



**Report for: Cabinet**

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<b>Date of Meeting:</b>	14 September 2023
<b>Subject:</b>	Translation and Interpreting Services
<b>Key Decision:</b>	Yes, as it affects communities living or working in an area of two or more wards in the Borough.
<b>Responsible Officer:</b>	Senel Arkut Corporate Director of People Services
<b>Portfolio Holder:</b>	Councillor Hitesh Karia - Portfolio Holder for Children's Services  Councillor David Ashton – Portfolio Holder for Finance and Human Resources
<b>Exempt:</b>	No, except for Appendix 1, Appendix 2 and Appendix 3 which are exempt by virtue of Paragraph 3 of Schedule 12A of the Local Government Act 1972 as they contain information relating to the financial and business affairs of the Council.
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All
<b>Enclosures:</b>	Exempt - Appendix 1 - Performance table Exempt - Appendix 2 - Draft tender documents Exempt - Appendix 3 - Equalities Impact Assessment

## **Section 1 – Summary and Recommendations**

This report sets out the background, the current commissioning arrangements and the proposals to seek authority to commence procurement of a supplier to deliver translation and interpreting services to the Council.

### **Recommendations:**

Cabinet is requested to:

1. Approve the commencement of the procurement of a provider for Translation and Interpreting Services. The contract(s) will be awarded for a 3- year term from 1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2027 with the option to extend for a further 2 years up to 31<sup>st</sup> March 2029.
2. Approve the tender documents.
3. Delegate authority to the Corporate Director of People Services, following consultation with the Portfolio Holder for Children's Services, to make any changes required to the tender documents following approval.
4. Delegate authority to the Corporate Director of People Services following consultation with the Director of Finance, the Portfolio Holder for Children's Services and the Portfolio Holder for Finance and Human Resources, to award the contract.

### **Reason (for recommendations):**

1. To enable the Local Authority to fulfil its statutory duties to provide an Interpretation and Translation service which meets the Council's commitment to equality of opportunity, enabling access to information and services for those who:
  - Do not speak English;
  - Do not speak English and are known to social care and or early support services
  - are Blind or have a visual impairment; and
  - are Deaf or have a hearing impairment
2. The existing translation and interpreting services contract with DA Languages will cease on 31<sup>st</sup> March 2024. This procurement focuses upon securing new contractual arrangements for face to face, telephone, video remote and document interpreting and translation services.

## **Section 2 – Report**

### **Introduction**

1. Harrow is one of the most ethnically and religiously diverse boroughs in London, with people of many different backgrounds and life experiences living together. In serving a diverse population, the Council has a duty to ensure there is equality of opportunity and access to services for its residents, service users, employees, elected members, stakeholders and partner organisations.
2. The Council also recognises its statutory equality duty under legislation in terms of service provision and employment, and is committed to meeting them by having due regard to:
  - Eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
  - Advancing equality of opportunity between people from different groups; and
  - Fostering good relations between people from different groups.
3. The main benefit of the interpretation and translation service resides in the fact that it is a clear enabler of, and provides demonstrable commitment to, equality of opportunity and access to Council information and services.

### **Options considered**

4. Four options have been considered:
  - Option 1: Do nothing - allow the contract to end in March 2024. This will create a gap in statutory service provision and will be detrimental to the Council and specially, children and young people and their families at a time of significant uncertainty.
  - Option 2: Carry out a procurement process within established frameworks allowing a direct award to the council's current provider of Interpretation and Translation service.
  - Option 3: Carry out procurement process within established frameworks by way of a Mini Competition for an Interpretation and Translation service.
  - Option 4: Carry out procurement process using an Open procedure. The Council will request tenders on the councils e-portal. The request for tender will be advertised on the e-portal, find a tender and contracts finder.

5. Option 3 is the preferred option because it will allow the council to select the provider(s) that best meets the needs and requirements of residents. Further details are provided in the Procurement Implications Section.

