

Notice of KEY Executive Decision

Subject Heading:	Approval to award Taxi Services Dynamic Purchasing System Contract
Cabinet Member:	Councillor Robert Benham, Cabinet member for Education, Children & Families and Deputy Leader of the Council
SLT Lead:	Robert South, Director of Children's Services
Report Author and contact details:	Amy Reed, Senior Commissioner and Project Manager, 01708 431858, Amy.Reed@havering.gov.uk
Policy context:	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.
Financial summary:	The budget for this procurement will come from both Children and Adult budgets. Contracts will be awarded under a dynamic purchasing system framework which will have no minimum or maximum value, nor will any commitment to expenditure by the Council be stipulated within the contracts. Expenditure will only be incurred when individual routes are purchased. The indicative annual contract value will be £1.2 million and £6 million over the 5 year contractual

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	period. There are Medium Term Financial Strategy (MTFS) savings identified in Children Service against the project for 2020-21 to 2022/23 which this contract is expected to contribute towards.
Reason decision is Key	Expenditure of £500,000 or more
Date notice given of intended decision:	31 st July 2020
Relevant OSC:	Children and Learning
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

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

- 1.1 This decision paper is seeking approval to:
- 1.2 To approve the admission of suppliers onto the Taxi Services Dynamic Purchasing System (DPS) during the 5 year contract period, and to enter into relevant contract documentation.
- 1.3 To delegate to the Head of Joint Commissioning and/or Head of Passenger Transport Services the power to undertake a call for competition and to award the subsequent call-off contracts on the DPS up to the value of £500,000 during the contract period, and to enter into relevant contract documentation.
- 1.4 To approve the waiver of Contract Procedure Rules (Contract Standing Order 18.4) to change the call for competition evaluation weightings of 70% price and 30 % quality ratio to a weighting of 100% quality.

AUTHORITY UNDER WHICH DECISION IS MADE

Section 2.5 of Part 3 [Responsibility for Functions] of the Council's Constitution.

(h) To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £5,000,000 and up to £10,000,000 and contracts where external funding is guaranteed and there is no longer term financial commitment to the Council.

The Council's Contract Procedure Rules (CPR) 14.1 Waivers.

14.1 No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an Executive Decision or by some other provision in this Rule. The report shall set out the background, the rule being waived, the reasons the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and shall be approved by the Director of Legal and Governance and the Chief Executive.

14.2 Authority to waive any provision contained in CPR will only be permissible if it does not infringe EU or National legislation and is subject to the Council's Scheme of Delegation.

STATEMENT OF THE REASONS FOR THE DECISION

2. Reasons for the decision:

- 2.1 Establishing a DPS will ensure that all Suppliers have been quality assured and

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evaluated in a consistent standardised way. This DPS will also reduce the need for spot purchasing by allowing an unrestricted number of Suppliers to be awarded contracts to deliver services. The DPS is therefore considered to be the most appealing procurement solution for the following additional reasons;

- a) Compliance with national and EU regulations in relation to the purchasing of services
- b) A structured and transparent process for individual routes that come through the home to school travel assistance, children's services or adult social care pathways respectively
- c) Robust governance protocols and processes in place to manage the DPS effectively
- d) Improved efficiency for purchasing individual taxi routes
- e) The DPS will make it easier for new providers in the market to bid to provide services
- f) Contracts will improve accountability, performance, outcomes and quality assurance
- g) The DPS will contribute to Havering achieving better value for money
- h) The DPS will enable organisations to continue to deliver support throughout the transitional period from young person to adult
- i) Opportunities for an increase in the number of organisations providing services leading to a wider range of service provision and customer choice
- j) Suitably qualified and experienced private and voluntary providers can join the DPS at any time by successfully completing the evaluation process

3. Statutory duties

3.1 The Education Act 1996 requires local authorities to make suitable and, where eligible, free travel arrangements for 'eligible children' as they consider necessary to facilitate attendance at school and this duty underpins the Council's Home to School Travel Assistance Policy, which is refreshed annually. This can include the provision of regular scheduled taxi's being required.

