



## 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 f Schedule 12A to the Local Government Act 1972. It is exempt because it refers to information relating to the financial or business affairs of any particular person (including the authority holding that information, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

<b>Subject Heading:</b>	The London Collaboration – MSTAR4 – variation of Havering's Most Economically Advantageous Tender (MEAT) assessment scores to enhance social value provision
<b>Decision Maker:</b>	Ray Morgon, Leader of the Council
<b>Cabinet Member:</b>	Ray Morgon, Leader of the Council
<b>SLT Lead:</b>	Kathy Freeman, Strategic Director of Resources
<b>Report Author and contact details:</b>	Mark Porter, Head of HR Operations
<b>Policy context:</b>	N/A
<b>Financial summary:</b>	Amending the Price/Quality ratio as part of this collaborative procurement will enhance and emphasise the commitment of the participating London boroughs to social mobility and drive increased employment opportunities within the most deprived communities with a consequent positive impact on other council budgets and services.
<b>Relevant OSC:</b>	Overview and Scrutiny Board

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**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**

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]

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

At the request of the participating London boroughs in the London Collaboration, to vary the usual assessment criteria for award of a contract at Havering from 70% price, 30% quality to 40% price, 60% quality to ensure that the Collaboration's commitment to enhancing the social mobility of residents furthest from the labour market is achieved and to ensure the robustness of the suppliers in the core contract to deliver key services to 20 London boroughs.

### AUTHORITY UNDER WHICH DECISION IS MADE

#### **Part 3, section 2.5 of the Constitution**

#### **Individual Cabinet members' responsibilities for functions**

(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

1. The London Collaboration is a group of London local authorities that worked together on a collaborative basis to procure a managed service provision of temporary agency workers under the MSTAR3 national framework.
2. The London Borough of Havering acts as the lead authority in this collaborative procurement. The London Collaboration consists of representatives from Barking & Dagenham, Kingston, Sutton, Richmond, Wandsworth, Barnet, Haringey, Newham, Havering, Tower Hamlets (including Tower Hamlets Homes), Lewisham, Redbridge, Waltham Forest, Bromley, Croydon, Hounslow, Camden, Hackney (including Hackney Learning Trust), Hillingdon and Waltham Forest, a total of 20 boroughs.
3. The strategic goals of the London Collaboration are to procure and deliver an agency worker and project based consultant contract which delivers:
  - Innovation through social mobility
  - Significant cost savings
  - Enhanced attraction and utilisation of agency workers
  - Reduced reliance on agencies
  - Social value

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4. It was agreed in a Key Executive Decision dated 3<sup>rd</sup> August 2023 that Havering would lead the next iteration of the London Collaboration on behalf of the other participating London boroughs using the Eastern Shires Purchasing Organisation (ESPO) MSTAR4 framework to procure a further contract which can then be used by participating boroughs for the next 4 years. This contract will be put out for tender in October 2023.
5. The participating boroughs have come to the collaborative decision that the award criteria for the contract will be :  
  
Price :           40%  
Quality :         60%
6. The participating London boroughs were emphatic that their desired outcome should reflect the stated ambition of the London Collaboration to use their collective power as a major procurer of goods and services to deliver wider social, economic and environmental benefits.
7. The participating London boroughs required that bidders will need to demonstrate how they can add social value to each council and its residents through the contract i.e. how they will help to create jobs and opportunities for local people and support residents to become 'job ready'. This will form a key part of the evaluation of the submissions of potential suppliers.
8. Assessing potential suppliers in this way will ensure that the contract will help the participating councils to continuously deliver and measure benefits to all local residents and communities.
9. Measurement of delivery will be continually monitored by boroughs at their quarterly contract review meetings and also monitored at an overarching level at London Collaboration meetings. Failure to deliver against this key element of the contract will result in performance measures being taken against the relevant provider.
10. Some participating boroughs have already been undertaking work in this field. Early pilots of the impact of social mobility initiatives in Camden, Hackney and Haringey have been positive with 300 residents that were not in work previously already placed into roles over the last 8 months with numerous employers at or above London Living Wage.
11. Taking into account the impact of those residents leaving Universal Credit, who are now paying council tax etc. a conservative estimate would be a potential saving/cost avoidance to those councils of £5.5k per resident, a total of £1.65m without taking into account the consequent positive impact on other associated council services i.e. social care, revenues and benefits.
12. Havering has led three previous iterations of this contract and the market assessment of the current fees paid indicates that there is very little/no room for agency margins to be driven down further (current margins were set in 2020 as

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part of the previous procurement exercise and have not risen in line with inflation since).

