

Notice of Non-Key Executive Decision

Subject Heading:	Extend the contract with Mind in Tower Hamlets & Newham for Havering's Integrated Advocacy Service for a period of up to 24 months, following the approval of the Competition Financial Thresholds Exceptions Form.
Cabinet Member:	Councillor Jason Frost, Cabinet Member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director for Adults Social Care and Health
Report Author and contact details:	Georgina Shapley Senior Commissioner & Project Manager E: Gerorgina.Shapley@havering.gov.uk
Policy context:	Section 67 of the Care Act 2014 imposes a duty on local authorities to arrange for an independent advocate to be available to represent and support certain persons for the purpose of facilitating those persons' involvement in the exercise of functions by local authorities.
Financial summary:	An extension to the contract for 24 months will cost a total of £246,858.00. 12 month extension from March 2022 will cost a total of £123,429.37 The contract will be funded from the existing budget.

Non-key Executive Decision

Relevant OSC:	Individuals
Is this decision exempt from being called-in?	It is a non-key decision by a member of staff.

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 seek authorisation to:

- 1) Extend the contract with Mind in Tower Hamlets & Newham for Havering's Integrated Advocacy Service for a period of up to 24 months, following the approval of the Competition Financial Thresholds Exceptions form.

AUTHORITY UNDER WHICH DECISION IS MADE

For an extension with a value between the EU Threshold for Supplies and Services and £5,000,000, approval of a member of SLT is required.

STATEMENT OF THE REASONS FOR THE DECISION

Impact of COVID-19

1. Due to re assignment of Joint Commissioning Unit (JCU) resources as the 'Provider Emergency Contact Centre' and Vaccination rollout programme, during the outbreak of COVID19 and subsequent lockdowns during wave one and wave two, a number of recommissioning exercises had to be put on hold. This included the Integrated Advocacy Service.

In normal circumstances, a full review of options would have been undertaken but this has not been possible. As a result, this is a request for exception to competitive financial thresholds in order to extend this contract beyond its normal extension dates with a view to re-commissioning as soon as possible.

The service was scheduled to be reviewed in the final year of the contract (2020 – 2021). The Liberty Protection Safeguarding legislation was due to be published in April 2020. This would have allowed the JCU to initiate procurement activity and ensure a new contract was in place by March 2022, however due to the COVID-19 Pandemic, the publication of Liberty Protection Safeguarding legislation has been delayed to April 2022. This has a further impact on the recommissioning of this service within 12 months of the initial extension period if the legislation is not published by April 2022.

Current Contract

2. The current statutory advocacy services provided by Mind in Tower Hamlets & Newham play a significant role in Havering's duty to deliver on the Care Act 2014, Mental Health Act 2007, Mental Capacity Act 2005 and the Health & Social Care

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Act 2012. Havering's Integrated Advocacy Service, provided by Mind in Tower Hamlets & Newham, deliver the following elements of advocacy:

- Independent Mental Health Advocacy,
 - Independent Mental Capacity Advocacy and Deprivation of Liberty Safeguards
 - Care Act Advocacy
 - NHS Complaints Advocacy
3. By a Deed of Variation, it was agreed with effect from 4 February 2019 to increase the value of the original contract from £332,097 to £358,097 (the value of the initial 3 year term) because an administrator was added. This was approved by the Director of Adult Services. This report proposes exercising the option to extend the contract for one year at a total cost of £123k and seek an additional 12 months extension after this period. As the initial extension value per annum was £112,000 the contract would need to be varied to account for the additional £11,429.
4. The initial term of the contract (3 year initial term + 12 month extension) is coming to an end.
5. A full review of the current service and tender exercise for a long-term contract for replacement services is planned in 2022 with the intention that a new contract commences on 1st April 202. The review of the current service will be depended on the publication of the Liberty Protection Safeguarding (LPS) as the recommissioning of the new service will align with the introduction of LPS legislation.