3.2 The Care Act 2014 requires local authorities to meet the care and support needs of adults who meet the national eligibility criteria. This can include the provision of taxi services as part of a scheduled service or on an emergency or ad-hoc basis.

4. Background

4.1 Individual routes are currently spot purchased from a small pool of providers in the absence of a structured system for awarding contracts to providers and purchasing services from them. The pathway is used for most taxi services who meet the Education Act 1996 and Care Act (2014) eligibility criteria for the following cohorts;

- Children and young people with special educational needs and disabilities
- Children in care
- Looked after children

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- Adults with learning disability
- Adults with mental health needs
- Adults with needs resulting from physical and/or sensory disabilities
- Older people with complex needs
- Other vulnerable adults who meet Care Act eligibility criteria

4.2 There is a statutory duty on Councils to provide care and support to those in need as provided under the Education Act 1996 and Care Act 2014.

5. Dynamic Purchasing System (DPS)

5.1 A DPS is a procedure available for the contracts of works, services and goods available from the marketplace. A DPS has similar aspects to a framework agreement, but, subject to key criteria being met, allows an unlimited number of suppliers to join at any time.

5.2 The suppliers will be identified using the Council's e-tendering portal 'capitalSourcing'. The DPS will be operated using the Council's web based, 'ATLAS' dynamic purchasing system. This system is an electronic commissioning tool for purchasing various individual packages of care and support.

5.3 In summary, the purpose of this DPS is to:

- a) Replace the existing spot contracting arrangements with an additional, more dynamic and flexible contractual arrangements
- b) Ensure our supply market of suppliers is able to grow sustainably and flexibly to deliver the requirements now and for the future
- c) Support adding social, environmental and economic value through good procurement practice
- d) Ensure that the Council has access to consistent high quality taxi providers
- e) Ensure that the Council secures best 'market value' in terms of cost and quality of service
- f) Provide a more robust mechanism to avoid non-compliance and negate use of spot contracts; thereby reducing scope for inequality of access and outcomes

5.4 Suppliers can apply at any time for inclusion onto the DPS and unsuccessful suppliers can reapply should they fail initially (having corrected any disqualifications). The tender remains open throughout its duration for the admission of any supplier that satisfies specified qualification criteria. Procurement regulations permit flexibilities to be built into Dynamic Purchasing Systems at their start that allow subsequent changes in the way they are implemented to be applied over time, enabling the system to evolve in line with changing needs.

6. Service types

6.1 The following services are included in this DPS:

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(a) Lot 1: Taxi service only

This lot includes opportunities for scheduled and ad-hoc routes. Vehicles required under this lot include saloon cars, estate cars and Hackney carriage cars with a minimum of three passenger seats in the back.

(b) Lot 2: Taxi service and passenger assistant

This lot includes opportunities for scheduled and ad-hoc routes. Vehicles that may be required under this lot include taxis, saloon cars, MPV's or a wheelchair accessible vehicle. Opportunities under this lot will require a passenger assistant to be made available who can accompany the Service User who may have different special educational needs and/or disabilities. The passenger assistants must have undertaken the appropriate training as set out in the service specification.

(c) Lot 3: Wheelchair accessible taxi service

This lot includes opportunities for scheduled and ad-hoc routes. Vehicles required under this lot are taxis that have been manufactured, capable or adapted specifically for the carriage of wheelchair passengers. This can include Hackney carriage cars, accessible estate cars and MPV's with tail lifts. Taxis are required to, at a minimum, support one wheelchair user plus a passenger assistant. Occasionally, taxis may be required to support 2-4 wheelchair users.

(d) Lot 4: Multi-purpose vehicles (MPV's)

This lot includes opportunities for scheduled and ad-hoc routes. Vehicles required under this lot are MPV's (also known as mini-vans or people carriers) with a capacity of seven passenger seats.

(e) Lot 5: Secure transport service

This lot includes opportunities for scheduled and ad-hoc routes. Vehicles required under this lot must be suitable and appropriate to transport Service Users who require safe and secure transport. Staff will be trained in the appropriate techniques in relation to physical intervention. Both driver and passenger assistant(s) are required to undertake the necessary training set out by the Council.

