



<b>Subject Heading:</b>	Permission to Waive Contract Procurement Rules in relation to a Direct Award contract for Bereavement Services Computerised System software.
<b>Decision Maker:</b>	Cllr Paul Middleton - Cabinet Member for Digital Transformation, IT and Customer Services
<b>Cabinet Member:</b>	Cllr Paul Middleton, Cabinet Member – Digital, Transformation & Customer Services
<b>ELT Lead:</b>	Kathy Freeman - Strategic Director of Resources
<b>Report Author and contact details:</b>	Hannah Smith, Business Analyst <a href="mailto:Hannah.Smith@havering.gov.uk">Hannah.Smith@havering.gov.uk</a>
<b>Policy context:</b>	Providing excellent customer service and engage effectively with our communities
<b>Financial summary:</b>	This decision seeks permission to waive the Council's Contract Procurement Rules (CPR's) and has minimal financial impact.
<b>Relevant Overview &amp; Scrutiny Sub Committee:</b>	Overview and Scrutiny Board
<b>Is this decision exempt from being called-in?</b>	The decision will be exempt from call in as it is a Non key Decision

**Non-key Executive Decision**

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

People - Supporting our residents to stay safe and well

Resources - Enabling a resident-focused and resilient Council

## Non-key Executive Decision

### Part A – Report seeking decision

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

For the reasons stated in this report it is recommended that the Cabinet Member for Digital Transformation, IT and Customer Services approve the route to waiving the competitive procurement rules, in order for the approval for a **Havering** direct award for the Bereavement Services Computerised system to Gower Consultants Ltd.

#### **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;

## Non-key Executive Decision

### **STATEMENT OF THE REASONS FOR THE DECISION**

The Strategic Director of Resources (Kathy Freeman) authorised a decision for a Direct Award to Gower Consultants Ltd. It is being recommended to Waive the Councils Contract Procedure Rules as our current supplier Gower Consultants Ltd having offered Havering a bespoke direct price offer which provides good value in comparison to other Framework prices, and a longer term 5-year contract that will provide service modernisation and stability. The Council will save an estimated £8.9k to £188k over a 5-year period when comparing with a competitor. This cost avoidance does not include the costs associated with procurement and implementation of a new supplier.

For the reasons of best interests of the Council, the current implied arrangement with Gower ends 31st March 2025. Although it is currently delivering good value for its offering and new innovative services, it is recognised that we must modernise and upgrade the system and move to a cloud-based service that will help to resolve some system performance issues as a consequent of a locally hosted solution.

Gower Consultancy have 35 years' experience with cemetery and crematorium administration. There is a lack of suitable expertise in devising a service specification for bereavement software.

A direct award will provide stability to the Service following recovery from COVID and recognise the huge demands met by the Bereavement Services during this period. This will also preserve the Councils' reputation by retaining access to an already known system and offers continuity of the service to residents.

G-Cloud offers shorter term contracts and this would be unattractive to the Suppliers and the Service, as well as likely time and resource implications for staff in proceeding with a procurement exercise which does not meet our specific service needs (requirement and length of contract). It is likely full scoping of functionality and costs would attract higher costs.

Break clauses will be introduced within the contract to allow a planned exit strategy if needed. In addition, contract monitoring will enable action to be taken should the service not perform as expected.

This report therefore seeks authorisation to waive the Council's CPRs and Direct Award a contract to the Supplier.

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

Framework considerations:

Option 1 – Havering only Procurement – Benchmarking carried out on Gower Consultants Ltd and other Supplier costs has resulted in higher price offers compared with our bespoke offer. The software version offering is different to what we require

**Non-key Executive Decision**

and currently use. The cost of additional module implementation and mobilisation will be additional. It is unlikely this will yield the results we require as the market does not appear to be fully developed for Cremation software

Option 2 – G-Cloud Framework - Benchmarking carried out on other Supplier costs has resulted in mostly higher price offers compared with our bespoke offer and the software version offering may not be exact in relation to what we require. The cost of additional module implementation and mobilisation will be additional.

**PRE-DECISION CONSULTATION**

N/A

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

Name: Louise Roast

Designation: Assistant Director of Customer, Registrations & Bereavement

Signature: *Louise Roast*  
Louise Roast (Oct 25, 2024 11:08 GMT+1)

Date: 25/10/2024

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

As per the decision.

- 1.1 The Council has a general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do subject to any statutory limitations.
- 1.2 Additionally, the Council has the power to award a contract for these services through 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.
- 1.3 Officers seek authorisation to waive the Council's Contract Procedure Rules (CPR) in competing for this contract to allow direct award to Gower Consultants for the provision of the Bereavement software. The Council's CPR Regulation 9.9, requires officers to undertake a formal tender exercise in conjunction with SPU to award a contract valued £100,000 or above (unless stated [as permitted] elsewhere in CPR or for reasons of extreme urgency). CPR 14 permits exceptions to the competitive requirements where it does not infringe any applicable procurement laws; and meets the criteria set out in CPR 14.3 . As per CPR 14.3, exceptions to the competition requirements may be made only if all relevant law is complied with and one of the circumstances applies as set out. In this occasion the following apply:
  - 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;
- 1.5 A tender exercise was not carried out as required by the Contract Procedure Rules (CPR) and the contract will need to be directly awarded to the provider. In accordance with CPR 14 a waiver is now sought from the lead member prior to authorising the award of this contract without competition. 1.6.

### FINANCIAL IMPLICATIONS AND RISKS

This report is seeking approval to waive the procurement rules and directly award the Bereavement Services Computerised System contract to Gower Consultants Ltd. While a direct award carries the risk of not achieving the best value for money compared to a competitive procurement process, the Council has received a bespoke offer from Gower Consultants Ltd. that is highly competitive when benchmarked against prices on the framework. Additionally, continuing with the current supplier avoids the costs associated with change and a new procurement exercise. Another aspect to consider is the potential disruption to services and the learning curve associated with transitioning to a new system, which could impact operational efficiency.

## Non-key Executive Decision

### **HUMAN RESOURCES IMPLICATIONS AND RISKS**

#### **(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

As per the decision.

The recommendations made in this report do not give rise to any identifiable HR risks or negative implications that would affect either the Council or its workforce.

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

As per the decision.

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.

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

As per the decision.

No direct implications relating to the environment or climate change

### **BACKGROUND PAPERS**

NKED report for Bereavement software

### **APPENDICES**

None

**Non-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 ✓

Proposal NOT agreed because

**Details of decision maker**

Signed *Paul A Middleton*  
Paul A Middleton (Oct 28, 2024 16:39 GMT)

Name: Paul A Middleton

Cabinet Portfolio held: Digital Transformation & Customer Services

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 \_\_\_\_\_