



Havering
LONDON BOROUGH

Notice of Non-key Executive Decision

Subject Heading:	Authorisation to Waive the Contract Procedure Rules to direct award a contract to NELFT for the provision of Child and Adolescent Mental Health Services
Cabinet Member:	Councillor Robert Benham, Cabinet Member for Education, Children and Families
SLT Lead:	Robert South, Director of Children's Services
Report Author and contact details:	Chris Atkin, Commissioner and Project Manager, Joint Commissioning Unit Chris.Atkin@Havering.gov.uk 01708 434470
Policy context:	Work as part of this contract to be delivered in accordance with the Children Act (1989) and the Crime and Disorder Act (1998)
Financial summary:	This waiver will result in an award decision of a 18 month contract at an estimated maximum cost of £382,197
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	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 type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks approval from the Cabinet Member for Education, Children and Families, Councillor Robert Benham, to waive the Contract Procedure Rules permitting the direct award of a contract for the provision of Child and Adolescent Mental Health Services to NELFT for a period of 18 months starting from 1st September 2021 to March 31st 2023.

AUTHORITY UNDER WHICH DECISION IS MADE

Waiver

Authority to waive the Contract Procedure Rules is set out in Part 4 of the Council's Constitution (Contract Procedure Rules) in paragraph 14.1 as follows:

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 the Chief Executive.

14.3 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
 - b. the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.
- ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a) above;

STATEMENT OF THE REASONS FOR THE DECISION

Background and Context

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The original contract put in place with NELFT for the provision of the Child and Adolescent Mental Health Service (CAMHS) expired in 2012. The service is designed to intervene and act as a preventative measure to stop the decline of mental health for Children within Havering aged 0 -18, to highlight, escalate and respond to safeguarding concerns raised, to provide support to those children within the Youth Justice Service and prevent access to further acute services where possible.

This service helps to support the work completed by the Havering Safeguarding Children Partnership board and deliver against the Integrated Adolescent Safeguarding Strategy. NELFT provide four multi-disciplinary roles which Havering currently fund, used to address some of the challenges raised by poor mental health for the children of the borough. They also provide managerial and clinical supervision, group workshops and training to colleagues in the service which helps to boost skills and improve knowledge.

NELFT have continued to deliver services to vulnerable young people in the community on a spot purchase basis.

Benefits of the service

Utilising a CAMHS service in Havering allows response and intervention to episodes of poor mental health in the borough's population of children, negating the need of costlier treatment at the point of transition and into adulthood. By providing interventions earlier, professionals are given the opportunity to signpost to relevant additional services for children and their families, maximising the impact of the intervention and improving health and wellbeing. By providing timely support and intervention to adolescents within the Youth Justice system, it affords the opportunity for the young person to engage in the process, address their own perceptions about mental health and maximise their opportunities.

Finance

The CAMHS service is funded via the CAMHS grant at a cost of £63,799.50 per quarter (£255,198 annually). There is an internal contribution from the Havering Public Health team for the provision of this service (£165,270 annually).

Funding is for four posts as part of the CAMHS service delivered by NELFT. The roles required for the provision include:

- 1 x Band 8a Family Therapist;
- 1 x CAMHS nurse (based within the Youth Justice System);
- 1 x Band 7 worker (supporting LAC and delivery of LAC statutory duty);
- 1 x Band 4 STAR worker (based in adolescent safeguarding service supporting children and young people at risk of exploitation/known to the Integrated Adolescent Safeguarding Service).

Currently, work is being undertaken on the specification for the interim contract, with a view to ensuring that flexibility is built in with regard to hours used versus hours available to ensure the service is responsive to fluctuating demand across different service areas. It is anticipated that any changes in hours being delivered by roles not expressly identified within the specification will be funded by the existing budget.

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Recommendation

1. Waiver

It is recommended that the Cabinet Member for Education, Children and Families, Councillor Robert Benham, waives the Contract Procedure Rules permitting the direct award of a contract for the provision of Child and Adolescent Mental Health Services to NELFT for a period of 18 months starting from 1st September 2021 to March 31st 2023. CPR rule 9.9 requires procurements with an estimated value of £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.

Tendering via an open procedure resulting in a new private healthcare provider being selected would require a lengthy mobilisation period due to transfer of public data (and appropriate data sharing/consent agreements in place), synchronicity between systems to allow the relevant parties in both organisations to access case management data where applicable and the nature of rapport and trust already established between professionals and young people they support who access the service.

The JCU intends to complete some market testing to ascertain the feasibility of going out to tender for a new procurement and will follow up with relevant governance as to the future arrangements to be made in respect of this service provision.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1: Do nothing

This option was considered and rejected. Operating the service without a legal contract in place does not give suitable grounds to either party to resolve disputes or challenges and provides no opportunity for the Council to hold the supplier to account for non-delivery/poor delivery of services.

