



**Havering**  
LONDON BOROUGH

## Notice of KEY Executive Decision

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| <b>Subject Heading:</b>                        | Approval to waive the Council's Contract Procedure Rule (CPR) 9.9 and to Direct Award the HIV Prevention and Support Service contract   |
| <b>Decision Maker:</b>                         | Mark Ansell, Director of Public Health  |
| <b>Cabinet Member:</b>                         | Cllr Gillian Ford, Cabinet Member for Adults and Health   |
| <b>SLT Lead:</b>                               | Mark Ansell, Director of Public Health  |
| <b>Report Author and contact details:</b>      | Laura Wheatley, Senior Commissioner and Project Manager<br>T: 01708 434019<br>E: <a href="mailto:laura.wheatley@havering.gov.uk">laura.wheatley@havering.gov.uk</a>   |
| <b>Policy context:</b>                         | The Adult Social Care and Support Planning Policy states that Havering's vision is:<br><br>'Supporting excellent outcomes for the people of Havering by helping communities to help themselves and targeting resources and interventions to encourage independence' |
| <b>Financial summary:</b>                      | The contract will be funded from the Public Health Grant. The total cost of the three-year contract (+2-year extension subject to performance and funding) will be subject to the tender but is estimated at £176,350.00 over the five-year period.                 |
| <b>Reason decision is Key</b>                  | (c) Significant effect on two or more Wards   |
| <b>Date notice given of intended decision:</b> | 05/01/2024  |

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|--|--|
| <b>Relevant Overview &amp; Scrutiny Committee:</b>   | People's Overview and Scrutiny Sub Committee |
| <b>Is it an urgent decision?</b>                     | No   |
| <b>Is this decision exempt from being called-in?</b> | No   |

**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.

## Key Executive Decision

### Part A – Report seeking decision

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

This report is seeking approval from the Director of Public Health to waive the Council's Contract Procedure Rule (CPR) 9.9 and direct award a HIV Prevention and Support Service contract to Positive East for a period of 3 years plus 2 years' extension from 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2029 at a total value of £176,350.00.

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

Part 3 of the Council's Constitution

3.3 Powers of Members of the Senior Leadership Team

General powers

c) To make arrangements to secure continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness etc. as required by external regulatory agencies.

Contract powers

(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**

The HIV Prevention and Support Service is currently provided by Positive East. HIV Prevention and Support is a very niche and specialist market and the market for this type of service is significantly limited.

The current contract with Positive East for the provision of HIV Prevention and Support Service ends on the 31st March 2024.

Positive East is North East London's HIV Charity and has been addressing the HIV need for individuals and communities across Havering and North East London for over 3 decades.

Positive East have a clear understanding of the needs having provided a service across both areas and communities over the last 25 years, which includes: living with HIV, HIV stigma, poverty, poor housing, immigration issues, social isolation, mental health issues, substance misuse (alcohol/chemsex), aging with HIV (other illnesses). They have built strong relationships with primary care settings and partners are key to provide a seamless service and have established links with Stat & Non Stat Partners E.g. Shelter.

For the last 15 years they have been working across London as part of our GMI Partnership (partnership with Metro & Spectra) delivering the outreach and engagement work from the Pan London HIV Prevention Programme. The Charity supports individuals living with HIV from places of crisis to sustained independence through providing social welfare law information, advice, casework and advocacy (e.g. benefits, housing), peer support, counselling, specialist psychology service, support groups and health and wellbeing workshops.

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This paper is seeking approval to waive the Council's Contract Procedure Rule (CPR) 9.9 requiring a formal tender exercise and to directly award a contract to in compliance with the Council's statutory duties already set out in the body of this report.

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 1.4.4. As set out in the body of this report, the most relevant exception to the competitive requirements of CPR 9.9 is specialist services/supplies. Positive East is the only available supplier that can provide this service in this niche market.

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'.

