

For General Release

REPORT TO:	CABINET MEMBER FOR FINANCE & RESOURCES
SUBJECT:	Supply and installation of a modular building, Stubbs Mead Depot, Factory Lane, Croydon
LEAD OFFICER:	Richard Simpson Executive Director of Resources
CABINET MEMBER:	Councillor Simon Hall Cabinet Member for Finance and Resources
WARDS:	ALL
<p>CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:</p> <p>The supply and installation of a modular building at Stubbs Mead depot meets the following Council's Corporate Priorities:</p> <ul style="list-style-type: none"> • Enabling - To be innovative and enterprising in using available resources to change lives for the better <p>This will be achieved through the relocation of staff to more appropriate accommodation that will support service delivery and provide a more cost-efficient location for their activities. The relocation to the depot will generate surplus space at Davis House for letting that will provide revenue income to support front line service delivery.</p>	
<p>FINANCIAL IMPACT</p> <p>The supply and installation of modular building at Stubbs Mead depot is critical to the asset management project "Stubbs Mead Depot Reconfiguration". The total contract award is £962k for the construction and ground works that will generate a revenue saving of £275k pa through a reduction in property running costs and an income generation at Davis House of £165k pa. Overall this will generate a net annual benefit of £440k.</p>	
<p>KEY DECISION REFERENCE NO.: N/A</p>	

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

1. RECOMMENDATIONS

The Cabinet Member for Finance & Resources, in consultation with the Leader of the Council, is recommended to approve the award of the contract for the supply and installation of a Modular Building at Stubbs Mead Depot to Bidder A upon the terms detailed in the associated Part B report, for a contract value of £962,000.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to outline the procurement process undertaken for the appointment of a supplier to supply and install a modular building at Stubbs Mead Depot as part of the reconfiguration of the depot site.
- 2.2 The procurement strategy was approved on 12th February 2018, reference CBB1323/17-18, 'Stubbs Mead Depot Modular Building Construction Strategy

Report.’ The procurement was for a full turn key package to include design, off site construction, groundworks, transportation and onsite installation of the building.

- 2.3 The purchase and installation of the modular building is one part of a wider reconfiguration of the site that includes a revised boundary and creating clear separation between the Council's occupation and operations and the occupation and operation of the Council's environmental services contractor. This change in site occupation will significantly reduce the risk of accident and incident at the site and create clear responsibility for health and safety and employee safety.
- 2.4 The Preferred Bidder has made a commitment to offer supply chain opportunities to Croydon based businesses as part of their proposed delivery . The Preferred Bidder has made a commitment to offer a work placement opportunity to a Croydon long term job seeker and to pay for their CSCS qualification with a view to offering them a full time role with the company. These social value commitments will be contractualised upon award of contract.They have also offered a full 2% discount in line with the Premier Supply Programme consideration.
- 2.5 This report has been approved by the CCB on 25th May 2018.

CCB Approval Date	CCB ref. number
25 th May 2018	CCB1361/18-19

3. DETAIL

- 3.1 The tender was run using the existing OJEU compliant (ref 2016/S 153-276812 Award Notice 10/08/2016) Hampshire County Council Southern Modular Building Framework contract which is in accordance with EU PCR 2015 and the Council's Tender and Contract regulations. The invitation to tender opportunity was issued via the Council's E-Tender portal. All firms on the framework were contacted in December 2017 as part of a soft market testing exercise and positive responses were received in acknowledgment of the Council's requirements.
- 3.2 The Southern Modular Building framework consists of 6 approved contractors who were all invited to bid as part of the mini-competition. No abnormally low submissions were received. Contractor A (Bidder A) submitted a compliant bid. The other contractors opted out, on the basis they could not meet the requirements and/or deadlines within the specification.
- 3.3 In accordance with the original strategy, the tender responses were evaluated based on the pre-determined 60% Price and 40% Quality criteria. The Bidders were required to respond to method statement questions relating to social value outcomes and Premier Supply Programme.
- 3.4 In total, one (1) compliant bid was received by the tender closing date. The bid was received from an SME who has a nationwide presence. The results of a ground penetration radar survey were received during the evaluation period which meant that reduced size building and the location needed to be changed within the boundary of the identified site, therefore to ensure that the most

accurate price possible was received, a price clarification was issued.. The outcome of this was the receipt of a reduced price submission.

- 3.5 The submission received was considered to be of a good standard and the price received was within the range expected and not considered to be abnormally high or low. The Council's appointed independent Chartered Building Surveying firm has reviewed the price submission, method statement and proposed construction materials and do not have any concerns.
- 3.6 The evaluation team was made up of the Facilities Management Building Surveyor, Facilities Management Building Services Engineer and the appointed consultant (One Consulting Group) responsible for delivering the project. The results of the evaluation process are shown below:

	Bidder A
Question 1 Design Management 8%	6.4%
Question 2 Project Management & Delivery 10%	8.0%
Question 3 Handover & Aftercare 5%	3.0%
Question 4 Financial Control 5%	4.0%
Question 5 Product Quality 5%	4.0%
PSP (Early Payment Discount) 2%	2.0%
Social Value 5%	4.0%
Quality (40%)	31.4%
Price (60%)	60%
Total (100%)	91.4%

- 3.7 It is recommended that the Council appoint Bidder A as the preferred bidder for the services within this tender. The detailed technical specification and legal contract set out clearly the services that are required. The outcome of this contract will be the delivery of a modular building at Stubbs Mead depot as part of a wider re-configuration of the site.
- 3.8 Contract management – Contract administration will be delivered by the Council's appointed professional services provider Philip's Surveyors.

4. CONSULTATION

- 4.1 No consultation is required for this contract.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1

1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2018/19	2019/20	2020/21	2021/22
	£'000	£'000	£'000	£'000
Capital Budget available	£1,650			
Expenditure	£100			
Effect of decision from report				
Expenditure	£960			
Remaining budget	£590			

2 The effect of the decision

Bidder A are being recommended for approval, they were selected by a competitive tendering exercise, submitted the lowest priced bid and are considered to offer the most economically advantageous tender for the Council.

3 Risks

The following risks have been identified and are being actively managed:

Risk	Controls
Financial standing of the Contractor is inadequate to meet the needs of the service. The Contractor has inadequate financial standing and is unable to 'finance' the supply chain resulting in poor provision of service and run the risk of the Provider failing and entering 'administration' or similar.	Financial standing of the Council's partner has been checked by the framework owner as part of the original tender and deemed acceptable. Financial Health Check will be carried out internally before award of contract to ensure sound financial standing
Risk of procurement challenge relating to the proposed award of contract. Legal challenge raised by potential contractor/supplier which may subject the Council to some sanctions e.g. Termination/Invalidity of Contract/Financial penalty.	A robust and transparent process has been adopted in compliant with Public Contract Regulations.

