

## Notice of Non-Key Executive Decision

<b>Subject Heading:</b>	<b>Award of contracts to existing approved providers of adult education.</b>
<b>Decision Maker:</b>	Trevor Cook
<b>Cabinet Member:</b>	Cllr Oscar Ford, Cabinet Member for Children and Young People
<b>SLT Lead:</b>	Robert South, Director of Children's Services
<b>Report Author and contact details:</b>	Richard Priest, Curriculum Development Manager <a href="mailto:Richard.priest@havering.gov.uk">Richard.priest@havering.gov.uk</a>
<b>Policy context:</b>	Adult skills.
<b>Financial summary:</b>	Financial commitment estimated at a maximum of £400,000 within the academic year 1 August 2022 to 31 July 2023, funded by existing Adult Education Budget grant.
<b>Relevant OSC:</b>	People OSSC
<b>Is this decision exempt from being called-in?</b>	Yes, it is a Non Key Decision by Officer

## Non-key Executive Decision

### **The subject matter of this report deals with the following Council Objectives**

Communities making Havering  
Opportunities making Havering

[x]  
[x]

### **Part A – Report seeking decision**

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

1. To agree to award contracts via the LA's preferred procurement framework (previously Bloom/ NEPRO framework) for a term of one academic year commencing on 1st August 2022 and with indicative values as follows:

- a. Spotlight Multimedia Ltd –
  - i. £100,000 (Adult Skills Provision)
  - ii. £15,000 (Community Learning)
- b. Specialist Trade Courses (STC Group)- £100,000 (Adult Skills Provision)

with an aggregate (buffer) optional spend value across both contracts of a further £185k as set out in this report; and

2. To note that the optional maximum £185k increase to the aggregate value of the contracts set out in 1 above if required will be made in line with the scheme of delegation and as required.

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

3.4 Powers of Second Tier Managers  
Contract powers

(a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

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

The Havering Adult College (HAC) is an adult education service delivered by Local Authority staff, managing a range of national and local priorities and implements the statutory powers of the Local Authority to secure full and part time education suitable to the requirements of persons who have reached the age of 19. The Council receives funding from the Greater London Authority (GLA) and Education & Skills Funding Agency (ESFA) to deliver appropriate adult learning courses, some of which are delivered by HAC. In discharging its statutory power, the Council sub-contracts a proportion of its Adult Education Budget grant (AEB) to approved providers.

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Havering Adult College has been implementing sub-contracting arrangements successfully since 2010. Sub-contractors are commissioned via the LA's preferred procurement framework (previously Bloom/ NEPRO framework) as mandated by the Council's contract procedure rules. In line with AEB guidance, contracts are awarded for specialist curriculum offers which HAC is not able to deliver as effectively as a contractor can. Whilst the option to undertake a mini-tender is routinely considered, an annual mini-competition is not undertaken given the lack of specialist competition within the London Borough of Havering. To undertake such a competition would unnecessarily draw upon the limited external grant funding which is intended to support delivery to learners.

HAC actively manages these sub-contracts throughout the year to ensure value for money and high quality delivery. The contract management process includes a regular review of performance data which includes earned grant funding, learner numbers and success rates. Contract review meetings with each provider are held monthly to discuss any performance issues and to record agreed actions. Based on the review outcome, maximum contract values are varied if necessary. Furthermore, value for money is demonstrated through the provider's achievement of contracted targets (the amount earned per learner is a fixed rate determined externally by the Department of Education and is not a variable).

Other aspects of the provider's delivery are also discussed at the review meetings, including quality, safeguarding and health & safety and the relevant managers from the Havering Adult College also attend provider sites to monitor performance for their relevant specialist areas.

HAC has identified the below provision as requiring sub-contracting (listed with the identified sub-contractors, who have already been pre-approved by Bloom):

Spotlight - £100,000 (Adult Skills Provision) & £15,000 (Community Learning)  
Specialist Trade Courses - £100,000 (Adult Skills Provision)

As the sub-contracted providers have their own premises and supply chain of learners, they are able to continue in their specialist subject areas (construction, creative media etc.).

The contract values are indicative as providers are paid based on numbers of learners who access the education offer. In any given year, contract values may exceed or fail to reach their indicative value.

In the current post COVID-related climate, direct delivery has proven to be restricted due to low uptake of learner places impacting on the College's capacity to fulfil its AEB contract due to a variety of factors. Because of this, high flexibility within and between contracts is required to allow response to changing requirements. On this basis, a buffer of £185k above the aggregate value of the contracts (£215k) has been identified within the HAC AEB budget pot which may be applied between the contracts as, if and when necessary.

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The ESFA sets AEB grant value for each upcoming year based on spend in the previous year. If expected spend on adult education in the previous year is below the grant set, any future grant could be reduced and unspent grant may be clawed back. The proposed £185k buffer will have the benefit of allowing HAC to tailor its offer to match required spend under the current grant. This will (i) safeguard the contract value for the following year and (ii) partially mitigate the potential risk to a future over-spend due to a claw-back of grant payments (incurred due to under delivery).

