



Havering
LONDON BOROUGH

Notice of Non-Key Executive Decision

Subject Heading:	Approval to waive the Council's Contract Procedure Rule (CPR) 9.9 to allow a Direct Award of a 12 month Occupational Therapy Assessment contract
Decision Maker:	Cllr Gillian Ford, Cabinet Member for Adults and Health
Cabinet Member:	Cllr Gillian Ford, Cabinet Member for Adults and Health
ELT Lead:	Barbara Nicholls, Strategic Director of People
Report Author and contact details:	Laura Wheatley, Portfolio Manager Live Well & Age Well E: laura.wheatley@havering.gov.uk
Policy context:	The Adult Social Care and Support Planning Policy states that Havering's vision is: 'Supporting excellent outcomes for the people of Havering by helping communities to help themselves and targeting resources and interventions to encourage independence'
Financial summary:	The direct award for 12-month contract will cost £110,000.00. The Occupational Therapy Assessments is funded by the Havering Occupational Therapy team budget and is budgeted for annually.
Relevant Overview & Scrutiny Sub Committee:	People's Overview and Scrutiny Sub Committee
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 - 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

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This report is seeking approval from the Cabinet Member for Adults and Health to waive the Council's Contract Procedure Rule (CPR) 9.9 to allow a direct award of the Occupational Therapy Assessments contract for a period of 12 months from 1st April 2024 to 31st March 2025 at a total value of £110,000.00.

AUTHORITY UNDER WHICH DECISION IS MADE

Part 3.2.5 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.

Part 4.4 [Contracts Procedure Rules] of the Constitution

14.1 No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an Executive Decision or by some other provision in this Rule. The report shall set out the background, the rule being waived, the reasons the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and shall be approved by the Director of Legal and Governance and the Chief Executive.

14 WAIVERS

14.1 No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an Executive Decision or by some other provision in this Rule

Exceptions to competitive requirements

14.3 Exceptions to the competition requirements may be made only if all relevant law is complied with and one of the following circumstances applies:

- i. the contract falls within one of the exceptions listed in this Rule; AND
 - a. the Competition Financial Thresholds Exceptions, is fully and properly completed and signed by the relevant Member of SLT; AND
 - b. the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.
- ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a) above.

STATEMENT OF THE REASONS FOR THE DECISION

Occupational Therapy Assessments are currently being provided by All Therapy Solutions (ATS). The original contract with ATS commenced on 1st April 2020 for a term of 4 years. It was extended for 6 months until 30 September 2024 with the intention that during this time, a specification for a replacement contract would be "scoped" and a procurement undertaken. For reasons including officer capacity and team restructuring this did not happen. A further 6-month extension is now required in order to ensure continuity of this statutory service. The additional

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6-month extension will allow sufficient time to review new requirements following the restructure of the Adult Social Care operational teams and then recommission the service fully to ensure the best value for money and outcomes for residents.

The first 6-month extension whilst agreed at appropriate level was not documented via the required governance procedures. Both extensions have now been considered and approved at Gateway Review Group.

This paper is seeking approval to waive the Council's Contract Procedure Rule (CPR) 9.9 requiring a formal tender exercise and to allow a direct award a 12-month contract in compliance with the Council's statutory duties already set out in the body of this report.

A waiver to the Council's Contracts Procedure Rules (CPR) 19 is therefore be required. CPR 14.1 requires waiver approval by an individual Cabinet member.

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.

The Occupational Therapy Assessments is funded by the Havering Occupational Therapy team budget and is budgeted for annually at a cost of £27,500.00 per quarter (£110,000.00 for 12-month period) and is paid quarterly via invoice.

Background

Prior to this contract commencing, LBH operated an in-house Occupational Therapy Service but had difficulty filling some of the vacant posts within the team. Any assessments above the maximum staff capacity of LBH were carried out by locum workers at a cost of £34 per hour when the locum workers were available. This was deemed to be unreliable and not financially cost effective. To meet the demands of the service and to ensure that there was no waiting list for assessments/review LBH completed a procurement exercise and outsourced this work to All Therapy Solutions.