The HIV Prevention and support service is funded via a Public Health grant at a cost of £8,930.00 per quarter (£35,270.00 annually) and is paid quarterly via invoice.

### **Background**

HIV remains an important communicable disease in the UK and continues to be a highly significant public health issue. Between 2014 and 2019, there was an estimated 35% reduction in new HIV diagnoses, an estimated 94% of people living with HIV had been diagnosed and 98% of those diagnosed were on treatment. Nationally, the government has committed to achieving zero new HIV infections, AIDs and HIV-related deaths by 2030 - "Towards Zero".

The Human Immunodeficiency Virus (HIV) targets the immune system and weakens people's defence systems against infections and some types of cancer. As the virus destroys and impairs the function of immune cells, infected individuals gradually become immunodeficient. Immune function is typically measured by CD4 cell count.

Immunodeficiency results in increased susceptibility to a wide range of infections, cancers and other diseases that people with healthy immune systems can fight off.

There is no cure for HIV infection. However, effective antiretroviral (ARV) drugs can control the virus and help prevent transmission so that people with HIV, and those at substantial risk, can enjoy healthy, long and productive lives.

The most advanced stage of HIV infection is Acquired Immunodeficiency Syndrome (AIDS), which can take from 2 to 15 years to develop depending on the individual. AIDS is defined by the development of certain cancers, infections, or other severe clinical manifestations.

### **The National Picture**

Between 2015 and 2019 there have been greater declines in new HIV diagnoses in gay and bisexual men in London compared to the rest of England. This decline was focussed in 5 London clinics, which delivered high levels of HIV testing, including frequent testing of men at high risk of HIV, together with accelerated initiation of anti-retroviral therapy (ART) at HIV diagnosis.

The observed decline in new diagnoses in gay and bisexual men is due to reduced transmission of HIV. The estimated annual number of new infections acquired in gay and bisexual men has declined year on year from a peak of around 2,700 cases in 2011 to an estimated 540 in 2019.

Overall, the number of people with a new HIV diagnosis in England has fallen by 53% from a peak of 5,788 new diagnoses in 2014 to 2,692 in 2021.

## **Key Executive Decision**

This decline can be directly linked to the following initiatives:

- Use of condoms
- Pre-Exposure Prophylaxis (PrEP)
- Frequent HIV testing in a wide range of settings
- Starting anti-retroviral therapy (ART) as soon as possible after diagnosis

### **Inequalities in Testing**

Almost 300,000 people declined to have an HIV test when they attended a specialist sexual health service. Black African heterosexual women attendees were more likely to decline a test than Black African heterosexual men (20% versus 9% declined testing) but less likely than heterosexual women and men overall (25% versus 13%).

In addition, the partial recovery in testing between 2020 and 2021 is not seen equally across different demographic groups. The number of GBMSM having an HIV test (in any SHS) increased by 23% from 144,800 in 2020 to 178,466 in 2021, 14% higher than the 156,631 people tested in 2019. In heterosexual and bisexual women, a smaller 11% increase was seen between 2020 and 2021 (441,017 to 489,727), placing levels of testing at 78% of 2019 testing levels (628,607). Despite a substantial fall between 2019 and 2020 (42%, 419,501 to 242,813), testing in heterosexual men increased by just 2% between 2020 and 2021 to 248,355; 59% of 2019 testing levels. Testing in London increased 12% between 2020 and 2021 (to 362,571), following a 25% decrease between 2019 and 2020 (431,253 to 322,636). Outside London a 15% increase in the number of people tested to 658,042 in 2021 was observed, following a 34% (867,319 to 569,869) decrease from 2019 to 2020.

### **Living with diagnosed HIV infection**

In 2021, a total of 91,432 people were accessing HIV care in England. However, people living with diagnosed HIV infection are growing older due to low mortality rates. Nearly half of all people living with diagnosed HIV in 2021 were aged 50 years or over (48%; 43,584 out of 91,432) compared to 25% in 2012.

