

Notice of Non-Key Executive Decision

Subject Heading:	Approval to agree to Waiver the Contract Procedure Rules (price/quality ratio)
Decision Maker:	Councillor Ray Morgan – Leader of the Council
Cabinet Member:	Councillor Ray Morgan – Leader of the Council
SLT Lead:	Joanne Budden – Assistant HR & Organisational Development Director
Report Author and contact details:	Ross Marshall – HR Wellbeing, Reward and Recognition Lead Ross.marshall@havering.gov.uk 01708 431 570
Policy context:	<p>Procurement of new provision of an Occupational Health Service and Employee Assistance Programme which is key to enable the Council to effectively manage employee absence which needs to be robust innovative and adaptable to the fluctuating needs of the Council while also minimising the time employees are absent from work.</p> <p>The Council have a responsibility to ensure that health surveillance is carried out for specific job roles, as well as health assessments for night workers.</p> <p>The Employee Assistance Programme provides telephone and face to face counselling and advice on a range of issues for employees including law and rights, work, money, emotional support and family issues</p> <p>This seeks approval to amend the award criteria.</p>
Financial summary:	Duration of new contract will be 3 years plus 12-month extension option if required. Cost

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	<p>of new contract will be based on current head count of organisation.</p> <p>The estimated 3 yearly contract cost being £390,000.</p>
Relevant Overview & Scrutiny Sub Committee:	O & S Board
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

Resources - A well run Council that delivers for People and Place.

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- For the reasons detailed in this report the cabinet member for HR Cllr Ray Morgan is recommended to agree to:
 1. Change the price/quality weighting split from 70% Price and 30% Quality to 50% Price, 40% Quality and 10% Social Value for this procurement.

AUTHORITY UNDER WHICH DECISION IS MADE

3.3 Scheme of Delegations – Functions delegated to officers Scheme 3.3.3 Powers common to all Strategic Directors

1. General

1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

STATEMENT OF THE REASONS FOR THE DECISION

This report relates to plans to conduct a competitive tender exercise in accordance with ESPO framework Lot 1 - General Occupational Health Services and lot 2 - Employee Assistance Programmes.

This report seeks approval and a waiver to change the award criteria from Price 70% / Quality 30% to Price 50% / Quality 40% / Social Value 10% in line with the ESPO Framework and by running a mini-competition we would be using the framework provider's award criteria.

This is to ensure the Quality of the services of the proposals has a higher weighting and importance in the tender evaluation and to maximise cost efficiencies for the Council.

The ESPO framework has suppliers who have been vetted and approved, so by using this framework to run a further competition and potentially award a call-off contract this saves the Council time and resource. Both councils have a good relationship and have decided to collaborate on this procurement ensuring economies of scale.

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OTHER OPTIONS CONSIDERED AND REJECTED

Not to waiver change to award criteria - This would prevent Havering working in collaboration with Newham on this procurement exercise, which could result in Havering having to retender solely, this would have an impact on potential savings to be made and hinder Havering's ability to negotiate the most cost effective contract from a new supplier. Havering would not be able to achieve the benefits of economy of scale by not partnering with Newham on this procurement exercise due to Newham having a larger workforce.

Do not retender the service – Occupational Health is a statutory requirement; however, Employee Assistance Programme is not. Failure to not provide Occupational Health could be detrimental to the Council and its employees. Lack of Employee Assistance Programme system will detrimental to employee's health and wellbeing.

PRE-DECISION CONSULTATION

No formal consultation is required with respect to the recommendations in this report.

NAME AND JOB TITLE OF STAFF MEMBER ADVISIING THE DECISION-MAKER

Name: Ross Marshall

Designation: HR Wellbeing, Reward and Recognition Lead

Signature: Date: 19.08.2024

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Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. The Council has a general duty under Section 2 of the Health and Safety at Work Act 1974 to ensure, as far as reasonably practicable, the health, safety and welfare of all their employees. This duty includes the need to assess and manage risks, which can involve occupational health services. The Council adheres to this duty by seeking to procure a contractor to provide its Occupational Health Services and Employee Assistance Programmes.
2. Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything an individual can do. The recommendations in this report are in keeping with this power.
3. The Council proposes to change the price/quality weighting split from 70% Price and 30% Quality to 50% Price, 40% Quality and 10% Social Value for this procurement. The Public Contract Regulations 2015 confirm that contracting authorities have flexibility of choice in selecting their price/quality evaluation model.
4. The Council's Contract Procedure Rule 14 provides that a waiver of the Rules is permissible if all relevant law is complied with the contract 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.
5. 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.
6. It is noted that the Councils will jointly share any liability arising out of its procurement activities should these materialise.
7. For the reasons set out above, the Council may procure a contractor for its Occupational Health Services and Employee Assistance Programmes

FINANCIAL IMPLICATIONS AND RISKS

This report seeks approval to waive the contract procedure rules in relation to price/quality from 70/30 to 50/40/10. This is not expected to impact on the estimated contract value of approximately £390k over 3 years, although less weighting will be given to 'price' when evaluating tender returns, it is anticipated this will be offset by the economy of scale benefits derived from a joint procurement with the London Borough of Newham.

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.

HUMAN RESOURCES IMPLICATIONS AND RISKS

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(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The new contract would be managed by Human Resources, there will not be changes/risk on the current HR processes if the current contract is extended. If, however a competitive tender exercise is not started, then the council could potentially be left without Occupational Health and Employee Assistance Programme provision.

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.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

N/A

BACKGROUND PAPER

None

APPENDICES

N/A

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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

Details of decision maker

Signed



Name: *CLLR RAY*

Date: *26/09/20* .

For use by Committee Administration

This notice was lodged with me on _____

Signed _____