




Executive Decision Report

Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken	Cabinet Date of Decision: 11 April 2016	
	Cllr Mary Weale Cabinet Member for Adult Social Care, Public Health and Environmental Health .	 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
	Cllr Rachael Robathan, Cabinet Member for Adults and Public Health	 City of Westminster
Report title (decision subject)	PUBLIC HEALTH, HEALTHY SCHOOLS AND HEALTHY EARLY YEARS, DIRECT AWARD	
Reporting officer	Mike Robinson, Director of Public Health, Westminster City Council, Hammersmith and Fulham Council, London Borough of Kensington and Chelsea	
Key decision	Yes	
Access to information classification	Open	

1. EXECUTIVE SUMMARY

- 1.1 Healthy Schools is a highly successful and evidence based public health programme, which plays a critical and strategic part in harnessing the influence of schools and early years settings(children's centre, nursery class, nursery school) to tackle major health priorities in the boroughs.
- 1.2 The contracts with HEP across all three Boroughs equals a spend of £65,326pa for Hammersmith & Fulham, £66,946pa for Kensington & Chelsea and £75,136pa for Westminster. The total spend per authority for the two years will be Hammersmith & Fulham, £130,652, Kensington & Chelsea and £133,892 and Westminster £150,272.
- 1.3 A full service review and subsequent re-procurement strategy for the school health services has confirmed the effectiveness of and schools satisfaction with the current services. It also informed the services provided by HEP and led to improvements. Clear, desirable synergies but no duplications have been identified. It is therefore desirable and recommended for HEP to continue to provide an efficient, value for money, evidence based and consistent service across the three boroughs to improve outcomes for school aged children during the period of re-procurement and embedding of the new School Health Service.
- 1.4 This report seeks approval to modify the existing sovereign contracts;
- to make a direct award for one year with the option to extend for a second year.
 - to modify the scope of the service specification as part of the direct award request.

The service provider has a unique position in the provision of these education services. Added to their expert knowledge and extensive stakeholder engagement that would be difficult to replicate if the three boroughs decided to re-tender the services. The recommendation to extend, through a direct award, the contract to the incumbent service provider will allow these services to complement the school health services which are being retendered in October 2015 and give stability to the 5 -19 year old service area which otherwise would become vulnerable.

- 1.5 The risk of not approving the recommendation is that it may disadvantage children and young people attending schools and early years settings in the three boroughs. It will also set back the confidence of schools and other partners in the programme that has been developed in partnership with schools and pre-schools and took significant time to build. Not supporting schools in this way would also position the three boroughs as outliers in London given the pan-London Healthy Schools Programme run by GLA.

2 BACKGROUND

- 2.1 Healthy Schools is highly respected and valued by schools and early years settings in the boroughs. It is the means by which Public Health improves the outcomes of children and young people with respect to child obesity, mental health, oral health, sexual health amongst others.

- 2.2 Healthy Schools is coordinated by the contracted provider Health Education Partnership Ltd (H.E.P), a private limited company. The service comprises of three main elements:
- the provision of advice, guidance and training to schools by a range of experts from HEP;
 - the coordination of an alliance of Local Authority and health services together with a range of other agencies that work with schools;
 - the recognition of the achievements of schools through Awards, Bronze, Silver and Gold.
- 2.3 108 state schools across the three boroughs are currently engaged with Healthy Schools. 60 have achieved the Bronze Award, 22 have achieved the Silver Award and four have achieved Gold. One of our schools was the first one in London to achieve the Gold award.
- 2.4 Due to local demand for support from Healthy Schools by early years settings Healthy Early Years programme was developed jointly with Children's Services specifically for our boroughs and piloted in 2014-15. Healthy Early Years has four theme areas, Healthy Eating, Physical Development, Emotional Health and Wellbeing and Safety. To date, nine nurseries or children's centres have achieved the Bronze Award, and one has achieved Silver. (further information in Appendix 1)

3 RECOMMENDATIONS

- 3.1 That the Executive Director of Adult Social Care and Health seeks Cabinet Member for Adult Social Care and Public Health for each authority approval to;
- Make the direct award
 - Amend the scope of the service specification

Each authorities governance process applies for the decision making procedure.

- 3.2 The three sovereign contracts can be terminated giving 3 months' notice

For Hammersmith and Fulham Council Cabinet is requested:

- 3.4 To approve a waiver in accordance with paragraph 3 of the Contract Standing Orders to waive the requirement to seek tenders in accordance with paragraph 11 of the Contract Standing Orders in order to allow LBHF to extend the existing contract with HEP Ltd .
- 3.5 To approve the modification of the existing contract to HEP Ltd as set out in Appendix A, Table 1 to provide for an extension of the term of the contract for a period of one year plus a further one year effective from 1 April 2016. Contract value of £65,326 per annum; aggregate £130,652 over two years.

