



**Havering**  
LONDON BOROUGH

## Notice of Non-Key Executive Decision

<b>Subject Heading:</b>	Approval to go out to tender for an Integrated Community Equipment Framework
<b>Cabinet Member:</b>	Councillor Jason Frost, Cabinet member for Health and Adult Care Services
<b>SLT Lead:</b>	Barbara Nicholls, Director for Adult Services and Health
<b>Report Author and contact details:</b>	Jonathan Cassidy, Senior Commissioner & Projects Manager, <a href="mailto:Jonathan.Cassidy@havering.gov.uk">Jonathan.Cassidy@havering.gov.uk</a>
<b>Policy context:</b>	Supports priorities in the Joint Health & Wellbeing Strategy: Greater integration between social care, education and health in the provision of support for adults and children most at risk.
<b>Financial summary:</b>	The current spend on the service for Havering Adult Social Services is approximately £754,000 per year (2019/20). The total value based on current spend will be approximately £3,016,000 over the life of the 4 years.
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	Yes, 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

The Senior Leadership Team Director with responsibility for Adult Social Care is asked to approve the commencement of a tendering process for a framework agreement with London Borough of Redbridge as the procurement lead for an Integrated Community Equipment Service, for a period of 4 years.

### AUTHORITY UNDER WHICH DECISION IS MADE

Constitution Part 3: Responsibility for Functions Section 3.3 contract powers (a) delegates authority to members of the Senior Leadership Team (SLT) to approve commencement of a tendering process for all contracts above a total contract value £500,000.

### STATEMENT OF THE REASONS FOR THE DECISION

#### Background

1. Community Equipment is provided by the Council to allow the frail, elderly and physically disabled adults and children to live independently within their own homes or community and school environments and to facilitate discharge from hospital. This equipment ranges from simple daily living aids to more complex equipment such as beds, lifts, hoists.
2. Havering currently purchases community equipment from Millbrook Healthcare via the current framework. The framework commenced on 1<sup>st</sup> December 2015 and was due to expire on 31<sup>st</sup> May 2020. Due to COVID, the contract was extended with Millbrook Healthcare until 31<sup>st</sup> August 2021 to allow sufficient time to retender.
3. In April 2018 it was agreed by Cabinet that the London Borough of Havering together with Havering, Barking and Redbridge CCGs and the London Borough of Redbridge (jointly BHR) would work together to establish a joint Integrated Community Equipment Service (ICES) by entering into agreement under the provisions of Section 101 of the Local Government Act 1972 and Section 75 of the National Health Service Act 2006. It was agreed this would be managed and hosted by the London Borough of Redbridge (LBR)
4. The BHR Partnership includes:
  - Host, London Borough of Redbridge (LBR);
  - London Borough of Havering;
  - Redbridge Clinical Commissioning Group;

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- Barking & Dagenham Clinical Commissioning Group;
- Havering Clinical Commissioning Group;
- Barking, Havering and Redbridge University Hospitals NHS Trust; and
- North East London Foundation Trust

### **Current Framework**

5. Havering currently commissions the service through the LBR “Framework Contract for the Community Equipment Service” (“the Current Framework”) originally established in 2011. The Current Framework was most recently retendered in 2015 and Millbrook Healthcare Limited was appointed as sole provider for a term of 4 years, from 1<sup>st</sup> December 2015 to 30<sup>th</sup> November 2019.
6. The aim of the framework is to have a contract that will produce efficiency savings for London boroughs by benefitting from volume pricing. The current service has been meeting the needs of Havering residents.
7. The spend on community equipment was £699,374 in 2018/19. There has been an increase in spend since the ICES went live under the Section 75 agreement in April 2018. Further work is being undertaken by all partners to understand what factors have contributed to the increase in spend.
8. In addition to spend on equipment, LBR requires payment of an annual management fee at a cost of £22,000 for hosting and managing the ICES arrangement. LBR agreed that the fee will be charged at 50%, £11,000, until the point where there is clear evidence that LBH are projecting a saving at or above the set target of £77,000.
9. The current framework agreement with Millbrook Healthcare Limited was due to expire on 31<sup>st</sup> May 2020, with the new framework due to go live on 1<sup>st</sup> June 2020 following a successful competitive tender and award. However due to the COVID-19 pandemic hitting the UK during service mobilisation, and following discussions with BHR partnership, Redbridge opted to abandon the procurement process and extend the existing framework agreement with Millbrook to allow sufficient time to retender.