## **Background**

6. The Council's translation and interpreting service is used by Housing, Community, Resources but predominantly by People Services.
7. Children and Families services undertake very sensitive and confidential work where professional and a good standard of interpreting and translation services are essential. These include:
  - Social work safeguarding assessments
  - Family Court proceedings
  - No Recourse to Public Funds assessments
  - Assessments of Unaccompanied Asylum seekers
8. The Children's Act 1989, states the 'Paramountcy Principle', should be upheld by all those responsible for the care of children. This refers to ensuring the child's best interest and welfare is the first and paramount consideration. This extends to ensuring the child/young person has understood the order and their care plan, translation and interpretation services are essential in fulfilling this statutory responsibility.
9. Social workers must articulate clearly with parents to ensure they fully understand the child protection assessments and implications. The process could be considered flawed unless child/young person and their parent fully participates in their plan.
10. The Care of Children Act also outlines the responsibility of the judge must take into account when making orders around the care and protection of children, legal challenges can be prevented by ensuring an interpreter is present where there is a need.
11. The demand for this service has been managed in some areas, for example by encouraging residents to be accompanied by family members who are able to interpret. However, in some situations this is not appropriate. For example, social care where an independent professional interpreter is needed.
12. The demand has also been managed through the allocation of case workers with relevant language skills where possible, and the use of available bilingual staff for ad hoc interpreting needs.
13. The overall demand for this service can be affected by external factors, such as changes in Harrow's demographics due to major world events affecting population migration, or as a result of changing immigration policies.

14. Previously, the Council called-off from the ESPO Framework 402\_20 – Language Services to award a contract to DA Languages Limited for 2 years from 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2023. In September 2022 the two-year contract value was reached and consequently a waiver was approved to increase the total contract value by £160,000 from £440,000 to £600,000.

## **Current situation**

15. DA Languages were awarded, a one-year contract in March 2023, to allow a re-design and price analysis in order to commence a longer term procurement. The current contract comes to an end on 31<sup>st</sup> March 2024.

16. The current contract is piloting an alternative pricing model offered by the NHS Shared Business Service Framework “Interpretation & Translation Services (ITS)”. The associated pricing model separates the per mile travel cost from the hourly rate. This allows the Council to take advantage of being situated in a highly populated multicultural area likely to have relatively local interpreters.

17. The Council’s translation and interpreting service is available for all Directorates to access. Each service area has a unique pin number that is linked to the cost centre of that division. Over the pandemic, the service needs across the council changed. DA Languages have adapted the methods of providing interpretation to accommodate these needs, particularly within child protection reviews.

18. Where language requests cannot be filled by the incumbent provider, services are purchased from alternative providers through costly spot purchasing arrangements.

## **Staffing**

19. Transfer of Undertakings (Protection of Employment) (TUPE) Regulations may apply on the basis of service provision change.

20. In the event there is a service provision change resulting in the incumbent provider not being successful, the Authority will support the process of any TUPE transfer, however, the legal transfer would remain between the incumbent and the successful provider.

## **Why a change is needed**

21. The service is demand led and the requirement for these services invariably fluctuates year on year impacting on costs. One of the aims of this procurement is to maximise value for money to reduce the risk of the budgets that exist for this service overspending.

22. In seeking to procure up to two organisations to deliver the services concerned the objective is to enhance the Council’s translation &

interpretation capabilities particularly in terms of increased capacity and resilience, performance comparison, quality and competitiveness.

## Performance Issues

23. Appendix 1 Performance table shows the type of interpreting/translation services have been provided across the council in 2022/23.
24. The contract management remains within People Services as the majority of spend occurs within Children's Services. Below is a breakdown of usage across the council for 2022/23:

Directorate Usage 2022/23	Spend
People Services	£242,470.70
Place	£10,193.91
Resources	£3,445.40
	<b>£256,110</b>

25. The provider sends quarterly and annual reports consisting of a breakdown in language use, department use, cancellations and opportunities for efficiencies.
26. The provider is responsible for sourcing the language/method of translation requested upon booking, where they are unable to fulfil, they have explored alternative solutions with the council.
27. The new contract will continue to be monitored closely by People Services and any concerns, efficiencies and learning shared with other departments that use the service.

## Environmental Implications

28. There are no environmental issues identified

## Data Protection Implications

29. The local authority will book the interpreter through a centralised booking system based on the language requirements. The provider will generate a booking number that will be provided to the contractor. The interpreter will not have access to the resident's personal data.
30. The current service provider has a signed service level agreement in place with the Local Authority.