For Royal Borough of Kensington and Chelsea the Cabinet Member is requested:

- 3.6 To approve a waiver of the requirement to invite competitive tenders for the service in accordance with Regulation 2.10 of the RBKC Contract Regulations. This is necessary in order to allow RBKC to make a direct award of contract to HEP Ltd;

- 3.6 To make a direct award of contract to HEP Ltd for an initial period of 1 year at £66,946 p.a. with the option to extend the contract until 31st March 2018 at a total value for two years of £133,892.

For Westminster City Council:

- 3.7 In view of the value of the new contract being below the required threshold for a decision by Westminster's Cabinet Member for Adults & Public Health, the decision will be delegated to the Tri-Borough Director of Adult Social Care. The Cabinet Member for Adults & Public Health has been fully briefed on the contract award.
- 3.8 The Chief Procurement Officer approve a waiver in accordance with section 2.2 of the Westminster Procurement Code to allow WCC to extend the existing contract with HEP Ltd as listed in Appendix A, Table 1.
- 3.9 To approve the modification of the existing contract with HEP Ltd as set out in Appendix A, Table 1 to provide for an extension of the term of the contract for a period of one year plus one year effective from 1st April 2016 for a contract value of £75,136 per annum, aggregate £150,272 over two years.

4 REASONS FOR RECOMMENDATIONS

- 4.1 The recommendations for the modification of the term of the three separate contracts to HEP Ltd for the provision of healthy school services across the three boroughs for a period of 24 months, with the ability to terminate with 3 months' notice is proposed in order to:

OPTIONS AND ANALYSIS

- 4.1 **Option 1:** do nothing – Contract Ends. This is not a mandated Public Health service.

Benefits of option 1

- There are no identified benefits for not extending the contracts for healthy school programme of services, other than immediate cashable saving.

Challenges presented by option 1

- The healthy school and healthy early years programme contracts end in March 2016 and would result in:
 - Decline in the coordination of work to improve health outcomes in schools.
 - Decline in the ability of councils to lever schools and early years settings support to tackle local health priorities such as oral health, immunisation coverage, childhood obesity, mental health.
 - Decline in quality and consistency of the delivery of PSHE in schools which affects the most vulnerable pupils the most.

- 4.2 **Option 2 – Direct Award :** all healthy school programme contracts for 2016-2018 **(Recommended option)**

Benefits of option 2

- avoids disruption of current services and associated risks

- continue to engage with relevant internal and external stakeholders to provide a healthy schools and early years programme of services for the 0 – 19 year olds.
- to provide stability to the re-procurement of services that will form School Health Service contracts.
- to engage the maximum number of /all relevant schools across the three boroughs in the quality evidence based programme while progressing with other schools to the achievement of higher awards.
- to ensure the continuance of a service supplier who has extensive experience in the 0 – 19 year old area and access to a wide network of stakeholders across the three authorities.

Challenges of option 2

- negotiations have concluded with current provider to ensure they continue to provide the service as specified within the same contract value with stretch targets and revised outcomes.
- Enable Authority officers to develop other suppliers who could, over time, gain the expertise and knowledge for this niche provision.

4.3 **Option 3** – Tender for new provision- immediately.

Benefit of option 3

- Ensure the Council abide by EU Procurement regulation. Minimise the risk of challenge for extending existing contracts.
- The Westminster Strategic and Procurement Category officer will put this provision on the Procurement Forward Plan with a view to programme for new tender.
- Demonstrable evidence of having tested value for money.

Challenge of Option 3

- The re-commissioning of the school health services, starting April 2017 will inform the new commissioning landscape for Public Health, healthy school.
- The Authority needs to fully understand this category and where possible develop organisation capacity and skillset through open forum (network with other organisations) and investment in third/voluntary sector organisation.
- Four organisations were shortlisted at the PQQ stage when this service was tendered in the PCT, 2012. HEP were the successful contractor.

5 RISKS OF RECOMMENDED OPTION – Section 5, Appendix 1

6 RISK OF PROCUREMENT CHALLENGE – Section 6, Appendix 1

7 CONSULTATION

- 7.1 Each stage of the service review, redesign and procurement commissioners have fully engaged with internal and external stakeholders.
- 7.2 HEP has developed the expertise in this specialist service area which has been difficult to replicate elsewhere or to develop competition. Over time and with investment the council could develop other organisations to have the same level of expertise and stakeholder engagement in this area of service delivery.

