

Children's Services Department 222 Upper Street London N1 1XR

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

Meeting of: Executive

Date: 14 March 2024

Ward(s): All

## Subject: Future School Meals Arrangements – Procurement Strategy

### 1. Synopsis

- 1.1. The report makes recommendations for the procurement of a provider to provide school meals (**Contract**) for those Islington schools and children's centres who currently pool their school meals budgets (**Schools**).
- 1.2. The current contract, let by the Council on behalf of those Schools is due to expire at the end of March 2025. It is intended for the new Contract to begin in April 2025 to ensure continuity of service.

### 2. Recommendations

- 2.1. To approve the school meals procurement strategy set out in this report.
- 2.2. To delegate authority to the Corporate Director of Children's Services, following consultation with the Executive Member for Children, Young People and Families, to award the Contract for an initial period of five years with optional contract extensions of up to two years.

## 3. Background

#### 3.1. Nature of the service

- 3.1.1. The Council and School Governing Bodies have legal responsibilities<sup>1</sup> to provide free meals for eligible pupils and to extend the provision of meals to other children. In addition to means-tested eligibility for free school meals in all year groups the government also funds free meals for all other pupils in reception, year 1 and year 2 and the Council funds free meals for all other pupils in years 3 to 6 inclusive. The Mayor of London is providing funding to enable all London boroughs to do the same in the current academic year and there has recently been an announcement that this is expected to continue until July 2025.
- 3.1.2. The current arrangement is that delivery of school meals is contracted to a third party, with Schools offered the option to join the contract through a pooled budget arrangement. The current contract serves 35 primary schools, three secondary schools, four special schools, three pupil referral unit sites and 16 nursery schools, children's centres and early years settings. Other schools make their own arrangements.
- 3.1.3. Schools are responsible for providing heavy kitchen equipment and the provider is responsible for keeping light equipment refreshed throughout the contract period.

#### 3.2. Estimated value

- 3.2.1. The cost of the current contract in the current year is approximately £5.9m (exact amount depends on volume of meals provided). The cost of the contract is met by individual School budgets.
- 3.2.2. Within the existing pooled budget arrangement Schools can give an academic term's notice to withdraw from the pooled budget. The current contract is priced on a per meal basis, so that a reduction in meal volumes (whether prompted by a school withdrawing or for other reason, for e.g. declining pupil numbers resulting in decreased number of meals served) feeds directly through to a reduction in the contract payment.
- 3.2.3. The key cost drivers for the service are labour and food. There is clear upward pressure on both, with food costs continuing to rise and labour costs increasing as a result of changes to the rate of London Living Wage.

#### 3.3. Timetable

3.3.1. The estimated timetable for the completion of this procurement is:

<sup>&</sup>lt;sup>1</sup> Under the Education Act 1996 (as amended) and Education (Transfer of Functions Concerning School Lunches etc.) (England) (No. 2) Order 1999/2164

- Approval to procure March 2024
- Invitation to tender May 2024
- Submissions due by September 2024
- Evaluation of submissions October 2024
- Contract award December 2024
- Mobilisation period January to March 2025
- Start of new contract April 2025

#### 3.4. **Options appraisal**

- 3.4.1. The <u>Progressive Procurement Strategy 2020/27</u> commits the Council to seek to "deliver services in-house, wherever we reasonably can. Providing services inhouse gives us better control of services, more flexibility around how we want to deliver services, and better protection for those delivering our key services", whilst accepting "that not everything can be delivered in-house".
- 3.4.2. Five overarching options for the shape of the future service have been considered:
  - Direct insource
  - Insource via arms-length Local Authority Trading Company (LATCo)
  - Shared service with another council
  - Schools-led model
  - Procurement

#### 3.4.3. Direct Insource

Under this model all current kitchen staff would transfer to Council employment under TUPE and the Council would be responsible for all aspects of school meals delivery in relevant schools/sites across the borough.

