

Notice of Non-key Executive Decision

Subject Heading:	Waiver to allow Direct Award contract to Prepaid Financial Services for the provision of prepaid cards
Cabinet Member:	Councillor Jason Frost
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	Chris Atkin, Commissioner and Project Manager, Joint Commissioning Unit Chris.Atkin@Havering.gov.uk 01708 434470
Policy context:	Under the Care Act (2014), individuals with capacity have the right to request a Direct Payment, that enables service users the choice, freedom and independence to select their own method of support to meet their eligible support needs.
Financial summary:	Direct Award via Framework for 12 month contract at an estimated maximum cost of £55,000.
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	Yes

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"/>

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Request approval to waive the Contract Procedure Rules to allow direct award of the contract for the provision of prepaid cards to Prepaid Financial Services. The decision to waive sits with the Lead Member. The award decision will be made by officers under the scheme of delegation and subject to this decision being duly taken.

Recommendation

For the reasons set out in this report the Lead Cabinet Member agrees to the waiving of paragraph 9.8 Councils Contract Procedure Rules to allow for a direct award of a below threshold contract without competition.

AUTHORITY UNDER WHICH DECISION IS MADE

The Havering Contract Procedure Rules 14.1 state:

“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 Chief Executive.”.

STATEMENT OF THE REASONS FOR THE DECISION

Background and Context

The existing Contract for the provision of pre-paid cards was awarded to Prepaid Financial Services (PFS) with a Commencement date of 1st March 2017, for a duration of three years with the option to extend by one year. The option to extend the contract was then exercised taking the contract end date to 28th February 2021. All extensions available to the Authority under the Contract have now been used.

The Contract was awarded directly to PFS by calling off the Surrey County Council Pre-paid Accounts and Associated Services Framework. The Surrey County Council Framework from which the initial call off was completed has now expired and the Authority needs to seek a new contract to deliver this service.

Direct Payments are fundamental to achieving Havering's aim of increasing our Service Users' independence, choice and control by allowing the User to make an informed choice as to how best they can be supported. Direct Payments offered by Havering give people with eligible care and support needs (including Carers) greater flexibility. The Council successfully implemented pre-paid cards as the tool used to manage our Direct Payments system in Havering. PFS pre-paid cards give us greater

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visibility and transparency of how each individual's finances are managed, in line with the service users responsibilities as outlined in their Direct Payment agreement. In addition, we were able to improve the effectiveness of the Personalisation Team, who are responsible for managing all Direct Payments.

Due to re assignment of Joint Commissioning Unit (JCU) resources as the 'Provider Emergency Contact Centre' during the outbreak of COVID19 (and subsequent lockdowns during wave one and wave two), a recommissioning of this service had to be put on hold. In normal circumstances, a full review of options would have been undertaken but this has not been possible.

Benefits of the service

The cards are loaded by the Direct Payment team and operate in the same way as a standard UK bank account, including the ability to make regular payments, pay vendors and receive statements. There is no option to access an overdraft facility – ensuring that there are no fees applicable to the user. Utilising a prepaid card solution negates the requirement of service users needing to submit quarterly spend returns, receipts and invoices, saving the service user time and increasing efficiency in the direct payments team. Other benefits of utilising prepaid cards include:

- Income generation through clawback of unspent funds;
- Streamlining of operations and resources (efficiency savings);
- Increased control, transparency and analysis for the Authority;
- Faster responsiveness in the distribution of funds.

Utilising this method of delivering direct payments supports the personalisation agenda as set out by the Care Act 2014.

Finance

For this exercise and in the context of the extremely limited timeframe, the JCU compared costs from the two top rated suppliers on the NEPO framework. While Allpay (the second highest rated supplier on the framework) have cheaper rates (initial modelling listed this at an annual cost of 28k), the switch in supplier would lead to a complicated and protracted mobilisation (estimated to be three to six months) – requiring additional resources within in the personalisation team to facilitate the switch and requiring adding to an already encumbered workload.

Most notable implications of a change in supplier have been described below:

- There are over 1000 PFS prepaid accounts. A change in supplier would affect not only the Direct Payments team but also the payroll providers and may adversely affect personal assistants being paid on time (where changes in direct debits are required);
- Payroll providers will have to migrate bank details and other information onto a new system. This could lead to a charge payable by the Authority to carry out the additional work of transferring approximately 600 accounts;

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- Service users who are self-managing their direct payments would need to learn how to use a new system – causing additional stress during a time where COVID19 has exacerbated concerns/issues.
- As mentioned, a change in supplier would result in the team having to adopt new staff to cover the mobilisation of the new contract. It is estimated that this task would require two staff at Grade 5 (approximately 60k).

