

Report of: Executive Member for Children, Young People and Families

Meeting of:	Date:	Ward(s):
Executive	19 September 2019	All

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SUBJECT: Procurement strategy for the operation, delivery and facilities management of 11 adventure playgrounds in Islington

1. Synopsis

- 1.1 This report seeks approval for the strategy to procure two contracts to operate Islington’s eleven adventure playgrounds in accordance with Rule 2.7 of the Council’s Procurement Rules, following a procurement for one contract to operate eleven playgrounds that failed in May 2019.
- 1.2 The proposed contracts are for the operation, delivery and facilities management of eleven adventure playgrounds in Islington.
- 1.3 This report proposes a fresh procurement approach that better manages risk to the council.

2. Recommendations

- 2.1 To note that procurement of contract 1819-0029a failed because no bidders met the minimum requirements at ITT stage.
- 2.2 To approve the revised procurement strategy for the operation, delivery and facilities management of Islington’s 11 adventure playgrounds for up to 15 years as outlined in this report (an initial 3-year contract followed by 4 opportunities to extend by 3 years at a time (15 = 3+3+3+3+3)) and to note that the recommended contract length will maximise opportunities for leveraging in additional revenue and capital funds over the 15-year period, providing much needed additional resource to support facilities management and capital improvement across the adventure playground estate.

2.3 To delegate authority to award the contracts to the Corporate Director of People in consultation with the Executive Member for Children, Young People and Families.

3. Background

3.1 A strategy for the procurement of Islington's 12 adventure playgrounds was approved in February 2019. This strategy brought together 11 of the adventure playgrounds under one contract (1819-0029a), which was published to the market at the end of March 2019 and a second contract specifically to operate and manage Hayward, the specialist adventure playground for children and young people with SENDs (1819-0029b).

3.2 The proposals for contract 1819-0029a were received on Friday 10 May 2019 and following assessment, no bidders met the minimum requirements at ITT stage.

3.3 The proposals for contract 1819-0029b were received on 17 May 2019. The procurement of this contract will continue as planned, but with a later start date aligned with that for the other 11 adventure playgrounds.

3.4 Estimated Value

The overall budget available for the operation and management of the 11 adventure play sites is up to £1.04 million per annum.

3.5 Timetable

Activity	Date
Executive meeting	September 2019
Publication of opportunity to the market	End of September 2019
Approximate date of contract award	December 2019
Mobilisation plan	January – March 2020
Start date	01 April 2020

3.6 Options appraisal

A range of routes have been appraised in order to secure the adventure play offer over the long term and to ensure that it continues to respond clearly to local needs, engages effectively with children with SENDs and is able to realise the maximum amount of additional income is raised.

The development of partnerships and local knowledge in the delivery of adventure play in Islington is considered to be a priority.

The options for securing the required services have been appraised in the original procurement strategy considered by the Executive in February 2019. In the light of this and subsequent feedback, the recommended procurement approach is set out below:

Procure **two separate contracts** via open procedures, stipulating that providers may bid for one contract only, consisting of:

- **Contract 1** - 6 adventure playgrounds
- **Contract 2** - 5 adventure playgrounds

Benefits	Risks
<ul style="list-style-type: none"> • There is greater opportunity for there to be a diverse service offer for children and families • Opportunities are maximised for providers to work together, streamlining resources and sharing expertise • Smaller providers are not disadvantaged 	<ul style="list-style-type: none"> • Providers may all choose to bid for one contract and not the other, creating the risk, given the size of the market, that one procurement will be failed, raising the risk of a break in service for beneficiaries • One contract will be more attractive than the other due to the value, number and quality of the adventure playgrounds in each portfolio • The opportunities for consistent income generation and investment across the 11 sites are reduced, with one portfolio providing more opportunities for generating funds than the other • There may be an increased risk of a partial or fully failed procurement

3.7 Key Considerations

In line with the council’s commitment to apprentices, the successful organisation(s) will be required to demonstrate how they will ensure that local apprentices are engaged over the life of the contract, with the quota of 1 apprentice for every £1million of expenditure, equating to a minimum of 15 apprentices across the contracts.

Organisations will be required to demonstrate how income generation acquired through their activities will be reinvested into the delivery of services and facilities management to support children and young people’s adventure play. It will be essential that the providers are partners in helping to improve the capital estate, ensuring that income generated is reinvested into the buildings and outdoor spaces in most need of repair.

To contribute to the sustainability of the offer overall, at procurement stage, the council will require tendering organisations to submit a business plan which will include plans to generate additional income to be reinvested into the offer. The contract specifications will set out requirements for flexibility around the application of additional income generated in order to best maintain and maximise the offer whilst managing the future financial position of the council.

