

Notice of Non-key Executive Decision

Subject Heading:	Procurement of Government Approved Training Providers using Apprenticeship Procurement Frameworks
Decision Maker:	Gareth Nicholson, Director of Partnerships and Organisational Development
Cabinet Member:	Cllr Ray Morgon
SLT Lead:	Gareth Nicholson
Report Author and contact details:	Iona Jackson-Benjamin Talent Hub Manager Iona.Jackson-Benjamin@onesource.co.uk ; 0203 373 1367
Policy context:	<p>Employers in England and Wales with a pay bill of over £3 million each year pay an apprenticeship Levy (0.5% of the pay bill) to HM Revenue and Customs (HMRC). The Levy is held for use by the council in an HMRC administered digital account (the Apprenticeship Service online account), and can only be spent by the Council to pay for apprenticeship training and assessment, with payment from the account made directly to authorised training providers. Each month, £60,000.00 is paid by Havering into the Levy account. If not spent within two years, funds expire and are retained by HMRC.</p> <p>This report seeks approval to use existing Apprenticeships Procurement Frameworks to procure a range of Training providers to deliver a wide range of technical skills</p>

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	<p>training, that will enhance the capability of the workforce.</p> <p>Using these frameworks will speed up the procurement process for the Council, as registered training providers will already have undergone a robust tendering process before being included on the Frameworks, and will also ensure compliance with public sector procurement legislation. This report also outlines the procurement approach and meets the governance requirement confirming that in using Levy funds in the financial year 23/24 to procure training provision, the Council will not exceed the amount of £1,382,322 currently in the Havering Levy account (28 February 2023).</p>
Financial summary:	<p>As a contracting authority we are required when arranging any expenditure, to ensure we follow the Public Contract Regulations 2015.</p> <p>The total value of the contracts to be awarded using the Apprenticeship Procurement Frameworks will not exceed £1,382,322 in the 23/24 financial year. This is the amount currently held in Havering's Apprenticeship Levy account.</p> <p>Successfully awarded training providers will be monitored and paid directly from Havering's HRMC Apprenticeship Service online account. There are no specific direct revenue costs for the council, and using Apprenticeship Procurement Frameworks will ensure we meet internal governance requirements.</p>
Relevant OSC:	People Overview & Scrutiny Sub-Committee
Is this decision exempt from being called-in?	The decision is 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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place. **[X]**

Place an X as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Director of Partnerships and Organisational Development is asked to agree to the proposal for procuring Training Providers via apprenticeship procurement frameworks at an estimated value of **£473,345** over the 2023 to 2024 financial year; and note that:

- The total proposed expenditure identified for the delivery of apprenticeships from the Apprenticeship Levy in the 23/24 financial year, will not exceed the amount available in the Havering Apprenticeship Digital Account. This figure currently stands at **£1,382,322**. This figure includes £183,755 which is the amount allowed under the Government Funding rules 22/23 that can be made available to transfer to local charities and businesses.
- Approval of this key decision will also reduce the number of non-key decisions required to be completed by individual services. Currently, a non-key key decision is required each time we seek to use the Levy to procure apprenticeship training over £25,000; and

Using apprenticeship procurement frameworks Yorkshire Purchasing Organisation (YPO) and Crown commercial Service (CCS) as part of the procurement activity will ensure full compliance with public sector procurement rules.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3 Powers of Members of the Senior Leadership Team

Contract powers

(a) To approve commencement of a tendering process for all contracts above a total contract value £500,000.

(b) To award all contracts with a total contract value of between £500,000 and £5,000,000 other than contracts covered by Contract Procedure Rule 16.3.

STATEMENT OF THE REASONS FOR THE DECISION

Apprenticeships are delivered through a Government regulated scheme. The Council draws down the Levy from a fund that the Council contributes to on a monthly basis to HMRC based on the number of employees.

