

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	Approval to proceed with an open tender process for a DPS for Semi Independent and supported housing providers
<b>Cabinet Member:</b>	Councillor Robert Behnam
<b>SLT Lead:</b>	Robert South, Director of Children Services
<b>Report Author and contact details:</b>	Georgina Shapley <a href="mailto:Georgina.shapley@havering.gov.uk">Georgina.shapley@havering.gov.uk</a> 01708 433404
<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>	<i>Forecasted yearly spend at £1.5 Million, over six years is approximately £9,000,000</i>
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	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 checked="" type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

## **Part A – Report seeking decision**

### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

1.1 The purpose of this report is to seek approval to commence an open tender process to establish a 6 year term dynamic purchasing system operating on the Council's ATLAS platform for semi-independent and supported housing providers with the following six categories and as further set out in this report:

1. 16-18+ Semi- Independent Accommodation - Minimal Support
2. 16-18+ Semi- Independent Accommodation - Therapeutic/additional support
3. 18+ Shared House - Welfare Check
4. 18+ Standalone Accommodation - Floating Support
5. 18+ Standalone Accommodation - Therapeutic/additional support
6. 18+ HMO - Welfare Check

### **AUTHORITY UNDER WHICH DECISION IS MADE**

Havering Council's Constitution, Part 3.3 Powers of Members of the Corporate Management Team; Contract powers (a) To approve commencement of a tendering process for all contracts above a total contract value of £500,000.

### **STATEMENT OF THE REASONS FOR THE DECISION**

#### **Background and context**

The main purpose of the Children (Leaving Care) Act 2000 and Volume 2 & 3 of the Children Act (Care Planning/Transition to Adulthood) is to help Young People aged 16-18+ who have been looked after by a local authority move from care into living independently in as stable a fashion as possible.

To do this it amends the Children Act 1989 to place a duty on local authorities to assess and meet need. The responsible local authority is under a duty to assess and meet the care and support needs of eligible and relevant children and young people and to assist former relevant children, in particular, in respect of their employment, education and training.

Children in care and care leavers are some of the most vulnerable children and young people in society. Every child and young person should have access to a stable and secure placement, in accommodation that can meet their needs and most importantly, keep them safe. Most children in the care system are placed in foster care or children's homes, which are regulated by Ofsted.

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A growing number of children, particularly older children and Unaccompanied Asylum-Seeking Children, are being placed in semi-independent settings, which are not registered or inspected by Ofsted.

These placements form a vital part of the care system in meeting the needs of older children who are ready to live with an increased level of independence.

*Semi Independent accommodation provision is used/commissioned when young people over the age of 16 need support to live independently rather than needing full-time care.*

*Unregulated provision is allowed in law.*

However, there are concerns that semi-independent settings are not always adequate and lack quality controls, as a result some children are being placed at risk and/or in settings that cannot meet their needs. Typically these young people are placed in **unregulated** provisions.

A recent government report (feb 2020) indicated that the number of children in care aged 16 or 17 placed in unregulated settings has increased from 2,900 in 2009 to 6,100 in 2019. We want to ensure these placements are good quality. It is unacceptable for any child or young person's placement to not meet their needs and or keep them safe, for any amount of time.

The Department of Education (DFE) have called for reforms to unregulated provision for children in care and care leavers. A government consultation was launched on 12<sup>th</sup> February 2020 seeking views on proposed new measures to ensure that the use of semi-independent provision provides the right level of support and does not place children in care and care leavers at risk.

The DFE commissioned research into the *use of unregulated and unregistered provision for children in care*, the key findings from this report outlined that there is a clear distinction between 'planned' and 'unplanned' placements. Planned placements usually undergo quality assurance, whereas unplanned placements are made in 'emergency' situations and are usually 'spot purchased' which tend to have fewer quality assurance checks in place.

The proposals include, *introducing new checks and balances into the system to drive up the quality of provision, including national standards*. As there is a national push to bring in these reforms, it is vital to ensure the local authority can demonstrate that young people are placed in the most appropriate placements, which can achieve positive outcomes towards independence.

## Current Position

### Semi-Independent Framework

Havering Council currently has a framework agreement for provision of semi-independent living accommodation. The Semi Independent Framework has ten providers and acts as an approved provider placements list for the commissioning of non-registered/unregulated residential accommodation and support services. Only six

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out of the ten providers actively engage with the framework. The framework expired on 31 July 2020. Although the framework has expired, the current contracts remain in place under the same terms for the young people placed.