4 Options

The supply and construction of this building is a critical to the reconfiguration of Stubbs Mead depot site. This project will both contribute to tangible financial

savings and a reduction in Health & Safety risk to the employees of both the Council and the environmental services contractor. A procurement exercise was required, in order to appoint a company that could supply and install the modular building unit. If this recommendation is not agreed the Council will have no provision for a modular building at the site and the project cannot be delivered.

5 Future savings/efficiencies

The outcome of the tender exercise will contribute to the Stubbs Mead Depot reconfiguration project which will generate £440k per annum in Council savings and income.

- Contractual commitment to offer all supply chain opportunities to Croydon businesses
- Contractual commitment to provide one work placement at their Thurrock depot to a long-term job seeker including funding their CSCS qualification with a view to a permanent job with the company

Approved by: Felicia Wright, Finance Representative

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council confirms that the procurement process as detailed in this report is in accordance with the requirements of the Council's Tenders & Contracts Regulations and meets the Council's duty to secure best value as provided under the Local Government Act 1999.

Approved by: Susan Hadida Lawyer on behalf of the Council Solicitor & Director of Democratic & Legal Services

7. HUMAN RESOURCES IMPACT

- 7.1 There is no TUPE impact of this award and no direct implications for LBC employees.

Approved by: Sue Moorman, Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 Equality considerations were taken into account as part of the requirements defined within the RfQ document (including the Terms and Conditions of Contract) whereby there is a need for the provider to be compliant with the Equality Act 2010.
- 8.2 The Equality Policy 2016 - 20 sets out the Council's commitment to equality and its ambition to create a stronger, fairer borough where no community is held back. The policy reflects the council's statutory duties under the Equality Act 2010 and is supported by the equality objectives set out in the Opportunity and Fairness Plan 2016-2020.

- 8.3 The equality objectives for 2016-20 are aligned to and will support the delivery of the Council's business outcomes set out in its Corporate Plan (See EIA report)

9. ENVIRONMENTAL IMPACT

- 9.1 In accordance with the contract terms and where required, the named preferred bidder Bidder A will be required to comply with environmental legislations and regulations. There will also be a requirement to support the Council's vision and aims which will contribute to reducing Croydon's CO2 emissions.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no adverse Crime and Disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 Following the evaluation of the final tender submissions, the evaluated scores are given in the table with Bidder A recommended as offering the most economically advantageous tender.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Bidder A having achieved the overall highest combined score of 89.42% and having submitted a compliant bid which was also the lowest priced and which met the requirements set out within the invitation to tender document, no other options were considered.
- 12.2 Bidder A has successfully demonstrated through their bid that they are capable of meeting the Council's quality and price requirements.

CONTACT OFFICER:

Name:	Stephen Wingrave
Post title:	Head of Asset Management & Estates
Telephone number:	

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972 - None

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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For General Release

REPORT TO:	Cabinet Member for Homes and Gateway Services
SUBJECT:	Increasing Housing Supply – Real Estate Agency Services
LEAD OFFICER:	Richard Simpson Executive Director of Resources and Section 151 Officer
CABINET MEMBER:	Councillor Alison Butler, Cabinet Member for Homes and Gateway Services, and Councillor Simon Hall, Cabinet Member for Finance and Resources
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: The Council's Ambitious for Croydon outcomes, as set out in the Corporate Plan 2015-18, include providing a choice of home for people at all stages of life and enabling homeless households to access suitable accommodation.	
FINANCIAL IMPACT: The business case for the purchase of the 250 homes highlighted the financial savings achievable by reducing the demand on temporary and emergency housing estimated at £4,000 per property with total projected savings of £1.2m. If the extension of the pilot is not agreed, and no further properties are purchased until the appointment of new providers from January 2019, then those savings will not accrue to the general fund due to additional reliance on alternative, more expensive forms of provision.	
KEY DECISION REFERENCE NO.: 1418HGS. This is a Key Decision as defined in the Council's Constitution. The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.	

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

1. RECOMMENDATIONS

- 1.1 Following approval of a waiver pursuant to Regulation 18 of the Council's Tenders and Contracts Regulations, the Cabinet Member for Homes and Gateway Services in consultation with the Cabinet Member for Finance and Resources is recommended to approve the award of contracts with each of Libo London; Caridon Group and Carter Jonas for the provision of Real Estate Agency Services for a period of up to 12 months following award at a total additional cost of up to £2m in accordance with the details of this report.

2. EXECUTIVE SUMMARY

- 2.1 In July 2017, Cabinet agreed to a number of recommendations to increase housing supply to help to relieve the temporary and emergency housing situation in Croydon. This included the rolling investment of £100m for the acquisition of up to 250 properties at market rates.

The commissioning outcomes planned are as follows:

Property Size	Target	Proportion
2 bedroom	140	55%
3 bedroom	110	45%
4/5 bedroom		
TOTAL	250	100%

- 2.2 Following consultation with the Cabinet Member for Finance & Treasury and the Executive Director of Resources, it was initially decided to commission real estate agencies to help with the acquisition of housing properties as a six month pilot scheme. Following a soft market testing exercise, three property agencies (Libo, Caridon and Carter Jonas) were commissioned under director's delegated authority to identify and support the purchase of housing properties on behalf of the Council for the pilot.

- 2.3 This pilot approach has delivered the outcomes required with, to date, the completed purchase of 40 properties since October 2017 with a further 100 plus potential properties in the pipeline. The number of completed purchases as well as the properties in pipeline for acquisitions demonstrates that the 6 month pilot has been highly successful. Accordingly, a compliant procurement strategy for delivering the remainder of the programme has now been considered.

- 2.4 In May 2018, CCB approved the procurement and the transition strategies for Increasing Housing Supply to provide a comprehensive service to deliver the programme.

This proposed procurement Strategy for Increasing Housing Supply proposes to recruit, commission and procure professional services as follows:

- a) Recruit 2 (two) property negotiators to progress the acquisition of properties;
 - b) Establish a new framework with up to 5 approved Real Estate Property Agents following an OJEU compliant open tender process.
 - c) Commission professional services (i.e. building/property surveying and valuation specialist) through direct award from an existing framework (PfH framework for Technical Support Services, Lot 1 Asset Management).
- 2.5 Prior to the commencement of the new contracts with suppliers, a transition strategy will need to be put in place to maintain the current outcomes from the existing pilots/s. This will include direct awards to the three companies appointed for the pilot for a further period of up to 12 months following award at

a total maximum cost of up to £2m (in addition to fees relating to the pilot as described in paragraph 3 below).