- 3.4.4. Moving staff onto Council employment terms and conditions would increase costs by around £1.6m p.a. on an ongoing basis. In addition, central costs are estimated to be around £0.2m higher than the amount currently paid to the contractor for their central costs. For an average primary school these cost increases would translate into annual additional cost of £41k, with that cost pressure having to be absorbed by schools at a time when nearly half of Islington primary schools are forecast to be facing a budget deficit in 2025/26 as a consequence of declining pupil numbers and inflation-driven cost increases.
- 3.4.5. In addition to this affordability problem the Council would almost certainly find that, if it were to establish a new service with no track record and no existing systems and processes in place, it would be very challenging to recruit the sort of experienced and expert specialist catering leadership that would be required to run a multi-site school meals operation.

- 3.4.6. In addition, running a school meals service would require multiple procurement exercises, most significantly to secure food supply.
- 3.4.7. An in-house model would significantly increase the Council's exposure to a number of operational risks, e.g. associated with ensuring food safety.
- 3.4.8. This option is not recommended as schools are very unlikely to buy into a model that would increase their costs so dramatically for little or no service improvement advantage.

#### 3.4.9. Insource via LATCo

The Council could set up a special purpose vehicle (Local Authority Trading Company, commonly referred to as LATCo) and transfer the existing service delivery staff into that instead of into the Council.

- 3.4.10. This model would involve the same risks and issues of a direct insource model but with additional costs to set it up and to operate it. In relation to employment costs a LATCo model would not be any cheaper than a direct insource model since for the purposes of equal pay legislation, the company would be an "associated" employer, potentially giving staff the opportunity to compare themselves to existing Council employees, triggering substantial additional costs.
- 3.4.11. Setting up a LATCo would require specialist legal input and the LATCo would find it no easier than the Council itself in the direct insource model to recruit suitably experienced leadership. In addition there would be additional costs associated with running a separate entity (e.g. cost of external audit, insurance, banking arrangements).
- 3.4.12. This option is therefore not recommended.

#### 3.4.13. Shared service with another Council – whole service

Partnering with another authority that wishes to establish an in-house service, but shares our lack of catering management expertise, would enable us to benefit from sharing some of the set-up and central management costs, but would do nothing to solve the main affordability problem, that of kitchen staffing costs. It would also face the problems of expertise, food supply and operational risks referred to above with the Direct insource model.

#### 3.4.14. Shared service with another Council – partial

A possible response to the problems highlighted in the insourcing model would be to enter into a partnership with another local authority with an established and successful in-house school meals operation with a food supply chain in place. 3.4.15. Whilst this approach would deal with some issues (in particular the Council's lack of catering management expertise and its need to secure a reliable supply chain for delivery of food) it would not overcome the affordability problem and would indeed exacerbate it because of the need for a management fee to be paid to the partner authority.

#### 3.4.16. Schools-led model

There are two principal ways in which this model might operate. Common to them both is that the Council limits its engagement in school meals provision to the monitoring of food standards. This approach is in line with the Council's current practice in relation to schools outside the pooled budget / current contractual arrangements.

- i) Option one under this model would be for individual schools arranging their own schools meals provision.
- ii) Option two under this model would be for schools to collaborate with each other to secure the provision of school meals. They could do this pursuant to a special purpose vehicle (i.e. a limited company).
- 3.4.17. Neither option under the school-led model is seen as attractive to existing pooled budget member Schools they have explicitly opted into a pooled arrangement because they do not wish to take on responsibility for managing their school meals provision, preferring to rely on the Council's procurement and contract management expertise.

#### 3.4.18. Procurement

A number of catering providers operate in the commercial market, large enough to meet the following key priorities whilst keeping their central costs low:

- be reliable partners able to absorb shocks to their business (e.g. food cost inflation driven by geopolitical events)
- able to deliver social value commitments
- achieve economies of scale in their food procurement
- be able to respond to changes in the environment, e.g. customer preferences
- manage staffing deployment across multiple sites
- 3.4.19. These features combine to create a competitive market with reliable quality and affordable prices for schools.

#### 3.4.20. Preferred model

The preferred model arising from the above analysis is to carry out a competitive procurement.