The current framework for commissioning of Semi Independent provision has been reviewed and despite staff utilising capital sourcing, there remains limited engagement from providers on the framework. It has been identified that the current framework remains inflexible and does not meet the level or complexity of demand which is resulting in an increase in spot purchasing taking place outside the **framework**.

### ***Current Issues of the framework***

#### ***Inflexible framework***

The current framework is inflexible and does not meet the level of demand across the borough. It has a fixed number of Providers and does not allow for new providers to be added. This means that when the suppliers on the framework do not have capacity or cannot meet the specific requirements of an individual child, the children's placements team are forced to go outside of the framework to purchase the required semi-independent provision.

This is resulting in a number of spot purchases taking place outside the framework. These spot purchases are usually at a higher cost than the agreed rates from the framework providers.

#### ***Demand issues***

The demand for semi-independent accommodation is increasing in line with the extended duties placed on Local Authorities in respect of young people leaving care. It is anticipated that this demand will continue to rise, as there are increasing numbers of young people coming into care in their teenage years. In addition with the increased responsibility placed on local authorities there is a need to further support young people leaving care up to the age of 25.

The needs analysis work that has been undertaken shows an ongoing demand for semi-independent accommodation. Due to preventative work by the operational services, the number of children coming into care at earlier ages is decreasing whilst the number arriving at 16+ has dramatically increased since 2014/15 – partly as a result of a significant increase in unaccompanied asylum seeking children (UASC). This has been putting pressure on service availability and leading to a significant number of older children being placed out of Borough.

As part of the Supported Housing Programme the Council has recently refurbished two properties to become two six-person semi-independent accommodation schemes and has commissioned an experienced provider to manage and provide support to a total of 12 young people leaving care between the ages of 16 and 25 years. These services opened in September 2019. In addition, a further new build development is planned which will be 12 self-contained studio flats with additional communal spaces for young people leaving care between the age of 18 and 25 years of age. The current

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estimate is that the scheme will become operational in the summer of 2022 subject to achieving planning permission in autumn 2020.

As a consequence of the expansion in local provision, there should be a decrease in demand for placements sourced via the framework and its replacement in the medium term. In the longer term however, the demand is expected to increase further once the new provisions have reached their capacity.

Due to these expected fluctuations in demand for semi-independent provisions in the borough there is no guarantee that a standard framework, which by nature is unable to flex and expand to meet increased requirements, will be able to provide enough flexibility or capacity to meet the needs of young people in London Borough Of Havering.

Following a review of the semi-independent framework a number of recommendations were made;

- Action plan to be followed as 'business as usual' for commissioning of all semi-independent placements until further notice
- Explore the possibility of moving to flexible framework (Dynamic Purchasing System) so that we can build capacity in borough and increase competition.
- Engagement with key stakeholders to fully review the effectiveness of current processes
- Engage with framework providers, wider supplier market and key stakeholders to co-produce a draft service specification and business requirements of a Semi-Independent Dynamic Purchasing System
- Implementation of DPS to attract new suppliers in the market, increase stability and control of spend whilst improving quality

It was agreed to explore the possibility of commissioning a Dynamic Purchasing System to eradicate the issues faced with the current framework.

The Joint Commissioning Unit currently has a brokerage tool which is equivalent to a Dynamic Purchasing System, known as ATLAS. ATLAS will be used in this case and there will not be a need to purchase an external DPS at a cost.

Unlike a closed framework, which restricts providers from joining the framework, a DPS operates as an open framework and will allow providers/suppliers to join and leave the framework at any time. This will mean that new entrants into the market will be able to join the DPS. The Council will then be able to purchase their services via the DPS thus reducing the number of spot purchases that take place outside of the current framework.

All suppliers must meet a minimum eligibility criteria which includes a robust quality assurance and verification process. Providers will be required to provide virtual tours as part of their tender submissions.

In addition to this, providers will be requested to provide detailed answers to scenario based questions.

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Providers/suppliers will be evaluated by a panel before they are able to join the DPS. Providers/suppliers will have the opportunity to join multiple categories if they are able to demonstrate they can meet the needs.

