

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix A is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it *refers to Commercially Sensitive Material*, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Authority to award a contract to Education Appeals dotcom to carry out the School Appeals Service
Decision Maker:	Trevor Cook – AD Education
Cabinet Member:	Councillor Oscar Ford, Cabinet Member for Children & Young People
SLT Lead:	Robert South – Director of Children's Services
Report Author and contact details:	Darren Purdie, Head of Education Provision & Inclusion darren.purdie@havering.gov.uk
Policy context:	School Admissions Appeals
Financial summary:	The cost of the contract over 3 years will be in the region of £101K, however this is variable as the actual sum paid to the contractor is dependent on the number of appeals heard and withdrawn in each year. Under the terms of the contract the Council will pay a one off fixed fee on commencement. The Council will recover some of its costs from Academies, as they will be recharged for appeals dealt with on their behalf.
Relevant OSC:	People OSSC
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

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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 checked="" 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

Agree to enter into a contract with “Education Appeals Dotcom (EddApp.com) to manage the legal process of administering school appeals on behalf of the London Borough of Havering for a period of three years as detailed within this report.

AUTHORITY UNDER WHICH DECISION IS MADE

Paragraph 3.3 Powers of Second Tier Managers of Part 3 [Responsibility for Functions] of the Constitution:

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

In accordance with Part 3 of the Council’s Constitution the Head of Democratic Services is responsible for undertaking all the administrative procedures for Schools Appeals, Hearings Panels and any other panels or Sub-Committees required under the terms of reference of the Adjudication and Review Committee and Licensing Committee: including but not limited to the appointment and re-appointment of independent persons for school appeals and other hearings, the selection of members or independent persons to consider specific cases, the consideration of applications for re-hearing of School Admission Appeals, the arrangement of panels and dates and the appointment of Chairmen of panels.

Democratic services (DS) previously consisted of a team of 7 officers. In February 2022, 3 members of staff were granted voluntary release redundancy and since February the team has continued to operate with only 4 members of staff.

A restructure had been planned, however due to the complexities of the recent local election this could not take place until a new committee structure was agreed. A new committee structure was agreed in June 2022.

As the Summer cohort appeals followed immediately after the local elections, it was clear that the volume of work could not be managed within the current DS team and alternatives for outsourcing school appeals were sought. It was not possible to carry out a full procurement process due to limited time available before appeals were due to be heard.

To assist with the Summer cohort school appeals process Democratic Services enlisted SV Law and along with DS officers the appeals took place as per statutory

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requirements. This arrangement cannot be considered as a long term solution as a procurement was not carried out and the costs implications to the Council.

As democratic services are no longer in a position to support the statutory function required for Independent School Appeal Hearings, the Local Authority has had to consider alternative options. Officers carried out market research and contacted other local authorities to find out how they dealt with school appeal hearings. The response was mixed with some authorities dealing with the service in house and others contracting with third party organisations. Following this officers requested quotes from three providers in the market to provide a school appeal hearing service for a period of 3 years. Prior to requesting quotes, officers believed, based on research that the cost of the service would be below £100K for 3 years.

Following evaluation of the quotes received, which are set out in Exempt Appendix 1, officers recommend that the contract should be awarded to Education Appeals Dotcom (EdApp.com) as the most economic advantageous tenderer,

EdApp.com have been in business for 30 years and are experts in appeals legislation and currently manage appeals for many other London boroughs. EdApp.com would be in a position to take over all our school appeals service with immediate effect.

The Local Authority will have a single contract with EdApp.com, and this service would be for all Havering schools including Academies and this would then allow for the Local Authority to re-charge Academies for their appeals.

Structures of Costs

EdApp.com will charge the Council a one off fee plus daily fees for panel members and fixed fees per appeal regardless of if it is a community or academy school. This means that the LA has an opportunity to recoup funding from Academies via a traded service to pay for their own appeal hearings and to assist with paying the LA's one off fee.

EdApp.com will provide

- independent advice to parents.
- advice on the appeals process ensuring that at all times the Academy / LA are not breaking the Appeals Code.
- a Clerk who will administer the whole of the school appeal process.
- dedicated and independent online appeal forms and provide parents with an information booklet.
- Regular updates to the LA and Academies on the number of appeals lodged. Schools and LA get a copy of the appeal form once submitted.
- a pool of panel members who will have no connection with the LA or School. Each panel member will have been trained to a standard that complies with the Admission Appeals Code.
- the invitation letter inviting parents to the hearing. The letter will include advice about the hearing, an agenda, as well as who will be sitting on the panel.
- Translators
- Electronic format file, with copies of all letters, notes and minutes which are archived for two years.

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OTHER OPTIONS CONSIDERED AND REJECTED

Do nothing – not an option as the Council has a statutory duty to provide the service and is unable to with the current level of resources.

PRE-DECISION CONSULTATION

None other than detailed above.

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

Name: Darren Purdie

Designation: Head of Education Provision & Inclusion

Signature:

A handwritten signature in black ink, appearing to read 'Darren Purdie', written over a light blue horizontal line.

Date: 23/08/2022

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Parents/ Carers have a right of appeal under the School Standards and Framework Act 1998 (as amended by the Education Act 2001) if they have not been offered a place for their child at their preferred school. The Local Authority, acting as the admission authority for Community Schools has a legal duty to ensure school appeals are administered and heard in accordance with the relevant legislation and within specific timeframes.

The Council has the power to procure and enter into the contracts under s111 Local Government Act 1972 as the contracts will facilitate the Council to discharge these duties.

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 statutory constraints on the Council's powers. None of the constraints on the Council's s.1 power are engaged by this decision.

The proposed contract value is below the EU threshold for services (£213,477) and accordingly is not subject to the full rigours of the Public Contracts Regulations 2015 (as amended). The body of this report confirms that officers have obtained 3 quotes as required by the Contracts Procedure Rules.

FINANCIAL IMPLICATIONS AND RISKS

The Council has a statutory duty to provide this service. The Council will pay a one off fee on commencement of the contract. Having reviewed the number of appeals in previous years for both Academies and community schools, it is anticipated that the first years spend will be in the region of £40,900, however the Council expects to recharge £25,000 to Academies for appeals dealt with on their behalf. If appeals heard and withdrawn remain at the same level for years 2 and 3 of the contract it is anticipated that the Council will spend £30,100 per year and recharge £25,000 per year to Academies. Therefore, over the 3 years the Council will spend £101,000 but recover £75,000. There are therefore no additional financial pressures or risks arising from this decision. The decision will save the Local Authority funding whilst ensuring statutory processes are adhered to. The level of savings benefited by the LA budget, generated per 100 admissions and 50 withdrawals, will be £18,950. The savings will be due to avoiding paying the current higher rate charged by the in house team. Further, academies will benefit from a £128 reduction per case.

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

Not Applicable

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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.

The School Appeals Code makes it clear that the Local Authority must comply with the relevant law as well as acting in accordance with the provisions of the new School Admissions Code. Specific reference is made in the Code to The Equality Act 2010 the Human Rights Act 1998 and the School Standards and Framework Act 1998.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The Appeals Process needs to be in place to avoid families making excessively lengthy journeys, thus potentially contributing (needlessly) to the carbon levels through additional travel/travel time. In addition, processes to determine the most effective mechanisms to support travel, where travel is necessary, can consolidate essential travel demands into a single route (such as one bus to cater for many) to reduce potential traffic and the associated carbon-related emissions.

BACKGROUND PAPERS

Not Applicable

APPENDICIES

Appendix A	<i>Cost Comparison Table</i>	<i>Exempt</i>
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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: Trevor Cook

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date: 20.9.2022

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 _____