The Service

The main purpose of this service is to supplement the existing in-house Occupational Therapy as and when required. ATS acknowledged that when agreeing to enter into this contract they would not be guaranteed to be offered any work as it is a demand led service.

The Requirement

A '**Basic**' case involves: An Occupational Therapy Assistant Assessment with an adult in their home, where minor adaptations and standard equipment are required and where the established need is straightforward and easy to identify. The provider completes an assessment and recommendations are recorded on LBH's ASC data base and order equipment via our online equipment provider and adapts via admin support.

A '**Moderate**' case involves: Full functional OT Assessment with an adult in their home where major adaptations such as level access showers; stair lifts & ramps etc. where a visit with a company rep or surveyor may be required to establish feasibility or where specialist equipment is needed and or where the established needs are more difficult to identify / liaison with other social and health care professionals. The provider will provide an assessment and recommendations as prescribed by Havering and loaded directly on to the Council's systems with remote access laptop. Relevant follow up and review included as necessary.

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The Professional Practice Lead for Occupational Therapy reviews all assessments completed and then confirms that assessments have met the expected quality criteria or feedback on where improvements need to be made.

ATS deliver the service in accordance to the following requirements:

- Arrange date for the initial assessment within five working days of receipt of referral
- Provide confirmation of the initial assessment date to the Client or their representative.
- Follow a clear written process for 'unable to contact' situations.
- Undertake holistic but proportionate OT assessments that are Care Act compliant.
- Identify any unpaid /family carers and document the offer of a carers assessment. Where this is accepted the provider will make a referral to the Havering Access Team (HAT) or to the Social Worker where the Client is already allocated.
- Undertake as identified via an initial assessment or as requested one or more of the following elements; specific activity /equipment risk assessments, including but not limited to bed falls, Assisting and Moving (A&M) assessments with A&M (handling) plans, recommendations for adaptations, plus clinical reasoning for equipment, etc.
- Complete the initial assessment, upload any related documents
- Provide a copy of the assessment and summary of proposed interventions / recommendations for adaptations to the Client or their representative
- Leave copies of accessible, picture based Assisting and Moving plans (bespoke as necessary to the Client) in Client homes and, when relevant, to the care provider.
- Follow a clear written governance process for authorisation of the OT recommendations for equipment / minor adaptations
- Following the authorised assessment, the provider should arrange and undertake the recommended actions as identified by the assessing OT, including but not limited to; onward referrals, liaison with other internal and external services /stakeholders, arranging equipment provision or the Council's equipment Service (Medequip Community Equipment), adjustment and demonstration of equipment, quotes for non-stock equipment/work and follow-up visits.
- Provide a range of Information, Advice and Guidance (IAG) appropriate to the Client need, and signpost the Client and or carer to appropriate community Services /activities, including where appropriate self-purchase of equipment.
- Produce 'as is' and 'to be' drawings with completed template specifications (level access showers etc.)
- Follow a clear written closure process, including evidence of case audit and, if required, joint visits with supervisors as part of quality assurance.
- Provide a closure summary letter /support plan that reflects the identified needs, interventions completed and any recommendations provided.
- To work in line with our Better Living Model

Clients

Clients are residents of Havering or if living outside of Havering, have been identified by Adult Social Care (ASC) as being the responsibility of the Council. Clients requiring an OT Service will have been identified and screened by a senior OT in Adult Social Care, before referral to the provider.

A senior practitioner reviews the cases each week and then allocates them out accordingly. All cases that come into the North Team are given to ATS as that's the area that holds the vacant posts. All the cases that come into the Access Team and South Team are completed by the in house OT's.