Unused funds expire 24 months after they enter the digital account. For example, funds entered into the Havering account in September 2021 will expire in September 2023. Payments from the Council's account to training providers always use the oldest funds

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first. Since 2017 when the Council started to pay into the Levy, it has not been possible to spend all the funds accumulated. Please see below:

Year	Levy Paid	Spent	Levy Transferred	Levy Expired
17-18	£583,976.55	£9,126.02	£0.00	£0.00
18-19	£586,714.92	£57,730.13	£0.00	£0.00
19-20	£630,159.90	£120,860.88	£9,960.00	£389,345.58
20-21	£668,888.78	£259,305.56	£73,400.69	£229,223.42
21-22	£689,917.06	£333,487.69	£103,812.19	£199,767.57
	£3,159,657.21	£780,510.28	£187,172.88	£818,336.57

Councils and training providers must comply with Education and Skills Funding Agency (ESFA) Funding rules, and training providers must be registered on the Government Register of Approved Training Providers. These rules constitute funding conditions under section 101 of the Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA), in connection with the Secretary of State's power to fund English statutory apprenticeships under section 100(1A) of the ASCLA. Some occupations require the training provider to be approved by a regulatory body before being able to deliver training for the apprenticeship. The ESFA may take action to recover apprenticeship funding where providers have delivered training but do not have the necessary approval. The use of Apprenticeship Procurement Frameworks will ensure that these rules are met.

Procurement

Services advise that whilst there is a commitment to spending more of the available Levy funds on approved training, a particular barrier to starting apprenticeships is the length of time it takes to procure high-quality training providers. They consider the process to be time consuming and bureaucratic, taking up to six months to complete. However, the Council still needs a robust process in place to procure apprenticeship training to support efficient investment of Levy funds and ensure full compliance with procurement rules.

Publicly funded bodies must abide by UK procurement law when spending money on goods and services. This ensures public money is spent transparently and fairly. A procurement framework is one way in which organisations can comply with these regulations.

We therefore propose to procure best value apprenticeship training using one or more available apprenticeship procurement frameworks (as opposed to a paper-based Request for Quotes) specifically to access apprenticeship training and assessment. This will enable the Council to obtain best value apprenticeship training from a wide range of providers and ensure best value apprenticeship training is procured quickly,

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transparently and fairly whilst remaining compliant with internal procurement governance requirements

There are benefits to using frameworks:

- We will save time, when compared to running the procurement in-house;
- We will benefit from increased buying power and economies of scale;
- We will gain access to intelligent specifications and cost models;
- Using Frameworks will ensure we are compliant
- We will have access to two different award options – Direct Award to the top-ranked supplier or carrying out a mini tender amongst all successful suppliers; and
- Frameworks undertake supplier due diligence, as all suppliers on frameworks are regularly checked for their financial standing.

Approval is sought to use apprenticeship procurement frameworks as recommended by the Strategic Procurement Unit. Whilst there are a range available, we recommend using the following:

- **Yorkshire Purchasing Organisation (YPO)** – created and utilised by many local authorities; and
- **Crown Commercial Service (CCS)** – utilised by the Civil service.

Appendix B provides a summary of each Framework.

The Talent Team already works with the Council's Strategic Procurement Unit and using procurement frameworks such as YPO and CCS, is already a routine activity for them. If approved this approach will:

- Support the Council's policy to procure best value providers for goods and services;
- Take the pressure off directorates, as the Talent Team will be responsible centrally for all procurement of apprenticeship training and assessment, whilst still continuing to consult Services on the most appropriate training provider;
- Training procurement will be undertaken consistently in line with compliance and governance rules; and
- Procurement will be concluded within a speedier timeframe, as Training providers will have already completed a robust tendering process.

The Director is asked to approve the recommended approach to procurement.