(f) Lot 6: Immediate support

This lot will be used when an immediate service is required to transport an individual in a taxi between locations. Suppliers are invited to bid for this lot if they can respond to a request for a taxi journey to start within 60 minutes of receiving the notification at any time. They must be open to accept work 24 hours a day, 7 days a week.

7. Procurement Approach

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7.1 This procurement was subject to and adhered to the Council's Contract Procedure Rules. The procurement followed a formal tender process in line with the EU procurement process in accordance with the Public Contracts Regulations 2015, which require compliance with principles of non-discrimination, equal treatment and transparency.

7.2 This DPS procurement is following a two stage process:

- 1) Stage 1: Admission - The first stage is concerned with setting up suppliers to join the DPS. Under this stage suppliers are invited to apply to join the DPS. Suppliers complete and submit a response in the form of the standard selection questionnaire. Those who meet this initial selection criteria will be invited to Stage 2.
- 2) Stage 2: Call-off/Individual Service Agreement: The suppliers who meet the initial selection criteria will be required to sign up to a DPS Agreement and may subsequently be invited to follow a competitive call off process for individual routes which will form part of the Individual Service Agreement.

7.3 The weighting for Stage 1 of this DPS is 100% quality. The ground for the waiver is set out in CSO 14.6.6 Best Interests of the Council where it is, "in the best interests of the Council or the Borough for a provision in these Rules to be waived to enable contract procurement to be rapidly progressed while still complying with European procurement rules". The justification for the waiver is because of the following reasons;

- a) It is difficult to evaluate price at this stage as individual route costs vary according to the specific individual needs of each service user and distance travelled
- b) This contract relies on the Council attracting multiple bidders joining the framework to encourage and promote competition for individual routes
- c) Competition and best value for the Council will be more appropriately tested at Stage 2 when individual routes are purchased via the dynamic purchasing system under a 70% cost 30% quality ratio
- d) A focus on quality is required as Council expectations in relation to quality and standards have never been set and then evaluated in this market

7.4 At Stage 2, the DPS will comply with the Council's procedure rules when evaluating each individual route that is purchased through the DPS. Suppliers will be required to submit a detailed schedule of costs at this stage to enable the Council to effectively evaluate and ensure best value for money. Quality will also be evaluated at this second stage and will consider Social Care's assessment of the supplier's suitability to meet the client's needs, supplier capacity to deliver the route and the impact of the service user and/or family/carers.

7.5 This DPS seeks suppliers that can demonstrate experience, skills and capability to provide the range of services specified in the tender. Suppliers were assessed on a range of quality and compliance factors providing evidence of their ability to deliver high quality compliant services, recruit and manage human resources,

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improve outcomes, safeguard service users, and manage and resolve complaints effectively.

7.6 The Council is using a version of its standard terms and conditions for the provision of these services with appropriate break and contract modification clauses. The contracts include service specification requirements including the need for suppliers to report on service user outcomes and service performance. Performance management will be carried out by the Council as part of agreed contract monitoring arrangements.

7.7 The Council published the required Contract Notice in February 2020. The suppliers that contacted the Council in response to a Prior Information Notice and those that attended the Supplier Information Event in August 2020 were informed of the opportunity. Suppliers who expressed an interest in the tender were required to use capitalEsourcing, the Council's E-Procurement system to prepare and submit their bids.

8. Project Governance

8.1 In order to deliver this project, a project management structure was formed in January 2020. This included establishing a Project Board that meets regularly once a month to coordinate and monitor the progress of the project. The Project Board members included representatives from Children's Social Care, Adult Social Care, Joint Commissioning Unit, Procurement, Passenger Transport Services, Legal Services, Education Services and Finance.

8.2 The Project Board's business included preparing and approving the documents for the tender, hosting a Supplier's Information Event and evaluating the bids.