### **Public health Recommendations**

With progressive strengthening of combination prevention (including condom use, expanded HIV testing, prompt ART and availability of pre-exposure prophylaxis (PrEP)), HIV transmission AIDS and HIV-related deaths could be eliminated in the UK. The recent encouraging changes are dependent upon sustained prevention efforts. The inconsistencies between groups and geographies demonstrate that combination prevention needs to be replicated for all those at risk of acquiring of HIV, whoever they are and wherever they live<sup>1</sup>.

HIV testing, including frequent testing among those most at risk of HIV, reduces the number of people unaware of HIV infection, the time with which people live with undiagnosed infection and provides the opportunity for prompt HIV treatment. ART is now so effective that those who are treated and have an undetectable viral load (<50 copies/mL) have levels of virus that are untransmissible, even if having sex without condoms. This is sometimes referred to as U=U (undetectable= un-transmissible).

Despite these promising data, significant challenges remain. The number and proportion of diagnoses made at a late stage of HIV infection remain high, particularly among heterosexual men and women. Late diagnosis is associated both with a higher risk of short-term mortality and morbidity as well as risk of onward transmission; people diagnosed late have typically been unaware of their HIV infection for 3 to 5 years. For heterosexual men and women, further

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expansion of HIV testing in line with NICE guidelines will help bring down AIDS and HIV-related deaths further.

### **Scope of Service**

HIV support is different, but complementary to HIV treatment. This service will work in close collaboration with HIV treatment services, used by Havering residents, especially at Barking Hospital treatment site and any satellite clinics delivered in Havering, including at Queen's Hospital, Romford.

HIV support needs may not be fully addressed by mainstream services alone. The HIV support service will play a key role in the local HIV pathway. Effective partnership working across the local system is essential. There will be close collaboration with HIV treatment services used by Havering residents, with a requirement to provide regular face-to-face service at the aforementioned clinical services, as well as group-based services and other services, to include peer support.

The overall aim is to improve health and wellbeing and quality of life by supporting people with HIV to live healthy and productive lives, with additional individual support where there are vulnerabilities, such as when newly diagnosed, experiencing adverse life events, or feeling isolated. The specification will reflect the evidence of best practice in HIV support services and the needs of people living with HIV, in Havering. The service will deliver continuous service improvement, adapting services to changing local needs, circumstances, and priorities. Innovation and added value are welcome to improve outcomes for people living with HIV.

The main components of the HIV Prevention and Support Service are:

A: Provision of psychosocial support – including counselling, emotional support, reduction of stigma and discrimination and positive living by supporting people with HIV to live independently; support people to better self-manage life with HIV, build self-esteem, assertiveness and confidence; and promote their health and wellbeing.

B: Clinical support – Support people to overcome cultural and linguistic barriers to access relevant services through the provision of information, advice and advocacy ensuring that their needs are met; work with BHRUT to increase effectiveness of HIV treatment and care; support clients to access additional services, such as flu and Covid-19 vaccinations to protect their health and wellbeing; work with clinicians to ensure they are skilled in the wider determinants affecting HIV care.

C: Social and economic support – support clients to access social protection support as required, e.g. benefits support, free school meals, employment opportunities, workplace policies etc.

D: Human rights and legal support – provide advocacy to people affected by HIV to navigate systems that provide legal aid, support and information on human rights legislation to ensure clients are not disadvantaged.

E: Family and community support – provide support to families, care-providers and children infected or affected by HIV/AIDS; engage and involve communities at risk to reduce the risk of HIV transmission and encourage testing to reduce HIV late diagnosis; ensure service user feedback is an integral part of service improvement across the health and care system.

F: Community testing locally in each borough.

The Provider will ensure that all of the main components of the Service (as listed above) are delivered in accordance with terms of the Contract and within costs contained in the Pricing Schedule and Annual Contract Sum.

