated over a weeks period with evaluators meeting during this period to consider the commercial and technical scores. On 8th January 2020, the evaluation

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panel was able to agree on the most advantageous bids to recommend for award. In summary, the scores of the bids tendering are presented in the table below:

| Provider | Technical Score | Commercial Score | Total Score |
|---|-----------------|------------------|-------------|
| Provider A (Reed Specialist Recruitment) | 76.00 | 87.86 | 80.74 |
| Provider B | 60.00 | 100.00 | 76.00 |
| Provider C | 56.00 | 96.18 | 72.07 |
| Provider D | 60.00 | 89.88 | 71.95 |
| Provider E | 52.00 | 58.28 | 54.51 |

3.4 Once approved by the Director of Adult Services, all suppliers who submitted bids will be informed of the Council's decision to award the contract. Although it is not a requirement for this level of spend, the Council will follow the voluntary standstill period. Following this, arrangements will be made to sign the contract and submit structured and comprehensive plans for the mobilisation of the service.

OTHER OPTIONS CONSIDERED AND REJECTED

1. **Do nothing and allow the existing contract to lapse:** This option was rejected, as the Council has a statutory duty to provide these services and it does not have capacity to meet all its requirements. In order to meet its statutory duty therefore Adult Services would have to spot purchase. Procurement of an overarching overflow service ensures value for money and ensures consistent quality and supply. Also that assessments are commissioned on the Council's own terms and conditions, thus protecting the Council's interests.
2. **Bring services in house:** This option was rejected due to the lack of capacity within operational teams to meet current demand for best interest assessments.

PRE-DECISION CONSULTATION

In this circumstance a pre-decision consultation with service users was not required. The successful provider will be expected to regularly seek service user feedback in order to continuously improve the service provided.

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

Name: John Green

Designation: Head of Joint Commissioning

Signature:



Date: 14/01/2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The statutory framework under which the Council has a duty to carry out Best Interest assessments is set out in the body of the report.

The Council is a contracting authority for the purposes of the Public Contracts Regulations 2015 (PCR 2015).

The contract is for Light Touch Services for the purposes of the PCR 2015. Its value falls below the EU Light Touch threshold relevant at the date it was advertised. Procurement of the Services must comply with the Treaty Principles of non-discrimination, equality of treatment, proportionality and transparency. The report sets out how these principles have been adhered to.

Procurement of the contract has been carried out in compliance with the Council's Contract Standing Orders for contracts between £100k and EU threshold.

A waiver to the Council's CSO's has been obtained allowing the evaluation criteria weighting (MEAT criteria) to be varied from the Council's standard 70:30 price:quality to 60:40 price:quality.

FINANCIAL IMPLICATIONS AND RISKS

The available budget for Best Interest Assessors is £104,200 per annum, and will come from the Adult Protection cost centre. Expenditure will only be incurred when referrals are made and providers will be paid a set rate per assessment completed. The current rate for an assessment is £375 for either in or out of Borough. The winning provider has costed their assessments at a reduced amount of £310 for in Borough and £315 for out of Borough assessments. This should result in savings based on the current numbers of assessment being maintained. However, if demand for assessments increases, and therefore the costs then exceed the budget available, any shortfall will need to be met by Adult Social Care.

The available budget for the full 15 months of the contract period (including the extension period of 3 months) is £130,250. If the maximum expected contract value of £150,000 is reached, due to the number of referrals made, the resulting shortfall of £19,750 will have to be met from within existing Adult Social Care resources.

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

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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:

- the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- 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. It is not anticipated that there will be any negative impacts arising from this proposal to current and future users of this service.

None

BACKGROUND PAPERS

Waiver dated 27/01/2020 published on 3/2/2020

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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

Details of decision maker

Signed 

Name: Barbara Nicholls

Cabinet Portfolio held:

CMT Member title: Director of Adult Social Care and Health

Head of Service title

Other manager title:

Date: 29th January 2020

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.

For use by Committee Administration

This notice was lodged with me on 11/02/2020

Signed 