Extension Period and Costs

6. The estimated cost to extend the contract for up to 24 months is £246,858.00, which will be funded from the existing budget.
7. Breakdown of current contract amount have been broken down below

	Initial Contract Amount	Revised Contract Amount after deed of variation	Extension Value
2018/19	110,914.00	112,914.00	
2019/20	109,754.28	121,754.28	
2020/21	111,429.37	123,429.37	
2021/22			£123,429.37
2022/21			£123,429.37
Total	332,097.65	358,097.65	£246,858.74

OTHER OPTIONS CONSIDERED AND REJECTED

Retender the Integrated Advocacy Service Immediately

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- 1) Given the timescales and the impact of COVID-19 on resources availability, this would prove a challenge. Furthermore, the proposed extension of 24 months will enable the Council sufficient time to review the current service, develop a new specification drawing on the findings and recommendations from the LPS project board. The documentation for the tender and contract will be produced jointly by a tender board to ensure it meets the needs and expectations of all stakeholders.

Do nothing and let the contract expire

- 2) Do nothing would mean the contract would expire on 31st March 2022 and the Council has a statutory duty to provide these services. The Council does not have capacity to bring the assessment services in house.

PRE-DECISION CONSULTATION

Consultation with a range of internal and external stakeholders. These include;

- Commissioning Programme Manager, Disabilities
- Procurement
- Legal
- Service Supplier

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

Name: John Green

Designation: Head of Joint Commissioning

Signature:

Date:

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

This report seeks approval to extend the Independent Statutory Advocacy Services Contract for 24 months.

Officers seek to rely on Regulations 72(1)(a) and 72(1)(c) of the Public Contracts Regulations 2015 for the proposed extension.

The option to extend the term for 12 months was contemplated at the time the contract was awarded in compliance with Regulation 72(1)(a). Furthermore, clause 3 of the contract enables the parties to extend the initial 3 year term until 2022.

This report sets out the need for extension that has been brought about by circumstances which a diligent contracting authority could not have foreseen, as required by Regulation 72(1)(c) of the Public Contracts Regulations 2015.

This provision can only be relied upon where the increase in price does not exceed 50% of the value of the original contract. The total value of the 3 + 1 year original contract was £481,527 and the increase in price for this extension amounts to just under 40% of the above total value.

To modify the Contract in this way, the Council must also send a notice by electronic means for publication to the UK e-notification service setting out its justification.

Furthermore, in accordance with Contract Procedure Rule 19.8, the reasons and authority to extend the contract must be recorded in writing and loaded onto the Council's preferred e-tendering suite.

Officers are satisfied that Mind in Tower Hamlets & Newham (the incumbent provider) has performed the service to a satisfactory level under the current contract. As the contract currently only enables an extension until 2022, Officers will need to seek agreement from the provider to extend the contract until 2023 and amend the contract accordingly.

FINANCIAL IMPLICATIONS AND RISKS

The report is looking to extend the current contract by 24 months. The initial contract which commenced 1st April 2018 was for 3 years plus an option to extend for a further year. If the contract is extended by up to 24 months as set out in this report then the contract will be due to end on 31st March 2023. A deed of variation was submitted in March 2019 to vary the contract costs, the initial contract costs and the revised contract costs are set out in the table below.

	Initial Contract Amount	Revised Contract Amount
2018/19	110,914.00	112,914.00

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2019/20	109,754.28	121,754.28
2020/21	111,429.37	123,429.37
Total	332,097.65	358,097.65

The annual cost of the contract will remain at £123,429.37 for the extension and this will be funded by existing budget. The total budget that is currently available to fund the contract is £124,739, of which £58,000 is funded through the better care fund with the remaining £66,739 being funded through core budget.

The total cost of extending the contract for up to 24 months is £246,858.70 and there are currently no plans to change the allocated budget so there should be sufficient budget to cover the cost of the contract for up to 24 months.

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, 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.

If the recommendation to award an extension to the contract for the provision of a Advocacy Services is agreed it should have a positive impact on equality groups. It will enable the provider to continue to provide the service ensuring consistency and the ability to maintain a quality service for service users.

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The service will continue to meet the needs of all eligible service users, including those from minority community groups and those 'protected' under Equality Act 2010 legislation.

BACKGROUND PAPERS

None

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: Barbara Nicholls

Member title: Director of Adult Social Care and Health

Date: 22.07.2021

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____