

Notice of Non-Key Executive Decision

Subject Heading:	Waiver to allow 12 month Extension of Heather Court Contract to Swan Housing Association
Cabinet Member:	Cllr Robert Benham
SLT Lead:	Robert South, Director of Children's Services & John Green, Joint Commissioning Unit
Report Author and contact details:	Chris Atkin, Commissioner and Project Manager, Joint Commissioning Unit Chris.Atkin@Havering.gov.uk 01708 434470
Policy context:	Corporate Forward Plan: Communities – Providing a Local Offer to young people who are leaving our care.
Financial summary:	Block funded at £149,400.00 per annum split between Joint Commissioning Unit and Leaving Care Team budgets.
Relevant OSC:	<i>Individuals</i>
Is this decision exempt from being called-in?	Exempt from call in, 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 paper aims to seeks authorisation to:

- 1) Extend the contract with Swan Housing Association for semi-independent living support for young people aged 16 – 25 based at Heather Court for a period of one year.
- 2) The rule requested to be waived has been outlined below:

9.1 Except as otherwise provided, contracts must be awarded following the relevant competitive processes set out in CPR.

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

14.6.4 “Urgency NOT of the Council’s own making - the urgency must be unforeseen, for example, a current supplier ceases to operate, or a contract is terminated for poor performance. Urgency caused by previous delay by the Council or a requirement to implement a strategy or project urgently will not justify an exception under this exception”

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.

Contract Procedure Rule 19.1 (iii) states that where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement.

STATEMENT OF THE REASONS FOR THE DECISION

Background and Context

Swan Housing Association were awarded the contract to provide semi-independent living support to Havering’s young people on 1st April 2016 for 3 years with extension clause of 2 years a total value of £745,700. This contract has been extended in line with clauses within the contract which now expires on 31st March 2021. The supplier provides support with independent living skills such as budgeting, paying bills, cooking, maintaining a home with the main outcome of supporting residents with maintaining a tenancy. Swan Housing Association are the supplier of this service, the accommodation is owned and leased to Swan Housing Association by Look Ahead Care and Support (Look Ahead). There are 15 self-contained units within Heather

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Court with referrals (both from Havering's Leaving Care Team and outside of the Council) discussed at monthly panel meetings.

The current Service Provider (Swan Housing Association) has a separate standalone Management Agreement in place with Look Ahead Care And Support Ltd (who are the landlords), to act as 'Agent' and undertake a range of housing management functions – this allows more holistic work with tenants around their housing issues as well as other identified support needs. These housing management functions sit outside the remit of this Service Specification and include: issuing tenancies, collecting rent and carrying out some landlord functions to aid the smooth running of the service. Look Ahead have indicated that this Management Agreement arrangement should be continued by the new Service Provider, but this is to be explored further during re-procurement.

In August 2019 the Joint Commissioning Unit (JCU) sought agreement from Look Ahead Care and Support for the continued use of the building for the re-commissioning of Heather Court, to allow for service review, service re-design and procurement to take place for a new contract.

Between August 2019 and June 2020 meetings took place between JCU and Look Ahead in relation to the continued use of the building. Look Ahead explained that they were undertaking an options appraisal on all of their buildings and that Heather Court would be subject to this process with an outcome to be shared in Spring 2020. JCU did not receive confirmation from Look Ahead by Spring 2020 and consequently did not know what the future use of the Heather Court building after March 2021. There were considerable delays in receiving a response from Look Ahead which were compounded by the onset of COVID 19 and the departure of the member of staff at Look Ahead dealing with the contract negotiations. JCU have used their best endeavours to seek confirmation from Look Ahead.

Due to the significant delays JCU put forward to Look Ahead to extend the contract of the service under existing arrangements. In October 2020 written consent was received from Look Ahead to confirm the 1 year extension (1st April 2021 to 31st March 2022) under the current contract terms and conditions. However to date there has been no confirmation as to the future use of Heather Court.

As evidenced above, re-procurement of this service was planned but due delays, the length of time for Look Ahead to agree to the terms as set out by Havering, which were compounded by the impact of COVID19 and the re-allocation of resources, JCU were unable to progress the procurement in line with the scope of the project and procurement timeline required.

An urgent extension is now required to ensure we are able to follow a balanced and legal procurement exercise.

Exceptions to the competition requirements may be made only if all relevant law is complied with and one of the following circumstances applies:

- i. the contract falls within one of the exceptions listed in this Rule; AND
- a. the Competition Financial Thresholds Exceptions, is fully and properly completed and signed by the relevant Member of SLT; AND

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b. the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.

A Financial Threshold Exception form has been completed and signed off by procurement, JCU Head of Service, John Green and Jane West, COO and member of SLT.

Benefits of the service

Heather Court provides a valuable resource to support young people to achieve full independence in Havering and is an important element of the wider portfolio of options available to young people with a need for supported accommodation. Havering has a need for supported accommodation for young people who are leaving care, at risk of offending and/or at risk of misusing substances. There is also a need for those young people who experience significant familial breakdown and/or at risk of abuse within the family home. The support model in place at Heather Court delivers:

- Development of responsibility with regard to holding a tenancy and paying rent – promoting a level of independence that should mitigate against breakdown in housing and causing homelessness/accommodation issues within Havering;
- Budgeting skills and money management;
- Assistance with access to training, employment, volunteer opportunities and education;
- Creating positive social and peer networks;
- Addressing chaotic, anti-social and offending behaviours;
- Signposting to more specialist support where required.