During 2019/2020, £11m of funding has been paid by the Authority to support adults via direct payments.

The existing contract with Prepaid Financial Services operates on a fixed fee model as outlined below.

Increase in costs have been represented in the table.

Prepaid Financial Services	Previous Contract	New Contract
Fixed Fee Card Management (1001 – 1500 cards)	£3,000.00.	£4,250.00
Creation/replacement of cards (per card)	£5.00	£5.00

The annual cost for a one year contract based on the above fixed fee model is £55,000.00. It should be anticipated that the use of paper statements and the cost of setting up additional cards may increase this cost marginally (as represented above in the Financial Summary section).

The increase in the fixed fee model can be attributed to rises in the Consumer Price Index and increased costs in overheads and infrastructure for the supplier. As Prepaid Financial Services are the incumbent supplier, there would be no set up fees.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1: Do nothing and allow the contract to expire

This option was considered and rejected. Allowing the contract to expire will mean the supplier will cease supplying cards and managing the accounts linked to the cards, leading to the Authority having to revert to the manual task of requesting paper evidence for transactions. Utilising a model of pre-paid cards allows the Authority to audit £11m worth of spend and enables any issues to be identified and funds clawed back as necessary.

This would have large resource implications for the Direct Payment team who do not have the capacity to carry out this type of work. All direct debits and standing orders

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that Service Users have would need to be cancelled. There is a high risk of fraudulent behaviour during this transition which would affect the opportunity to claw back unspent funds.

Option 2: Recommission service via open competition

This option was explored and rejected. As a result of the re-direction of resources to respond to the COVID pandemic there has not been the capacity to review all contracts prior to re-commissioning, as would normally be the case. Another factor taken into account was the impracticality, in the current circumstances, of a long mobilisation should a new supplier be win the contract. There isn't enough time currently to mobilise the contract, switch accounts to a new supplier and ensure cards are sent to Service Users.

PRE-DECISION CONSULTATION

- None required.

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

Name: John Green

Designation: Head of Commissioning, Joint Commissioning Unit

Signature:

Date: 08/12/2020

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any statutory limitations. The Council has the power under this section to agree to the proposals in the recommendations.

Officers seek authorisation to waive rule 9.8 of the Contract Procedure Rules (CPR) to allow for the direct award of a below threshold contract for the provision of prepaid cards to PFS for a period of 12 months. The reasons for the inability to undertake effective competition are cited above.

The proposed value of the contract is £55,000 and is below threshold for the purposes of advertisement under the Public Contract Regulations 2015 (as amended). However, the procurement must comply the Council's Contract Procedure Rules (CPR).

The Council's Contract Procedure Rules (CPR), Rule 9.8 specifically requires officers to undertake a Request for Quotations (RFQ) process in order to procure services valued between £25,000 and £99,999.99 inclusive. This is achieved by obtaining at least 3 comparable written quotes from Suppliers and would meet the Council's value-for-money obligations.

By awarding the contract directly the competition requirements of the Council's CPR will not be met and a waiver of the Rules is required as prescribed by Rule 14.1.

Under CPR 14.3 (ii) exceptions to the Council's competition requirements may be made by an individual Cabinet member that has approved the waiving of the application of the CPR. The Council is permitted to lawfully take this direct award decision.

On obtaining this waiver officers will be able to seek authority from the relevant decision taker to make the contract award decision.

Officers are reminded that they must consult with the Strategic Procurement Team for future procurement.

FINANCIAL IMPLICATIONS AND RISKS

The current cost of Prepaid Cards is met from cost centre A34060 - Adult Community Commissioning, within the Strategy and Commissioning service of the Adults Directorate.

A budget of £32,600 currently exists for this contract. The maximum spend anticipated for the proposed new contract is £55,000 and so there is likely to be an overspend on the current budgeted amount. Any overspend for a 12 month extension of the contract would need to be met from within existing resources within the Strategy and Commissioning service.

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**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, 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

Non-key Executive Decision

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: **Councillor Jason Frost**

Cabinet Portfolio held: **Cabinet Member for Health and Adult Care Services**

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 _____