

Notice of Non-key Executive Decision

Subject Heading:	COVID-19 and External Day Centres and Direct Payments Provisions
Cabinet Member:	Councillor Jason Frost, Cabinet member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	Amy Reed, Senior Commissioner and Project Manager, 01708 431858, Amy.Reed@havering.gov.uk
Policy context:	Havering Council Pandemic Influenza Plan
Financial summary:	Continuation of existing four weekly payments of £229,629.89 be made to day centres, alongside usual direct payments made to customers, at a cost of £1,377,779.22 over a 6 month period, despite day centre closures and service reductions.
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	Yes

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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 report is seeking a decision to continue to make its regular payments to day centres to enable them to maintain their sustainability and, where appropriate, continue to provide a level of service to clients, at a cost of £229,629.89 per month, a total of £1,377,779.22 over a 6 month period. This is not additional funding but is maintaining funding despite the need for service closures.

The only exception to this is that, for direct payments, we are advocating that they continue to go both to the service users, and to the day centres. This is in effect doubling the expenditure to protect both service users and the day centre providers. The logic behind this is that direct payment users may need to spend their money on other COVID related support and the payment to day centres aids their sustainability. However if the direct payment users do not use their money, it will be recovered or 'clawed back', mitigating the impact of this recommendation. The amount involved in this is indicated in the direct payment table below.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3 Powers of Members of the Senior Leadership Team

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

General powers

- (a) To take any steps necessary for proper management and administration of allocated portfolios.
- (b) To exercise all the powers delegated to them personally and those powers delegated to Second Tier Managers and other staff members in their directorate where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a SLT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.
- (c) To make arrangements to secure continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness etc. as required by external regulatory agencies.
- (d) To monitor the progress within their Directorates of national and other performance indicators against agreed targets.
- (e) To restructure within existing service budgets and/or if budgetary provision is already made in the budget.
- (f) Each member of SLT shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout their service.

Financial responsibilities

- (a) To incur expenditure within the revenue and capital budgets for their allocated portfolio

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as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

(b) To oversee the delivery of programmes agreed by Council and Cabinet.

(c) In consultation with the relevant Cabinet Member to apply for, accept and manage external funding up to a limit of £500,000 per grant in support of any function within their Directorate provided that any financial contributions by the Council are made from within existing budgets.

(d) To authorise the making of ex gratia payments to individuals where the Ombudsman has recommended that such payment be made in local settlement of a complaint.

STATEMENT OF THE REASONS FOR THE DECISION

There has been a global outbreak of COVID: 19 virus.

The virus can be particularly dangerous to those over 70, those with underlying health conditions, those that are pregnant and others in high risks groups.

The UK government has entered into the delay phase in relation to the COVID-19 outbreak. Latest government advice has included the following:

- Social distancing measures
- Anyone in high-risks groups or over the age of 70 to self-isolate
- Anyone experiencing symptoms of COVID-19 to self-isolate for 7 days
- Anyone living with someone who has symptoms to stay at home for 14 days
- Closure of local amenities including schools and some public venues
- People to work from home as much as possible and avoid unnecessary travel

The latest situation changes rapidly.

Havering Council has activated its Pandemic Influenza Plan.

Havering has a number of local day centres who support clients with social care needs. Day centres are typically funded via one or multiple of the following:

1. Self-funders
2. Individual direct payments
3. Directly commissioned services for individuals
4. Other external means

Due to the COVID-19 measures and the implications of the outbreak, local day centres have experienced reduced numbers of attendance and are on course to close temporarily following a decision made during Bronze discussions.

Whilst this is designed to protect vulnerable people from COVID-19, there are potential implications that could have negative impacts in the short and long term that will need to be managed.

Current issues

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- Immediate financial implications have already been seen by day centres due to reduced attendance
- Reduced staffing levels have been experienced due to self-isolation measures and sickness
- There will be further financial implications for businesses due to temporary day centre closures
- There will be social implications for carers due to temporary day centre closures due to reduced respite i.e. work, mental wellbeing, ability to cope
- There will be implications for service users due to temporary day centre closures i.e. increased risk of social isolation
- There will be implications for staff working in day centres if decisions are made by providers to let staff go

Current risks

- Day centres could close permanently due to lack of income
- Local businesses who provide other social care services could be unsustainable and close other services due to financial impact of reduced day service funding
- Service users may not receive level of support needed due to closures and could be at risk of social isolation
- Carers could be unable to cope with supporting service users more frequently
- Day centre staff could be impacted by closure of day services, particularly financially
- Provider challenge due to inconsistent measures being applied

Market intelligence

As of 27-Mar, the majority of day centres have recently closed and are supporting their clients remotely where possible. However, some are remaining open for any small numbers of clients that urgently require support. See table 1.