OTHER OPTIONS CONSIDERED AND REJECTED

Other options considered include:

Option 2: Complete a paper-based mini tender exercise and non-key officer decision each time we wish to procure a training provider to deliver training with a value exceeding £25,000. This would be time consuming and dis-incentivise services wishing

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to take up training due to the length of time required to arrange sign-off on non-key decisions and then to procure training providers. Experience has shown this can take three to six months. This option would also impact on the amount of time the Talent Team and SLT sponsor would need to spend on procurement bureaucracy. This option would necessitate a business case to deliver increased staffing resource into the Talent Hub team to manage the volume of work necessary.

Option 3: Remove responsibility for procurement from the Talent Team to the Procurement Team. This option is not feasible due to the competing priorities that the Procurement team has and stated lack of resource to manage the end-to-end process.

Option 4: Transfer responsibility for procurement to the services. This would still require the completion of many non-key decisions, increase the impact on service resources and potentially increase the risk of non-compliance.

PRE-DECISION CONSULTATION

Discussions with Service Leaders across the council have identified that a centrally driven approach to procuring training providers is preferred given the time it takes. Services have also stressed that they are not resourced to take responsibility to also procure training providers for apprenticeship training, but are willing to be consulted.

Discussions with the Strategic Procurement Unit have confirmed that only one Executive Decision approval would be required annually, as long as we also confirm we will not spend more than is in the Apprenticeship Levy Account. On the advice of the Head of Law, this decision is being re-drafted as a Non Key decision as the expenditure is anticipated to be less than £500,000 and the community impact is not considered significant as the decision applies to procurement of employee training.

We have also consulted with other councils which have already adopted the use of a range of apprenticeship procurement Frameworks confirming that the speed of procurement has increased and in some cases can be completed within a week; and that the process is user-friendly, robust and ensures full compliance with procurement regulations.

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

Name: Iona Jackson-Benjamin

Designation: Talent Hub Manager

Signature:



Date: 12th April 2023

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Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The apprenticeship Levy is a scheme, which was originally introduced by section 99 of the Finance Act 2016, that Councils must make compulsory financial contributions to. Councils are allocated a fund from the scheme that they can draw down from to spend on apprenticeships. The Council is making a decision to procure agreements with training providers via apprenticeship procurement frameworks to enable it to spend the money allocated it to on apprenticeships.

The Council has the power to make agreements with training providers through section 111 of the Local Government Act 1972, which allows the Council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions, or through its general power of competence in section 1 of the Localism Act 2011 to do anything that individuals generally may do. There are limitations on the general power of competence, but the limitations do not apply to this decision.

The total estimated value of the proposed agreements is below the applicable public procurement threshold for the light touch regime stipulated in the Public Contracts Regulations 2015 ("PCR") of £663,540. Therefore, the proposed agreements are not subject to the full PCR regime.

For these reasons, the Council start the procurement process for the proposed agreements with training providers.

FINANCIAL IMPLICATIONS AND RISKS

The Council currently pays approximately £60,000 per month from within approved budgets to HMRC. The funds are then allocated to the Havering Apprenticeship Levy account (including contributions for the maintained schools). This funding is subsequently drawn down to cover the costs of approved apprenticeships training.

There are no specific direct additional costs to the Council resulting from this decision.

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

There are no HR implications or risks arising directly from using apprenticeship procurement frameworks to procure Training providers

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Both YPO and CCS ensure they meet obligations under Section 149 of the Equality Act 2010 through policies, procedures and processes. Training Providers tendering to join the Frameworks provide information on how they meet equalities and social value commitments. Procuring via the YPO and CCS will support our commitment to

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supporting community wealth building, social mobility, the equalities and social inclusion agenda and more effective use of the Levy.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable environmental and climate change implications or risks that would affect either the Council or residents.

