

Notice of Non-Key Executive Decision

Subject Heading:	Award of contracts to existing approved providers of adult education.
Decision Maker:	Tara Geere, Director of Starting Well
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:	Bradley Burton, Acting Quality & Curriculum Manager Bradley.Burton@havering.gov.uk
Policy context:	Delivery of Adult Skills Fund 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 2024 to 31 July 2025, funded by Adult Skills Fund grant for the year. Initial approval to award a contract to the value of £80,000, with an optional additional spend of £200,000 subject to subsequent approval.
Relevant OSC:	People OSSC
Is this decision exempt from being called-in?	Yes, 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 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 a contract via the LA's preferred procurement framework (Matrix) for a term of one academic year commencing on 1st August 2024 and with indicative values as follows:

- Specialist Trade Courses (STC Group) - £80,000 (Adult Skills Fund Provision)

with an aggregate (buffer) optional spend value of a further £200k as set out in this report; and

2. To note that the optional maximum £200k 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

3.3.3 Powers common to all Strategic Directors

2.1 To incur expenditure for their allocated directorate within the revenue and capital budgets as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

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 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.

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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 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 (STC) - £80,000 (Adult Skills Provision)

As STC 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 £200k 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 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).

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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 2024/25 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 and funding will be clawed back by the GLA if drawdown targets are not achieved

2. Procure the contracts via a tendering process on the open market – not recommended for the reasons set out in this report.

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: Bradley Burton

Designation: Quality & Curriculum Manager

Signature:



Date: 03/07/2024

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 services fall within the light touch regime of the Public Contracts Regulations 2015 (PCR). The maximum contract value is below the light touch financial threshold of £663,540. The procurement is not caught by the full PCR regime. 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 procurement in this respect complies with the CPR.

The CPR require that all contracts with a value of between £100k and the PCR threshold are procured via tender. As this is a direct award, a waiver to this requirement is required and was granted on 22 August 2024.

For the reasons set out above, the Council may award the contract.

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 to fund the Adult Education provision. The expenditure for this specialist curriculum offer is initially expected to be in the region of £80,000 for the 24/25 academic year, with a provision for a further £200,000 if required. Actual costs will be subject to individual arrangements, and will be managed within the overall funding envelope. The ASF 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,

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amounts paid for each qualification will be based on the ASF funding methodology and as such are “uncontrollable” within set parameters. The subcontracted provision falls within the remit of Ofsted, and is monitored under the terms of their Inspection Framework as well.

The financial risk of not awarding the contract is that the College would be unable to meet the demands of its own ASF contract allocations. This could result in grant monies being clawed back, and reduced grant allocations in future years.

An identified risk to the provision of the finances would be if 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 grants to the Adult College for the Academic year 2024/25. These total £1,287,435, and are held on A30910 HCAE Central Office cost centre.

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:

- (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, 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.

An EHIA (Equality and Health Impact Assessment) is usually carried out, but on this occasion is not required.

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The Council seeks to ensure equality, inclusion, and dignity for all in all situations.

There are no equalities and social inclusion implications and risks associated with this decision

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

Waiver to CPR permitting direct award dated 22 August 2024

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

Signed

Details of decision maker



Signed:

Name: Tara Geere, Director of Starting Well

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title:

Date: 19.09.24

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 _____

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