Option 2: Recommission service via open competition

This option was explored and rejected. There is not enough time to mobilise a new provider for an interim contract. Tendering via open procedure resulting in a new private healthcare provider being selected would require a lengthy mobilisation due to transfer of public data (and appropriate data sharing/consent agreements in place), synchronicity between systems to allow the relevant parties in both organisation to access case management data where applicable and the nature of rapport and trust already established between professionals and young people they support who access the service. There has not been enough time to carry out soft market testing to see if commissioning with a new supplier is a valid option.

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PRE-DECISION CONSULTATION

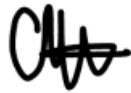
N/A

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

Name: Chris Atkin

Designation: Commissioner and Project Manager, Joint Commissioning Unit

Signature:



Date: 19/07/2021

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. This report seeks to waive the Contract Procedure Rules permitting the direct award of a contract to NELFT for the provision of Child and Adolescent Mental Health Services for 18 months.
2. The Council has a range of statutory duties in respect of these service provisions including but not limited to the Children Act 2004 and Local Authority Social Services Act 1970. The Council has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any limitations. The contract may be awarded in accordance with these powers.
3. A tender exercise was not carried out as required by the Contract Procedure Rules (CPR) and the contract will need to be directly awarded to the provider. In accordance with CPR 14.1 a waiver is being sought to authorise the direct award.
4. The proposed contract value is below the EU threshold for light touch procurements (currently £663,540) and accordingly is not subject to the full rigours of the Public Contracts Regulations 2015 (as amended).

FINANCIAL IMPLICATIONS AND RISKS

The CAMHS service is funded in full via the CAMHS grant at a cost of £63,799.50 per quarter (£255,198 annually). There is a contribution from public health for the provision of this service (£165,270 annually), which will continue at the same amount for 21—22.

Given that this is funded by an external grant (both CAMHS and Public Health Grant) there is a risk that if the grant ceases over the contract duration the funding may no longer be available.

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

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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

Details of decision maker



Signed

Name: **Councillor Robert Benham**

Date: **28 July 2021**

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 _____

Appendices

Appendix 1: Procurement Financial Threshold Exceptions – Approval

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Procurement Financial Threshold Exceptions - Approval

Form reference: FTE345734247 | Submitted: 2021-07-06 10:42:52

Name of person requesting exception	
First name	Chris
Surname	Atkin
Job title	Commissioner and Project Manager
Email address	chris.atkin@haverling.gov.uk
Contract details	
Your head of service	John Green
Contract description	<p>This service helps to support the work completed by the Havering Safeguarding Children Partnership board and deliver against the Integrated Adolescent Safeguarding Strategy. NELFT provide four multi-disciplinary roles which Havering currently fund, used to address some of the challenges raised by poor mental health for the children of the borough. They also provide managerial and clinical supervision, group workshops and training to colleagues in the service which helps to boost skills and improve knowledge.</p> <p>Annual cost of approx. 256k, seeking direct award for 18 months to allow for market testing and recommissioning.</p>
Contract value	382797
Contract duration	18 months
Proposed supplier	NELFT
Invoice to	Chris Atkin Chris.atkin@haverling.gov.uk
Do you propose to contract on standard Council contract conditions?	No
Give the reason why not and state which you will use	This will be on a standard Public Health Terms and Conditions as advised by OneSource Legal team.
Applicable exception	Compatibility with existing services/supplies
Background and details to justify exception request	
A brief description of service required	<p>This service helps to support the work completed by the Havering Safeguarding Children Partnership board and deliver against the Integrated Adolescent Safeguarding Strategy. NELFT provide four multi-disciplinary roles which Havering currently fund, used to address some of the challenges raised by poor mental health for the children of the borough. They also provide managerial and clinical supervision,</p>

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	group workshops and training to colleagues in the service which helps to boost skills and improve knowledge.
A brief justification of the Exception criteria selected	There is an existing relationship in place with the supplier but no formal contract which leaves the Council vulnerable to legal challenge. Current case management would need to be addressed within the context of this and to transfer this information to a new supplier would require agreement from all parties involved (service users included), data sharing agreements, congruence between case management systems, potential TUPE. Part of the recommission will explore if moving to a new supplier is viable.
Break down of costs	Invoices are sent quarterly. Current approximated cost of £382,797 (there is significant underspend for 20/21). Service funded via CAMHS grant with public health putting in a contribution.
How have you ensured that Best Value is achieved	Existing spot purchase arrangement in place has been significantly underspent against allocated budget. Market testing to be carried out with regard to viability of new supplier.
About the form filler	
Person completing this form	Chris Atkin
Signed by person named above	C. Atkin
Your service area	Chief Operating Officer
Date	30/06/2021
Approver comments (Head of Procurement)	
Having discussed with Sara Montague - who is working closely with the service - there is no alternative at this time and the service will be working to regularise current arrangements and confirm the forward plan for market exercises. Chris, please maintain planning for this with Preeti and Sara.	
Approval by Member of CMT or Assistant Director	
Do you approve the proposed exception to financial thresholds (tick your choice)?	<input checked="" type="checkbox"/> I approve <input type="checkbox"/> I do not approve
Name	<u>Robert South</u>
Service area	<u>Children's Services</u>
Signature	<u>R. South</u> 
Date	<u>16.07.21</u>