### **BHR Partnership Benefits**

10. As one of the participating local authorities, the ICES under the Section 75 agreement provides a number of benefits to the BHR partnership. These benefits include:
  - A platform for a greater economy of scale and buying power to take to the market to obtain better value during re-tender.
  - Partner’s ability to order equipment through a single BHR ICES service and a common set of operating procedures.

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- Practitioners across the BHR system are enabled to follow one process and use one system reducing the time taken when ordering equipment.
- Agreed criterion to differentiate between Health and Social Care need which will speed up ordering and authorisation process by automating and streamlining in real time reducing delays.
- Online requisitioning, authorisation and tracking are managed through a single online hosted Warehouse Management and Ordering system across all partners replacing the current fragmented mix of manual and paperwork processes thus removing the bottlenecks and delays.
- Current arrangement ensures delivery of priority equipment (within 4 hours, 5 days a week) in support of the HomeFirst model and preventing Hospital admission.

### **Commissioning & Procurement**

11. The tender process will be led by the London Borough of Redbridge, utilising their e-procurement system, and will be fully compliant with the UK Public Contract Regulations 2015. The tender opportunity will be advertised using the Redbridge e-procurement portal, and will be made available on the OJEU website.
12. As a BHR partner, Havering is active in the procurement of the new framework. Through attendance at monthly procurement sub group meetings, Havering will contribute to the redesign of the service. We will contribute in shaping the service specification, method statement questions and general elements of the tender.
13. The contract and service specification is currently being developed and will be agreed jointly between all BHR partners. Here is the outline tender timetable:

<b>Key Milestone</b>	<b>Date</b>
Tender Published	January 2021
Tender Evaluation	February 2021
Cabinet Approval	March 2021
Award Notification	April 2021
Framework Agreement Commences	1 <sup>st</sup> September 2021

14. Transfer of Undertakings for Protection of Employment (TUPE) regulations will likely apply to the staff delivering the current service. The London Borough of Redbridge will lead on requesting the required TUPE information.

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15. The tender will be evaluated by a panel consisting of representatives from each of the partners. Two representatives from Havering have been included on the panel.
16. The method statements questions, used to evaluate the bids, will be designed and agreed by the BHR partnership. The quality to price ratio is currently being agreed by all partners.
17. The total estimated value of the entire framework is £13,200,000 and is above the EU threshold for supply contracts. The opportunity will therefore be advertised in the OJEU. The current spend on the service for Havering is approximately £754,000 per year. Based on current spend the total value over the life of a 4 year contract will be approximately £3,016,000.
18. The Framework shall run between 2021 and 2028 and, as such, exceeds the 4 year maximum term for framework agreements under the Public Contracts Regulations 2015. However, a longer term contract is required to ensure the participating authorities' recoup costs incurred in procuring the equipment and will therefore fall within the exception set out in Regulation 33(3). There will be a natural break clause within the framework agreement for all participating authorities at year 4 and 6.
19. The London Borough of Redbridge will run the procurement in accordance with Regulation 38 and on behalf of a number of named local authorities (including Havering) and their associated NHS Bodies (the "Participating Authorities"). The Framework Agreement shall be entered into by the London Borough of Redbridge for and on behalf of those named Participating Authorities. The Participating Authorities will automatically gain access to the Framework Agreement.
20. The Framework also provides for other London Councils and their associated NHS Bodies to join the Framework at any time during its term as a "New Participating Authority". All New Participating Authorities will need to enter into an Access Agreement to utilise the Framework.

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

#### **Option 1 – Do nothing**

The current framework is due to expire 31<sup>st</sup> August 2021 and there is no further option to extend. Therefore doing nothing would result in the end of the integrated community equipment service which supports many Havering residents to live independently and saves the Council money reducing the need for expensive care packages. Therefore, this option would not be advantageous to the Council.

#### **Option 2 – Havering undertakes their own procurement for community equipment**

Another option considered would be for Havering to tender for this independently of other boroughs. This option would give the Council complete autonomy to design and specify

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the service model but would mean losing the economies of scale to be gained through purchasing equipment in partnership with other authorities. This option was also considered and rejected as Havering would no longer function within the Section 75 and thus be unable to access any of the benefits.

### **PRE-DECISION CONSULTATION**

Internally we have consulted with Finance, Legal and Adult Social Care. Externally the Council consulted with London Borough of Redbridge, Redbridge Clinical Commissioning Group, Barking & Dagenham Clinical Commissioning Group, Havering Clinical Commissioning Group, Barking, Havering and Redbridge University Hospitals NHS Trust and North East London Foundation Trust.