9. Evaluation

9.1 At Stage 1, a pass against the pre-qualifying questions is required to join the DPS. The evaluation at this stage focused on examining how suppliers proposed to deliver a quality and compliant service. The quality criteria were;

- a) Mandatory and discretionary exclusion grounds
- b) Economic position
- c) Quality management systems
- d) Insurance
- e) Vehicle and driving license compliance
- f) Vehicle route tracking
- g) Sustainability and environment
- h) Experience of service delivery
- i) Staff and customer service
- j) Managing and responding to safeguarding
- k) Managing human resources
- l) COVID-19 compliance
- m) Managing risks effectively

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- 8.2 In total, 13 suppliers submitted an interest in the tender within the first round. Five suppliers completed and submitted their bids and were evaluated within the first round.
- 8.3 Project Board members evaluated the bids over a three week period from 31st August 2019 – 18th September 2020. Following this, evaluators met to agree the scores and recommend the Suppliers for admission to the DPS. In summary, one suppliers are recommended to join the DPS in this award decision. Additional suppliers will be evaluated within the second round.
- 8.4 Once approved by Cabinet, all suppliers who submitted bids will be informed of the Council's decision in writing via the capitalEsourcing system. Following acknowledgement of the Council's decision, arrangements will then be put in place to sign the contracts with suppliers for admission at Stage 1. Stage 2 of the DPS will commence from October 2020 which will involve the Council awarding call off contracts (aka Individual Placement Agreements) for each individual route.

OTHER OPTIONS CONSIDERED AND REJECTED

- 1. Option 1 – Do nothing:** Current agreements with Suppliers have varying quality standards and pricing which together with the administration of spot purchasing governance and documentation has resulted in an inefficient process that does not deliver proven value for money. If the Council does nothing this will continue to add pressure to service budgets and provide an inconsistent service. Rejected.
- 2. Option 2 – Join an existing framework:** There are no suitable existing frameworks in place that will enable the Council to specify the providers and standards of delivery it requires across the geographical boundaries stipulated in our tender. Rejected.

PRE-DECISION CONSULTATION

The pre-decision consultation has involved engaging with a number of stakeholders for the tender. In summary, the following table presents the type, methods and stakeholders engaged in the pre-decision consultation;

Type	Methods	Consultees
Project Board	Formal regular meetings phone, email	a) Joint Commissioning Unit b) Children Social Care c) Adult Social Care d) Legal Services e) Procurement f) Finance g) Passenger Transport

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			Services h) Education Services
Prior Information Notice	Notice published via the Council's procurement system		a) Current providers b) Other interested providers in the market
Market Engagement Event	Series of meetings held with potential suppliers		a) Interested providers in the market

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

Name: Amy Reed. Senior Commissioner and Project Manager

Designation: Joint Commissioning Unit

Signature:



Date: 23 September 2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

- 1.1 The Council is a local authority as defined by section 270 of the Local Government Act 1972. Section 1 of the Localism Act 2011 affords the Council a power of general competence “to do anything that individuals generally may do”. Section 2 of the same Act sets out the limits of that general power, requiring local authorities to act in accordance with statutory limitations or restrictions. The Council also has a general power under section 111 of the Local Government Act 1972, “to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of its function”, including enter into the arrangements proposed in this report.
- 1.2 The Council has a duty under section 508(b) of the Education Act 1996 (as amended) and section 30 of the Children and Families Act 2014, to make such arrangements as it may consider necessary to secure that suitable home to school travel arrangements for eligible children in its catchment area. It also has a general duty under section 1 of the Care Act 2014 to promote the well-being of individuals. “Well-being” in relation to an individual is defined within the 2014 Act as including control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided).
- 1.3 On 25 September 2020, the (Checkpoint) Gateway Stage 02 review panel considered the results of the tender exercise prior to award being made, in accordance with the Contract Procedure Rules (CPR) 8.3.
- 1.4 CPR 18.4 prescribes that, “*Tenders will be evaluated against pre-determined best price-quality ratio of 70% cost and 30% quality weighting.*”
- 1.5 Under CPR 14.1 an individual Cabinet member may approve an exception to the CPR using an Executive Decision or by some other provision in the rule. Waivers may be approved if, “the contract falls within one of the exceptions listed in CPR 14.3; the Competition Financial Thresholds Exceptions, is fully and properly completed and signed by the relevant Member of SLT; and the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.”
- 1.6 Under section 2.5(h) of Part 3 [Responsibility for Functions] of the Council’s Constitution, individual Cabinet members may be delegated functions, within the portfolio allocated to him or her by the Leader including, “*To award contracts, agree extensions of contract terms and awards/extensions of Consortia contracts of a value above £5,000,000 and up to £10,000,000...*”
- 1.7 Notice of any relevant contract awards must be placed in the Official Journal of the European Union and the details must be entered on Contracts Finder.