## Risk Management Implications

31. Risks included on corporate or directorate risk register? NO
32. Separate risk register in place? N/A
33. The relevant risks contained in the register are attached/summarised below. NO
34. The following key risks should be taken into account when agreeing the recommendations in this report:

<b>Risk Description</b>	<b>Mitigations</b>	<b>RAG Status</b>
Failure to fulfil the local authority's statutory duties to provide an Interpretation and Translation service	A council wide service to be re-procured in order to fulfil statutory responsibilities.	<b>Green</b>
The existing services provided by DA Languages will cease on 31 <sup>st</sup> March 2024.	Approval to commence a competitive procurement with a new contract start date of 1 <sup>st</sup> April 2024.	<b>Green</b>
Unsuccessful Procurement causing a gap in service delivery	The council is using an established framework that consists of multiple suppliers. In the event the procurement is unsuccessful, there are options of a direct award.	<b>Green</b>

## Procurement Implications

35. The estimated total value of the Service recommended to be procured (approximately £300,000pa with a total value of £1,500,000 over a 5-year period) is above the current UK financial threshold for such services. A procurement will therefore be subject to the full application of the Public Contracts Regulations 2015.
36. The award of the contract is also subject to the Council's own Contract Procedure Rules in respect of High Value contracts and Financial Regulations. As a result, approval in accordance with the Council's Contract Procedure Rules will be required for the award of the contract and a voluntary ten calendar day standstill period will be observed where it is applicable and appropriate to the contract award.

37. The new contract proposed will be for a three-year term with an option to extend for a further two-year period (i.e. providing for a maximum term of five years).
38. The UK market is led by several large language service companies, multiple mid-market players and a plethora of smaller and specialist companies. In the UK alone, the ATC reported there are 1,600 language service providers (LSP) in 2018. These LSPs combined to an annual revenue of £1.35 bn ([ATC-UK-Survey-and-Report.pdf](#)).
39. The intention is to facilitate a Mini Competition from external NHS Shared Business Service Framework “Interpretation & Translation Services (ITS), Lot 6 “One Stop Shop” which allows commissioners to source all translation requirements as a single solution. It is proposed that up to two organisations are award individual contracts for these services.
40. It is envisaged that work requirements under the agreement, will generally, be allocated equally between two (2) successful organisations. However, the Council will reserve the right to vary the proportion of work that may be allocated to each organisation, based upon performance and its decision in that respect shall be final.
41. There are significant benefits in seeking to procure up to two organisations to deliver the services concerned particularly in terms of increased capacity and resilience, performance comparison, quality and competitiveness. A Capability Assessment (Issued in advance of a Mini Competition to compliantly reduce the number of suppliers invited to a Mini Competition by allowing for a discretionary opt out) which is non-committal was issued on 21/06/2023 and established 10 Framework Provider are interested in the requirement.
42. The key advantages of the framework are:
- The pricing model has been shown to reduce service costs.
  - A compliant procurement exercise has been already undertaken to ensure that the framework suppliers meet all key standards and requirements, saving valuable time and resources.
  - The Council can bespoke requirements for Harrow and further competitive pricing.
  - A broad choice of suppliers including large national suppliers and local Small and Medium-sized Businesses (SMEs)
43. The following criteria and weightings shall apply to the evaluation of tenders received through the Further Competition Procedure:
- Quality (Including 10 % allocated to Social value and 5% for Climate Emergency): 70%
  - Price: 30%



44. Quality is regarded as the key criteria for these services and has been allocated 70% of the overall score. This is due to the necessity of having a secure, resilient, and reliable supplier base for these services.
45. Tenderers will not be permitted to exceed their current framework pricing and consequently price has been allocated 30% of the overall score.
46. The Council is under a duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental well-being of its area; how, in conducting the procurement process, the Council might act with a view to securing that improvement. It is therefore proposed that Social Value comprise one of the qualitative criteria evaluated to determine the tender(s) that is the most economically advantageous to the Council.
47. Officers are currently of the opinion that the Transfer of Undertaking (Protection of Employment) Regulations 2006, as amended, (“TUPE”) may apply to a contract awarded for the services in scope.
48. In the event there is a service provision change resulting in the incumbent provider not being successful, the Authority will support the process of any TUPE transfer, however, the legal transfer would remain between the incumbent and the successful provider.
49. An indicative timetable for the procurement is shown in Table 1 – Indicative Procurement Timetable below.