Externally we have gathered feedback from both users of the service and practitioners within the health and social care system to make improvements on service delivery.

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

Name: John Green

Designation: Head of Joint Commissioning

Signature:



Date: 03/12/2020

### **Part B - Assessment of implications and risks**

#### **LEGAL IMPLICATIONS AND RISKS**

This report seeks approval to jointly procure a 7 year framework agreement (with the London Borough of Redbridge acting as lead authority) for the supply and delivery of Integrated Community Equipment. Justification for the proposed length of the framework agreement is already set out in the body of this report.

The Council 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 same Act as including control by the individual over day-to-day life. Officers intend to procure this framework in compliance with this statutory duty.

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The total estimated value of the entire framework is £13,200,000 and is above the EU threshold for supply contracts. The opportunity will therefore be advertised in the OJEU, as confirmed above.

Officers intend to award the framework agreement to a single supplier. The Council and any participating bodies will therefore call-off the services from the Framework by a direct award as opposed to re-opening competition. Regulation 33(8) of the Public Contracts Regulations 2015 allows a framework agreement to be performed in this way.

In accordance with Regulation 38, two or more contracting authorities may agree to perform certain specific procurements jointly. As the conduct of this procurement procedure in its entirety will be carried out jointly in the name and on behalf of all the contracting authorities concerned (the BHR partners, including the London Borough of Havering), they shall all be jointly responsible for fulfilling their obligations under the Regulations.

The Local Government Act 1999, requires the Council to make arrangements to achieve best value in the exercise of its functions. While conducting the procurement and evaluating the bids, officers must satisfy themselves that the procurement process is in accordance with this principle.

The decision to award the Framework Agreement will need to be made as a Key Executive Decision.

### **FINANCIAL IMPLICATIONS AND RISKS**

The Integrated Community Equipment Contract for LBH is funded through capital via the Disabled Facilities Grant (DFG), which is now part of the Better Care Fund.

Since Havering joined the LBR Framework Contract in April 2018, Adult Social Care expenditure on Community equipment has increased significantly from £544.4k (purchasing 12,645 items) in 2017/18, to £754.4k in 2019/20 (purchasing 15,225 items), representing an increase in expenditure of £210.0k (2,580 items).

	<b>2017/18 £'000</b>	<b>2018/19 £'000</b>	<b>2019/20 £'000</b>
Capital Cost	439.6	586.8	603.5
Revenue Cost	104.8	112.6	150.9
<b>Total Cost</b>	<b>544.4</b>	<b>699.4</b>	<b>754.4</b>
No items purchased	<b>12,645</b>	<b>14,173</b>	<b>15,225</b>

At the point of joining the LBR Framework Contract, it was initially anticipated that savings of £77k per annum would materialise from the integrated working partnership. As equipment costs have increased over initial projections, these savings have not yet materialised. LBR have agreed that the Annual Management Fee will be charged at 50% of the agreed £22k until there is clear evidence that LBH are achieving a saving of £77k or more.



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The available DFG funding for 2020/21 amounts to £513k DFG Grant for ASC plus £90k of carry-forward from 2019/20. The DFG Grant will also fund salaries which are capitalised at financial year-end.

For future years, there is also a risk that the DFG grant ceases. Alternative funding arrangements would need to be found to meet the costs of community equipment purchased through this retendered Framework. Further years' DFG Grant allocations may also not be sufficient to meet the increasing costs of the items of equipment purchased, and if demand or costs increase above the amount of allocated DFG, then ASC will have to fund the shortfall from within existing budgets.

The financial arrangements is that LBR will manage a pooled budget arrangement under the section 75 agreement and provide monthly supporting documentation to each partner detailing their expenditure. At year-end a reconciliation will be undertaken and any surplus or deficit for each partner will be addressed.

The overall expenditure for all the partners in the Framework for 2019/20 was in the region of £4.0 million.

### **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 directly or indirectly 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.

The successful provider will be required to demonstrate compliance with the council's values on equality and diversity, as per the Equality Act 2010. An Equality Impact Assessment was undertaken by London Borough of Redbridge, as the lead borough.

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**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: Barbara Nicholls

Cabinet Portfolio held:

CMT Member title: Director of Adult Social Care and Health

Head of Service title

Other manager title:

Date: 04/12/2020

**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 \_\_\_\_\_