BACKGROUND PAPERS

Guidance – Employer Apprenticeship funding rules 2022 – 2023

[Apprenticeship funding rules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/apprenticeship-funding-rules)

Provider Apprenticeship funding rules [ESFA Funding rules](#)

Procurement guidance » Route 2 – Between £25,001 Up to PCR15 Threshold for Goods/Services and £500,000 for Works ([havering.gov.uk](https://www.havering.gov.uk/procurement-guidance))

APPENDICIES

Appendix A – Procurement Process

Appendix B – Apprenticeship Procurement Frameworks

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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:

G D Nicholson

Name: Gareth Nicholson

Cabinet Portfolio held:

CMT Member title: Director of Partnerships and Organisational Development

Head of Service title

Other manager title:

Date: 11/05/2023

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 _____

The Talent Team must ensure that they follow the Council's internal procurement rules which confirm that as a publicly funded body we must abide by UK procurement law when spending money on goods and services. This ensures public money is spent transparently and fairly.

1. The Talent Team manages the Havering Apprenticeship Levy digital account. The Levy is paid by large employers with a pay bill of over £3 million (0.5% of the total annual pay bill). HMRC deduct funds monthly via the payroll, and put these funds into the digital account for Havering.
2. The Talent Team, on behalf of the council, is responsible for accessing and managing these funds through the online Apprenticeship Service. The team oversee all transactions to Training providers and monitor progress. These accounts are used to:
 - authorise who can access the accounts
 - sign agreements with the ESFA
 - agree and authorise payments to training providers (paid monthly)
 - find and save apprenticeships
 - manage training providers
 - add and manage apprentices and monitor progress
 - transfer funds from our unspent Levy to other organisations
3. The Talent Team are fully responsible for procuring Training providers to deliver apprenticeships. This includes managing the contracts and completing the end-to-end apprenticeship procurement process. Also, because of the nature of apprenticeships, the Council needs to have contracts with a range of training providers (TP) to deliver many professional standards across different skills. This means that we cannot simply procure one college/ university/ provider. The Talent Team work closely with service managers and welcome their support in the procurement process.
4. As part of the selection and procurement process the following criteria are checked:
 - Good/outstanding Ofsted ratings;
 - Whether they are registered on the Government Register of Approved Training Providers and have a UK Provider Reference number;
 - Whether they are registered with the Information Commissioner's office for the processing of personal data for education and training;
 - Safeguarding processes;
 - Equality and diversity processes;
 - Expertise and experience in delivering apprenticeships;
 - Financial assessment;
 - Completion and success rates;

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- Apprentice support and pastoral care; and
- Whether blended learning i.e. a mix of on-line, face-to-face learning, is offered.

5. The starting point for a service wishing to offer apprenticeship training is to complete an application form for funding.

If the value of the apprenticeship exceeds £25,000, the procurement guidance states the purchaser, must complete a [Procurement Initiation Form](#), prior to commencing their procurement process (PIF) and submit the PIF to the strategic procurement unit (SPU) for review. The Strategic Procurement Unit has developed a [Step-By-Step Procurement Guide](#) for Officers, which is centred around 3 procurement routes:

- Route 1 - Procurements up to the value of £25,000
- Route 2 - Procurements between £25,001 up to the PCR15 Threshold for Goods/Services and £500,000 for Works
- Route 3 - Procurements above the PCR15 Threshold for Goods/Services and £500,000 for Works

6. In order to procure training providers and draw down Levy funds the Talent Hub must ensure we comply with ESFA Funding rules. This means using training providers on the Government Register of Approved Training Providers. Providers not on the list cannot be invited to tender. All requisite Training providers listed on the .Gov.UK website are invited to complete a specification document, which is then assessed.

7. Up to five of the highest scoring training providers are invited to be interviewed by a panel comprising both Talent Hub representatives and representatives from the service. Please also note – all Apprenticeship Training Providers charge exactly the same and all accredit prior learning. As a result, not only do Council officers look at cost, but also procure based on quality of delivery, OFSTED ratings, completion rates, and what is included in the package e.g. cost of exams, resits etc. Guarantees for example, are required that prior learning has been accredited, and that as a result there will be a reduction in charges. This is all part of a robust, open and transparent selection process.