- 2.6 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
30/05/2018	CCB1364/18-19

3. DETAIL

- 3.1 The current pilot schemes with the three suppliers commenced between October and December 2017 for a period of 6 months. To date, the Council has completed on 40 properties. Additionally, there are approximately 100 properties currently with Legal for completion.

The performance to date against the targets are as follows:

Property Size	Target	Proportion	Achieved	Pipeline
2 bedroom	140	55%	23	53
3 bedroom	110	45%	16	47
4/5 bedroom			<u>1</u>	<u>0</u>
TOTAL	250	100%	<u>40</u>	<u>100</u>

The performance to date (first 6 months) has been much higher than expectation. In total, we are on our way to achieving 140 completion against a target of 250. The original expectation was to achieve the 250 target over 2 years. We now expect to achieve the target within 12 - 18 months.

The agency fees paid to date (relating to the 40 completions equates to approximately £250k. The projected fees relating to the 100 properties in the pipeline equates to approximately £630k.

The breakdown of agency fees to date are as follows:

Agency	Fees Paid (completed properties, 40)	Fees estimated (pipeline properties 100)	Total Fees
Libo	£152,887	£202,849	£355,736
Caridon	£91,777	£415,048	£506,825
Carter Jonas	£3,960	£11,880	£15,840
Totals	£248,624	£629,777	£878,401

4. CONSULTATION

- 4.1 Not needed.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1

1 Revenue and Capital consequences of report recommendations:

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2018/19	2019/20	2020/21	2021/22
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure				
Income				
Effect of decision from report				
Expenditure				
Income				
Remaining budget				
Capital Budget available	1,800	200		
Expenditure				
Effect of decision from report	1,800	200	0	0
Expenditure				
Remaining budget				

2 The effect of the decision:

The decision to award the three contracts (effectively extending the pilot arrangements), will ensure that the good progress in acquiring housing properties will continue without interruption which will ensure that the financial pressure on homeless services continues to be mitigated, pending the establishment of a framework.

3 Risks:

The award of the 3 contracts will result in the OJEU threshold for procuring services to be exceeded and there is a consequential risk of a challenge from potential other suppliers as the value and spend on the current and proposed contracts will significantly exceed the OJEU financial threshold. It is considered that such risk may be mitigated by the early publication of an OJEU Notice advertising the opportunity to participate in the procurement of a new framework for real estate property agents to the market.

As the pilot contracts were entered into for six months, new contracts will need to be issued to the suppliers and legal support will be sought to finalise these contracts.

4 Options:

Other options have been considered including the recruitment of additional specialist staff (property negotiators) and this option is being followed. If successful, we will be able to reduce the workflow to three suppliers and carry out more work in-house.

The option to end the pilot and suspend property acquisitions for a period of 9 - 12 months has been considered but there is the possibility that the property market may not be as advantageous and productive in 12 months time. It also delays the opportunity to house homeless families and delay the savings on emergency housing.

5 Future savings/efficiencies:

The business case for the purchase of the 250 homes highlighted the financial savings achievable by reducing the demand on temporary and emergency housing estimated at £4,000 per property with total projected savings of £1.2m. If the extension of the pilot is not agreed, and no further properties are purchased until the appointment of new providers from January 2019, then those savings will not accrue to the general fund during due to additional reliance on alternative, more expensive forms of provision.

Approved by: Lisa Taylor, Director of Finance Investment and Risk.

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 There are no additional legal risks other than as described in the report

Approved by Sean Murphy, Head of Commercial and Property Law, on behalf of the Director of Law and Monitoring Officer.

7. HUMAN RESOURCES IMPACT

7.1 There are no adverse human resource issues arising from this report. Suppliers will be required to pay LLW as a minimum requirement. TUPE may apply if the work was to continue after the contract end date however this would be managed under the Council's policies and procedures, as with any other human resources issues.

Approved by: Jennifer Sankar, Interim Head of Place on behalf of Sue Moorman, Director of Human Resources

8. EQUALITIES IMPACT

8.1 The proposals will have a positive impact for equalities as it will enable the re-housing of the homeless and vulnerable people currently living in bed and breakfast accommodation.

9. ENVIRONMENTAL IMPACT

9.1 There are no adverse environmental impacts arising from the recommendations.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 The proposals will have a positive impact for crime and disorder reduction as it will enable the re-housing of the homeless and vulnerable people.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 The decision to award the three contracts (effectively extending the 3 pilots), will ensure that the good progress in acquiring housing properties will continue without interruption which will ensure that the pressure on homeless services will be relieved. There will be significant financial savings recuing the budget for temporary and emergency housing.

12. OPTIONS CONSIDERED AND REJECTED

12.1 The options considered are set out in paragraph 5.1 (4) above.

CONTACT OFFICER:

Name:	Sara Denton
Post title:	Project Manager, Housing Needs
Telephone number:	Extn: 88146

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972 – None

For General Release

REPORT TO:	Cabinet Member for Finance and Resources
SUBJECT:	Award of contract for Insurance London Consortium (ILC) Legal Panel Contract
LEAD OFFICER:	Richard Simpson, Executive Director of Resources & S151 Officer Malcolm Davies, Head of Risk & Corporate Programme Office
CABINET MEMBER:	Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON: Through the combined and focused purchasing power of the Insurance London Consortium, of which Croydon is the Accountable Body, the outcome of the procurement exercise and the recommended award of the contracts, subject of this report, continues to meet the objectives of improving value for money and in turn supports all of the Priorities of the Council.	
FINANCIAL IMPACT: Whilst the project has no specific budget attached to it, costs are covered under the self-insurance fund, (legal support), with contract management and procurement costs shared equally amongst the Consortium members. The Consortium members will continue to work together on risk management initiatives and share risk management information leading to better controls thus reducing the potential for future claims, and improving efficiencies.	
KEY DECISION REFERENCE NO.: This is not a Key Decision	

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

1. RECOMMENDATIONS

The Cabinet Member for Finance and Treasury is recommended to:

- 1.1 in consultation with the Leader, approve the award of contracts for the ILC Legal Panel Contract to the providers and upon the terms detailed in the associated Part B report for a term of 5 years with a contract value of £850,000 for Croydon Council.
- 1.2 to note that the names of the successful providers will be published upon conclusion of the standstill period required under regulation 87 of the Public Contract Regulations 2015.