Service Outcomes

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An OT assessment or Review: That identifies Clients ability and areas of functional difficulty (needs) and how these will be met, including the views and wishes of the Clients and carer in relation to these needs. OT intervention to identify the most cost effective option to identify the needs

Provision of Services: That reflects appropriate advice, intervention and /or support in facilitating the provision of Services, i.e. Activities of Daily Living (ADL) equipment, supplier quotes, minor adaptations, recommendation for Major Adaptations with specifications, referrals to other Services and as necessary other social care service in order to manage risk, maximise independence and or improve safety;

Follow-up activity: Face-to-face or by telephone as appropriate to reflect the Clients /carer's needs and intervention type;

A closure letter /support plan: That reflects the identified needs from the assessment /review and interventions completed, plus any recommendations given;

A copy of the assessment: is provided to the client in an accessible format.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1 - Do nothing

There is the option to do nothing and stop providing Occupational Therapy Assessments when the contract ends on the 31st March 2024. This option is not advised due to there being a high demand for Occupational Therapy Assessments which cannot be met by the Havering Occupational Therapy Team.

Option 2 – Recruitment to LBH Vacant Posts

This option has been considered however there is currently a shortage of qualified Occupational Therapists nationally so recruiting into these posts would be challenging and any delays would have a negative impact on residents receiving an assessment as waiting lists would develop.

Option 3 – Recommission Immediately

The contract ends at 31st March 2024, so there will not be sufficient time to complete a full recommissioning. This option has been rejected as there is not sufficient time to complete the recommissioning exercise to a good standard.

PRE-DECISION CONSULTATION

None

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

Name: Laura Wheatley

Designation: Portfolio Manager Live Well & Age Well

Signature:



Date: 28/10/2024

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has power to extend the contract under s111 of the Local Government Act 1972 which permits 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 when originally procured was below the Public Contracts Regulations 2015 (PCR 2015) threshold for services. It is not caught by the full PCR 2015 regime.

A request for quotation exercise was not carried out as required by the Contract Procedure Rules (CPR). A waiver to the Council's Contracts Procedure Rules (CPR) 19 will therefore be required. CPR 14.1 requires waiver approval by an individual Cabinet member unless one or more of the exceptions set out at CPR 14.3 apply. In accordance with CPR 14 a waiver is now sought from the lead member prior to authorising the award of this contract without competition.

This report confirms that officers have undertaken the relevant steps and therefore, it is recommended that the lead member authorises this waiver request.

FINANCIAL IMPLICATIONS AND RISKS

This paper is seeking approval to directly award a 12-month contract in compliance with the Council's statutory duties already set out in the body of this report.

The current contract ended on 31st March 2024 and therefore this direct award is covering a period of the contract which has already passed. The total cost of the 12-month extension is estimated to be £110,000.00 per annum and this is paid from the Havering Occupational Therapy team budget and there is sufficient budget available to fund this.

The option for the 12-month direct award, covers the period from 1st April 2024 where the contract has already been in operation and the following months up until 31st March 2025. The option to continue the contract until the end of March allows enough time to undertake a recommissioning exercise without disrupting service provision. The other option that has been considered is moving this to an in house provision but the market suggests that recruiting to these posts would be challenging and this would take time which would have a negative impact on clients and cause waiting lists to develop, this option has therefore been rejected.

The market for occupational therapy is niche and limited and therefore the direct award of this contract is considered the best option.

It is recommended that during the extension period that option 3 is considered further which is recommissioning the service, where the Council could reshape the contract which could be cost effective and maintain a quality service.

A full service redesign and re-procurement will be undertaken during the extension to ensure that the service is still meeting the market needs and providing value for money for the council.

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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.

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.

An EqHIA (Equality and Health Impact Assessment) is usually carried out and on this occasion this isn't required.

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

There are not equalities and social inclusion implications and risks associated with this decision.

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

Havering Waiver Template – Occupational Therapy Assessments Direct Award

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

Details of decision maker

Signed 

Name: Cllr Gillian Ford,

Cabinet Portfolio held: Cabinet Member for Adults and Health

Date: 28/10/2024

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 _____