8 LEGAL IMPLICATIONS

- 8.1 Health and Social Services are Schedule 3 services for the purposes of the Public Contracts Regulations 2015 (Regulations). Schedule 3 services are subject to the “light touch regime”, if the value of the contract exceeds the current threshold of £589,148.
- 8.2 The provision of healthy school services are Schedule 3 Services for the purposes of the Regulations. It is noted that the value of each contract for the provision of services does not exceed the EU threshold for Schedule 3 Services. Accordingly, only Part 4 of the Regulations apply. This requires that all contracts should be advertised on the Contracts Finder website where the value of the contract exceeds £25,000, unless the authority’s standing orders specify a higher value for advertisement. Regulation 114 of the Regulations state that a material failure to comply with Part 4 of the Regulations does not itself affect the validity of a public contract. As such, the proposed contracts cannot be set aside on grounds of non-compliance.
- 8.3 It cannot be said with certainty that there is no risk of challenge, however, on the basis of the information provided by council officers, it is felt that a risk of challenge in this particular case is low.

Implications verified by: Kar-Yee Chan, Solicitor (Contracts), Shared Legal Services, 020 8753 2772 -

9 FINANCIAL AND RESOURCES IMPLICATIONS

Authority	2015/16	2016/17	2017/18
LBHF	£65,326	£65,326	£65,326
RBKC	£66,986	£66,946	£66,946
Westminster	£75,136	£75,136	£75,136

- 9.1 Funding for this service is from the ring fenced Public Health budget and is projected to sustain at the current level in the budget for 2016/17 and 2017/18.
- 9.2 Provision will be made that allow the Councils to reduce or terminate the activity should further unexpected changes to this funding be made.

10 PROCUREMENT IMPLICATIONS

- 10.1 Procurement oversight has been provided by Westminster City Council's Strategic and Commercial Procurement Team. In line with agreed protocols for Public Health services, Westminster procurement processes have been followed. The Strategic Procurement report for Public Health has been agreed by officers of the Contracts Approval Board, where colleagues at Hammersmith and Fulham and Kensington and Chelsea provided input and advice in its formulation in 2013.
- 10.2 It should be acknowledged that RBKC Contract Regulation 2.12, states that no exemption from its internal rules can override the Council's obligation to comply with the Public Contract Regulation 2015.

Director name

Mike Robinson, Director of Public Health, Westminster City Council, Hammersmith and Fulham Council, London Borough of Kensington and Chelsea.

Local Government Act 1972 (as amended) – Background papers used in the preparation of this report - December 2013, The "Public Health Procurement Plan and Contract Award or Extension Report" Executive Decision Report (EDR) – published

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Appendix 1

2. BACKGROUND

- 2.5 The existing NHS contract novated to the three borough authorities for a one year period, effective from 1st April 2013. This was to allow public health commissioners to plan and submit a direct award of contract report, using local authority approved terms and conditions contracts for a period of two years effective from 1st April 2014. This formed the Executive Decision report “Public Health Procurement Plan and Contract Award or Extension Report” which was approved for implementation in December 2013. This period allowed public health commissioners to plan and submit a direct award of contract report, using local authority approved terms and conditions contracts for a period of two years effective from 1st April 2014 till 31st March 2016.
- 2.6 The local authorities have become statutorily responsible for delivering and commissioning public health services for children and young people aged 5-19 and from October 2015 for public health services from 0-5 years of age.
- 2.7 The Healthy Schools contract was awarded to HEP following an open competitive tendering process where the contract was advertised through Supply2Health and the NHS website. The HEP NHS contract commenced on 3rd September 2012.
- 2.8 Healthy Schools capitalises on the important role schools can play in forming or changing health behaviours that can last a lifetime. The service was launched in October 2012 following a competitive tender where 4 organisations were shortlisted after PQQ stage. HEP Ltd, a private limited company incorporated in February 2010 were the successful contractor and now provides schools with support, advice and inspiration to improve health and wellbeing.
- 2.9 The contracts across all three Boroughs equals a spend of £65,326 per annum for Hammersmith & Fulham, £66,946 per annum for Kensington & Chelsea and £75,136 per annum for Westminster.
- 2.10 Up until March 2014 the contract was for the provision of Healthy Schools only. Additional funding was agreed for Healthy Early Years and then also for additional PSHE and Wellbeing Support which commenced in April 2014.
- 2.11 The current funding provides for the following across all three boroughs:
- 3 coordinators
 - Support of 6-8 specialist advisers as required
 - Access to tools and resources (mostly developed locally in partnership with schools)
 - online surveys,
 - audit tools to identify current good practice and areas for development e.g. PSHE and wellbeing, physical activity, motor skills
 - template policies e.g. physical activity, drugs education
- 2.12 The aim of the Healthy Schools and Healthy Early Years Programmes is to support Hammersmith and Fulham, Kensington and Chelsea and Westminster Schools and

Early Years Settings to drive improvement in the health and wellbeing of their communities at time when habits for life are being set.

