

Notice of Non-Key Executive Decision

Subject Heading:	Award of contracts to existing approved providers of adult education.
Decision Maker:	Tara Geere, Director of Children's Services
Cabinet Member:	Cllr Oscar Ford, Cabinet Member for Children and Young People
SLT Lead:	Barbara Nicholls, Strategic Director for People
Report Author and contact details:	Edda McIver, Acting Quality & Curriculum Manager Edda.McIver@havering.gov.uk
Policy context:	Delivery of Adult Education Budget aligned to Skills for Londoners Strategy, to protect the LA against loss of funds through under-delivery and clawback by GLA
Financial summary:	Financial commitment estimated at a maximum of £280,000 within the academic year 1 August 2023 to 31 July 2024, funded by existing Adult Education Budget grant.
Relevant OSC:	People OSSC
Is this decision exempt from being called-in?	Yes, it is a non-key decision

Non-key Executive Decision

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

1. To agree to award contracts via the LA's preferred procurement framework (Matrix) for a term of one academic year commencing on 1st August 2023 and with indicative values as follows:

- Specialist Trade Courses (STC Group) - £130,000 (Adult Skills Provision)

with an aggregate (buffer) optional spend value of a further £150,000 as set out in this report; and

2. To note that the optional maximum £150,000 increase to the aggregate value of the contract set out in 1 above if required will be made in line with the scheme of delegation as and when 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 the contract 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

Non-key Executive Decision

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.

Havering Adult College has been implementing sub-contracting arrangements successfully since 2010. Sub-contractors are commissioned via the LA's preferred procurement framework (Matrix) 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. Therefore the Council proposes to direct award the contract to Specialists Trade Courses through the Matrix framework.

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 the 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 area. Havering Adult College and any subcontractor are also covered within the remit of Ofsted, and as such both are subject to external scrutiny and audit to ensure compliance and quality.

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

Specialist Trade Courses - £130,000 (Adult Skills Provision)

As the sub-contracted provider has their own premises and supply chain of learners, they are able to continue in their specialist subject area (construction).

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

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 £150k 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

Non-key Executive Decision

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 reason sets out above, the decision maker is requested to authorise Havering Adult College to enter into the contract identified in this report for the 2023/24 academic year for delivery of the AEB offer and to agree that the value of contract with the identified provider may be increased (or decreased) as required and in line with the review process set out above and subject to the relevant corporate governance being undertaken.

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 (Matrix) by its contracts procedure rules. 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: Edda McIver

Designation: Acting Quality & Curriculum Manager

Signature: 

Date: 9th August 2023

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 contract under s111 Local Government Act 1972 as the contract will facilitate the Council to implement the discharge of this power.

The Council also has power to procure the contract 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 contract fall within the light touch regime of the Public Contracts Regulations 2015 (PCR). The contract falls below the light touch financial threshold of £663,540 and thus is not subject to the full rigours of the PCR.

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

The framework is a PCR compliant framework which by definition is a compliant procurement. Procurement of the contract via this service therefore complies with the CPR 20.4 and PCR Regulation 33(8) and the contract 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 £280,000 for the 23/24 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

Non-key Executive Decision

falls within the remit of Ofsted, and is monitored under the terms of their Inspection Framework as well.

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.

An identified risk to the provision of the finances would be if, for some reason, the sub-contractor was unable to fulfil its delivery of the provision (due to closure, for example). In the event of this, any sub-contractor has to have a business continuity plan that safeguards enrolled learners who would otherwise be at risk of missing out on their qualification. Sub-contractor business continuity plans are approved as fit for purpose as part of the due diligence process completed for all sub-contractors for Havering.

The costs for provision of the courses will be funded from the GLA & ESFA AEB grant, Academic Year 2023/2024 to the Adult College, 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;

Non-key Executive Decision

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.

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.

Additionally, the construction courses incorporate a focus on sustainable builds and materials as part of the curriculum, thus embedding a culture of sustainability within the learning.

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

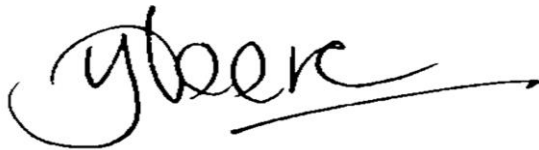
Agreed

Proposal agreed

Signed

Details of decision maker

Signed:

A handwritten signature in black ink, appearing to read 'Tara Geere', with a long horizontal stroke extending to the right.

Name: Tara Geere

Cabinet Portfolio held:

CMT Member title: Director of Starting Well (DCS)

Head of Service title:

Other manager title:

Date: 04/09/2023

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 _____