2. EXECUTIVE SUMMARY

- 2.1 In 2009 a group of 8 London boroughs, including the London Borough of Croydon, set up the Insurance London Consortium (ILC) in order to manage their joint insurance arrangements. The Insurance London Consortium has now expanded to 9 Boroughs with the inclusion of the London Borough of Sutton. The ILC is a formal body set up under an S101 Agreement with Croydon as the Accountable Body. One of this Council's responsibilities is to undertake tenders on behalf of the ILC members.
- 2.2 It is the aim of the Consortium that all tenders related to insurance and associated services are managed within the ILC, (albeit the members are not formally contracted to do so under the S101 agreement). Seven years ago, Croydon Council successfully tendered for a Legal Panel on behalf of the ILC, and the contract is now up for renewal.
- 2.3 7 out of the 9 ILC members took part in this procurement exercise to establish a panel of experts for the management of litigated insurance claims. The ILC members that took part are London Boroughs of Croydon, Harrow, Tower Hamlets, Islington, Sutton, Haringey and Royal Borough of Kingston upon Thames.
- 2.4 The following claim types fall within the scope of the contract:
- Tree Root Encroachment
 - Highways Liability
 - Professional Indemnity/Officials Indemnity
 - Housing Liability
 - Schools Public Liability
 - Industrial Disease
 - General Employer Liability
 - Motor including 3rd Party Liability
 - Child Abuse
 - Adult Abuse
 - Libel & Slander (Officers/Members)
 - Employer Liability Bullying & Stress
 - Loss Subrogation & Recovery including Technical Investigation
 - Human Rights
 - Unlawful Detention
- 2.5 The 5 highest scoring tenderers are recommended become panel members. The estimated value of the contract over the 5 year term is £850k for Croydon Council (£170k per annum) and £7.5 million in total for all ILC Members including Croydon Council, (£1.5m per annum). Hourly rates with each panel member provider will be fixed for the contract period.

- 2.6 The majority of ILC members taking part in this contract (including Croydon) handle all claims in house. So the function of the ILC legal panel is to handle cases only once they become litigated or where very specialised advice is required or where insurers have an interest thereby minimising costs spent on external providers.
- 2.7 The strategy report for the ILC Legal Panel was approved by the Contracts and Commissioning Board on 09/06/17 CCB1237/17-18. Approval was given to procure a 4-year framework and for the use of Regulation 21 to depart from the Council's standard evaluation weighting split of 60/40 price/quality to 100% quality.
- 2.8 However, following further discussions between ILC members and Croydon's legal services, it was agreed that a contract based on a term of 5 years and a tender evaluation weighting of 20/80 price/quality would secure even better value for money and this is how the Tender was advertised.
- 2.9 The content of this Award Report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
24/05/2018	CCB1360/18-19

3. DETAIL

Procurement process

- 3.1 Acting in its capacity as the Accountable Body, (and Contracting Authority), Croydon Council undertook a procurement exercise on behalf of 7 Insurance London Consortium (ILC) members. The tender sought insurance litigation (legal) services for a term of 5 years.
- 3.2 All procurement activities were undertaken in compliance with the Public Contracts Regulations 2015, and the Council's Tenders and Contracts Regulations. In accordance with the approved procurement strategy a restricted procurement procedure was undertaken.
- 3.3 A contract notice was published in the Official Journal of the European Union (OJEU) on 13 January 2018 (2018/S 009-016053) with a closing date for receipt of Selection Questionnaires on 12 February 2018.
- 3.4 10 Selection Questionnaires (SQ) from potential providers were received via the Council's e-tendering portal by the closing date. The submissions were evaluated against the following declared methodology;
- Mandatory & Discretionary Exclusions – Pass/Fail
 - Economic and Financial Standing – Pass/Fail
 - Relevant Experience & Contract Examples – Pass/Fail
 - Mandatory Competency Threshold – Pass/Fail

- Organisational Structure & Approach to Supervision – 10%
- Resourcing Levels – 10%
- Team Structure & Experience – 10%
- Expertise – 10%
- Representation at & working in London Courts – 10%
- Investigations & Taking of Witness Statements – 10%
- Onsite Training/Meetings/Case Conferences - 10%
- Innovation and Continuous Improvements – 10%
- Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment – 10%
- Management Information – 10%

3.5 All 10 SQ submissions received from potential providers passed the mandatory/discretionary exclusions as well as the mandatory competency threshold.

3.6 Outcome notifications of the selection process were issued to all potential providers on 23 February 2018 and the 8 highest scoring were invited to submit a Tender. The table's below show the results of the SQ evaluation process. Table1 (potential supplier's A – E) and Table 2 (potential supplier's F – J).

Table 1

Evaluation Criteria	Weighting	Potential Supplier A	Potential Supplier B	Potential Supplier C	Potential Supplier D	Potential Supplier E
Organisational Structure & Approach to Supervision	10%	8.00%	4.00%	10.00%	8.00%	8.00%
Resourcing Levels	10%	10.00%	4.00%	10.00%	6.00%	6.00%
Team Structure & Experience	10%	10.00%	6.00%	10.00%	6.00%	8.00%
Expertise	10%	10.00%	4.00%	8.00%	10.00%	10.00%
Representation at & working in London Courts	10%	8.00%	6.00%	10.00%	6.00%	10.00%
Investigations & Taking of Witness Statements	10%	8.00%	6.00%	8.00%	6.00%	10.00%
Onsite Training/Meetings/Case Conferences	10%	8.00%	6.00%	10.00%	6.00%	8.00%
Innovation and Continuous Improvements	10%	10.00%	6.00%	8.00%	8.00%	8.00%
Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment	10%	10.00%	8.00%	8.00%	6.00%	8.00%

Management Information	10%	10.00%	10.00%	10.00%	4.00%	10.00%
Total	100%	92.00%	60.00%	92.00%	66.00%	86.00%

Table 2

Evaluation Criteria	Weighting	Potential Supplier F	Potential Supplier G	Potential Supplier H	Potential Supplier I	Potential Supplier J
Organisational Structure & Approach to Supervision	10%	2.00%	8.00%	8.00%	8.00%	8.00%
Resourcing Levels	10%	2.00%	10.00%	10.00%	10.00%	10.00%
Team Structure & Experience	10%	4.00%	8.00%	8.00%	10.00%	8.00%
Expertise	10%	4.00%	10.00%	10.00%	8.00%	10.00%
Representation at & working in London Courts	10%	2.00%	8.00%	8.00%	8.00%	8.00%
Investigations & Taking of Witness Statements	10%	2.00%	8.00%	8.00%	10.00%	8.00%
Onsite Training/Meetings/ Case Conferences	10%	2.00%	8.00%	10.00%	8.00%	8.00%
Innovation and Continuous Improvements	10%	4.00%	10.00%	10.00%	10.00%	10.00%
Expertise in Controlling Spend 3rd Party Legal Costs & Claims Payment	10%	4.00%	8.00%	10.00%	10.00%	10.00%
Management Information	10%	0.00%	10.00%	10.00%	10.00%	10.00%
Total	100%	26.00%	88.00%	92.00%	92.00%	90.00%

3.7 The 8 highest scoring potential providers at SQ stage (listed below) were invited to Tender.

Potential Supplier A 92.00%
 Potential Supplier C 92.00%
 Potential Supplier D 66.00%
 Potential Supplier E 86.00%
 Potential Supplier G 88.00%
 Potential Supplier H 92.00%
 Potential Supplier I 92.00%
 Potential Supplier J 90.00%

3.8 The tender process was designed to determine the most economically advantageous tenders in terms of Price, Quality and Value for Money.