13. The contract will be let by e-auction again as in previous procurement exercises. This process will also ensure that the optimum price is achieved from a very competitive market (see exempt information at Appendix A).
14. The collaborative spend of all the participating London boroughs on the contract (circa £500m per annum) ensures that prices are kept low so much so that a due diligence process is completed by the collaboration at the end of the procurement process to ensure that the tendered fees are sustainable post the e-auction process. It should be noted that the waiver only applies to a small fraction of this amount i.e. the management fee and not the pay to the agency workers, please see table in Appendix A.
15. The due diligence process consists of the service provider having to provide five references from agencies across the 27 job categories.
16. Keeping the price/quality ratio at 70/30% will not have an impact on the current price as discussed in paragraphs 14 and 15 however it risks boroughs choosing not to be part of the London Collaboration with a consequent impact on the goals of the London Collaboration to impact those resident and local communities that are furthest from the labour market (further detail is shown in the exempt information at Appendix A).

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

The price/quality ratio of 70/30% will not enable fully the stated objective of the participating boroughs in the London Collaboration to ensure that successful bidders will provide improved and enhanced social value initiatives.

A greater emphasis on quality will also decrease the risk of appointing an inexperienced supplier to this contract that supports essential services currently to 20 London boroughs.

Keeping the price/quality ratio at 70/30% will not have an impact on the current price as discussed in paragraphs 14 and 15 however it risks boroughs choosing not to be part of the London Collaboration with a consequent impact on the goals of the London Collaboration to impact those resident and local communities that are furthest from the labour market

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**PRE-DECISION CONSULTATION**

The other participating London boroughs in the collaboration have emphatically expressed the need that the award criteria of this London Collaboration contract which Havering leads on their behalf be amended.

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

Name: Mark Porter

Designation: Head of HR - Operations

Signature: Mark Porter

Date: 20<sup>th</sup> September 2023

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

### **LEGAL IMPLICATIONS AND RISKS**

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.

The Public Contract Regulations confirm that contracting authorities have flexibility of choice in selecting their price/quality evaluation model.

Contract Procedure Rule 14 provides that a waiver of the Rules is permissible if all relevant law is complied with and the decision falls within one of the exceptions listed in CPR4.4. The most relevant exception is that the waiver is in the best Interests of the Council.

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**

The rates agreed as part of the MSTAR3 procurement exercise are unlikely to be lower as part of the MSTAR4 procurement exercise as the margins for the providers are already at a very low rate.

Indeed the rates have not increased in line with inflation since they were agreed in 2020 so councils have already made significant savings using this contract. It is not anticipated that rates will increase during this procurement exercise.

The financial impact of social mobility is difficult to fully assess but placing someone who is long term unemployed into a job role will have a positive impact in a number of areas including on collection rates for local council tax as well as a positive impact in lower benefit claims.

The risk of not changing the price/quality ratio is that participating councils choose not to use the contract moving forward and make their own arrangements with a consequent impact on collective buying power and potentially increasing prices.

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

These are addressed throughout the body of the report.

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**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

Under section 149 of the Equality Act 2010, the Council has a duty 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
- the need to foster good relations between those who have protected characteristics and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

A full equalities impact assessment will be undertaken as part of the award process for the MSTAR4 contract.

**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

Not applicable.

**BACKGROUND PAPERS**

None.

**APPENDICES**

**Appendix A**      Current market assessment and revenue projections      Exempt

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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

~~Proposal NOT agreed because~~

**Details of decision maker**

Signed



Name:

Ray Morgon

CMT Member title: Leader of the Council

Date:

26/10/2023

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