

## Notice of Non-key Executive Decision

<b>Subject Heading:</b>	To give notice for early termination of EAS contract and bring in-house
<b>Decision Maker:</b>	Kathy Freeman, S151 Officer
<b>Cabinet Member:</b>	Councillor Chris Wilkins
<b>SLT Lead:</b>	Barbara Nicholls, Strategic Director of People
<b>Report Author and contact details:</b>	Troy Aitken <a href="mailto:Troy.aitken@havering.gov.uk">Troy.aitken@havering.gov.uk</a>
<b>Policy context:</b>	The discretionary provision of financial support to vulnerable households in emergency need.
<b>Financial summary:</b>	Funding of <b>£103,000</b> already earmarked to cover cost of contract to administer scheme in 2023/24. For the period that the service is administered in-house, it will be <b>£46,000</b> .
<b>Relevant OSC:</b>	Overview and Scrutiny Board
<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**

People - Things that matter for residents

**Part A – Report seeking decision**

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

1. To exercise the available option (within Schedule 1.3 of the contract) of terminating the contract administering the Emergency Assistance Scheme

## **Non-key Executive Decision**

(EAS) with Disablement Association Barking and Dagenham Ltd (DABD) by giving three months' notice by 31<sup>st</sup> August 2023. The current contract expires on the 30<sup>th</sup> June 2024.

2. To transfer the administration of the EAS to the Havering Refugee and Crisis Response Team within the People Directorate from 1<sup>st</sup> December 2023.

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

Part 3 of the Constitution - Responsibility for Functions

3 Functions delegated to staff

3.3 Powers of Members of the Senior Leadership Team

Financial responsibilities

(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

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

DABD work in partnership with Benefits Services to receive, assess and pay applications for emergency assistance since 1 April 2013.

Referrals are also made through Benefits Services, other Council departments and external and voluntary organisations. DABD and Benefit Services when reviewing claims will look at the applicant's financial situation as a whole and advise them regarding other benefits, personal budgeting and will also refer to Havering's Employment and Skills Service.

DABD deliver an essential service in partnership with the Council and the proposal is to terminate the contract with DABD and transfer the administration of the scheme to an in-house delivery model to enable the Council to have full control of the administration and ensure it is delivering our strategic priorities.

The mobilisation of bringing the service in-house will be delivered by an appointed Project Manager within the Havering Refugee and Crisis Response team and will have no additional financial pressures to the current delivery model. There is a working group established to ensure the seamless transfer of the service, and all changes communicated to appropriate Council departments and Council residents.

The EAS administered will be within the Havering Refugee and Crisis Response Team. This team is currently responsible for delivering local initiatives to the Cost of Living crisis for Havering residents.

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The Council team will deal with the EAS claim in its entirety and so there will be no requirement for Benefit Services to undertake DWP Searchlight checks as these will be completed by the Team.

There are no additional finance implications on transferring the administration of the scheme to the Council nor on the residents who are benefitting from the EAS. The Project Manager is working with ICT on the system solution that has been scoped and with a delivery window agreed.

The EAS will not fundamentally change this financial year (2023/24) but depending on the outcome of Government funding settlement for 2024/25 it may change for future years.

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

The alternative option is to continue to let the contract with DABD but this was rejected, as the Council would like to take full control of the administration of the scheme.

### **PRE-DECISION CONSULTATION**

There has been engagement with the Director of the Exchequer and Transactional Services on the proposal to terminate the contract early and to bring the service in-house.

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

Name: Troy Aitken

Designation: Programme Manager Havering Refugee and Crisis Response Team

Signature: *Troy Aitken*

Date: 04 August 2023

## Part B - Assessment of implications and risks

### **LEGAL IMPLICATIONS AND RISKS**

The Council has the power to terminate the contract with Disablement Association Barking and Dagenham Limited (DABD) 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 Council can activate a no fault termination of the contract with DABD through schedule 1.3 of the contract, which allows the Council to terminate the contract by giving DABD a minimum of three months of notice.

In accordance with regulation 4 of the Transfer of Undertakings (Protection of Employment) Regulations 2006, when the Emergency Assistance Scheme (EAS) is transferred from DABD to the Council, the employees of DABD, who are wholly or mainly assigned to the EAS that will be transferred to the Council, will be transferring employees. When the EAS is transferred, all DABD's rights, powers, duties and liabilities under or in connection with the transferring employees' contracts of employment will be transferred to the Council, so the transferring employees will have the right to be employed by the Council on the same terms as they are currently employed by DABD.

Therefore, the Council can give notice to DABD to terminate the contract.

### **FINANCIAL IMPLICATIONS AND RISKS**

DABD are funded from the EAS reserve and the in-house Council team will continue to be funded from the same reserve for this financial year.

The EAS is issued year on year and we will not know the allocation until early 2024.

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

We anticipate 1.5 full time equivalent (FTE) that would come under TUPE from the DABD. There is an additional 0.8 FTE that is not eligible for TUPE.

For planning purposes, we anticipate that 2.5 FTE in total will be required to administer the scheme. Further design of the service will be able to provide a more accurate figure of FTE required.

The proposal will require a TUPE and a restructure process both of which will be managed in accordance with the Council's human resources (HR) policies and procedures.

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A HR consultant will be allocated to this restructure to provide the Havering Refugee and Crisis Response Team the necessary advice and guidance.

### **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, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender and sexual orientation.

The Council is committed to the Equalities Duty in the provision and commissioning of its services.

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 recommendations for approval in this report will be essential to support the financial health of families with children and pensioners during the cost of living crisis

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

There are no environmental and climate change implications or risks to this report.

### **BACKGROUND PAPERS**

None

### **APPENDICES**

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

**Details of decision maker**



Signed

Name: Kathy Freeman  
Cabinet Portfolio held: Strategic Director of Resources  
SLT Member title: Strategic Director of Resources  
Head of Service title  
Other manager title:

Date: 11.08.2023

**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 \_\_\_\_\_