3.9 The evaluation criteria is listed below:

Price (20%)

- Price

Quality (70%)

- Service Delivery Approach - Case Studies
- Cost Management
- Contract and Performance Management
- Transition and Mobilisation
- Social Value

Value for Money (10%)

- Continuous Improvement

Presentations – held on 19 & 20th April 2018

3.10 As part of their tender submission, Tenderers were required to prepare reports on 2 case studies which were scored. Tenderers were then asked to present their reports to the evaluation panel allowing both parties to clarify any ambiguities and confirm scoring. The presentations themselves were not scored.

3.11 The 5 Tenderer's recommended for contract award, and become part of the legal panel, are those with the highest combined Price, Quality and Value for Money score. Please see the table below.

Allocation of weightings and scores & results of the tender

Evaluation Criteria	Weighting	Tenderer A	Tenderer B	Tenderer C	Tenderer D	Tenderer E	Tenderer F	Tenderer G	Tenderer H
Quality (70%)									
Service Delivery Approach - Case Study 1	15%	15%	15%	6%	15%	15%	15%	12%	15%
Service Delivery Approach - Case Study 2	15%	15%	12%	15%	15%	15%	15%	15%	15%
Cost Management	10%	10%	8%	8%	8%	8%	10%	8%	8%
Contract and Performance Management	10%	10%	8%	8%	10%	8%	8%	10%	8%
Transition and Mobilisation	10%	8%	8%	8%	8%	10%	8%	10%	8%
Social Value	10%	6%	10%	8%	10%	8%	8%	8%	10%
Sub Total	70%	64%	61%	53%	66%	64%	64%	63%	64%
Value for Money (10%)									
Continuous Improvement	10%	10%	10%	10%	6%	10%	10%	10%	6%
Total	80%	74%	71%	63%	72%	74%	74%	73%	70%
Price (20%)									
Price	20%	20.00%	19.86%	18.30%	18.60%	19.98%	16.04%	19.00%	18.70%
Total	100%	94.00%	90.86%	81.30%	90.60%	93.98%	90.04%	92.00%	88.70%

3.12 The top five tenderers scores are:

Tenderer A	94.00%
Tenderer B	90.86%
Tenderer D	90.60%
Tenderer E	93.98%
Tenderer G	92.00%

How the panel will work

- 3.13 Litigation cases will be allocated to the providers on the panel on a strict rotation basis i.e. the 'taxi rank' principle. If a borough has to skip to one particular provider, for example to a provider who is handling a related or similar case, then the borough will skip back to the provider who was next in line for the next case to ensure a fair distribution of work and to ensure that no providers are commercially disadvantaged.
- 3.14 The Head of Risk & Insurance and the Insurance Manager for Croydon Council will be responsible for contract management with quarterly contract review meetings held with each panel member. A straight 5 year term sought to reflect previous experience which has been stability of providers and rates over an extended period of time with keen pricing to reflect the longer term commitment by all parties to the arrangement.

4. CONSULTATION

- 4.1 Consultation was undertaken with all participating members of the Insurance London Consortium to ensure that each boroughs requirements were met as a result of the procurement process.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 There are no adverse financial considerations arising from this report. The funding for insurance litigation (legal) sits within the insurance fund, (a reserve that is agreed annually and used to pay for insurance claims against the Council up to the level of deductible / excess that the Council has with their external insurers, as well as all other insurance related expenditure – the fund is reviewed annually and adjusted up or down accordingly), and hence there is no budget as such for these contracts.
- 5.2 Whilst there is a cost element involved in the ILC projects and the tender exercise, all costs are spread equally amongst all of the participating authorities and is therefore minimal for the participants. The contracts also have fixed hourly rates going forward in order to reduce the risk of year on year increases, with a five year contract also reducing future procurement costs.
- 5.3 The rates will be fixed across all panel members and there is a very modest increase on rates set 6 years ago as per the table in Part B report. The 2018

rates have been determined based on the average of the successful tenderers price responses for each band of fee earner.

1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2017/18	2018/19	2019/20	2020/21
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure	165	170	170	170
Income				
Effect of decision from report				
Expenditure		170	170	170
Income				
Remaining budget		0	0	0
Capital Budget available				
Expenditure				
Effect of decision from report				
Expenditure				
Remaining budget				

2 The effect of the decision: The contract value is £170k per year, for 5 years.

3 Risks Risks of procurement challenge have been minimised through the OJEU compliant tender process and provider's financial status and standing being ascertained.

4 Options. No other options are being considered.

5 Future savings/efficiencies: Savings will be generated by gradually diminishing the use of the panel through increased internal claims handling. The fee scales and hourly rates to be paid to all firms on the panel reflect current rates paid to London based and provincial law firms.

There are no further financial considerations arising from this report.

Approved by: Ian Geary, Head of Finance, Resources & Accountancy

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

6.1 The Council Solicitor comments that the procurement process as detailed in this

report meets the requirements of the Council's tenders and contracts regulations, EU procurement requirements and the Council's duty to secure best value under the Local Government Act 1999.

Approved by: Sean Murphy, Lawyer on behalf of the Council Solicitor & Director of Democratic & Legal Services

7. HUMAN RESOURCES IMPACT

7.1 There are no immediate human resource impacts arising from this report.

Approved by: Gillian Beven on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

8.1 There are no equalities issues arising from this report. An EAI has been undertaken showing no further action required.

9. ENVIRONMENTAL IMPACT

9.1 There are no environmental impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There will be no direct impact on crime and disorder

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

11.1 Following the evaluation of tenders, the award recommendation's being made is for the 5 Tenderer's that offered the most economically advantageous tender's to join a panel of providers for all participating ILC Members.

12. OPTIONS CONSIDERED AND REJECTED

12.1 Croydon Council's in-house legal team and their external legal partner were considered but deemed to not to be suitable due to the specialist nature of the insurance litigation work to be undertaken and the need to access advice from a wider panel of insurer approved providers. In addition, other ILC members would not be able to use either Croydon's in-house legal team or have access to use Croydon's external legal partner.