#### 3.5. Key Considerations

#### 3.5.1 **Schools**

The procurement will be run on behalf of Schools. It is their delegated budgets that are being committed and as a consequence it is of fundamental importance to ensure that their requirements are met insofar as possible.

#### 3.5.2 Early market engagement

Early market engagement will test the market on a number of issues, set out below.

#### 3.5.3 Procurement approach

School catering is a highly competitive market with multiple suppliers. This procurement will be conducted in accordance with the Public Contracts Regulations 2015 (the **PCR**). The procurement is subject to the 'light touch regime' under Chapter 3, Section 7 Social and Other Specific Services of the PCR. Under Regulation 76 the council is free to establish a procedure, provided that the procedure is sufficient to ensure compliance with the principles of transparency and equal treatment of economic operators (service providers).

3.5.4 The Council intends to utilise the flexibility allowed under the 'light-touch regime' to design a process. All economic operators (service providers) who successfully express an interest will automatically have access to the tender documents. Standard selection questions will be part of the procurement process and service providers will need to satisfy these questions before an evaluation of quality and cost is undertaken.

#### 3.5.5 Packaging the procurement

There are three distinct types of delivery of the current school meals service:

- i) Primary schools free meals provided to all pupils
- ii) Secondary schools mix of free meals and purchase of individually priced items
- iii) Early years snacks and tea as well as a lunchtime meal
- 3.5.6 Consideration has been given as to whether we might achieve better value by dividing the procurement into separate lots (one for early years settings and one for statutory-aged education) or retaining it as one. Using lots would enable us to ask targeted questions in the evaluation to differentiate who would be the best provider for the specific lot, but it has been concluded that the cost of overheads in the smaller lot is likely to be excessive. The development of the specification will ensure that the specific needs of early years settings are fully addressed. It is therefore advised not to package the procurement into lots.

#### 3.5.7 Social value

The Council's policy requires at least 20% of the evaluation criteria to be based on social value.

3.5.8 Providers will be expected to provide social value including clear, specific, measures for monitoring, so that we are able to monitor effectively to assess progress and hold the provider to account. Requirements will be developed with the support of the Council's social value leads. Examples of the types of social value we will expect to see in tenders are set out below. The Provider will develop these into more specific targets as part of the tender process.

#### **Community development**

• Equalities, diversity, and inclusion – e.g., supporting local voluntary sector organisations that specialise in supporting minority groups to develop charity plans to support organisational growth and financial security.

#### Staff wellbeing

- Supporting staff wellbeing and mental health through employee assistance programmes.
- Meeting relevant elements of the UNISON Ethical Care Charter

#### Economic

- Supporting and promoting employment opportunities in the borough and working with the Council's iWork service to provide opportunities to local residents, advertising on the Council's Islington Working employment search site.
- Prioritising the use of central London sub-regional suppliers where possible in any sub-contracting supply chain opportunities. Examples include purchase of supplies, materials, or service contracts such as office cleaning for effective contract delivery.
- Fundraising strategy to secure additional funds to support volunteer projects and working with wider VCS market to promote opportunities to residents.

#### Environmental

• Supporting the net zero carbon agenda

#### 3.6. Evaluation

3.6.1. The nature of the market is such that providers should be able to score highly on quality measures, possibly resulting in negligible differences in scores between bidders. The specification of requirements will ensure that a high standard of food quality is delivered, ensuring that pupils have access to a range of healthy and

tasty food throughout the school year. Schools' financial circumstances lead to a higher emphasis on price within the evaluation criteria.

3.6.2. The balance between price, quality and social value is recommended to be:

Price	50%
Quality	30%
Social value	20%

#### 3.7. Business risks

3.7.1. The principal risks associated with this procurement are as follows:

Risk	Comment and Mitigation
Providers choose not to bid	Not considered a major risk but pre-market engagement should ensure that the procurement is structured in a way that attracts bidders.
Contract prices increase	In line with standard industry practice providers will expect price to be subject to indexation within the contract to protect their financial position against the risks of food price inflation shocks and/or significant increases in London Living Wage impacting on their labour costs. Ongoing challenge of contractor financial performance will ensure that there is a suitable sharing of efficiency gains between the contractor and clients.
Disruption to service continuity	This would arise from a different contractor or contractors (from the incumbent contractor) being awarded the Contract. This will be mitigated by building in an adequate mobilisation period and to use the provisions within the current contract to ensure that the outgoing contractor co-operates fully to enable a smooth transfer.