- 2.13 The Bronze Award requires schools to demonstrate they are taking a whole school approach across the four themes of Healthy Eating, Physical Activity, Emotional Health & Wellbeing and Personal, Social, Health and Economic education. This requires work across the curriculum, environment, policy and engagement with parents and pupils. Achievement of the HSP Bronze Award makes the school automatically qualify for the Healthy Schools London (HSL) Bronze award.
- 2.14 The Silver Award requires a school to plan to focus on a specific health priority for their school e.g. mental health, oral health and healthy weight. This final issue is of particular concern in our boroughs where the percentage of Year 6 children who are overweight or obese (over 40%) is higher than the national average. The Gold Award is achieved when the school demonstrates the measurable impact they have made on improving their pupil's health against their planned outcomes.
- 2.15 105 state schools are working with the local healthy schools programme and are also registered with Healthy Schools London. 59 have achieved the new HSP Bronze Award and 22 have achieved the HSP Silver Award and four have achieved HSP Gold.

Borough	Healthy Schools Registered	Healthy Schools Bronze	Healthy Schools Silver	Healthy Schools Gold
Hammersmith and Fulham	41	25	7	1
Kensington and Chelsea	26	16	8	0
Westminster	38	18	7	3
Total	105	59	22	4

- 2.16 Service provision comprises of two main elements: the provision of advice, guidance and training to schools by a range of experts from Healthy Education Partnership. Secondly the coordination of an alliance of Local Authority and health services together with a range of other agencies that work with schools in order to provide a consistent and coherent service offer working in partnership to support schools.

Current service provision includes:

- Support to further the health and wellbeing of school communities
- Support to schools to gain the Healthy Schools Bronze Award so that they have the foundation to support pupil's health and wellbeing
- Support to work beyond the Healthy Schools Bronze Award in focused work on tackling school and local health priorities through the Healthy Schools Silver and Gold Awards

- Being a source of advice and guidance on the Healthy Schools themes of Healthy Eating, Physical Activity, PSHEE and Emotional Health and Wellbeing.
- Promotion and development of integrated working with partners across the three boroughs in the Local Authorities, health as well as the third sector.
- With Public Health, representation of the local programme at regional events and with Healthy Schools London.
- Work with Public Health to shape the local programme in accordance with the needs of schools and local health priorities and available evidence.

2.17. Due to demand from early years setting to be supported by the Healthy Schools programme, and the considerable evidence that addressing health issues in children before they start school has significant long-term benefits to those children and their communities, a Healthy Early Years programme was developed in 2014-15. Healthy Early Years has four theme areas, Healthy Eating, Physical Development, Emotional Health and Wellbeing and Safety.

The Healthy Early Years Award compliments national policy e.g. the Early Years Foundation Stage and Start4Life and provides leadership inspiration so they play their part in tackling local health priorities. Furthermore Healthy Early Years helps settings to meet existing best practice guidelines and develop evidence for Ofsted inspections.

2.18 Since the commencement of Healthy Early Years in 2014, 48 settings have engaged with the Healthy Early Years Partnership, 28 settings have received in-depth tailored to support to review their provision for Purposeful Physical Play, 11 setting have gained the Bronze Award and 1 has achieved the Silver Award.

Borough	Healthy Early Years Engaged	Healthy Early Years Bronze	Healthy Early Years Silver
Hammersmith and Fulham	21	7	0
Kensington and Chelsea	14	2	1
Westminster	13	2	0
Total	48	11	1

2.19 There is a requirement to maintain the gains made in schools in the three boroughs and to take work forward on the Public Health challenges that the three boroughs face. This requires the structured evidence based approach that a Healthy Schools Programme gives, to engage in a strategic fashion with schools.

Highlights of the work undertaken include:

- Creation of the Healthy Schools Awards and Healthy Early Years Awards system and Guidance
- Improving ease of access to support to schools through a directory of services for each borough.