CONTACT OFFICER:

Name:	Malcolm Davies
Post title:	Head of Risk and Corporate Programme Management
Telephone number:	50005

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972

None

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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For General Release

REPORT TO:	CABINET MEMBER FOR FINANCE & RESOURCES
SUBJECT:	Microsoft Enterprise Software Agreement Contract Variation
LEAD OFFICER:	Matthew Wallbridge Head of ICT & Transformation
CABINET MEMBER:	Councillor Simon Hall Cabinet Member for Finance and Resources
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT The provision of a Microsoft enterprise software license agreement is vital to the council as it enables the Council to administer back office functions and the licenses are required to transform the ICT estate enabling efficiencies from the application of new technology.	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: Delivering high quality public services and improving value for money.	
FINANCIAL IMPACT: The current contract and proposed increases will be funded from the existing revenue and capital budgets held within the ICT and Resource Departments. The original awarded contract value of the Microsoft enterprise software license agreement, procured via Insight Direct (UK) Limited is £2,200,000, this was a key decision published in June 2016 (Reference 3116FT made on 6 June 2016). The total anticipated maximum cost of the variation is £1,136,969 bringing the total contract value to £3,336,969.	
KEY DECISION REFERENCE NO.: 3116FT – 6 June 2016	

1. RECOMMENDATIONS

The Leader of the Council has delegated to the Cabinet Member for Finance and Resources the power to make the decisions set out in the recommendations below:

- 1.1 The Cabinet Member for Finance and Resources in consultation with the Leader of the Council is recommended to:
- 1.2 Approve a variation to the contract with Insight Direct (UK) Ltd for the provision of a Microsoft Enterprise software license agreement to increase the number of user licenses and to also incorporate Azure IAAS hosting and usage licenses in accordance with Regulation 29 of the Councils Contracts & Tenders Regulations.

- | | |
|-----|--|
| 1.3 | Note the total anticipated maximum cost of the variation is £1,136,969 bringing the total contract value to £3,336,969 |
|-----|--|

2. EXECUTIVE SUMMARY

- 2.1 This report recommends varying the contract with Insight Direct (UK) Ltd for the provision of a Microsoft Enterprise software license agreement to increase the number of user licenses and to also incorporate Azure IAAS hosting and usage licenses contract with Specialist Computer Centre Plc (SCC) which end on 30/06/2018. This will ensure that the Council is correctly licensed under the Enterprise Subscription Agreement.
- 2.2 The Procurement Strategy for the report titled “Microsoft Office Enterprise Software” which detailed the procurement approach was approved by the Contracts & Commissioning Board on 03/03/16, CCB Ref: CCB1103/15-16. The award was approved by the Contracts & Commissioning Board on 27/04/16 CCB reference CCB1133/16-17 for a contract value of £2,200,000.

CCB Approval Date	CCB ref. number
24/05/2018	CCB1357/18-19

3. DETAIL

3.1 Background

- 3.2 The Council currently licenses Microsoft software under an Enterprise Subscription Agreement with Insight Direct (UK) Ltd. There is a continuing requirement to license Microsoft software products so that the Council is able to continue to use and maintain existing products (such as Office 365). New cloud based Microsoft software products such as CRM Online and Business Intelligence are also being implemented as part of the ongoing ICT transformation (“Transformation”) bringing new functionality and the requirement to maintain upgrade rights to support the transformed ICT environment. These solutions and systems are critical across the organisation to deliver key services for Croydon residents and the new cloud based approach will further enable efficiencies and improved ways of working which support the council’s financial strategy.

- 3.3 Since the contract was awarded, user numbers have increased as, initial estimates were underestimated. Although the subscription entitles the Council to vary license numbers up and down, the increased user numbers are anticipated to remain for the remaining duration of the agreement which will therefore result in a total overall increase in the contract value.

- 3.4 The original annual value of the agreement was £740,482 and, during the course of the following two years, additional licences and products have been added, as detailed in the table below. Extrapolating this to year 3, including

annualising the additional costs, the annual charge will be £1,042,872. This will ensure that the Council is correctly licensed under the Enterprise Subscription Agreement.

See Summary below.

Year 1 - Annual contract value	£740,482	Year 2 Annual contract value	£940,596	Estimated Annual contract value Year 3	£1,026,471
Year 1 – Additional products ordered	£217,961	Year 2 – Additional products ordered	£85,875	Year 3 additional costs	£16,401
Year 1 – Total spend	£958,443	Year 2 – Total spend	£1,026,471	Year 3 – Total spend	£1,042,872
Total Contract Value					£3,027,786

- 3.4 As part of the ICT strategy to increase use of cloud hosting, the council had purchased a number of Azure IAAS hosting licenses at a cost of £189,183. CRM and My Account are reliant on the cloud hosting. These licenses are to be migrated into this agreement and the agreement with SCC terminated. It is estimated that by the end of the agreement (30/06/2019) that there would be additional licenses required costing approximately £120,000 if the usage continues to grow as it is. The total contract cost for Azure would therefore be £309,183.

Year 1	£16,800
Year 2	£39,365
Year 3	£133,018
Estimated additional cost required based on migration estimates.	£120,000
Total	£309,183

- 3.6. New products are needed to support the ongoing Transforming of the IT infrastructure. The Azure licences are key to the Council's move to cloud based services. It is therefore proposed to incorporate licences for the Azure platform into the Agreement for the remaining term. There were no requirements for this products when the agreement was entered into.
- 3.7 The variation to incorporate the Azure hosting licences into the agreement is an interim arrangement and will allow time for future cloud hosting requirements to be fully scoped and incorporated into the future procurements planned for the recommissioning of ICT services and which is subject to other reports to CCB.

4. CONSULTATION

- 4.1 Consultation has taken place with legal, finance, departmental tech boards, ICT colleagues within the borough and Capita our IT Supplier.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 Original Financial risk assessment considerations can be found in the original CCB report (Section 3 of 31.16.FT Microsoft Enterprise Software Agreement).

5.2 The effect of the decision

The agreement period is for three years from 01/07/2016 to 30/06/2019.

Details	Internal Capital	Revenue	Period of funding	Period of funding
ICT Licensing- CFA136	£3,087,969	£0	2016/17 to 2018/19	3 years
Digital Enabling Funding		£249,000	2016/17	1 Years
TOTAL	£3,087,969	£249,000	£3,336,969	

5.3 Risks

A financial health check was performed on Insight, no concerns were identified.

5.4 Options

The existing contract is being varied. Other options were considered including; Running a new procurement for the Azure licensing. This was discounted at this time as the ICT services recommissioning programme will be including the scope within the programme next year. This contract variation is considered an interim arrangement.

5.5 Future Savings/Efficiencies

If in future the number of users' decreases, the subscription model allows the council to reduce the number of licenses being paid for annually

(Approved by: Ian Geary, Head of Finance, Resources & Accountancy)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Solicitor to the Council comments in respect of the recommendation to vary the current contract to increase the number of licenses and move to cloud based services consideration must be given to Regulation 72 of the Public Contract Regulations (PCR) 2015. A contract may be modified i.e. varied where

the modifications are not considered 'substantial' (Reg.72 (1) (e)).