3.8. The Employment Relations Act 1999 (Blacklist) Regulations 2010 explicitly prohibit the compilation, use, sale or supply of lists 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 a declaration that they have not used prohibited lists. Where an organisation is unable to declare that they have never used prohibited lists, they will be required to evidence that they have 'self-cleansed'. The Council will not award a contract to organisations found guilty of

using prohibited lists unless they have demonstrated 'self-cleansing' and taken adequate measures to remedy past actions and prevent re-occurrences.

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

Relevant information	Information/section in report
1. Nature of the service	See section 3.1
2. Estimated value	Approx. £42m (assuming five years plus maximum two year extension) See section 3.2
3. Timetable	See section 3.3
4. Options appraisal for tender procedure including consideration of collaboration opportunities	See section 3.4 and para 3.5.3
<ul> <li>5. Consideration of:</li> <li>Social benefit clauses;</li> <li>London Living Wage;</li> <li>Best value;</li> <li>TUPE, pensions and other staffing implications</li> </ul>	LLW is already paid, protected by TUPE regulations Pensions arrangements also protected by TUPE regulations Social value – see section 3.5.8
6. Award criteria	Price 50%, quality 30%, social value 20%. The award criteria price/quality breakdown is more particularly described within the report. See section 3.6
7. Any business risks associated with entering the contract	See section 3.7
8. Any other relevant financial, legal or other considerations.	See section 4

## 4. Implications

#### 4.1. Financial Implications

- 4.1.1. The current annual contract price for the schools' meals contract is approximately £5.9m (the exact amount depends on the volume of meals provided). The cost of the contract is passed on to the individual schools. The current contract is priced on a per meal basis. This ensures that a change in meals' volumes will result in a corresponding variation in the contract payments. The key cost drivers for the service are labour and food.
- 4.1.2. With the current contract scheduled to end on 31<sup>st</sup> March 2025, a competitive procurement for this service is being recommended. This should ensure that Value for Money continues to be achieved for the borough's schools going forwards. The new service specification should continue to include flexibility in meal volumes during the contract period to allow for changing pupil numbers and to ensure that schools are able to join or leave the contract after giving notice of their intentions.
- 4.1.3. Other service provision options have been explored, including in-sourcing the school meals' service from April 2025. However, with falling pupil numbers and the additional staffing and catering service management costs that the Council would incur if the service were to be insourced, the financial risks and pressures would increase for both the Council and for the individual schools.

#### 4.2. Legal Implications

- 4.2.1 Section 512 of the Education Act 1996, as amended, places a duty on maintained schools, academies and free schools to provide free school meals to pupils of all ages that meet the criteria.
- 4.2.2 Any procurement of the school meals provision by the Council must comply with the Public Contract Regulations 2015 (PCR). Whilst the schools meals provision service falls under the Light Touch Regime (a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition) the procurement process must comply with the principles of equal treatment and transparency; the Council must carry out the procurement procedure in conformity with information included in the procurement notices and it must set time limits for the procurement that are reasonable and proportionate.
- 4.2.3 The Contract for school meals provision must include adequate provisions around: key performance indicators (especially in line with the School Standards and Framework Act 1998 and the requirements for School Food Regulations 2014 and any associated law or regulations around school food), contract management mechanisms (especially around performance monitoring), liability, indemnities, insurance and default and termination provisions.

# 4.3. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

- 4.3.1. The provision of school meals across multiple sites has a significant environmental impact, in particular in relation to school kitchen energy use, transport of food to school kitchens, the production of food itself.
- 4.3.2. The procurement process will ensure that providers' commitments to supporting the Council's net zero ambitions are fully tested.