Table 1: Open/Closed Status 31-Mar-2020

Service	Open?	Planned closure?
Eastway Care	No	N/A
Funky Willows	Yes	Yes – no meet ups are scheduled
Headway	No	N/A
Heathlands	No	N/A
HOPWA House	No	N/A
Jackson Café	No	N/A
New Opportunities Group	No	N/A
Osborne Partnership	No	N/A
Painsbrook Court	No	N/A
The Learning Centre	No	N/A
Treetops	No	N/A

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Trinity London Care	No	N/A
Vibrance	Yes	No – remaining open for those that urgently need support
Walter Boyce Centre	Yes	No – remaining open for those that urgently need support

Contact has been made with known day centres working with Havering residents to understand the current pressures and measures already in place.

A consistent concern arising from the market is the impact of income loss due to reduced attendances, where clients who regularly attend centres are self-isolating, and due to centres closing their front facing services.

It is recommended that Council funding be maintained to day centres to maintain sustainability whether through direct payments from service users or direct funding commissioned by social workers.

Direct payments

In some cases, so far, day centres are choosing to remain open. This can be because they are providing services to people with Learning Disabilities, who are outside of defined high risk groups.

For older people it is likely, because of the advice for those over 70 and in high risk groups to stay at home, that their day centres will close. However without categorical instructions some of the providers have yet to confirm.

For those day centres that remain open where service users receive direct payments, it is recommended that clients who use the day centre continue to pay with their direct payment.

Clients who are self-isolating and choose not to attend, should not pay for the place, and the Council will subsequently 'top up' the funding to average anticipated 4 weekly income. This will be communicated to the client and day centre provider.

The direct payments team will review the client accounts as part of the annual clawback and if the client does not spend their direct payment on other social activities during this period, this money can be recouped.

Data has been gathered to show the average monthly direct payment expenditure to each day centre, based on a 6 month period and this is detailed in Table 2 below.

Table 2: Direct payment expenditure

Providers	4 weekly average (Mar19-Feb20)
Eastway Care	£8,802.88
Essex Cares	£2,699.83
Headway	£3,687.92
LBBB Heathlands	£1,873.75
New Opportunities Group	£685.25

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Osborne Partnership	£916.33
Tapestry	£6,061.54
Jackson's Café/The Camden Society	£2,981.25
The Learning Centre	£42,555.62
Trinity London Care	£2,048.58
Vibrance	£6,677.26
Funky Willows	£4,828.90
Treetops	£37,248.51

Directly commissioned services for individuals

Another source of funding is where social workers commission a service for individuals directly. This means that day centres will receive payment direct from the council via invoicing, and not direct payments. Due to the fact that some day centres will be remaining open, it is recommended that the providers invoice as normal for the number of clients that are still attending the day centres, and the Council subsequently 'tops up' the funding to the average anticipated 4 weekly income. If a centre has already closed, or if any of these centres choose to close, the full amount will be paid.

Data has been gathered to show the average monthly directly commissioned expenditure paid to each day centre, based on a 6 month period and this is detailed in Table 3 below.

Table 3: Commissioned provider expenditure

Providers	4 weekly average (Feb19-Feb20)
Eastway Care	£32,955.42
Essex Cares	£3,952.81
Headway	£633.64
LBBB Heathlands	£19,251.25
Osborne Partnership	£650.57
Tapestry	£33,535.20
Jackson's Café/The Camden Society	£828.75
The Learning Centre	£2,680.90
Trinity London Care	£10,340.05
Vibrance	£3,733.67
Funky Willows	£0.00
Treetops	£0.00

Self-funders

Table 4 highlights that a small number of day centres have Havering clients who privately fund their attendance and support. Although it is not recommended at this time that day centres be reimbursed for those that typically attend and privately fund who are now not attending, intelligence will continue to be obtained from the market on the financial implications reduced attendance from private funders will have.

Table 4: Private funders

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Service	Private funders?	No. of private funder attendances per week*
Eastway Care	No	N/A
Funky Willows	No	N/A
Headway	No	N/A
Heathlands	No	N/A
HOPWA House	Yes	64
Jackson Café	Unknown	
New Opportunities Group	Yes	45
Osborne Partnership	No	N/A
Painsbrook Court	Yes	42
The Learning Centre	Yes	9
Treetops	Yes	2-3
Trinity London Care	No	N/A
Vibrance	Unknown	
Walter Boyce Centre	Unknown	

Investment

Using both commissioned and direct payment expenditure information, an average 4 weekly payment has been established for each provider.

This will enable the provisions that are closing or who are seeing reduced attendances to maintain their building and asset costs (rents etc.) during this period, and continue to pay their staff to remain working. Many providers already have plans in place to support their clients who are self-isolating. These conversations will be progressed over the coming weeks and months to establish the continuous support that will be provided to clients and their families who are no longer attending the day services.

