

REPORT TO:	CABINET 20 June 2016
AGENDA ITEM:	12
SUBJECT:	<i>The future delivery of CALAT</i>
LEAD OFFICER:	Jane Doyle, Director of Universal People Services
CABINET MEMBER:	Councillor Alisa Flemming
WARDS:	All
<p>Corporate Priority/Policy Context/Ambitious for Croydon</p> <p>The recommendations address the following Corporate Plan 2015-18 priorities;</p> <ul style="list-style-type: none"> • To enable people of all ages to reach their potential through access to quality schools and learning • To enable more local people to access a wider range of jobs 	

<p>FINANCIAL IMPACT</p> <p>A change in the provision of Adult Learning will potentially have a financial impact on the Council's revenue budget which will need to be considered in conjunction with the service provision decision to ensure minimum impact.</p>
<p>FORWARD PLAN KEY DECISION REFERENCE NO: this is not a key decision</p>

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to

1.1 Consider the options set out in the report and agree in principle that the provision of adult and community learning currently provided through CALAT should be commissioned by the Council from an external provider with a view to commencing these arrangements in September 2017.

2. EXECUTIVE SUMMARY

2.1 The Council's adult learning provision (CALAT) faces a period of likely reductions in funding and developing policy direction. It is necessary for the Council to consider the best route to secure a strong and stable provision of adult learning in the future.

- 2.2. The service has undergone a number of changes in the last 5 years as funding has reduced year on year. A recent restructure of the provision has just completed and whilst funding will be stable in the current financial year (16/17), it is expected that funds will continue to reduce in the coming years hence the need to consider different options.
- 2.3 Croydon Council has a funding agreement with the Skills Funding Agency (SFA) to deliver CALAT, which details guidance around 'sub-contracting' the provision of adult and community learning. The SFA confirms funding on an annual basis.
- 2.4 Further Education and Adult Community Learning Reviews are taking place over the next 9 months to determine the national and local policy direction for adult learning.
- 2.5 This report recommends externally commissioning a provider for these services with the new contract commencing in September 2017.

3. DETAIL

3.1 Context

The Council delivers adult education services through CALAT (the services). The services underwent significant re-shaping including reducing from four to three centres, reducing the curriculum and completing a staff restructure in the last year. This was in line with in-year funding reductions and the re-shaping is now complete.

The funding Croydon Council receives from the SFA to run CALAT is divided into two elements, the Community Learning element and the Adult Education element. Until this point the Community Learning element of the grant from the SFA has remained static year on year, whilst funding for Adult Education has been reduced as the investment into apprenticeships has increased. Given the Government's commitment to apprenticeships and the targets in place for 2020, it is likely this will continue in the coming years. The funding allocation given by the SFA is currently managed through a national funding formula and therefore there is no scope for local adjustments to this based on need.

From 2018, the adult education element of the grant will be devolved to the London Enterprise Partnership (LEP) which provide more localised commissioning. However, given the reduction in the grant, the direction of travel is likely to be that there are fewer providers which are linked to Further Education providers, as stand-alone service models will not be financially viable.

There have been significant reductions in previous years and sometimes at very short notice but the service has recently received its funding allocation for 2016/17 and it is at the same rate as 2015/16, giving the service stability for the coming year. It is expected that funding for the sector will continue to reduce in the coming years and the options below consider how best to manage the

financial risks of this.

Strategic Area Reviews of the Further Education (FE) and Adult Community Learning (ACL) sectors are currently being undertaken by the SFA with the aim of moving to fewer, larger, more resilient providers, and more effective collaboration across institution types. They are in the early stages; the ACL review is expected to complete around September 2016 and the FE review by March 2017 at the latest. It is quite possible that the Strategic Area Reviews may recommend mergers of provision, and therefore the landscape could change significantly over time, these recommendations will be unavoidable.

This context presents an opportunity for the Council to consider the delivery of FE and adult education provision in the borough, aimed at:

- Providing as strong a mechanism as possible to continue to provide effective adult learning in Croydon;
- Creating a financially sustainable model for adult learning benefits from efficiencies of scale;
- Developing an integrated model of FE and adult learning providing a clear pathway for learners in line with local priorities;
- Reducing overheads and developing a more efficient delivery model;
- Supporting the position of local providers through the FE and ACL reviews;
- Eliminating duplication between providers in areas such as curriculum management;
- Ensuring a focus on accessible provision to those most removed from learning in areas of deprivation and disadvantaged communities e.g. an affordable offer / lower level qualifications – up to Level 2.
- In light of central government changes and financial uncertainty, a number of different delivery models are emerging across London. The Council has had some initial conversation with the SFA and no fundamental changes will be considered until after the current reviews have completed.