8. In addition, before training can start and the digital accounts for learners created, a contract with the training provider must be in place, and as part of the exercise a contract or service level agreement is requested, which is reviewed by the Council's Contracts Legal Team. Once Legal have approved, it comes back to the Talent Manager for signing. Details of all contracts are maintained by the team and shared with the Strategic Procurement Unit and the Contracts Legal Team. In addition, there must be an apprenticeship agreement in place signed by the line manager and the learner as well as the TP; and there must be a detailed

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training plan, also signed by the TP. Only when all these elements are in place is the TP engaged and added to the digital account so they can be paid.

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Appendix B – Apprenticeship Procurement Frameworks

Publicly funded bodies must abide by UK procurement law when spending money on goods and services. This ensures public money is spent transparently and fairly. A procurement framework is one way in which organisations can comply with these regulations.

A framework agreement is a general term for an agreement with suppliers that sets out terms and conditions, under which specific purchases, or call-offs, can be made throughout the life of the agreement.

A Framework may be used for procuring Supplies, Services and Works where:

- It has been established by a public sector body (or bodies) and has been competitively tendered, and is an EU compliant procurement (or exempted) and Newham (or all local authorities) are named (specifically or by description) as a contracting authority; and
- subject to the rates and prices offered, balanced against the quality and convenience of use of a Framework, it represents best value to the Council in all circumstances.

Where Officers are proposing to directly award a contract to a supplier through utilising a multi-supplier framework, they must make this clear within the report they submit to obtain Decision Maker approval to award the contract, as well as provide a clear rationale as to why a direct award to a single supplier is justified and how it will ensure best value to the Council.

Officers may only consider this option where the Framework itself expressly permits a direct award option (where it does not, competition must be undertaken in line with the framework rules) and any direct award must be followed in strict accordance with those terms and instructions of the Framework provider.

Yorkshire Purchasing Organisation (YPO)

<https://www.ypo.co.uk/apprenticeships>
<https://www.ypo.co.uk/feature/2018/q2/apprenticeship-framework>

YPO provides frameworks for public sector organisations to set up or renew contracts for a wide-range of services. Established in 1974 by a group of 13 local authorities, YPO is the UK's largest public sector buying organisation and 100% publicly-owned. YPO works closely with suppliers and collaborates with other public sector buying organisations to achieve efficiencies and value for money, returning all profits back into the heart of the public sector. YPO's team of qualified procurement professionals offer advice, guidance and expertise on procurement, as well as regular engagement and communication to make sure objectives are achieved

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YPO has spent months creating a solution that would support the needs of the public sector when procuring apprenticeship standards. They held supplier and customer engagement events that included attendees from a variety of providers, local authorities, police forces, fire and rescue, NHS trusts etc. The framework covers all apprenticeships that are listed by the [Institute of Apprenticeships](#). YPO created an over-arching specification that providers must deliver against when delivering an apprenticeship standard, end-point assessments or associated training.

Crown commercial Service (CCS)

<https://www.crowncommercial.gov.uk/agreements/RM6102>

<https://www.crowncommercial.gov.uk/agreements/RM3823>

CCS is available for all public sector organisations to use including:

- central government departments
- agencies
- public bodies
- wider public sector organisations
- charities

Organisations can buy generic or bespoke apprenticeship training courses including the learners' end-point assessments. Suppliers mainly provide apprentice training and assessments in England. The agreement provides over 500 apprenticeship standards, and all providers registered have undergone a robust tendering exercise demonstrating financial standing and compliance with government standards.

All CCS suppliers are registered with the Education and Skills Funding Agency (ESFA).

With call-off contracts from this agreement, we can pay for services using apprenticeship Levy funds. Current ESFA funding rules apply.

This agreement uses a dynamic purchasing system (DPS) to help find relevant suppliers through a filtering system. There is the option of doing a rapid award procurement, which can be completed in as little as a day.