Table 5: Total recommended payments to providers

Providers	4 weekly average (Mar19-Feb20)	6 monthly payment
Eastway Care	£41,758.30	£250,549.79
Essex Cares	£6,652.64	£39,915.82
Headway	£4,321.56	£25,929.35
LBBB Heathlands	£21,125.00	£126,750.00
New Opportunities Group	£685.25	£4,111.50
Osborne Partnership	£1,566.91	£9,401.43
Tapestry	£39,596.74	£237,580.43
Jackson's Café/The Camden Society	£3,810.00	£22,860.00
The Learning Centre	£45,236.52	£271,419.10
Trinity London Care	£12,388.63	£74,331.78
Vibrance	£10,410.93	£62,465.56
Funky Willows	£4,828.90	£28,973.38
Treetops	£37,248.51	£223,491.08
Total	£229,629.89	£1,377,779.22

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OTHER OPTIONS CONSIDERED AND REJECTED

Option 1: Do nothing, not recommended due to the risks involved.

PRE-DECISION CONSULTATION

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

Name: Amy Reed

Designation: Senior Commissioner and Project Manager



Signature:

Date: 20 March 2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The most extensive piece of legislation covering emergency powers is part two of the Civil Contingencies Act 2004 (CCA), which replaced the Emergency Powers Act 1920. This is designed to provide powers to the government to act in the event of a catastrophic emergency.

The Civil Contingencies Act 2004, ('the Act'), is the legal framework that sets out roles and responsibilities of emergency responders in England and Wales. All principal local authorities are category 1 responders under the Act. As such, they are, alongside the emergency services, some health bodies and the Environment Agency, subject to the full set of civil protection duties in the Act.

Under the Act, an emergency is defined as an event or situation which threatens serious damage to human welfare in a place in the United Kingdom, the environment of a place in the UK, or war or terrorism which threatens serious damage to the security of the UK

As a category 1 responder, the Council must perform its duties under the Act where the emergency is likely to seriously obstruct its ability to perform its functions, or where it considers it necessary or desirable to act to prevent, reduce, control, or mitigate the emergency's effects, or otherwise take action, and would be unable to act without changing the deployment of its resources or acquiring additional resources.

On 24 March 2020 Central Government issued guidance (**Coronavirus (COVID-19): early years and childcare closures**) which states:

“Childcare providers are responsible for caring for vulnerable children, and the children of workers critical to the coronavirus (COVID-19) response. Providers should try to remain open to support these children. However, we understand that this may not be possible for all settings, for example, due to staff shortages or illness.

Childcare providers should work with local authorities to agree the provision needed locally to support the needs identified.

Local authorities are responsible for coordinating a response to the new arrangements. Working with educational settings, they should use the [critical worker list](#) and the [definition of vulnerable children](#) to support childcare settings to ensure that there are sufficient places for the children of critical workers and vulnerable children.

Local authorities are also responsible for monitoring demand and capacity. This may involve working with childcare providers to provide places in alternative settings if necessary.

They are also responsible for supporting childcare providers to assess the risks for children and young people whose education, health and care (EHC) plans they maintain and ensuring those children are safely cared for whether at a setting or at

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home.

On 17 March 2020, [the Chancellor confirmed](#) the government would continue to pay for free early years entitlement places for 2, 3 and 4 year olds even if settings were closed on the advice of the government, or children were not able to attend due to coronavirus (COVID-19).

We expect local authorities to continue early entitlements funding for all childminders, schools and nurseries.”

By agreeing to the client department’s recommendation, and for the reasons set out within the body of the report the Council shall be upholding its responsibilities under the 24th March Guidance as well as its duties under the Act

FINANCIAL IMPLICATIONS AND RISKS

The current Public Health crisis is putting financial pressure on providers, and as such, it is recommended, that to maintain provider financial viability and to protect the Day Centre market, that existing payments to Day Care Providers is maintained based on current payment levels, despite some closures.

Where Day Centres are closing, staff are being utilised for alternative duties including delivery of food and client checks.

Direct payments will also continue to be paid as per current policy and any payments not used by clients will then be clawed back.

There are no additional costs associated with this proposal. The existing financial costs of payments to the existing Day Care providers and Direct Payments amount to £230k for a 4 week period and £1,378k over a 6 month period. Any resulting overpayments of Direct payments, as a result of this proposal, will be reclaimed from clients.

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

No direct HR implications.

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, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

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.

An EqHIA (Equality and Health Impact Assessment) is usually carried out when a current or planned service/policy/activity is likely to affect staff, service users, or other residents. It is acknowledged that in emergency or urgent situations it will not always be possible to carry out an EqHIA in advance of a relevant activity, however, managers will undertake the required EqHIAs at the earliest opportunity. Where managers are already clear that protected groups/users will be impacted negatively by the intended activity, then this will be noted in the next paragraph and/or put into EqHIAs. Where the negative impact of the intended activity can be mitigated, this too should be set out in this report and/or the EqHIA.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all.

BACKGROUND PAPERS

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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 & Health

Head of Service title

Other manager title:

Date:

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 _____

Signed _____