6.2 In terms of what might be considered a "substantial change" is defined in Regulation 72(8) as any change, irrespective of value, which meets one or more of these conditions:

- Materially alters the character of the original contract/framework;
- Would have allowed other potential suppliers to participate or be selected, or another tender to be accepted;
- Changes the economic balance in favour of the contractor;
- Extends the scope of the contract/framework "considerably";
- A new contractor replaces the original contractor, other than where the change arises from a review or option clause in the original contract or from corporate changes such as merger, takeover or insolvency.

6.3 There is a risk that a contract with extension into cloud based services, particularly given the significant increase in the contract value of the variation, could be argued to:

- materially altering the original contract/framework
- extend the scope 'considerably'
- change the economic balance in favour of the contractor

6.4 Authorities that wish to procure for services that may need expanding must consider carefully the terms of the advertisement, contract and related procurement documents. If challenged by a third party in this respect there is a risk that the contract variation might be found to be ineffective. The risk of challenge may be mitigated by publishing a VEAT notice in which the Council sets out why it considers the award of the contract, without prior publication of a contract notice, to be permitted by Part 2 PCR 2015, and then waiting at least 10 days before entering into the contract variation. However, a VEAT notice is only effective in providing protection where the legal justification for the direct award is sound and able to withstand any increased scrutiny that may be brought about by its publication. A VEAT will not offer the intended protection where it is issued in bad faith or where the proper due diligence is lacking, regardless of whether in good faith or not.

Approved by: Sean Murphy, Head of Commercial and Property Law & Deputy Monitoring Officer, on behalf of the Director of Law & Monitoring Officer.

7. HUMAN RESOURCES IMPACT

7.1 There are no immediate HR implications that arise from the recommendations in this report which would impact Croydon Council staff.

Approved by: Sue Moorman, Director of Human Resources.

8. EQUALITIES IMPACT

- 8.1 An Initial Equality Analysis was undertaken to assess the likely adverse impact the contract award would have on protected groups compared to non-protected groups. The analysis concluded that a full equality analysis will not be required as entering into a license agreement would not have any adverse impact on protected groups compared to non-protected groups.

9. ENVIRONMENTAL IMPACT

- 9.1 The nature of the requirement for the varied contract should not lead to any environmental impact.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 None Identified

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 This contract variation is required in order to allow to retain contractual compliance for licenses. It is the most effective way to utilise the new license services for the IT Infrastructure.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 The option of tendering for additional licenses was considered but rejected as the existing agreement allows for volumes to changed or additional licenses to be added.

CONTACT OFFICER:

Name:	Matthew Wallbridge
Post title:	Head of ICT and Transformation
Telephone number:	Ext 65516

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972 – None

For General Release

REPORT TO:	Cabinet Member for Children, Young People and Learning
AGENDA ITEM:	Background paper to Investing in our Borough report
SUBJECT:	Contract Award Supervised Contact for Children in Care and their Families
LEAD OFFICER:	Eleni Ioannides, Interim Director of Children Services
CABINET MEMBER:	Cllr Flemming: Children, Young People and Learning and Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT AMBITIOUS FOR CROYDON Relevant Corporate objectives <i>Independence</i> <ul style="list-style-type: none"><i>To help families be healthy and resilient and able to maximise their life chances and independence</i>	
FINANCIAL IMPACT: <p>A contract will be awarded for Supervised Contact to the provider for a term of two (2) years with the option to extend for a further 12 months (maximum term of three (3) years), at a total maximum contract value of £1,116,000. The contract will contribute to improved outcomes for children young people and their families. The contract will commence on 1st July 2018.</p> <p>The annual contract cost for this demand led service will be £372,000 based on estimated volumes of service with an available budget of £372,000.</p>	
KEY DECISION REFERENCE NO.: 1318CYPL <p>The decision may be implemented from 1300 hours on the 6th working day after the decision is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.</p>	

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

1. RECOMMENDATIONS

- 1.1 The Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Treasury is recommended to approve the award

of a contract for Supervised Contact for Children in Care and their Families for a term of two (2) years with the option to extend for up to a further 12 months (maximum of three (3) years) at a maximum total contract value of £1,116,000 to the contractor named in the associated Part B report.

- 1.2 The Cabinet Member for Children, Young People and Learning is asked to note that the name of the successful provider will be released once the contract award is agreed and implemented.

2. EXECUTIVE SUMMARY

- 2.1 A contract was awarded for supervised contact to St Mary's Family Centre following approval at the October 2017 Cabinet, reference, 76/17, delegated decision ref: 3517.
- 2.2. Croydon Council officers were informed on 16th January 2018 that the sub-contractor, are selling their premises where supervised contact would be held and that they could no longer meet the Council requirements. The contract had not been executed at this stage.
- 2.3 The supplier was asked to submit proposals on how they were going to meet the Council requirements by 9th February 2018.
- 2.4. The proposals received presented a number of Procurement Regulation issues, risks and other concerns in adopting any of the options presented and each of these has been rejected.
- 2.5 On legal advice it was agreed not to accept any of the proposals and to revisit the second ranked supplier's tender response of the original procurement.
- 2.6. This report sets out the reasons for recommending that the contract is awarded to the second ranked provider following evaluation of the tenders received.
- 2.7 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB ref. number	CCB Approval Date

3. DETAIL

- 3.1 A contract was awarded following approval at the October 2017 Cabinet (CCB ref CCB1274/17-18, Cabinet reference, 76/17, delegated decision 3517).
- 3.2. The Award letter was issued, but due to circumstances explained below the contract could not be executed.
- 3.3. Following the tender evaluation and issue of the award letter, subject to contract, the successful tenderer informed Croydon Council officers on 16th

January 2018 that their sub- contractor, are selling their premises where supervised contact would be held.

- 3.4. The Council indicated that we needed to understand the commitment that the Sub Contractor has to this contract. Also, the Council needed to assure the continuity of service for service users.
- 3.5. Following legal advice, the Council wrote to the successful bidder on 25th January 2018 asking for a detailed plan setting out how they would deliver the contract in accordance with the terms and conditions and schedules and consistent with their bid response. The purpose of this plan was to assure the Council that they would be able to meet their obligations under the proposed contract.
- 3.6. Proposals from the successful bidder were received on 9th February 2018.
- 3.7. Having consulted legal colleagues, there are a number of Procurement Regulation issues, risks and other concerns in adopting any of the options presented and each of these has been rejected. These are as follows:

Option 1 – The original successful bidder to deliver the contract independently, without any sub-contractor

- The Council considers that this is a material change to the terms and conditions of the tender as the Sub Contractor was clearly stated to provide 40% of the work in the tender response document. The Council is not able to accept such a significant modification post tender as this may be open to a legal challenge from other bidders and the Council cannot expose itself to such a risk;
 - TUPE implications and any costs and pensions issues in transferring service from the sub contractor, which is a current provider of the service, would need investigation and this is not addressed in detail; and
 - The original successful bidder would not have passed the pre-assessment criteria, in which the Council required a financial turnover of £1.2 million, since the annual turnover at the time of the bid was lower than this threshold. The bid was only accepted and authorised by the Council's Responsible Financial Officer on the basis of your combined turnover with the sub contractor.
- In conclusion, the Council considers that this proposed option is not viable for the reasons set out above.