**Table 1 – Indicative Procurement Timetable**

<b>Timing</b>	<b>Activity</b>
14 September 2023	Cabinet Report to authorise procurement
27 September 2023	Issue Invitation to Tender
27 October 2023	Receive Tenders
30 October to 20 November 2023	Evaluate and moderate Tenders
12 December 2023	Contract Award Decision
12 December 2023	Issue notice of award and commence standstill period
8 January 2024 to 31 March 2024	Contract Mobilisation, Transition and Take-On Period
1 April 2024	Contract Start Date

## **Legal Implications**

50. Under Section 3 of the Local Government Act 1999, Local Authorities are under a general Duty to secure Best Value services. The duty is to “make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of

economy, efficiency and effectiveness.” The recommendations in this report will assist with the achievement of Best Value.

51. The Services to be procured are subject to the Public Contracts Regulations 2015 and the Council’s Contract Procedure Rules.
52. HB Public Law (HBPL) shall review the NHS Shared Business Service Framework “Interpretation and Translation Services (ITS), Lot 6 “One Stop Shop” and advise on the terms of the Framework Agreement and confirm whether it meets the service’s needs. The Council’s Contract Procedure Rules state that Framework Agreements that are lawfully accessible to the Council should be used in accordance with the terms and conditions of the relevant Framework Agreement.

## **Financial Implications**

53. The budget of £300,000 per annum is available and built into the base budget to support the duration of this contract from 2024-29.

## **Equalities implications / Public Sector Equality Duty**

54. Children’s Services are currently the principal user of translation and interpreting services within the Council. On 31<sup>st</sup> March 2022, 75% of Harrow’s Children in Need population were from BME groups and this reflects the population of the borough. Like many other local authorities, Harrow is on rota to receive Unaccompanied Asylum-Seeking Children most arriving from Syria, Afghanistan and North Africa, many speak no or very little English.
55. At 20-21, 23 children and young people with a hearing impairment required an allocated social worker, a further 50 had communication difficulties.
56. The current service has provided interpreters to meet the language and communication needs of these children, young people and their families.
57. The top ten languages booked interpretation in 2022/23 were:

<b>Language usage</b>
Romanian
Pashtu
Gujarati
Arabic
Tamil
Urdu
Bengali

French
Kurdish / Kurdish Sorani
Somali
BSL (British Sign Language)

58. An Equalities Impact Assessment was undertaken as part of the initial procurement process in September 2022. The findings in this assessment showed the implications are either positive or neutral, with no adverse effect. The service will reduce inequalities by improving access to information in the spoken language of the resident including for those residents with hearing impairment.

59. The assessment has not identified any potential for unlawful conduct or disproportionate impact and conclude that all opportunities to advance equality are being addressed.

### **Council Priorities**

60. **Putting residents first.** The provision of an Interpretation and Translation service is a demonstrable component of the Council's commitment to equality of opportunity, enabling access to information and services. Commissioning this service for children and young people and their families that are residents of Harrow, fully meets the Council's priority of putting resident's needs first.

## **Section 3 - Statutory Officer Clearance**

### **Statutory Officer: Jo Frost**

Signed on behalf of the Chief Financial Officer

**Date: 05.07.23**

### **Statutory Officer: Mariam Khan**

Signed on behalf of the Monitoring Officer

**Date: 20.07.2023**

### **Chief Officer: Senel Arkut**

Signed off by the Corporate Director

**Date: 26.07.23**

### **Head of Procurement: Martin Trim**

Signed on behalf of the Head of Procurement

**Date: 12.07.23**

**Head of Internal Audit: Neale Burns**

Signed on behalf of the Head of Internal Audit

**Date: 17.07.23**

**Has the Portfolio Holder(s) been consulted? Yes**

## **Mandatory Checks**

**Ward Councillors notified: NO, as it impacts on all Wards**

**EqIA carried out: YES**

**EqIA cleared by: Zayn Darr**

## **Section 4 - Contact Details and Background Papers**

**Contact:** Priya Ganatra, Strategic Commissioning Manager

[Priya.ganatra@harrow.gov.uk](mailto:Priya.ganatra@harrow.gov.uk)

Phone: 07976957586

**Background Papers:**

[ATC-UK-Survey-and-Report.pdf](#))

**Call-in waived by the Chair of Overview and Scrutiny Committee**

**NO**