

## Notice of Non-key Executive Decision

<p><b>Subject Heading:</b></p>	<p>Permission to:</p> <p>Direct Award new stop smoking contracts to the five existing Community Pharmacies via Process B of the NHS Provider Selection Regime Toolkit.</p> <p>And</p> <p>Award contracts to two new pharmacies following a restricted procurement exercise under the light touch regime of the Contract Procurement Rules (CPR)</p>
<p><b>Decision Maker:</b></p>	<p>Mark Ansell, Director of Public Health</p>
<p><b>Cabinet Member:</b></p>	<p>Councillor Gillian Ford, Lead Member for Health</p>
<p><b>ELT Lead:</b></p>	<p>Mark Ansell, Director of Public Health</p>
<p><b>Report Author and contact details:</b></p>	<p>Suzanne West Commissioner – Live Well <a href="mailto:Suzanne.west@havering.gov.uk">Suzanne.west@havering.gov.uk</a></p>
<p><b>Policy context:</b></p>	<p>These contracts supports Havering Council to meet its People Theme priorities of ensuring that people are helped to live independent, socially connected and healthier lives as set out in the Corporate Plan 2022/23 – 2026/27.</p> <p>Stop Smoking projects are part of Havering’s Health and Wellbeing Strategy priorities and Partnership agenda to reduce smoking-related harms and reduce inequalities caused by smoking across the borough.</p>
<p><b>Financial summary:</b></p>	<p>Funding for the Community Pharmacy Stop Smoking Contracts is from the</p>

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	<p>Office for Health Improvement &amp; Disparities (OHID) to Havering. This funding is part of the government's national commitment to achieve a smoke free generation by 2030 by supporting local authorities to enhance their stop smoking provision. The grant will be made available under section 31(3) and section 31(4) of the Local Government Act 2003</p> <p>The total cost of all the contracts per annum is £75,000.</p> <p>For 2024/2025 the Council has been allocated a grant of £307,543 to support local authority led stop smoking services, £75,000 of which will be allocated to this project.</p>
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	Health
<b>Is this decision exempt from being called-in?</b>	<i>The decision will be exempt from call in as it is a Non key Decision</i>

### **The subject matter of this report deals with the following Council Objectives**

People - Supporting our residents to stay safe and well **X**

Place - A great place to live, work and enjoy

Resources - Enabling a resident-focused and resilient Council

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### Part A – Report seeking decision

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

This report seeks approval from the Director of Public Health to:

a) Direct Award new stop smoking contracts to the five existing Community Pharmacies via Direct Award Process B of the NHS Provider Selection Regime Toolkit.

And

b) award contracts to the two new pharmacies following a restricted procurement exercise under the light touch regime .

The contracts will have an end date of 5<sup>th</sup> September 2025 at a total value of £75,000

#### AUTHORITY UNDER WHICH DECISION IS MADE

Part 3 [Responsibility for Functions] of Havering's Constitution (old delegations)

Part 3.4 Powers of Second Tier Managers  
General powers

(a) To take any steps necessary for proper management and administration for their allocated portfolios.

Financial responsibilities

(a) To incur expenditure within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation permitted by the Council's contract and financial procedure rules

Contract powers

(a) To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services

#### STATEMENT OF THE REASONS FOR THE DECISION

##### **Background**

Smoking is the leading cause of avoidable ill health such as cancer, heart and lung diseases and also results in premature deaths. In Havering, the number of smokers has recently shown an increase reversing previous trend. Office of Health Improvement and Disparities, OHID data<sup>1</sup> show that in 2022 15.9% of Havering residents smoked, compared to 11.7% in London and 12.7%, England. Also more males, 22.5% smoked compared to females, 8.5%. Available data point to clear inequality of impact caused by smoking with rates higher amongst disadvantaged groups, routine and manual workers and also among those with serious mental

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<sup>1</sup> [Smoking Profile - Data - OHID \(phe.org.uk\)](https://www.phe.org.uk)

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illness (SMI). The high rates of smoking within these groups further compound the negative impacts on their health, social and financial wellbeing.

Reducing smoking within these groups and in the wider population will therefore improve overall health and wellbeing. In addition, given the prevailing high cost of living, quitting smoking will provide additional benefit in terms of savings made to incomes.

Reducing tobacco harm remains a key prevention priority outlined in the Havering Health and Wellbeing strategy and actions to reduce smoking are focused on

- supporting smokers, in particular vulnerable groups, men as well as pregnant women, to quit
- reducing inequality in access to stop smoking service provision and
- providing equal support to reduce smoking for those with mental health conditions (achieve parity of esteem with physical ill health)

Local authorities receive funding to provide local stop-smoking services and support through the public health grant. In November 2022 funding from this grant was requested and approved to pilot a community pharmacy stop smoking service. Five community pharmacies were selected via a restricted procurement exercise and were awarded 18 month contracts that expire 5<sup>th</sup> September 2024.