London Living Wage has been considered in a separate report and it will be a requirement that all paid members of staff must be paid the London Living Wage where permitted by law. Providers will be actively encouraged to pay London Living Wage to apprentices that they employ.

In addition to the intrinsic social benefits that will be realised through the nature of the contracts, organisations will be asked to demonstrate their role as community hubs within the localities the adventure playgrounds are based. Adventure playgrounds will continue to work in close partnership with targeted and specialist services, health and early years to ensure that playgrounds’ ‘open for all’ services provide a holistic and family-focused

approach. For example, playgrounds will continue to provide opportunities for families to play together every Saturday throughout the term time. During these Saturday sessions, other professionals will be invited who can provide preventative support around issues ranging from physical and mental health through to energy and benefit advice. Enhanced emphases in the updated specifications on partnership working and holistic services for families will ensure adventure playgrounds increase opportunities to offer early and 'earliest' help through the delivery of high quality play experiences.

There may be TUPE, pensions and staffing implications to be considered. These will be published with the procurement documents to ensure that the market can respond adequately to what is required.

3.8 Evaluation

It is proposed that the tenders will be conducted in one stage, known as the Open Procedure as the tender is 'open' to all organisations who express their interest in the tender. The Open Procedure includes minimum requirements which the organisation must achieve before its evaluation Award Criteria responses are considered.

The proposed approach is a split of 20% cost versus 80% quality.

Cost 20%

1. Financial forecast in line with the length of the service contract	10%
2. Sustainability, including income generation, fundraising and resources in-kind	10%

Quality 80%

3. Proposed approach to quality assurance including: proposed systems to ensure services are effectively reviewed and evaluated; reach across the local child and young person population; effective use of data available about service users to effectively plan and deliver the offer; effective comms and marketing	20%
4. Proposed approach to the delivery of playwork on adventure playgrounds in line with the Playwork Principles	10%
5. Proposed approach to safeguarding, early intervention and earliest help including: policies and procedures; staff training and development; holistic approaches to working with children and families in need of additional support	10%
6. Proposed approach to partnerships and integrated working (supported by evidence of extensive local knowledge and ability to engage with the local community) including: collaboration with local, regional and national organisations; coordination with other providers of adventure play and wider children's services including the Islington SEND Local Offer ¹	10%
7. Proposed approach to facilities management, including buildings and the adventure playground environment	10%
8. Proposed business plan including objectives, strategies, marketing and income generation in line with the length of the service contract	10%

¹ <http://directory.islington.gov.uk/kb5/islington/directory/localoffer.page?localofferchannelnew=0>

9. Proposed approach to contract mobilisation including continuity of service, community engagement, TUPE and staffing considerations	10%
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3.9 Business Risks

The market for adventure play is small and it is essential that the successful providers are able to respond to the value and size of the contracts that are published. Organisations will need to be able to manage TUPE and to demonstrate financial viability, including income generation to reinvest in the adventure play offer in the longer term.

Through letting longer-term contracts of up to 15 years, the aim is to reduce any risks to the successful providers. A longer contract period will allow for more substantive opportunities for revenue and capital fundraising. It will also create stability for staff teams and support management structures that are in line with the contract value and size of the capital estate.

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 complete an 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.

3.10 The following relevant information is required to be specifically approved by the Executive in accordance with rule 2.8 of the Procurement Rules:

Relevant information	Information/section in report
1 Nature of the service	<p>The delivery, operation and management of the 11 adventure playgrounds in Islington, including facilities management through the procurement of two separate contracts.</p> <p>See paragraphs 3.1 and 3.2</p>
2 Estimated value	<p>The estimated value per year is up to £1.04 million across the two contracts.</p> <p>The agreements are proposed to run for a period of three (3) years with four (4) options to extend for up to three (3) years each (3+3+3+3), giving a total possible duration of fifteen (15) years.</p> <p>The total estimated value across the life of the contracts if all extensions are utilised is £15.6 million.</p> <p>See paragraph 3.4</p>