For the reasons set out above, the decision maker is requested to authorise Havering Adult College to enter into the contracts identified in this report for the 2022/23 academic year for delivery of the AEB offer and to agree that the value of contracts with identified providers may be increased (or decreased) as required and in line with the review process set out above.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

1. Do nothing – not recommended.

The Council is not able to offer this provision directly.

2. Procure the contracts via a tendering process on the open market – not recommended.

The Council is mandated to procure contracts of this type via the LA's preferred procurement framework (previously Bloom/ NEPRO framework) by its contract standing orders. Furthermore, the Council is not able to procure contracts for terms of more than a year as there is no guarantee of level of grant year on year. Given the costs associated with an open tender, this option is not cost effective.

### **PRE-DECISION CONSULTATION**

No formal consultation has taken place.

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

Name: Richard Priest

Designation: Curriculum Development Manager

Signature: *R. Priest*

Date: 11<sup>th</sup> August 2022

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

### **LEGAL IMPLICATIONS AND RISKS**

The Council has a power to provide adult education within its area under the Education Act 1996. The Council has power to procure and enter into the contracts under s111 Local Government Act 1972 as the contracts will facilitate the Council to implement the discharge of this power.

The Council also has power to procure the contracts under the general power of competence contained in section 1 of the Localism Act 2011 which allows the Council to do anything that an individual may do subject to any statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The contracts fall within the light touch regime of the Public Contracts Regulations 2015 (PCR). Individually and in aggregate they fall below the light touch financial threshold of £663,540 and thus are not subject to the full rigours of the PCR.

The contracts must be procured in compliance with the Council's Contracts Procedure Rules (CPR). Paragraph 17.5 of the CPR requires that contracts for consultancy or professional services must be procured via the LA's preferred procurement framework (previously Bloom/ NEPRO framework).

The framework is a PCR compliant framework which by definition is a compliant procurement. Procurement of the contracts via this service therefore complies with the CPR and PCR and the contracts may be procured and awarded in this fashion.

### **FINANCIAL IMPLICATIONS AND RISKS**

The terms of the grant agreement with the Greater London Authority and Education & Skills Funding Agency permit the Council to sub-contract provision of some of the courses. As such, the grant passes to the Local Authority and is administered through the Council's General Ledger in order to set up a budget to fund Adult Education provision. The expenditure is expected to be in the region of £400,000 for the 22/23 academic year, although actual costs will be subject to individual arrangements, and will be managed within the overall funding envelope. The AEB funding rules allow the adult college to sub-contract a proportion of the grant as management deems reasonable to support the increasing and widening of participation within specialist areas the college is unable to effectively resource.

Contract monitoring processes are in place whereby the Havering Adult College monitors expenditure and quality of all its sub-contractors and takes actions to address any issues identified. The funding agency also requires an external audit be undertaken annually for compliance, supporting transparency. Value for money in terms of quality is addressed as part of this monitoring process. As stated above, amounts paid for each qualification will be based on the AEB funding methodology and as such are "uncontrollable" within set parameters. The subcontracted provision falls within the remit of Ofsted, and is monitored under the terms of their Inspection Framework as well.

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The financial risk of not awarding is that the College will be unable to meet the demands of its own AEB contract allocations, thus resulting in a destabilising of the service, as well as both a risk of grant monies being clawed back, and this in turn resulting in a significant underspend, impacting the service and the Council adversely.

The costs for provision of the courses will be funded from the GLA & ESFA grant to the Adult College for 2022/23 & 2023/24, on A30910 HCAE Central Office cost centre. There are therefore no further financial implications to the revenue budget for Havering.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

There are no direct Human Resources implications or risks to the Council, or its workforce, arising from the recommendations made in this report, that can be identified at this time.

### **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:  
the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;  
the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;  
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.

Under Section 149 of the Equality Act 2010 a local authority has a duty when carrying out their functions to have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

Advance equality of opportunity between people who share a protected characteristic and those who do not;

Foster good relations between people who have a protected characteristic and those that do not.

There are no Equalities implications and risks at this stage, as the awarding of the contracts does not reduce the scope for access, but rather increases the opportunity to widen participation for all.

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#### **ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

The environmental positive considerations of this decision rest mainly in the location of the specialist provision, specifically in central Romford. This is relevant as it reduces travel time for learners who are mostly located in Romford according to previous MIS data. The reduction in distance equates to fewer vehicles required to get the learners to the locations, and in some cases, it is within walking distance, resulting in a carbon reduction impact.

#### **BACKGROUND PAPERS**

None.

#### **APPENDICIES**

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**

TBC

Proposal agreed

Signed

Proposal NOT agreed because

**Details of decision maker**

Signed:



Name: Trevor Cook

Cabinet Portfolio held:

CMT Member title:

Head of Service title: Assistant Director, Education

Other manager title:

Date: 15/09/2022

**Lodging this notice**

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

**For use by Committee Administration**

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

Signed \_\_\_\_\_



## **Non-key Executive Decision**