



## Key Decision Report of the Corporate Director of Children's services

Key Decision	Date 20 June 2017	Ward(s): All
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Delete as appropriate	Exempt	Non-exempt
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## SUBJECT: Procurement Strategy for Outreach service for Autism, Severe and Profound Learning Difficulties

### 1. Synopsis

1.1 This report seeks pre-tender approval for the procurement strategy of an Outreach service for Autism, Severe and Profound Learning Difficulties in accordance with Rule 2.5 of the Council's Procurement Rules.

1.2 The primary purpose of the outreach service is to improve outcomes for children with Special Educational Needs and Disabilities (SEND) by working with mainstream schools to increase their capacity to meet a wider range of needs. The service aims to support over 40 local schools working with over 350 pupils per year.

The service forms an important part of a wider outreach offer in place that covers all types of Special Educational Needs and Disabilities.

### 2. Recommendation

2.1 To approve the procurement strategy for an Outreach service for Autism, Severe and Profound Learning Difficulties as outlined in this report.

### 3. Date the decision is to be taken:

20 June 2017

## 4. Background

### 4.1 Nature of the service

Outreach from special schools to support mainstream schools remains an important part of the council's strategic approach to meeting SEND. The outreach service is not a statutory service but the council is commissioning it to contribute to its statutory duties relating to SEND as set out in the Children and Families Act 2014. The service will include children attending Islington schools or those who are Islington residents in special school places commissioned out of borough.

The objectives of the service are to:

- Build the capacity of mainstream schools to identify and meet a wider range of needs
- Improve outcomes for children with SEND
- Improve the efficient use of resources – both human and material
- Promote effective integrated / partnership working
- Assist schools / the council in planning, developing and commissioning appropriate services for children with SEND.

The service is currently provided as one part of a wider SEND outreach support service delivered by 4 Islington based special schools. One of the schools, The Bridge School is converting to an Academy and therefore it is the service that they provide which will be re-tendered. The current agreement with The Bridge School will expire when it becomes an Academy in May 2017. The council aims to have a new contract in place from 01 April 2018. A draft service specification has been written.

Discussions with other Local Authorities have identified that they are not intending to tender for a similar service in the near future.

Market research has identified other potential providers.

The procurement strategy for this contract was considered by the Commissioning and Procurement Board at its meeting on 27<sup>th</sup> April 2017.

### 4.2 Estimated Value

The service will be funded through the High Needs Block which is a funding stream of the Dedicated Schools Grant and is commissioned by the council with the approval of the Schools Forum. The annual spend on this service over the last two years has been £244,516 pa.

The value of the procurement is £244,500 pa and the current proposal is to issue a contract for 1 year with options to extend for 1 year on three separate occasions (to a potential total duration of 4 years). The cost of this service is in line with the existing budget. Therefore the maximum budget over the 4 year period will be £978,000.

Any change or reduction in the amount allocated from the High Needs budget for this service would require the wider outreach services being scaled down. The potential impact of this would depend on the amount of money it is reduced by. The risks associated with reduction in the service budget are:

- less inclusion of children with Autistic Spectrum Condition (ASC) in mainstream schools
- the need to access training and support for development workforce from other providers
- the lack of a consistent approach to meeting the needs of pupils with ASC in mainstream schools
- poorer academic progress achieved by children with SEND
- an increase in both temporary and permanent exclusions from mainstream school
- less positive outcomes of Ofsted inspections for individual schools
- a less positive outcome to the new Local Area SEND Inspection.

We have considered reducing costs as the High Needs budget is overspent. Various options on the use of the High Needs Budget are being presented to Officers and the Schools Forum in the next few months. This includes the option of reducing the budget for the outreach services.

It is difficult to benchmark costs as other Local Authorities deliver outreach services for children with Autism, Severe and Profound Learning Difficulties as part of wider contracts.

LA	Contracting arrangement	Value pa
Islington	SLAs with 4 local Special Schools	£680,016
Waltham Forest	Block contract with 1 external provider	£1,090,000
Camden	In house service	N/A
Hackney	In house service	N/A

The key cost drivers for the service are:

- The diagnosis of Autistic Spectrum Disorders (ASC) is increasing both nationally and locally and we have a statutory duty to provide for the educational needs of these pupils
- The Children and Families Act 2014 requires education settings to meet the specific needs for a range of children, so that 'All teachers are teachers of children with SEND'. This is increasingly including children with ASC
- A reduction in the schools block of the Dedicated Schools Grant (DSG) placing more pressure on school budgets
- Pressures on the High Needs budget is increasing.

#### 4.3 Timetable

The current contract expires on 31 March 2018. The decision to award a contract will need to allow enough time for TUPE and contract handover if a different provider is awarded the contract.

There are no statutory deadlines but key dates to be reached are:

- Advert in OJEU by: mid July 2017
- Shortlisting by : end of October 2017
- Award by: December 2017 to allow sufficient time for mobilisation

The current provider and the Schools Forum have been consulted with about this proposal.