#### 4.4. Equalities Impact Assessment

- 4.4.1. 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.
- 4.4.2. An Equalities Impact Assessment was completed on 16 January 2024. The main findings are that the re-procurement of the school meals contract will have a neutral impact on people with all protected characteristics. The full Equalities Impact Assessment is appended.

## 5. Conclusion and reasons for recommendations

5.1. Commence process to procure a new school meals contract to start in April 2025 – reason: insourced service not possible to be set up on a basis that is affordable for schools.

#### **Appendices:**

A Equalities Impact Assessment

#### Background papers:

• None.

#### Final report clearance:

Signed by:

#### **Executive Member for Children, Young People and Families**

Date: 5 March 2024

Report Author: Jon Abbey, Corporate Director, Children's Services Tel: 020 7527 5855 Email: jon.abbey@islington.gov.uk

# Appendix A: Equalities Impact Assessment: Full Assessment

Before completing this form, you should have completed an Equalities Screening Tool and had sign off from your Head of Service and the Fairness and Equality Team.

This Equality Impact Assessment should be completed where the Screening Tool identifies a potentially negative impact on one or more specific groups, but it can also be used to highlight positive impacts.

#### Summary of proposal

Name of proposal	Proposal to re-procure school meals contract on behalf of 61 schools and other educational settings
Reference number (if applicable)	N/A
Service Area	Children's Services
Date assessment completed	16 <sup>th</sup> January 2024

Before completing the EQIA please read the guidance and FAQs. For further help and advice please contact <u>equalities@islington.gov.uk</u>.



#### 1. Please provide a summary of the proposal.

Please provide:

- Context on how the service currently operates (if relevant) and the scope of suggested changes
- The intended beneficiaries and outcomes of the proposal
- Reference to any savings or income generation

The Council let a contract to run from April 2018 for the provision of a meals service for a number of schools and early years settings in the borough. The contract expires at the end of March 2025.

The Council is considering letting a new contract to run from April 2025 for those schools and early years settings who want to access it to meet their catering responsibilities.

The service is fully funded by schools, so that the Council effectively acts as their agent in procuring and then managing the contract.

The service provides free school meals to those who are eligible in line with national and Council policy and also offers paid meals to other children, young people and some staff.

Catering contractors have faced significant cost pressures associated with food and staffing costs in recent years. Combined with forecast declining pupil numbers over the contract term means that no savings compared to current prices per meal are expected.

#### 2. What impact will this change have on different groups of people?

#### Please consider:

- Whether the impact will predominantly be external or internal, or both?
- Who will be impacted residents, service users, local communities, staff, or others?
- Broadly what will the impact be reduced access to facilities or disruptions to journeys for example?

Changes arising from the re-procurement will be focused on improvements to the specification, contract management arrangements and social value delivered by the successful bidder.

Food specification improvements will impact on service users, social value gains could impact on staff and the wider Islington community.

# 3. What impact will this change have on people with protected characteristics and/or from disadvantaged groups?



This section of the assessment looks in detail at the likely impacts of the proposed changes on different sections of our diverse community.

3A. What data have you used to assess impacts?

Please provide:

- Details of the evidence used to assess impacts on people with protected characteristics and from disadvantaged groups (see guidance for help)
- A breakdown of service user demographics where possible
- Brief interpretation of findings

All the school data used in this section is taken from the October 2023 School Census.

Pupil numbers by year group in each of the schools within the contract.

Pupils with eligibility for free school meals in each of the schools within the contract.

Numbers of children at each of the children's centres within the contract.

12,918 children and young people are at schools or children's centres within the contract.

Year groups	Number	How eligible?
Reception Year to Year 2	3,988	Dedicated Schools Grant funds free school meals for those with eligibility through means-testing.
		Universal Infant Free School Meals Grant funds free school meals for all others in this age-range.
Year 3 to Year 6	5,321	Dedicated Schools Grant funds free school meals for those with eligibility through means-testing.
		The London Mayoral fund and formerly the LB Islington Universal Key Stage 2 Free School Meals budget funds free school meals for all others in this age-range.
Year 7 to Year 13	1,077	Dedicated Schools Grant funds free school meals for those with eligibility through means-testing.
Total	10,386	

Of these 10,386 (80%) are able to access free school meals, broken down as follows:





3B: Assess the impacts on people with protected characteristics and from disadvantaged groups in the table below.

