



## Notice of Non-Key Executive Decision

<b>Subject Heading:</b>	Waiver to make a direct award of NHS Health Check contracts to Havering General Practitioners
<b>Cabinet Member:</b>	Councillor Gillian Ford, Lead Member for Adults and Public Health
<b>SLT Lead:</b>	Mark Ansell, Director of Public Health
<b>Report Author and contact details:</b>	Lindsey Sills, Senior Public Health Specialist 01708 431812 Lindsey.sills@havering.gov.uk
<b>Policy context:</b>	<p>The NHS Health Check Programme is a statutory Public Health Service as outlined in the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations (2013), sections 4 – 5.</p> <p>The use of Healthchecks contributes to Havering’s strategic objectives as outlined in the Joint Health and Wellbeing Strategy 2019/20 – 2023/24.</p>
<b>Financial summary:</b>	Current budget for NHS Health Checks is £185k per annum utilising a payment by results model and funded by the Local Authority Public Health Grant.
<b>Relevant OSC:</b>	People OSSC
<b>Is this decision exempt from being called-in?</b>	Yes, 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 X**

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report seeks authority to waive two of Havering's Contract Procedure Rules to allow for a direct award (submitted via separate Non-Key Executive Decision paper, attached) of NHS Health Check contracts to the General Practitioners practicing within Havering. Rules to be waived stated in the CPR outlined below:

**9.9 “Unless stated elsewhere in the CPR or for reasons of extreme urgency, each procurement with an estimated value of £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.”.**

**22.3 “All contracts with a value over £100,000 shall be on the Council approved standard terms and conditions for that type of contract”**

### AUTHORITY UNDER WHICH DECISION IS MADE

Part 2.5 The following Functions may be delegated to individual Cabinet members by the Leader.

(g) To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 14(1) of those Rules.

### STATEMENT OF THE REASONS FOR THE DECISION

#### Background

The NHS Health Check Programme is a nationally mandated service which aims to reduce the chance of heart attack, stroke or developing some forms of dementia in people aged 40 – 74. It achieves this by via assessment of the top seven risk factors impacting the burden of non-communicable disease in England, and providing service users with behavioural support and, where appropriate, treatment.

The objectives of the programme have been outlined below:

- 1) To promote and improve the early identification and management of the individual behavioural and physiological risk factors for vascular disease and the other conditions associated with those risk factors.
- 2) To support individuals to effectively manage and reduce behavioural risks and associated conditions through information, behavioural and evidence based clinical interventions.

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- 3) To help reduce inequalities in the distribution and burden of behavioural risks, related conditions and multiple morbidities.
- 4) To promote and support appropriate operational research and evaluation to optimise programme delivery and impact, nationally and locally.

### **Context**

There were 44 GP practices registered within Havering, belonging to 3 Primary Care Networks (this was extended to 4 Primary care Networks as of June 2019). GP's are paid for the amount of invitations sent to eligible population and for the amount of health checks completed via a payment by results model.

<b>Annual Submission</b>			
Year	Eligible	Invited	Completed
19/20	14148	11433	4142
20/21	15221	1630	586
21/22	15424	7902	2852

<b>% invited, % take up and % completed of eligible</b>			
Year	Invited	Take up	Completed of eligible
19/20	81	36	29
20/21	11	36	4
21/22	51	36	18

### **Finance**

The total historic spend for NHS Health Checks has been outlined below:

<b>2017/2018</b>	<b>£86,840.00</b>
<b>2018/2019</b>	<b>£170,275.00</b>
<b>2019/2020 (to date)</b>	<b>£124,535.00</b>
<b>2020/2021</b>	<b>£96,550</b>

Due to risks related to the pandemic, the service were not inviting healthchecks and this resulted in underspend. The Public Health team and JCU will be working collaboratively to boost engagement with the GP's to drive performance.

The sums referred to above are the total amount paid to the 44 GP's that are registered to provide NHS Health Checks.

The Public Contract Regulations Section 32.(2).(b).(ii) states:

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**32.—(1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.**

#### ***General Grounds***

**(2) The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:—**

**(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—**

**(ii) competition is absent for technical reasons.**

In the context of this contract, General Practitioners are the only suitable supplier as they have sole access to the confidential medical data necessary to ascertain the invitations and commit to completing Health Checks for those eligible.

The existing contract for NHS Health Checks expired as of 31<sup>st</sup> March 2020. Due to COVID19 it is anticipated that no GP's practices would be inviting eligible service users for health checks due to the risk of infection for the latter part of Q4 2019/2020.

My recommendation is for a one year contract with optional one year extension to enable future commissioning options to be considered through the Havering Placed Based Partnership Board, following conclusion of Local Authority and NEL NHS Integrated Board staff restructures.

My proposal is for the contract to begin 1<sup>st</sup> June 2023 with an end date of May 31<sup>st</sup> 2024.

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

Option 1 – Do nothing and do not contract General Practitioners to provide an NHS Health Check service.

This option cannot be explored as this is a mandatory programme.

Option 2 – The Council to jointly commission with our local authorities.

The Contract timelines makes this approach difficult to negotiate at present.

### **PRE-DECISION CONSULTATION**

N/A

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

Name: Chris Atkin

Designation: Commissioner and Project Manager, Joint Commissioning Unit

Signature:

Date: 2 May 2023

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

### **LEGAL IMPLICATIONS AND RISKS**

This report seeks approval to waive the Council's Contract Procedure Rule (CPR) 9.9 requiring a formal tender exercise and directly award contracts to each General Practitioner in the Borough in compliance with the Council's statutory duty to provide NHS Health Checks to eligible residents.

Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything that an individual can do subject to other statutory provisions limiting or restricting its use of such power. The recommendation in this report is compatible with this statutory power.

CPR 14 provides that a waiver of the Rules is permissible if all relevant law is complied with and the contract falls within one of the exceptions listed in CPR 4.4. As set out in the body of this report, the most relevant exception to the competitive requirements of CPR 9.9 is the specialist nature of the services.

Furthermore, the value of the proposed contract is well below the threshold for Light Touch Services (as listed in Schedule 3 of the Public Contract Regulations 2015). The Council is therefore under no obligation to advertise the contract opportunity on the UK e-notification service, 'Find a Tender'.

Officers have satisfied themselves that the requirements for a waiver have been met in this instance and that this decision will result in the best value for the Council overall.

### **FINANCIAL IMPLICATIONS AND RISKS**

£185,000 has been allocated from the Public Health Grant annually to fund the contract for Health checks. Health Checks are currently paid on a payment by results model, Havering pays £5 per invitation sent out for a Health checks and £20 for each Health check completed.

The pandemic affected the amount of Health Checks undertaken in the 20/21 financial year and work is being undertaken by the service to increase the amount of health checks undertaken to reach pre-pandemic levels. The spend in the last few years has been lower than anticipated and lower than the allocated budget due to the reduced demand.

If demand increased significantly, the shortfall could be met from the Public Health Reserve balances.

### **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.

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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:

- (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.

**BACKGROUND PAPERS**

N/A



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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**

*Delete as applicable*

~~Proposal NOT agreed because~~

**Details of decision maker**

**Signed**

Name: **Councillor Gillian Ford**

Cabinet Portfolio held: **Lead Member for Adults and Public Health**

CMT Member title:

Head of Service title

Other manager title:

Date:

**Lodging this notice**

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

**For use by Committee Administration**

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

Signed \_\_\_\_\_