

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Approval to waive a provision contained in Contracts Procedure Rules to directly award Independent Travel Training Programme contract to Disablement Association of Barking and Dagenham (DABD) for 12 months
<b>Cabinet Member:</b>	Councillor Robert Benham, Cabinet Member for Education, Children and Families and Deputy Leader of the Council
<b>SLT Lead:</b>	Robert South, Director of Children's Services
<b>Report Author and contact details:</b>	Amy Reed, Senior Commissioner and Project Manager <a href="mailto:Amy.Reed@havering.gov.uk">Amy.Reed@havering.gov.uk</a> 01708 431858
<b>Policy context:</b>	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.
<b>Financial summary:</b>	The contract value will be up to £30,000 for the 12 month period. The costs will be met from existing Children's Service budgets allocated to Transport Services.

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<b>Relevant OSC:</b>	Children and Learning
<b>Is this decision exempt from being called-in?</b>	No

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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

1. This decision paper is seeking approval to:
  - 1.1. Directly award the Independent Travel Training contract with Disablement Association of Barking and Dagenham (DABD) through a waiver agreement for a 12 month period, at a total value of up to £30,000. DABD have provided Independent Travel Training services to Havering Council from 31 August 2016 to 31 August 2020 via a Call-Off from a Framework Agreement with London Borough of Redbridge.
  - 1.2. The rules to be waived stated in the Contract Procedure Rules are outlined below:
    - 9.8 “For a procurement valued between £25,000 and £99,999.99 inclusive, an Officer is required to obtain at least 3 comparable written quotations using the e-tendering suite Request for Quotation procedure.
    - 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 (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. Background information

- 2.1. The Independent Travel Training programme is provided as part of the Council's Home to School Travel Assistance Services to children and young people with special educational needs and disabilities who require support and encouragement to travel independently.

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2.2. The service involves the provision of Independent Travel Trainers, and an Independent Travel Training Programme, to enable current and future service users to travel independently; promoting independence, with a view to enabling independent travel, so service users are able to build confidence and learn skills to use the options of using various modes of transport or walking to reach any destination safely.

2.3. The Council has contracted with the Service Provider, DABD, from 31 August 2016 via a Call-Off from a Framework Agreement operated by London Borough of Redbridge. The Service Provider operated for a period of two years. At the discretion of the Participating Authorities, the contract period was extended for a further 12 months in 2018 and an additional 12 months in 2019 by utilising the existing two year extension periods available.

### **3. Waiver to direct award**

3.1. The Council is requesting permission for a waiver to directly award the contract to DABD for Independent Travel Training Services for a further 12 months as the contract falls within one of the exceptions listed in this Rule 14.4 i.e. it is in the Council's best interests to waive the CPR in order to rapidly progress commissioning plans of the future delivery of the services to support the Council achieving value for money.

The Council has no obligation to guarantee the level of work awarded to the Service Provider, however the budget for the contract enables the expenditure of up to £30,000 per annum for Independent Travel Training Services.

3.2. The budget for the service provision will be met through existing Transport budgets for special educational needs and disabilities (A33900 and A33920).

### **OTHER OPTIONS CONSIDERED AND REJECTED**

1. Do nothing: Let the existing contract expire and cease operation of Independent Travel Training services for Havering residents. Not in the Council's best interests.
2. Bring the service in house: The Council does not currently have the required expertise to operate the service provision in house.
3. Recommission the service in the open market: Not in the Council's best interests at this time.
4. Commission the service with a London Borough operating an in-house service: Not in the Council's best interests at this time.

### **PRE-DECISION CONSULTATION**

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The contract has been discussed at the Passenger Transport Board and with the current service provider, procurement colleagues and operational colleagues.

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

Name: Amy Reed

Designation: Senior Commissioner and Project Manager

A handwritten signature in black ink, appearing to read 'Amy Reed', is written over a horizontal line. The signature is stylized with a large, sweeping initial 'A'.

Signature:

Date: 18-August-2020

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

1. This report seeks individual Cabinet member approval to award a contract by an exception to the Contract Procedure Rules (CPR). This report sets out the background, the rule being waived, the reasons the waiver is required, and how value for money will be demonstrated.
2. CPR 9.8 prescribes the competitive processes under which contracts of this value must be awarded by the Council i.e. *“Officer is required to obtain at least 3 comparable written quotations using the e-tendering suite Request for Quotation procedure.”*
3. 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.”*
4. The proposed (and historic) contract value is below the Official Journal of the European Union (OJEU) threshold for services (currently £189,330). In line with CPR 14.2, the waiver request does not infringe EU or National legislation; is subject to the Council’s Scheme of Delegation; and is permissible.

### FINANCIAL IMPLICATIONS AND RISKS

The cost of £30k for a 12-month contract period for the DABD service will be met from within existing transport budgets for Special Educational Needs and Disabilities.

A total budget of £1.024m exists for private contractor payments on cost centres A33900 (Short Breaks for Disabled Children) and A33920 (Children’s with Disabilities Team) within which the costs of this contract extension will be funded.

### 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;

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(iii) Foster good relations between those who have protected characteristics and those who do not.

‘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.

DABD must comply with the policies and procedures laid out by the council when undertaking their independent travel training contract.

An EQHIA is not needed at this time as one was written for the original contract and nothing has changed other than an extended end date and the service is specific for those children with SEND.

**BACKGROUND PAPERS**

N/A



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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*

**Details of decision maker**

Signed



Name: Robert South

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 \_\_\_\_\_

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