Please first select whether the potential impact is positive, neutral, or negative and then provide details of the impacts and any mitigations or positive actions you will put in place.

Please use the following definitions as a guide:

Neutral – The proposal has no impact on people with the identified protected characteristics Positive – The proposal has a beneficial and desirable impact on people with the identified protected characteristics Negative – The proposal has a negative and undesirable impact on people with the identified protected characteristics

Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Age	Neutral	The service is primarily focused on providing school meals for children and young people, but adults (school employees) can also access meals through the service. There should not be any difference in the impact on people of different ages.	N/a



Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Disability (include carers)	Neutral	There should not be any difference in the impact on people with disability or people who are carers.	N/a
Race or ethnicity	Neutral	The contract will continue to require the provider to offer meals that reflects the diversity of pupils in Islington schools. There should not be any difference in the impact on people of different races or ethnicities.	N/a
Religion or belief (include no faith)	Neutral	Schools are able to require the provider to comply with key religious requirements – e.g. halal There should not be any difference in the impact on people of different religions or beliefs.	N/a



Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Gender and gender reassignment (male, female, or non-binary)	Neutral	There should not be any difference in the impact on different genders.	N/a
Maternity or pregnancy	Neutral	There should not be any difference in the impact on people who are pregnant / young mothers.	N/a
Sex and sexual orientation	Neutral	There should not be any difference in the impact depending on sex or sexual orientation	N/a
Marriage or civil partnership	Neutral	Marriage or civil partnership status should not have any impact on people's access to or experience of the service.	N/a



Characteristic or group	Positive/Neutral/Negative	What are the positive and/or negative impacts?	How will potential benefits be enhanced or negative impacts be eliminated or reduced?
Other - deprivation (e.g. people living in poverty, looked after children, people who are homeless or refugees)	Neutral	The law, supported by national grants, requires that free school meals are provided for children of families with low income. In addition all pupils at primary school in Islington are able to access a free school meal.	N/a





#### 4. How do you plan to mitigate negative impacts?

Please provide:

- An outline of actions and the expected outcomes
- Any governance and funding which will support these actions if relevant

No negative impacts identified.

#### 5. Please provide details of your consultation and/or engagement plans.

Please provide:

- Details of what steps you have taken or plan to take to consult or engage the whole community or specific groups affected by the proposal
- Who has been or will be consulted or engaged with
- Methods used or that will be used to engage or consult
- Key findings or feedback (if completed)

Schools that access our centrally-arranged meals contract will be consulted on contract specification and will also be involved in supporting the evaluation of tenders.

The existing School Meals Stakeholder Group will be used to advise on engagement processes with the wider schools community.

## 6. Once the proposal has been implemented, how will impacts be monitored and reviewed?

Please provide details in the table below.

Action	Responsible team or officer	Deadline
Regular contract monitoring meetings with successful provider	Learning and Achievement	Ongoing
Review of successful provider's open book accounts	Learning and Achievement	Ongoing



Action	Responsible team or officer	Deadline
Engagement with schools to elicit feedback on contractor performance	Learning and Achievement	Ongoing

Please send the completed EQIA to <u>equalities@islington.gov.uk</u> for quality checking by the Fairness and Equality Team. All Equality Impact Assessments must be attached with any report to a decision-making board and should be made publicly available on request.

This Equality Impact Assessment has been completed in accordance with the guidance and using appropriate evidence.

Member	Name	Signed	Date
Staff member completing this form	William Clapp	William Clapp	16 <sup>th</sup> January 2024
Fairness and Equality Team	Monika Milewska	Monika Milewska	12/02/2024
Director or Head of Service	Alison Cramer	Alison Cramer	26 <sup>th</sup> January 2024

#### Final report clearance:

Signed by:

#### **Corporate Director of Children's Services**

Date: Date the report received final approval

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