All semi-independent placements and supported housing requests for 16+ will be required to be processed via ATLAS, this will ensure placements are made with providers/suppliers who have been through vigorous quality assurance.

The following six categories have been proposed in consultation with individual service areas.

1. 16-18+ Semi- Independent Accommodation - Minimal Support
2. 16-18+ Semi- Independent Accommodation - Therapeutic/additional support
3. 18+ Shared House - Welfare Check
4. 18+ Standalone Accommodation - Floating Support
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6. 18+ HMO - Welfare Check

### ***Financial Data/Pricing Matrix***

Local Authorities are struggling to gain control over cost for this market. With this in mind, we have developed an innovative pricing model that aims to gain greater control over costs, quality and help further shape the local market, which is not achievable through the level of spot purchasing that currently takes place. Furthermore it is envisaged that by introducing a banding system this will bring stability to costs and quality of provision in the market.

The Council will publish a financial band for each category within the DPS on a quarterly basis (appendix A). Providers that bid for a requirement within a category must price their offer within the band. Further information in relation to setting of initial price bands is set in Appendix A. The band setting mechanism will be kept under review and adjusted as required in order to maintain a dynamic and effective market.

### ***Market engagement***

A market information event took place on 24th January, The event provided an overview of what a dynamic purchasing system is, the monitoring system that will be implemented with the DPS, the commissioning processes and timescales and the Councils objectives for semi-independent provisions for young people. There were a total of 34 providers that attended the event. There has been an on-going interest from the market regarding the launch of this DPS.

A formal project management structure has been implemented including a project board which meets regularly to supervise the project. Project board members include representatives from Children's Placement, Children's Services, JCU and virtual members of Procurement, Finance & Legal. Project board's business includes managing the project through its project plan, action and risk Logs.

In summary, the scope of the project board includes the following key tasks:

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- Review of service specification
- Production of new service specification
- Developing the procurement pack and contract documents in line with OJEU and Council procurement procedures
- Managing the tender process
- Evaluating bids
- Awarding the contract

The key milestones from the procurement timetable for the tender of services are as follows:

<b>Stage</b>	<b>Timescale</b>
Procurement Planning	Jan-April 2020
Invitation to Tender Published	End Oct 2020
Evaluation	Nov 2020
Award	Dec 20
Launch DPS	Jan 2020

We have considered collaborative working and the opportunity to join ATLAS has been advertised on the Prior Information Notice. The business case for developing a marketable DPS is currently in progress.

## **OTHER OPTIONS CONSIDERED AND REJECTED**

### **1. Do nothing - This option is not recommended.**

The current framework expires in July 2020. A replacement solution is therefore required in order to ensure that the Council remains compliant with the Public Contracts Regulations 2015.

### **2. Procure a similar replacement framework to the existing framework- This option is not recommended.**

The current framework does not meet the Council's needs as it is inflexible and new providers are not able to join as they enter the market, leading to a high number of spot purchases at costs higher than those offered on the framework. It is likely a similar framework will present the same challenges.

### **3. Procure a replacement contract via an existing framework arrangement - This option is not recommended.**

Available frameworks have been considered however they present a significantly higher cost profile than the recommended solution.



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### **4. Procure a DPS to meet the Council's requirements for semi-independent accommodation upon expiry of the existing framework in July 2020– Recommended**

A DPS utilising the model set out in this report will be flexible and will allow new providers to join during the term of the contract. It is less likely to lead to higher value spot purchases and is considered to be the most cost effective option available. The DPS will incorporate choice of provider for each contract which will ensure that the Council is able to best meet the needs of each service user. The Council will run the DPS on its own bespoke ATLAS system and there will not therefore be a significant additional cost of managing and running the DPS.

### **5. Consider collaborating with neighbouring boroughs**

In addition to recommendation 4, consideration should be given to marketing Havering's ATLAS system for other boroughs to join. During project initiation the option to jointly procure the DPS was considered, however the timelines were not aligned. The other borough is now purchasing an external DPS at a cost. The contract notice for the DPS will provide for other boroughs to be able to join the DPS if they wish to do so.

## **PRE-DECISION CONSULTATION**

A market-engagement event has taken place with Semi-independent providers on 24<sup>th</sup> January 2019.

A total of 64 providers were invited to the event and 34 individual providers attended the event.