3.2 Proposed approach

The Council has explored a number of options, as set out below for delivering adult and community education currently provided through CALAT. Due to the ongoing Area Reviews, it will not be possible or desirable for the Council to cease the current grant agreement with the Skills Funding Agency (SFA). This paper therefore explores options for providing the service externally. Given the national policy direction to increase the funding of apprenticeships, trend of funding reductions and the consequent lack of funding certainty, it is proposed that the council moves to commission the provision, through an open competitive process from September 2017, with a view to potentially transferring the provision at a later date when funding and structures are known. Any contract would be in place for one year initially, from September 2017 – September 2018 whereafter the position will need to be assessed in light of funding and the outcome of the reviews. This model will enable the council to continue to contribute to the agenda of employment and skills in the borough and influence the changing landscape.

The likely implications of this approach are:

- Follows policy direction set out in Area Review policy guidance;
- Provides opportunity to reduce costs and duplication and develop a pathway for learners;
- Allows a full academic year to manage the potential TUPE cost implications as well as the impact on learners especially vulnerable groups;
- Due to the value, a fully compliant EU tendering process with advertisement via OJEU would be necessary;
- The provision is likely to continue to operate from current council premises from which the new provider will pay rent to the council;
- Staff are likely to transfer via TUPE to a new provider;

Recommendations:

- Agree in principle that the Council should commission adult and community learning provision from an external provider.

3.3 Options, implications and risks

Option 1: Commission the provision of CALAT from an external provider

Implications:

- Model seen in other LAs such as Merton and Wandsworth
- Would test the market using a fair, open and transparent process
- If SFA funding continues to reduce, may result in a budget gap, which would remain the liability of the council but could be managed through contract reductions
- Council retains control over service provision, including the financial risk
- May release premises for alternative use or sold to realise a capital receipt
- Need to ensure robust governance stands up to scrutiny of inspection
- It will not be possible to top-slice the funding as a funding policy and rates must be published for commissioned services
- After 2018 it may be possible for the external supplier organisation to apply to receive the grant directly from the SFA
- Permission must be sought from the SFA in order to sub-contract the provision
- An external provider would benefit from economies of scale
- An external provider would be able to create stronger continuity and progression in learning pathways as part of a larger offer

Option 2: Retain delivery of CALAT in-house with possible further re-structures

Implications:

- Model unsustainable – if funding continues to reduce, this model will require annual service reshaping and reductions
- Doesn't explore the opportunity to reduce overheads and develop a pathway for learners
- Financial risk for the Council
- Long term future of users would be uncertain
- The council would retain absolute control of the curriculum offer and the quality of provision which could be at risk in a contracting out arrangement

- The contribution made by CALAT to council priorities and agenda (employment, training, family learning etc.) would be retained.

Option 3: Return funding to SFA and cease involvement in adult learning

Implications:

- Follows policy direction set out in Area Review policy guidance
- Other LA's have taken this approach e.g. Bromley Council
- It is possible the decision would be dependent / take place after the completion of the South London Area Review (commenced in May and likely to complete by March 2017.)
- Provides opportunity to reduce costs and duplication and develop a pathway for learners
- Would have implications on the Council's ability to bid for other SFA funding such as European Social fund if no longer a registered provider
- Depending on what transfers, the current premises could be used for alternative use
- Potential redundancy costs for LBC
- Would need to manage the impact on users especially vulnerable groups
- Unless the Council negotiates a role in the governance in the new model, the Council would not have a formal role / ability to influence the adult education provision
- Current contributions to central budgets from CALAT would cease

Based on the analysis, the recommended option is option 1, to commission the provision of CALAT from an external provider.

Learning from other authorities

A number of other authorities have externalised their adult education provision, most recently and close to Croydon is Merton. Merton found that there was a vibrant market for Merton Council to commission adult education services, and that a formal procurement that involved a mix of small procurement lots and a larger lot was reasonable. The following commissioning principles for Croydon are suggested as derived from Merton:

- That commissioning should look to continue the same breadth of courses currently provided. This does not mean that the courses must be the exact same year to year as needs change but that the breadth and variety should be maintained;
- That courses should continue to be delivered within the borough;
- That TUPE regulations will be followed and every effort made to retain the highly valued staff;
- That fees should be set by the council as part of the commissioning process and controlled accordingly;
- That provision is spread around the borough including in more deprived areas;
- That the outcomes for learners should be closely monitored to ensure that job prospects, well-being, support for vulnerable learners and

safeguarding aspects are all considered as part of the commissioning cycle;

Merton used an open tender approach (option 1) with 5 lots and appointed a number of providers including South Thames College.