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

#### **Option 1 - *Do nothing***

There is the option to do nothing and stop providing HIV Prevention and Support services when the contract ends on the 31<sup>st</sup> March 2024. This option is not advised due to there being nothing in place to meet the needs of the Havering residents regarding HIV Prevention and Support, as it is a niche service. If there is nothing in place regarding HIV Prevention and Support, it could have a negative impact on Havering residents who have HIV or residents who are not diagnosed due to lack of HIV Prevention. Therefore, this option was considered and rejected.

#### **Option 2 – *Joint HIV Prevention and Support Service***

This option has been considered however Barking and Dagenham no longer wish to continue with the joint contract between themselves and Havering. The current joint contract between Havering and Barking and Dagenham ends on the 31<sup>st</sup> March 2024. Therefore, this option was considered and rejected.

### **PRE-DECISION CONSULTATION**

None

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

Name: Laura Wheatley

Designation: Senior Commissioner and Project Manager

Signature:



Date: 25/01/2024

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

### **LEGAL IMPLICATIONS AND RISKS**

The Council has the power to award a contract for these services under 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.

Additionally, through its general power of competence under Section 1 of the Localism Act 2011, the Council can do anything that individuals generally may do, subject to statutory limitations.

Officers seek authorisation to make a direct award to Positive East for the provision HIV Prevention and Support Services and to comply with the above duties.

The proposed value of the direct award is estimated to be £176,350.00, which is below the threshold for light touch regime under schedule 3 of the Public Contracts Regulations 2015 (PCR). Accordingly, it is not subject to the full PCR regime.

Although the Council's Contract Procedure Rules (CPR) require each procurement valued £100,000 or above to be subject to a formal tender exercise, officers have obtained a waiver of the relevant Rule 9.9 in accordance with the procedure set out in Rule 14.

For the reasons set out above, the Council may proceed with awarding this contract to Positive East.

### **FINANCIAL IMPLICATIONS AND RISKS**

This decision paper is seeking approval to waive the Council's Contract Procedure Rule (CPR) 9.9 and direct award a HIV Prevention and Support Service contract. The contract will be a 3-year contract with the option of a 2-year extension to commence on 1<sup>st</sup> April 2024.

The current contract is due to end on 31<sup>st</sup> March 2024 and costs £25,000 per annum and is paid from the Public Health ring-fenced grant.

The total cost of the 5-year contract is estimated to be £176,350 which equates to £35,270 per annum. This will not add any additional pressure on the Public Health ring-fenced grant and the HIV prevention and support costs are budgeted for annually within the grant allocation.

As this contract is grant funded there will be contract variation clauses and exit clauses written into the contract to mitigate the risk of the grant ceasing or significantly reducing.

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

The recommendations made in this report do not give rise to any identifiable Human Resources implications or risks.



## **Key Executive Decision**

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring.

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

The Council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

### **HEALTH AND WELLBEING IMPLICATIONS AND RISKS**

Even though the HIV Prevention and Support Service is not a mandated public health service, giving knowledge and skills, diagnosis, and treatment prevents the further spread of HIV. The service will also support individuals living with HIV to be able to take control of their lives, to thrive in their communities and to stop escalating to AIDS. When the previous joint commissioning ends in March 2024, this procurement will ensure continuity of access to this crucial service for Havering residents. In addition, the bids will give more weight to the quality of the service. The procurement of the service will lead to a positive impact on health, especially those who are more directly and indirectly affected by HIV.

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

The recommendations made in this report do not give rise to any identifiable environmental implications or risks.

### **BACKGROUND PAPERS**

None

### **APPENDICES**

None

**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: Mark Ansell

Head of Service title: Director of Public Health

Date: 22nd February 2024

**Lodging this notice**

The signed decision notice must be delivered to Committee Services, in the Town Hall.

**For use by Committee Administration**

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

Signed \_\_\_\_\_