#### 4.4 Options appraisal

We have considered various options including:

- Insourcing the service and forming a unified Educational Psychology and Learning Support Service but this option was discussed and rejected by the Schools Forum.
- Collaboration and joint commissioning with other Local Authorities – via discussion with SEND leads in neighbouring Local Authorities, who expressed no intention or desire to collaborate as they are happy with their current arrangements.

A joint tender would offer an opportunity to get better value, share resources and expertise, economies of scale and the potential for improved quality outcomes.

However, our preferred option is to commission as a single authority via a competitive tender. The benefit of conducting our own procurement process is that it we have more control and it will be easier to respond quickly to changes in DSG funding and to changes in the strategy and approach agreed with the Schools Forum.

#### 4.5 Key Considerations – References to social value and impact on staff

This service contributes to the economic, social and environmental well-being of the borough by improving outcomes for children with SEND. This current service has a proven track record

of reducing the number of children permanently excluded from school.

The London Living Wage will apply where there is no cross border interest. A LLW consideration report has been completed. The service currently pays above the LLW and therefore it is expected that there will be no additional financial implications.

If the contract is awarded to a different provider TUPE will apply. Pensions and staffing implications for any staff not transferring to a new provider will be for The Bridge School (soon to be renamed The Bridge London Trust) to advise.

The tender evaluation criteria will be focussed on agreed outcomes and will have regard to best value considerations for the target group including:

- early identification of needs
- the efficient use of SEN funding in education settings
- effective multi agency working in assessment, planning, meeting and reviewing needs
- the effectiveness of different strategies and approaches in education provision
- appropriate referrals to early help and specialist services
- preparation for adulthood.

Service users and residents benefitting from this service will include pupils with ASC. The profile of children with ASC is approximately 60% male. Over half of children diagnosed are from a Black and Minority Ethnic (BAME) backgrounds. Children and young adults with Autistic Spectrum Disorders are more likely to have a number of conditions and disorders, including epilepsy, type 1 diabetes, and sleep disorders.

The greatest increase in autism diagnosis in the last four years is in children living within the two most socially deprived groups. Families with a child with a SEN or disability are more likely to live in poor housing and poverty, lack employment, face social isolation and discrimination; these are associated with poorer health and educational outcomes.

There are no identified environmental considerations.

#### 4.6 Evaluation

The tender will be conducted in one stage, known as the Open Procedure as the tender is 'open' to all organisations who express their interest. The Open Procedure includes minimum requirements which the organisation must achieve before their bid is considered.

It is proposed that the contract will be awarded based on the following award criteria:

<b>Criteria</b>	<b>%</b>
<b>Cost</b>	<b>20%</b>
<b>Quality, made up of:</b>	<b>80%</b>
• Proposed approach to Service Outcomes (includes equality, diversity and inclusion, partnership working)	40%
• Proposed approach to Service Delivery (includes safeguarding, LLW, recruitment and selection (Social benefit),	20%
• Organisation and running the service	20%
<b>Total</b>	<b>100%</b>

#### 4.7 Business Risks

Tendering provides the opportunity to test the market through an open tender process after many years of service delivery via an SLA with one provider. We anticipate that added value

can be obtained through a tendering process, for example, in kind use of premises and partnership opportunities.

If the contract is awarded to an organisation other than the existing provider, the organisation and schools they support may raise concerns and dissatisfaction with the outcome to both members and officers and in the press.

The identified risks include:

Risks	Measures
No providers submit tender submissions	<p>We will identify potential bidders and make them aware of the tendering opportunity.</p> <p>We will hold a provider information event to encourage applications.</p> <p>The opportunity will be advertised on the London Tenders Portal, the council's external website and in the Official Journal of the European Union</p>
Time commitments of panel members undermine the decision making process	Time commitments are clear up front and panel members are chosen with this availability in mind
There are in decisions leading to delays or gaps in service continuity	The project plan sets out clear timescales for all stages and this can be monitored to ensure that a decision is reached within the required timescales
The approach to managing these disabilities is very different to the current provision and schools become less confident and less able to meet needs	The tender submission will require a clear description of the approach the provider would take and highlight any changes in ethos or approach before the tender is awarded
There is poor transition from one provider to another	Submissions will require an implementation plan to be submitted for evaluation. The council will facilitate handover meetings between providers. This would include any TUPE which would be managed between the providers

The financial risks if the procurement strategy is not agreed are:

- The costs of redundancies for the 5 outreach staff (3 FTE, 2PT)
- Increase in cost of spot purchasing training and support from alternative providers
- A break in service delivery would result in significant recruitment, set up and training costs to set up a new service.

4.8 The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of blacklists containing details of trade union members and their activities. Following a motion to full Council on 26 March 2013, all tenderers will be required to sign the Council's anti-blacklisting declaration. Where an organisation is unable to declare that they have never blacklisted, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of blacklisting unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences. The adequacy of these measures will initially be assessed by officers and the outcome of that assessment will be reviewed by the Council's Procurement

Board.