FINANCIAL IMPLICATIONS AND RISKS

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The indicative annual value of the contract is £1.2m per annum (£6m over the life of the 5 year contract. The costs of taxis will be met from existing budgets held predominantly by Children's and Adults Services.

Expenditure on Taxi Services over the last 5 financial years are shown in the table below, with costs expecting to increase further. The DPS should allow for more competition in the market and therefore a slight reduction in price may occur, via the avoidance of spot purchasing at higher rates.

Taxi Expenditure over Financial Years

Service	2015/16	2016/17	2017/18	2018/19	2019/20
Home to school travel assistance pre-16 – A33520	£450,936	£528,151	£578,837	£935,235	£945,064
Home to school travel assistance post-16 – A33540	£94,419	£163,217	£173,798	£222,920	£227,941
Ad-hoc children with disabilities	£0.00	£0.00	£2,943	£4,715	£270
Looked after children	£59,673	£16,508	£40,085	£33,357	Not split from above
PRU	£56,451	£22,992	£5,992	£0.00	
Vulnerable	£0.00	£0.00	£35,000	£5,126	
Adults social care	£8,919	£13,331	£5,861	£20,861	£2,744
Total	£670,398	£744,199	£842,516	£1,222,214	£1,176,019

It will be the responsibility of the relevant service managers to ensure there is sufficient funding available to cover the costs of the DPS contract. If costs were to increase over the earmarked financial resources these would need to be met from within existing service budgets for Adults and Children's Services. However, should the procurement of the DPS framework identify any saving in taxi costs, this will be retained by the relevant services.

The MTFs savings of £0.080m (over 3 financial years) associated with the wider travel assistance project, of which the procurement of the DPS framework for taxis is a part of, (£0.045m in 2020/21, £0.030m in 2021/22 and £0.005m in 2022/23). A further MTFs saving has been associated with SEND passenger transport of £0.100m in 2020/21. It is expected that any savings realised from the Taxi Services DPS Framework will either be reinvested in transport provision to other client groups, and/or contribute towards existing MTFs transport savings targets within the Children Service.

HUMAN RESOURCES IMPLICATIONS AND RISKS

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(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, 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.

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

This Complex Placements Dynamic Purchasing System (DPS) will have a positive impact on the health and well-being of people with care and support needs by the ability to set the criteria to meet the needs of a service user and to meet the quality outcomes including health and wellbeing. By allowing choice and competition to meet a service user's requirements, it will improve access to high-quality taxi services and reduce health inequalities related to these vulnerable groups:

- Adults with a learning disability
- Adults with mental health needs
- Adults with needs resulting from physical and/or sensory disabilities
- Older people with complex needs
- Other vulnerable adults who meet Care Act eligibility criteria
- Looked after children
- Children in care
- Children with special educational needs and disabilities

Through the DPS, the Council will ensure that each route commissioned will deliver personalised and continuity of care with the service user's involvement that helps them achieve their outcomes. This is made possible by the relevant panel who will carefully award individual routes. Promoting health and well-being will be an essential aspect of each travel care plan, and suppliers are required to report to the Council on each service user's health and well-being outcomes, including;

- Promoting the independence of individuals to lead the life they wish
- Mental health and wellbeing
- Access to and quality of education or other training opportunities
- Access to green space, sports facilities and opportunities to be active
- Opportunity to interact socially with other people, social isolation,
- Community support networks and being able to live independently
- Ability to access health and social care services
- Transport, and connections to places within or between the Borough

This DPS will lead to an improvement in the quality of life, health and wellbeing for the service users in supported.

BACKGROUND PAPERS

Not applicable

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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:

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 Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____