This paper is seeking permission to direct award the five community pharmacies new contracts via process B of the NHS Provider Selection Regime Toolkit.

The direct award process B can be used as:

1. The proposed contract terms and conditions are not changing considerably from the existing contract.
2. The London Borough of Havering is of the view that patients have a choice of providers and the number of providers is not restricted by the relevant authority.

The Council has been allocated a grant from the Office for Health Improvement & Disparities (OHID). This funding is part of the government's national commitment to achieve a smoke free generation by 2030 by supporting local authorities to enhance their stop smoking provision. The grant will be made available under section 31(3) and section 31(4) of the Local Government Act 2003

For 2024/2025 the Council has been allocated a grant of £307,543 to support local authority led stop smoking services, £75,000.00 of which will be allocated to this project. The £75,000 will be used to fund the continuation of the existing contracts as well as to expand the service into additional community pharmacies.

A restricted procurement exercise under the light touch regime of the Contract Procurement Rules (CPR) has been undertaken in recruiting new community pharmacies to provide the stop smoking service which involves:

- Inviting expression of interest (EOI) from pharmacies in designated areas
- Return of Expression of Interest (EOI) Form
- Selection of pharmacies meeting the criteria by panel
- Notification of decision to pharmacies
- Contract Issuance
- Training, setting up pharmacies and service promotion
- Service commencement

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Four pharmacies expressed interest in providing the service all of which met the criteria. However, upon receipt of notification of success, only two of the pharmacies wanted to accept the contract. The successful pharmacies and their location are as shown below:

	<b>Pharmacy</b>	<b>Location</b>
1.	Ardleigh Green Pharmacy	Hornchurch
2.	Allied Pharmacy	Elm Park

The pharmacy stop smoking service contributes to the reduction in smoking prevalence, morbidity and mortality associated with smoking, as well as reduce the unequal impact of harm caused by smoking.

#### **Recommendation:**

It is recommended that the Council approves the direct award of contracts to the existing five pharmacies for the provision of Community Pharmacy Stop Smoking Service via process B of the NHS Provider Selection Regime Toolkit. Directly awarding a contract to the incumbent pharmacies is the simplest way of ensuring that the Council delivers its Public Health statutory responsibilities for stop smoking services.

It is recommended that the Council approves the award of contracts to the two new pharmacies following a restricted procurement exercise under below threshold (light touch regime) of the Public Contracts Regulations 2015 (PCR), awarding contracts to the pharmacies is the simplest way of ensuring that the Council delivers its Public Health statutory responsibilities for stop smoking services.

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

OHID has given specific requirements for the expenditure of grant allocation.

#### **Option 1: End the Current Service**

This option is not advised as failure to provide the stop smoking service in community pharmacies may pose legal risks for the Council with respect to delivery of its mandated responsibility for stop smoking provision; and risks with respect to the potential impact on health implications for smokers and associated social and financial implications

#### **Option 2: Do Nothing**

This option is not advised as the current contracts are due to expire on 5<sup>th</sup> September 2024.

### **PRE-DECISION CONSULTATION**

None

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

Name: Suzanne West

Designation: Commissioner- Live Well

Signature:



Date: 17/06/2024

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

#### **LEGAL IMPLICATIONS AND RISKS**

Under Section 12 (1) of the Health and Social Care Act 2012, each local authority must take such steps as it considers appropriate for improving the health of the people in its area.

The Council has the power to procure and award this contract 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.

The Council also has a general power of competence under Section 1 of the Localism Act 2011 to do anything an individual can 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 value of the contract is £75,000. The proposed direct award is compliant with Regulation 8 of Direct Award Process B of the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR). Officers confirm that submission for publication on the UK e-notification service has taken place for the notice of the award and hence it is in compliance with Regulation 8 PSR.

Additionally, the proposed contract value for the new pharmacies is £75,000 which is below the threshold for light touch services of £663,540, under Schedule 3 of the Public Contracts Regulations 2015 (PCR). Accordingly, the contract is not subject to the full PCR regime and the Council's Contracts Procedure Rules (CPR) apply.

For the reasons set out above, the contracts may be awarded as per the legal routes outlined.

#### **FINANCIAL IMPLICATIONS AND RISKS**

For 2024/2025 the Council has been allocated a Public Health Smoking cessation grant of £307,543 to support local authority led stop smoking services, £75,000.00 of which will be used to fund this contracted project. The £75,000 will be used to fund the continuation of the existing contracts as well as to expand the service into additional community pharmacies.

#### **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.

#### **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:

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- 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.

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

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

### **BACKGROUND PAPERS**

None

### **APPENDICES**

None

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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: Mark Ansell

Cabinet Portfolio held:  
CMT Member title:  
Head of Service title  
Other manager title:

Date: 24<sup>th</sup> July 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 \_\_\_\_\_