- 4.9 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.6 of the Procurement Rules:

<b>Relevant information</b>	<b>Information/section in report</b>
1 Nature of the service	An Outreach Service working with mainstream schools to increase their capacity to meet the needs of children with Autism, Severe and Profound Learning Difficulties.  See paragraph 4.1
2 Estimated value	The estimated value per year is £244,516.  The agreement is proposed to run for a period of 12 months with an option to extend for 12 months on three separate occasions (to a potential total duration of 4 years).
3 Timetable	Advert: 14/07/2017 Shortlisting: 27/10/2017 Award: 04/12/2017  See paragraph 4.3
4 Options appraisal for tender procedure including consideration of collaboration opportunities	To commission as a single authority via a competitive tender See paragraph 4.4
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	LLW will apply. TUPE applies. Best value and social benefit considered. See paragraphs 4.5
6 Evaluation criteria	Overall award criteria will be based on an evaluation of Quality 80% and Cost 20%.  The award criteria price/quality breakdown is more particularly described within the report.  See paragraph 4.6
7 Any business risks associated with entering the contract	We anticipate that added value can be obtained through a tendering process.  The existing provider and schools they support could express concern if the tender is awarded to a different provider.  See paragraph 4.7
8 Any other relevant financial, legal or other considerations.	See paragraph 4.7

## 5. Implications

### **5.1 Financial implications:**

Contract funding of £244,500pa will be met from the councils revenue (DSG) budget. A funding review will be undertaken annually.

### **5.2 Legal Implications:**

The Council has various duties in relation to children and young people with special educational needs under the Children and Families Act 2014 (Part 3) and associated SEND Code of Practice. The council may enter into contracts for outreach services for children and young people with autism and/or severe and profound learning difficulties under section 1 of the Local Government (Contracts) Act 1997. The Corporate Director for Children's Services has authority to approve procurement strategies in relation to contracts up to the value of £2,000,000.00 (Procurement Rule 18.1.2)

The services being procured are subject to the light touch regime set out in Regulations 74 to 77 of the Public Contracts Regulations 2015 (the Regulations). The threshold for application of this light touch regime is currently £589,148.00. The value of the proposed contracts is above this threshold. It will therefore need to be advertised in the Official Journal of the European Union (OJEU). There are no prescribed procurement processes under the light touch regime. Therefore the council may use its discretion as to how it conducts the procurement process provided that it: discharges its duty to comply with the Treaty principles of equal treatment, non-discrimination and fair competition; conducts the procurement in conformance with the information that it provides in the OJEU advert; and ensures that the time limits that it imposes on suppliers, such as for responding to adverts is reasonable and proportionate. Following the procurement a contract award notice is required to be published in OJEU. The council's Procurement Rules require light touch contracts over the value of £500,00.00 to be subject to competitive tender.

In compliance with the requirements of the light touch regime in the Regulations and the council's Procurement Rules the proposal outlined in the report is to advertise a call for competition in OJEU and procure the service using a competitive tender process. On completion of the procurement the contract may be awarded as required to the highest scoring tenderer subject to the tender providing value for money for the council.

### **4.3 Environmental Implications**

The tender process is unlikely to result in a significant change in the environmental impact of the service. The areas identified are:

- Energy use –within a normal range associated with running an office for 5 staff (3 FTE, 2PT).
- Material Use – use of stationary and materials within a normal range (as above)
- Waste – potential to include stationary, training materials, mobile phones, printer during the lifetime of the contract.

The measures to mitigate these impacts are:

- The selection criteria for the contract will include consideration of their environmental performance.
- Contract mobilisation will consider the use of recycled materials, the location and type of office base and the use of sustainable transport used for school visits.

### **4.4 Resident Impact Assessment:**

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life.

The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed on 5/05/2017 and the summary is included below.

- The change is unlikely to be discriminatory in any way for people with any of the protected characteristics.
- The proposal is unlikely to have a negative impact on equality of opportunity for people with protected characteristics.
- The service is expected to contribute towards better educational attainment and wider outcomes for disabled children and young people.
- The proposal is unlikely to have a negative impact on good relations between communities with protected characteristics and the rest of the population in Islington.
- The proposal will enable pupils with special needs and disabilities to participate wherever appropriate in mainstream education and aide their social inclusion.
- The service is expected to contribute towards better educational attainment and wider outcomes for disabled children and young people. The service is expected to contribute towards better educational attainment and wider outcomes for disabled children and young people.

There are no identified actions to mitigate the identified impacts on resident.

## **6. Reasons for the decision: (summary)**

- 6.1 The outreach service will improve outcomes for children with Special Educational Needs and Disabilities by working with mainstream schools to increase their capacity to meet a wider range of needs. The service aims to support over 40 local schools working with over 350 pupils per year.

## **7. Record of the decision:**

- 7.1 I have today decided to take the decision set out in section 2 of this report for the reasons set out above.

### **Signed by:**

Corporate Director of Children's Service

Date

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