3 Timetable	<ul style="list-style-type: none"> • Executive meeting: September 2019 • Advert: end of September 2019 • Evaluation: December 2019 • Contract award: December 2019 • Start date: 01 April 2020 <p>See paragraph 3.5</p>
4 Options appraisal for tender procedure including consideration of collaboration opportunities	<p>The recommendation is to procure two contracts: one to operate and manage 5 playgrounds and one to operate and manage 6 playgrounds. The intention is to require that tendering organisations may bid for one contract only. This approach is compliant with the Public Contracts Regulations 2015 and the council's own procurement rules.</p> <p>See paragraph 3.6</p>
5 Consideration of: Social benefit clauses; London Living Wage; Best value; TUPE, pensions and other staffing implications	<p>Due consideration has been given to these key areas and the proposed strategy is compliant.</p> <p>See paragraph 3.7</p>
6 Evaluation criteria	<p>The award criteria breakdown for both contracts is identical and is 20% price / 80% quality.</p> <p>The award criteria breakdown is more particularly described within the report.</p> <p>See paragraph 3.8</p>
7 Any business risks associated with entering the contract	<p>Business risk is medium due to the limited size of the market and the complexity of the operational aspects.</p> <p>See paragraph 3.9</p>
8 Any other relevant financial, legal or other considerations.	See paragraphs 4.1 – 4.4

4. Implications

4.1 Financial implications:

There is a £1.04 million budget per annum to cover the cost of these contracts. A risk exists if tenders exceed this amount.

4.2 **Legal Implications:**

The Council is required under section 507A(1) of the Education Act 1996 to secure adequate recreation and social and physical training facilities for children under the age of 13. This can include the establishment, management and maintenance of playgrounds. When making arrangements, the council must have particular regard to the expediency of cooperating with any voluntary bodies whose objects include the provision of similar facilities or activities (section 507A(3)). The council may enter into contracts with providers of adventure play services under section 1 of the Local Government (Contracts) Act 1997. The Executive may provide Corporate Directors with responsibility to award contracts with a value over £2 million using revenue money and over £5 million using capital money (council's Procurement Rule 16.2).

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 £615,278.00. 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.

4.3 **Environmental Implications:**

The main environmental impact of the adventure playgrounds is the use of energy, water, and waste generation on the sites. However, this is kept to a minimum, with ecological efficiencies identified wherever possible. Organisations running adventure playgrounds have a vested interest in ecologically sound practice, with council commissioners ensuring this is adhered to through robust contract monitoring and quality assurance processes in place over the life of the contracts.

It is expected that the letting of these contracts for adventure playgrounds will also have substantive beneficial impact to the local environment. Adventure playgrounds are protected in perpetuity through Deeds of Dedication, meaning that these natural spaces are safeguarded for children's play. The work required through the service specifications for adventure play includes food growing, effective recycling and composting and supporting children, young people and families' understanding of the environment.

Through ensuring that providers are contracted to effectively run quality services and deliver facilities management to a high ecological standard, both providers and commissioners ensure that the environment is integrated across work that takes place at

adventure playgrounds on a daily basis. Engagement with stakeholders and partners, including the council's Environment and Regeneration directorate, ensures that biodiversity and eco-friendly activities are incorporated into the services offered for children, young people and families.

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 16 November 2018 and the summary is included below:

This procurement regards the long-term trusted relationships with young people and their families which have been built by Adventure Play providers as important. The continuation of this service for example, the same number of hours per year the service is available, availability of the service across term and holiday times and the number of locations from which the service is delivered.

By investing in a high-quality adventure play offer, the council is likely to be contributing to the elimination of discrimination against children and families. These services will provide a wide range of high quality, inclusive, 'earliest help' programming through adventure playgrounds that will be centred around the needs of the children, their families and local communities. Based on regular and robust needs analyses, the council has identified that adventure playgrounds reach some of the most deprived communities in Islington.

These contracts will provide children with access to fun, exciting, safe (yet risky), well-supported, inclusive and natural play experiences that will support their physical and emotional health and wellbeing. Children will have opportunities to develop their own projects, build their social and emotional skills and explore the world around them, including their neighbourhoods, communities and the wider world.

Through providing these opportunities, the contracts will bring children from a range of different ages, abilities, gender identities, cultures and backgrounds closer together in a safe and supportive environment, fostering better understanding and communication, challenging stereotypes and developing mutual understanding.

4. Reason for recommendations

- 4.1 It is recommended that the adventure play offer for Islington from April 2020 is secured through the option set out in section 3 of this report.

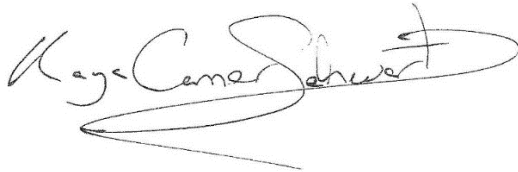
4.2 This approach would be compliant with the council's procurement rules and the Public Contracts Regulations 2015.

Appendices: RIA

Background papers: None

Final report clearance:

Signed by:

A handwritten signature in black ink, appearing to read 'Kaye Cameron', with a large, sweeping flourish underneath.

11 September 2019

Executive Member for Children, Young People and Families

Date

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