

## Notice of NON KEY Executive Decision

<b>Subject Heading:</b>	Approval to Waive the Council's Contract Procedure Rules for the tender of Preventative Services
<b>Cabinet Member:</b>	Councillor Jason Frost, Cabinet Member for Adult
<b>SLT Lead:</b>	Barbara Nicholls, Director for Adult Services
<b>Report Author and contact details:</b>	Sandy Foskett, Commissioner & Projects Manager, <a href="mailto:Sandy.foskett@haverling.gov.uk">Sandy.foskett@haverling.gov.uk</a>
<b>Policy context:</b>	The contract supports the prevention duties under the Care Act 2014.
<b>Financial summary:</b>	There are no committed financial costs associated with this decision.
<b>Relevant OSC:</b>	Individuals
<b>Is this decision exempt from being called-in?</b>	Yes, it is a Non–Key Decision

**Key Executive Decision**

**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 decision paper seeks approval to waive the Contract Procedure Rules in relation to the quality/price weightings for the tender of Preventative Services.

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

**Section 14.3 ii of the Council's Contract Procedure Rules:**

Exceptions to competitive requirements:

ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a)

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

The Council is intending to commence a competitive tender process to recommission the Council's Preventative Services. The tender is due to be published in April 2021 and contracts awarded in October 2021. The contracts are commencing on 1 February 2022. The total maximum cost of £2.9 million over 5 years.

See below list of Contracts and Values:

- A. Wellbeing, Sustainability and Social Inclusion Contract (Physical Disability and Sensory): Annual Contract Value: £80k
- B. Wellbeing, Sustainability and Social Inclusion Contract (Dementia): Annual Contract Value: £80k
- C. Wellbeing, Sustainability and Social Inclusion Contract (Mental Health): Annual Contract Value: £80k
- D. Wellbeing, Sustainability and Social Inclusion Contract (Learning Difficulties): Annual Contract Value: £80k
- E. Wellbeing, Sustainability and Social Inclusion Contract (Older Frail): Annual Contract Value: £80k
- F. Sustaining Carers Contract: Annual Contract Value: £180k

- 1.1. These contracts will fulfil the Council's obligations under the Care Act (2014). These types of services will prevent the need for more costly care and support interventions, making the most of existing personal and community resources and fulfils the Council's duties to help vulnerable people remain safe in the community.

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- 1.2. The Council requires quality services, delivering positive outcomes that reduces or delays the need for long term ongoing support. These positive outcomes will include;
- Promote social inclusion for those who are isolated and/ or prevent people from becoming socially excluded
  - Develop community resilience and personal wellbeing through peer support networks
  - Carers supported in their caring role and to maintain a life of their own
- 1.3. Due to the nature of the service, the Council needs to ensure that the successful provider can evidence sufficient levels of quality to deliver the services. It is proposed that quality will be evaluated against the following criteria:
- Service delivery model
  - Accessing the service
  - Achieving positive outcomes
  - Effective partnership working
  - Effective safeguarding
- 1.4. These services will support vulnerable residents at the right time and prevent them from needing statutory services or, in the case of carers, being unable to continue caring for loved ones and transferring the onus to the local authority. This prevention element will improve the quality of life for vulnerable people and their carers and have the knock on effect of reducing expenditure for the Council. Therefore, focusing on quality when evaluating bids will be essential to ensure the Council awards the contracts to the most suited, high quality providers that will deliver the best preventative services.
- 1.5. As a result, this decision concludes that it is in the best interest of the Council to waive the Council's Contract Procedure rules in respect of the requirement that tenders are evaluated according to a weighting of 70% for cost and 30% for quality and ensure the tender evaluation focuses on examining how bidders will deliver their proposed services by assigning an 80% weighting to quality with the cost of the service being weighted at 20%.

## **OTHER OPTIONS CONSIDERED AND REJECTED**

**Do nothing and evaluate providers at 70% price 30% quality:** This option was rejected, as it could result in a bidder with a marginally lower price being successful over a provider better able to deliver longer-term benefits and higher quality preventative services. This would be a false economy in that the financial benefits to the authority will come from the quality of the preventative service.

**Key Executive Decision**

**PRE-DECISION CONSULTATION**

The pre-decision consultation has involved engagement with key stakeholders including Director of Adult Services, Head of Joint Commissioning, Procurement, Legal, and Finance business partners.

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

Name: Sandy Foskett

Designation: Commissioning & Projects Manager

Signature:

Date: 11/03/21

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

### **LEGAL IMPLICATIONS AND RISKS**

Contract Standing Order (CSO) 18.4 imposes a competitive requirement that tenders for contracts are evaluated against a price:quality ratio of 70:30. Whilst CSO 18.5 provides limited exceptions to this rule, none of these apply in this case. In order for the requested variation to the price quality ratio to be applied to this tender therefore, CSO 18.4 requires waiver.

CSO 14.3 (ii) permits a waiver to the competitive requirements by an individual Cabinet member subject to demonstration of best value in the circumstances.

If the Cabinet member making a waiver decision considers that based upon the evidence set out in this report, variation of the competitive requirement for evaluation of the tender from 70% price, 30% quality to: 80% quality, 20% price represents the best value for the Council in the circumstances, they may make the decision.

### **FINANCIAL IMPLICATIONS AND RISKS**

The annual budget that has been allocated from the BCF to cover the current preventative services contracts is £580k per annum. The proposal for a maximum contract value of £2.9million over a 5 year period for this tender therefore remains within the current budgetary envelope.

As the contracts are funded via the Better Care Fund, there is a risk that the BCF grant may cease or reduce in the future, alternative funding arrangements would need to be identified to meet the costs of the contract if this were the case.

The current contract has a similar cost/ quality split and a benefits exercise completed by commissioners and finance partners evidenced a £200k annual return on investment. The proposed cost/ quality split is designed to maintain and, if possible, improve on this return. Further exercises will be done during the current contract to evidence ongoing benefits. There is a risk that the tender values may be higher than they would have been if a 70% price 30% quality ratio had been used. However, providing high quality preventative services are also likely to mitigate increased costs in other areas of adult social care provision over the contracts lifespan.

### **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**

### **Key Executive Decision**

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.

In services such as these it is important that quality of service is a more important factor than the price of the service. By focussing on quality of service the chosen provider is more likely to meet the needs of the client. This fits with the provisions of S149 of the Equalities Act listed above. For the type of clients mentioned above, quality needs to be the key criteria.

### **BACKGROUND PAPERS**

**None**

## 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:

CMT Member title:

Head of Service title

Other manager title:

Date:

In consultation with:

Signature:

Director of Legal and Governance

Signature:

Chief Executive

#### **Lodging this notice**

**Key Executive Decision**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_