Option 2 – The original successful bidder to deliver with an unknown sub-contractor

- The Council considers that this option presents a potential material change to the terms and conditions of the tender. The sub contractor was named in the tender documents and was to deliver 40% of the contract. If the Council was to proceed with this option, this decision could be subject to legal challenge from other bidders and the Council does not wish to expose itself to such risk
- The original successful bidder has not identified an alternative sub-contractor at this stage so this would take time and there is no guarantee of success. Without having an identified sub-contractor the Council

cannot assess whether another sub-contractor would be able to deliver the same services and meet the same criteria so as not to alter the overall nature of the contract

- The original successful bidder has asked for the Council to help them find an alternative sub-contracting partner. Unfortunately, the Council is not able to provide such assistance due to legal and commercial reasons. In conclusion, the Council considers that this proposed option is not a viable for the reasons set out above.

3.8. Two alternative courses of action were then considered:

- Award the contract to the second ranked bidder
- Retender

3.9. It is proposed to award the contract to the second ranked bidder on the basis of their original tender response and pricing for the following reasons:

- The quality score of the second ranked bidder was only half a percentage point lower than the first ranked bidder.
- This a demand led statutory services we have little control of the volume of service. The second ranked bidders prices represent a competitive market rate. The commercially sensitive price comparison is detailed in the associated Part B report

3.10 The option to retender was discounted on the basis that there would be risk of no tenders being received and there may be price increases.

3.11. A “without prejudice” discussion has been held with the second ranked bidder which is keen to work with the Council should the award be confirmed and formal discussions follow on the basis of their submitted tender prices.

3.12 The aim is for contract to commence on 1st July 2018.

3.13. As an interim arrangement the Council will continue to use the existing Framework Agreement under which services are currently provided. Approval to extend these arrangements to 31st October 2018 has been agreed by CCB (CCB1286/17-18 03/11/2017). This will ensure continuity of service until full service commencement under the new contract. Under the terms of the Agreement there is no obligation on the Council to call off the current Framework and the use of the Framework will cease once the new service commences.

4. CONSULTATION

4.1 Stakeholders were consulted on the development of the service specification prior to tendering.

4.2. To help scope the procurement a market engagement event was held on 28th April 2017 prior to the tender going live.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 The costs associated with this contract will be funded from the Council's Budget and are as follows:

	2018/19	2019/20	2020/21
	£000s	£000s	£000s
Revenue budget available			
Expenditure	372	372	372
Effect of decision from report			
Existing contract 01/04/18 to 30/06/18	107		
New contract 01/07/18 to 31/03/19	279		
Contract from 01/04/19 to 31/03/20		372	
Contract from 01/04/20 to 30/06/20			93
Contract from 01/07/20 to 31/03/21			279
Over/Under Spend	14	0	0

1 Revenue consequences of report recommendations

Based on the above table there will be an overspend of £14,000 in the first financial year (2018/19) of the contract. This is due the first three months being under the existing contract. From 2019/20 onwards the contract spend is expected to be within the available budget of £372,000.

2 The effect of the decision

A contract will be awarded for Supervised Contact to the provider for a term of two (2) years with the option to extend for a further 12 months (maximum term of three (3) years), at a total maximum contract value £1,116,000. The contract will contribute to improved outcomes for children young people and their families. Commencement date will be 1st July 2018. This service is a demand led statutory service. The annual contract cost for this demand led service will be £372,000 based on estimated volumes of service.

The recommended tenderer is signing up to the Premier Supplier Programme offering a 1.5% rebate.

3 Risks

There is a low risk that the contracted services do not contribute to the outcomes for the Borough. However, this will be mitigated by robust performance and contract management, which will be put in place.

There is a risk of the provider not accepting the award considering that 4 months have passed since initial award. However, a “without prejudice” discussion has been held with the second ranked bidder which is keen to work with the Council should the award be confirmed and formal discussions follow.

TUPE may apply to the staff of current providers. The recommended tenderer has demonstrated that they have considered how they will take this into account. Further assurances will be sought during mobilisation that this has been addressed. Further advice will be sought from HR during mobilisation. The contract will contain standard TUPE conditions.

Risk to ongoing continuity of service. The incoming provider will work with the outgoing providers to ensure continuity. Interim arrangements have been made and are referred to in paragraph 3.13 above.

4 Options

The following were considered:

- Award the contract to the second ranked bidder - preferred option
- Retender – rejected
 - Costly to retender
 - May not receive any bids
 - Prices may increase

5 Future savings/efficiencies

There are no future savings/efficiencies to be gained during the two years plus one of the contract however the overall quality of and consistency of service will improve.

Approved by: Josephine Lyseight, Head of Finance People

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The recommendations set out in this report seek to support the Council's duty to achieve best value pursuant to the Local Government Act 1999.

Approved by Sean Murphy, Head of Commercial and Property Law and Deputy Monitoring Officer, for and on behalf of the Director of Law & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 This report recommends a contract award that may involve service provision changes which may invoke the effects of TUPE (Transfer of Undertakings)

(Protection of Employment) 2006 Legislation, amended 2014). The application of TUPE will be determined by the incumbent and the new service providers, for which the Council is the client. On that basis, the role of the Council would usually extend no further than facilitating the process. There are no HR implications for Council employees.

Approved: Debbie Calliste, Head of HR – People Department, on behalf of the Director of Human Resources

8. EQUALITIES IMPACT

- 8.1 An equalities impact assessment has been undertaken. This contract expects the provider to particularly address the needs of children and young people from Black, Asian and Minority Ethnic groups.

9. ENVIRONMENTAL IMPACT

- 9.1 There are no adverse environmental impacts arising from this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no adverse crime and disorder impacts arising from this report.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 Awarding the contract will make a significant impact to the outcomes for children in care and their families. The new contract will be better value for money.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1. **Further extend the current contracts:** Rejected: The new contract is better value for money.

CONTACT OFFICER:

Name:	Sally Wadsworth
Post title:	Category Manager Early Help and Child Health
Telephone number:	0208 726 6000 X 61173

BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972: None

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