The agenda for the day consisted of;

- An overview of the DPS, Objectives of Children's services and how DPS will support this
- Workshop – Achieving independence
- Tender timeline
- Care Standards
- Questions

A stakeholder engagement workshop took place with social care, to understand and address the current issues.

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

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Name: Georgina Shapley

Designation: Senior Commissioner and Project Manager

Signature: G.Shapley

Date: 11/08/2020

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Council is a Contracting Authority for the purposes of the Public Contract Regulations 2015 (PCR 2015). The proposed procurement is for services which fall within Chapter 3 of PCR 2015 and is "light touch". The value of the contract exceeds the EU threshold for light touch services. Services of £663,540. A Public Contracts Regulations 2015 (PCR 2015) compliant procurement is therefore required.

As these are light touch services, the Council may design the procurement of the DPS and its call off process to meet its needs and does not have to strictly adhere to the rules for operation of a DPS which are set out in PCR 2015 s.34. As long as the rules for procurement and call off are specified in clear and unequivocal terms within the procurement documentation for the DPS, the procurement and operation of the DPS will be PCR 2015 compliant. The Council should ensure in particular that the operation of the DPS including appointment of new providers to the DPS and rules for awards of individual call off contracts are clear and precise.

If the Council wishes to make provision for other authorities to call off from the DPS during its term, this information must be included in the contract notice and the published estimated overall value of the DPS adjusted accordingly.

Award of the DPS will be a key decision. A decision will be required following evaluation of the initial applications to join the DPS to authorise initial award of contracts and to delegate authority to award contracts to new entrants on an ongoing basis and throughout the term of the DPS. As the award of individual contracts under the DPS will be other than on a basis of 70% price, 30% quality, waiver of Contract Standing Order 18.5 will also be required within that key decision.

### FINANCIAL IMPLICATIONS AND RISKS

The proposal is seeking approval to commence an open tender process for providers to join a Dynamic Purchasing System (DPS) for Semi-Independent and Supported Housing Placements for looked after children, young people leaving care and asylum seekers aged 16+. The DPS will operate for 6 years commencing in January 2020, at an annual estimated cost of £1.5m, and a total maximum cost of £9m over the 6 year period.

The proposed contract is in accord with the Council's statutory duties to help Young People who have been looked after by a local authority move from care into living as independently as possible. The authority has to assess and meet the care and support needs of Young People transitioning from care particularly in respect of employment, education and training.

The DPS Framework will replace the current 'Semi-Independent Framework', which was set up to commission placements of children leaving care into semi-independent accommodation. While the aim was to develop the framework as an approved provider placements list, it has been found to be inflexible, doesn't allow for new providers to be added, and fails to provide for the level of complexity of demand. Consequently, the service is increasingly resorting to spot purchasing outside of the framework and usually at a higher cost than the agreed rates within the framework.

Although the authority has developed semi-independent provision in the borough in 2019, and further provision in 2020, the development of a DPS framework will complement the strategy in the immediate to add further capacity. It will form a central part of the response as demand is expected to continue to grow especially once the new provision has reached capacity.

To join the DPS, providers will be assessed on specific Selection Criteria based 100% on quality service (technical), with a minimum score of 60% required to join the Framework. A range of service-specific

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selection criteria questions have been developed by the Complex Placements Project Board, and will be adapted further in relation to the Semi-Independent DPS Framework.

There is clear pressure on the Looked After, Leaving Care and Asylum Seekers budgets in this financial year, especially due to growing demand on the service and specifically the growing complexity of care required. The increased focus and development of market knowledge on semi-independent and supported housing placements through the DPS should result in the finding and negotiation of placements at reduced unit costs, rather than the current spot purchasing arrangements, therefore resulting in cost avoidance. This will need to be monitored and compared to current placement costs to illustrate the benefits that are realised from this programme.

The open market exercise provides a strategic opportunity to more effectively manage the semi-independent and supported housing provider market and potentially drive better value and savings to contribute to addressing these financial pressures.

### **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, 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 will be completed upon approval to commence an open tender for semi-independent and supported housing providers to join the Council's bespoke Dynamic Purchasing System; ATLAS.

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**BACKGROUND PAPERS**

Appendices

- Financial Briefing – Appendix 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*

~~Proposal NOT agreed because~~

**Details of decision maker**

Signed



Name: Robert South, Director of Children's Services

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date: 16.11.20

**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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