

Notice of Non-key Executive Decision

Subject Heading:	Waiver to allow direct award of NHS Health Check contracts to Havering General Practitioners
Cabinet Member:	Councillor Jason Frost, Lead Member for Public Health
SLT Lead:	Mark Ansell, Director of Public Health
Report Author and contact details:	Chris Atkin, Commissioner and Project Manager 01708 434480 Chris.atkin@havering.gov.uk
Policy context:	The NHS Health Check Programme is a statutory Public Health Service as outlined in the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations (2013), sections 4 – 5.
Financial summary:	Current budget for NHS Health Checks is £200k per annum utilising a payment by results model and funded by the Local Authority Public Health Grant.
Relevant OSC:	Public Health
Is this decision exempt from being called-in?	No, 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 report seeks authority to waive two of Havering's Contract Procedure Rules to allow for a direct award (submitted via separate Non-Key Executive Decision paper, attached) of NHS Health Check contracts to the General Practitioners practicing within Havering. Rules to be waived stated in the CPR outlined below:

9.9 “Unless stated elsewhere in the CPR or for reasons of extreme urgency, each procurement with an estimated value of £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.”.

22.3 “All contracts with a value over £100,000 shall be on the Council approved standard terms and conditions for that type of contract”

AUTHORITY UNDER WHICH DECISION IS MADE

The Council's Contract Procedure Rules provides for waivers to be approved. Paragraph 14.1 states that waivers can be permitted upon approval by an individual Cabinet member using an Executive Decision.

STATEMENT OF THE REASONS FOR THE DECISION

The NHS Health Check Programme is a nationally mandated service which aims to reduce the chance of heart attack, stroke or developing some forms of dementia in people aged 40 – 74. It achieves this by via assessment of the top seven risk factors impacting the burden of non-communicable disease in England, and providing service users with behavioural support and, where appropriate, treatment.

The objectives of the programme have been outlined below:

- 1) To promote and improve the early identification and management of the individual behavioural and physiological risk factors for vascular disease and the other conditions associated with those risk factors.
- 2) To support individuals to effectively manage and reduce behavioural risks and associated conditions through information, behavioural and evidence based clinical interventions.
- 3) To help reduce inequalities in the distribution and burden of behavioural risks, related conditions and multiple morbidities.

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- 4) To promote and support appropriate operational research and evaluation to optimise programme delivery and impact, nationally and locally.

The applicable exception to a formal tender exercise as outlined in the CPR is:

14.6.2 “*Specialist services/supplies – available only from one supplier in the European Union – for example, specialist niche consultants or supplies*”

NHS Health Check invitations rely on confidential medical data that is held by General Practices only, it is a nationally mandated programme by NHS England. There are no other suppliers other than GP's registered with CQC within Havering that are permissible to carry out this service for a competitive tender exercise to be undertaken. Any other private healthcare suppliers outside of the borough would need to factor in costs in administrative tasks, the logistical impact on supplying health checks to service users within a different geographical setting and the need for a comprehensive GDPR risk assessment and information sharing agreement for a large number of eligible population. These constraints do not represent best value to the Council.

22.3 “All contracts with a value over £100,000 shall be on the Council approved standard terms and conditions for that type of contract unless:

- i. The Council's standard terms and conditions are not appropriate for the particular contract”.**

Public Health standard terms and conditions will be used for this contract as it is a Public Health programme funded by the Public Health Grant.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1 – Do nothing and do not contract General Practitioners to provide an NHS Health Check service.

This option was rejected as the program is nationally mandated and the local authority has a duty to be compliant.

PRE-DECISION CONSULTATION

The contract has been discussed at the NHS Health Check working group and has been discussed with public health, procurement and legal colleagues.

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

Non-key Executive Decision

Name: Chris Atkin

Designation: Commissioner and Project Manager

Signature: C.Atkin

Date: 22/05/2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Under the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013, the Council has a duty to provide or make arrangements to secure the provision of health checks to be offered to eligible persons in its area.

This Report seeks approval to directly award a contract to each General Practitioner in the Borough without undertaking a competitive process as required by the Council's Contract Procedure Rules.

Therefore a waiver of CPR9.9 is required, which states that a procurement valued at £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.

CPR14.1 provides that a waiver of the Rules is permissible if approved by an individual Cabinet member using an Executive Decision, with a report setting out the background, the rule to be waived, the reasons why the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and with the approval of the Director of Law and Governance and the Chief Executive.

Furthermore, one of the exceptions to the competition requirements listed within the Contract Procedure Rules must apply. The relevant exception in this circumstance is 14.6.2 (Specialist services/supplies - available only from one supplier in the European Union). The only supplier that can perform the service is the individual's General Practitioner.

As the value of the proposed contract is well below the threshold for Light Touch Services (as listed in Schedule 3 of the Public Contract Regulations 2015), the proposal in this report will comply with relevant law provided that the service area can show that the award is in accordance with the Council's statutory duty under section 3(1) of the Local Government Act 1999 to achieve best value through all contracts it procures.

Officers have satisfied themselves that the waiver requirements above have been met in this instance and that this award represents the best value for the Council overall.

FINANCIAL IMPLICATIONS AND RISKS

The cost of the NHS Health Check Programme will be met via the Public Health ring-fenced grant from Cost Centre A48004 (NHS Health Checks).

A budget of £200k is available for this contract in 2020/21, and actual costs are determined on a payment by results basis. Previous years costs have always been less than £200k, and due to the Covid pandemic, lower activity is expected on this contract during 2020/21, resulting in a further anticipated saving against this budget line.

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In light of the Covid-19 pandemic, all business as usual activities have ceased, including contract and procurement and the Council has been unable to complete the procurement exercise for a new contract. Any savings associated with the re-tender of this contract will be revisited when the current procurement restrictions are lifted.

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 affect either the Council or its workforce.

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

None

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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

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name: Cllr. Jason Frost

Cabinet Portfolio held:

CMT Member title:

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 _____