- Development of an extensive Healthy Schools Partnership Network of 255 colleagues and 75 organisations/services.
- Creation of freely available and easily accessible comprehensive Personal Social Health and Economic education curriculum guidance for both primary and secondary schools
- Since April 2014 75 schools have been provided with in-depth PSHE and wellbeing support, 26 for Sex and Relationships Education, 20 for drugs education, 17 for enhancement of emotional wellbeing provision.
- Creation of primary and secondary school PSHE teacher networks held twice a term
- Twice termly Newsletter subscribed to keep schools up to date with what opportunities are available to them and developments in national policy and guidance
- Highly popular annual conferences for schools and partners on key topics such as Physical Activity, Mental Health where schools can share their good practice, celebrate achievement and learn from leaders in the field.

2.20 The GLA, having recognised the value of the Healthy Schools model and its role in delivering its commitments on tackling childhood obesity, developed the Healthy Schools London Award. They have subsequently expanded that award to tackle other health priorities such oral health and mental health, both covered by our local programme.

2.21 This report seeks approval to modify the current contract to provide for an extension of a term of 2 year (one year plus one year extension) for the healthy school services until 31st March 2018. There is no option to extend the term of the contract under the existing contract with HEP.

6. RISKS OF RECOMMENDED OPTION

Issue Identified	Risk	Potential impact	Likelihood	Mitigating factors
Budget: Funding received is insufficient to cover Direct Award Contract Prices for this period of award.	The contract pricing structure is that already paid to the supplier. The Council may have HEP Ltd requesting an uplift for the 2016/17 period	Medium	Medium	ASC (both adults and children's) and PH officers to work with the suppliers to examine the cost of staffing, service delivery cost for each of the borough services. This will establish if the existing contractual pricing structure deliver value for money within the funding received from the Department of Health. The Council will robustly push back where supplier challenges on the financial envelope.
Demand and Quality	The size of the client group increases due to changes in demographics,	Medium	Medium	The demographic needs across the three boroughs are understood for this client group. An extensive service review has been completed for these

Issue Identified	Risk	Potential impact	Likelihood	Mitigating factors
	leading to increased demand. This places pressure on the budget (see above) and quality.			services, to identify if the existing service arrangements deliver customer needs and to identify any gaps.
Procurement Challenge	Risk of Procurement Challenge by a potential bidder for such services	High	Low	See section 7 below. HEP Ltd are a specialist supplier for this service area. Officers are keen to ensure the Councils maintain stability whilst the school health tender is completed over the next 18 months

7. RISK OF PROCUREMENT CHALLENGE

- 7.1 The Public Contracts Regulations 2015 (the Regulations) came into force at the end of February 2015 and implement revisions to the European public procurement regime as it applies in the UK.
- 7.2 The services that are the subject of this report used to be classified as “Part B” services under the previous Regulations of 2006; this meant that they were exempt from the requirement to tender them in accordance with those previous regulations, provided that there was not likely to be cross-border interest.
- 7.3 This distinction has now been abolished. Health and social services are now classified as Schedule 3 services which are subject to a regime known as the “the Light Touch Regime”, (LTR) if the value of the contract exceeds the current threshold of £589,148. One of the main requirements under the LTR is the obligation to advertise the opportunity on OJEU.
- 7.4 Where the authorities are at increased risk is where - the Authorities propose a direct award of more than 12 months and do nothing. The risk of challenge for not complying with the Regulations would therefore be reduced if a shorter contract period is proposed. However, whilst there is a potential risk of challenge, authority officers will work to develop the expertise and knowledge of a wider supplier base to mitigate the risk of non-compliance and opportunity to tender this services area.
- 7.5 Overall, despite this risk of challenge, it is considered in the best interest of the authorities to proceed with a direct award of contracts, and that there are good reasons to suggest that the appropriate waivers / exemptions from tendering should be granted.

Appendix 1, Table 1

Contract Code	Title	Main Contractor	Start Date	Expiry Date	Contracting Authority	Total Value of Contract (excluding extensions unless the extension has been agreed)	Current Financial Year's Annual Contract Value
ecm_WCC_3697	Contract for the provision of Healthy Schools Programme and Healthy Early Years Pilot	Health Education Partnership Limited	01/04/2014	31/03/2016	London Borough of Hammersmith and Fulham	£130,652.0	£65,326
ecm_WCC_3699	Contract for the provision of Healthy Schools Programme and Healthy Early Years Pilot	Health Education Partnership Limited	01/04/2014	31/03/2016	Royal Borough of Kensington and Chelsea	£133,892	£66,946
ecm_WCC_3547	Contract for the provision of Healthy Schools Programme and Healthy Early Years Pilot	Health Education Partnership Limited	01/04/2014	31/03/2016	City of Westminster	£150,272.0	£75,136