Heather Court is an essential part of the pathway for children leaving care and supporting those who are not leaving care but require support in building independent living skills to maintain council or independent tenancy. The service provides a cost effective mechanism to support young people in achieving positive outcomes where other provision does not provide wraparound personalised support from youth coaches.

Recent Performance

Highlighted below is some of the key work the service has carried out in supporting Havering's young people in developing essential independent living skills:

- Supporting a pregnant resident with move on to a stand-alone flat;
- Supporting a young person who has a child with a resident in a different semi-independent provision under a CIN plan. The staff at Heather Court along with other professionals are working with the young person and there is now a three hour "alone time" in place which has improved the young person's engagement and behaviour;
- Supported a young person who entered into Heather Court following a foster home breakdown. The young person has been an active participant in the local

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community and recently organised a peaceful protest for the Black Lives Matter movement.

- Supporting a resident to cook more nutritious meals and building her confidence to shop for the speciality items required for the meals;
- The service liaised with the JCU, Housing and Leaving Care Team where a resident was not engaging with the service and had instances of criminality onsite – the service worked to resolve the issue quickly whilst maintaining the safety of other residents and staff.

The service has seen good engagement from the majority of the service users present since the start of the year with 73% of residents completing a “how it’s going for me” feedback questionnaire; with a scoring of 8.9 out of 10 satisfaction rating during quarter 1.

Finance

The service is funded jointly by Leaving Care and Adult Social Care at a cost of £149,400.00 per annum via block contract.

Recommendation

It is recommended that Havering extend the provision under the existing terms and conditions so that a balanced and legal procurement exercise can be undertaken. A service review is also being undertaken with a view to re-design the service during this period to enable exploration of the pathway holistically,

OTHER OPTIONS CONSIDERED AND REJECTED

1. Do nothing and allow the contract to expire.

This option was considered and rejected. Placing vulnerable service users in this provision without a contract would place the authority in a questionable legal position when challenged.

2. Do nothing and de-commission the service.

This option was explored and rejected as Heather Court provides a vital service that fits in with Havering’s Corporate plan and prevents young people falling into homelessness.

3. Consider use of another building for support service

This option was explored and rejected as an immediate solution. Engaging with the market to find a suitable outcome would cost valuable time. If this option was to be explored and the outcome unfavourable this could result in moving service users from current placements into different accommodation incurring cost/resource issues.

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PRE-DECISION CONSULTATION

All relevant business partners and internal stakeholders have been consulted as part of the creation of this report. These include;

- Commissioning Programme Manager, Children's
- Procurement
- Legal
- Support service supplier
- Landlord
- Leaving Care Team

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

Name: Chris Atkin

Designation: Commissioner and Project Manager, Joint Commissioning Unit

Signature: C.Atkin

Date: 08/12/2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The report seeks to approve the waiver of the Contract Procedure Rules to extend the contract between Havering Council and Swan Housing for a period of 12 months.

The Council has a general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions. The Council has the power under this section to agree to the proposals in the recommendations.

Under CPR 9.1 it states that “contracts must be awarded following the relevant competitive processes set out in CPR”.

Under CPR 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.

The original value of the contract is £745,700. The Public Contract Regulations 2015 apply as it is over the light touch regime for services threshold of £663, 540. The extension for 12 months is £149,400 totalling £895,100.

The extension is a variation under PCR 2015. Variations are permitted under the PCR in certain circumstances. Under PCR 72 (1) (c) contracts and framework agreements may be varied without a new procurement procedure where all of the following conditions are fulfilled:—

- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;
- (ii) the modification does not alter the overall nature of the contract;
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.

Officers have satisfied themselves that the extension fulfils the conditions set out in 72 (1) (c); further details are set out in the body of the report.

In the CPR waivers may be approved if the “contract falls within one of the exceptions listed in 14.3; the Completion Financial Thresholds exceptions, is fully and properly completed and signed by the relevant member of SLT; and the person awarding the contract demonstrate the contract represents the best value that can be obtained in the circumstances”. The extension falls within CPR14.3.

The extension falls within exception 14.6.4 as it is an urgency not of the Council’s own making, the urgency was unforeseen by the Council.

The extension is also in accordance with CPR 19.1 (iii) which states,

Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of

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the contract, any increase does not exceed 50% of the value of the original contract or framework agreement.

The Council's legal services team will assist with drafting of the variation of contract.

FINANCIAL IMPLICATIONS AND RISKS

The decision for the 12 month extension of the Heather Court block contract, at the agreed cost of £149.4k, will be met from existing budgets within A34060 Adult Community Commissioning and A38420 Section 23 & 24 Children's Act (Leaving Care) cost centres. This is currently funded on a 50:50 split from both cost centres, within available resources.

There are no cashable savings being proposed or identified from this one year extension of the Heather Court contract. Assuming no material change to the Children's Services and Adult Social Care budgets over the financial year, there will be no financial risk to the Local Authority from this contract extension.

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.

BACKGROUND PAPERS

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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: Councillor Robert Benham

Cabinet Portfolio held: Cabinet Member for Education, Children and Families

CMT Member title:

Head of Service title

Other manager title:

Date: 18.12.20

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 _____

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Signed _____