Next steps

A procurement strategy will be developed for approval in Autumn 2016 and steps can then commence to procure a suitable provider. Efforts will be made to ensure there is pre-decision scrutiny where possible as decisions are taken over the next 18 months.

4. CONSULTATION

- 4.1 Consultation with learners and staff would form a vital part of any process to change the operating model of CALAT. The proposed route of commissioning the provision will allow the council to fully respond to views raised in the consultation, through the Procurement Strategy, to be completed in Autumn 2016. Further consultation would then take place with staff around TUPE arrangements once procurement is under way.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Revenue and Capital consequences of report recommendations

The table below outlines CALAT's budgets for 2016/17.

	16/17 Budget
	£'000
Staffing	3,018
Running Costs	
Premises	135
Supplies and Services	539
Third Party Payments	252
Transport	15
Recharges	29
Service Expenditure	3,987
Overheads	752
Total expenditure	4,739
Income	
Govt Grants	-4,233
Other Grants	-22
Fees and Charges	-506
Total income	-4,761
net budget	-21
without overheads	-773

5.2 **The effect of the decision**

The service currently has a budgeted cost including overheads and excluding depreciation of -£21k. If we commissioned the service, then as well as the current budget of -£21k we would also have to consider the impact on corporate overheads, as some would continue to be incurred by the Council.

Based on work done to date it is anticipated that there is approx. £418k of costs associated with Finance, HR, ICT, Procurement, Property Management and Customer Services costs that would remain with the council. Further work needs to be undertaken to validate this to enable this to be built into the future procurement to ensure we fully understand our affordability envelope for the new model.

Currently the service pays no rent for the properties and under any new arrangement the premises costs would either be borne by the new provider or saved by the release of the asset.

5.3 Risks

CALAT is currently operating in a market where funding sources are uncertain. In 2015/16 the SFA funding cut had an impact of £439k on the financial year end outturn position.

The educational landscape is changing with funding moving from the SFA to the LEP. The impact of this is currently unknown.

5.4 Options

Options considered:

Option 1: Tender the contract – this minimises the risk of future funding cuts, and at the same time allows the LA to have an influence on provision.

Option 2: Do nothing – this leaves the risk of future funding cuts with the LA.

Option 3: Terminate contract with the SFA – this would leave the decision on future provision within the Borough entirely within the hands of the SFA and would still leave an overhead cost with the LA.

5.5 Future Savings / Efficiencies

The successful provider would be expected to make further efficiencies through economies of scale, which would be agreed as part of the tender process.

Approved by: Lisa Taylor, Assistant Director of Finance and Deputy S151 Officer

6. COMMENTS OF THE BOROUGH SOLICITOR AND MONITORING OFFICER

6.1 The Acting Solicitor to the Council comments that there are legal implications arising from a number of the options proposed within the report and dependant on the option selected and procurement route, specific legal advice should be sought. In the event that Option 1 (preferred option) is supported, regardless of the procurement route, the Council has a duty under the Local Government Act 1999 to secure best value and will need to comply with the provisions of the Council's Tenders and Contracts Regulations.

6.2 (Approved for and on behalf of Gabriel MacGregor Acting Council Solicitor and Acting Monitoring Officer)

7. HUMAN RESOURCES IMPACT

7.1 There are HR considerations that arise from the various options in this report, including the possibility of invoking the Transfer of Undertakings (Protection of

Employment) Act 2006 in more than one of these options. Once a recommendation has been made in relation to strategic direction, HR advice should be sought at a senior level.

7.2 Approved by: Michael Pichamuthu, HRBP on behalf of Heather Daley, Director of HR

8. EQUALITIES IMPACT

8.1 A full equalities impact assessment will be completed as part of the procurement strategy which will be completed in September 2016, and will be vital to shaping any commissioned offer. The equalities impact of the ACL review will also be considered as part of this.

8.2 Approved by: *Darren Willetts* on behalf of Strategy and Communities

9. ENVIRONMENTAL IMPACT

9.1 There is not likely to be any environmental impact to this decision.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There is not likely to be any crime and disorder impact to this decision.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The proposed decision will enable the Council to safeguard the delivery of adult education in the borough in light of central government and financial instability.

12. OPTIONS CONSIDERED AND REJECTED

12.1 The following options have been considered and rejected:

Option 2: Retain delivery of CALAT in-house with possible further re-structures

Option 3: Return funding to SFA and cease involvement in adult learning

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BACKGROUND DOCUMENTS: none