

CABINET REPORT TEMPLATE AND GUIDANCE

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| REPORT TO: | Executive Mayor 16/2/23 |
| SUBJECT: | Advocacy Service for children in need of help and protection, Children Looked After and Care Experienced Adults Part A |
| LEAD OFFICER: | Debbie Jones Corporate Director Roisin Madden Director/Head of Service |
| CABINET MEMBER: | Cllr Maria Gatland, Lead Member for Children, Young People and Education |
| WARDS: | All |

MAYOR’S BUSINESS PLAN 2022-2026

This report and the recommendations within this report will support the following Mayor’s Business Plan supporting priorities:

- **Get a grip on the finances and make the Council financially sustainable** - The re-commissioning of this contract will be price-capped according to the budget available. This will ensure the service does not exceed the available financial envelope.
 - **Become a council which listens to respects and works in partnership with Croydon’s diverse communities and businesses** - The delivery model has been improved from robust stakeholder feedback to increase the efficiency of the contract, and that reductions in service will result in the least disruption for service users.
- Strengthen collaboration and joint working with partner organisations and the voluntary, community and faith sectors** – Stakeholders to be involved throughout to commissioning cycle to ensure best possible outcomes are achieved.
- **Ensure good governance is embedded and adopt best practice** – Robust oversight from the Integrated Children’s Commissioning Team will ensure that the service specification and contract are kept to, and that breaches of this agreement will lead to accountability.
 - **Develop our workforce to deliver in a manner that respects the diversity of our communities** – by ensuring our service users are involved directly in the ongoing monitoring of this contract, we hope to ensure that the views of our highly diverse children in care are represented in the delivery of this service.

FINANCIAL IMPACT:

Extension

The proposed extension will have a net effect of £59,375 from the date of decision, with a spend of £95,000 pro rata for final contract term ending 30th September 2023. This is a reduction from the initial awarded value of £111,000 per year, due to robust management with the provider.

New Procurement

The total aggregated value for the proposed re-commissioned service is (for a 5+2-year contract) is £665,000 - £95,000 per year, which commences from 16th February 2023 until 30th September 2030.

KEY DECISION REFERENCE NO.:

There are key decisions mentioned in this report, but approval of the Recommendations would not constitute a key decision.

**RECOMMENDATIONS:
FOR CCB**

The CCB is requested to approve the recommendation below to the Executive Mayor

FOR the Executive Mayor

The Executive Mayor is recommended to:

Approve the recommendations listed below in relation to 2 areas:

Existing contract extension request:

1. Approve the extension, by way of contract variation, with Barnardo's Services Ltd for 'children's advocacy service' until 30th September 2023 for an additional value of £95,000, pro-rata and taking the aggregate contract value to £528,000.
2. Please note that the service has continued to be provided since October 2022 outside of appropriate governance approval and that the extension is sought from the date of approval of this report's recommendations and not retrospectively.

Procurement strategy for future procurement:

3. Approve the procurement strategy for a 5-year contract with a 2-year extension for the delivery of a children's advocacy service from 30th September 2023 to 30th September 2030. The total estimated annual value is £95,000 which results in a total aggregated value of £665,000 for the 7 years (5 years, plus a possible 2-year extension).

EXECUTIVE SUMMARY

- 1.1. The Council is required by section 26A of the Children Act 1989 to provide assistance (including by way of representation) to children who make representation or complaints to the council about their care plan, or pathway plan.¹

The Council is required by the Children Act 1989 to have in place:

- a) A system for reviewing the cases of looked after children in accordance with the Review of Children's Cases Regulations 1991.
 - b) A procedure for considering representations and complaints about the discharge of specified council functions in relation to a child who is being looked after, or who is not being looked after but is in need.
 - c) (3) A procedure for considering representations and complaints about the discharge of specified council functions in relation to former looked after children.
- 1.2. The Council currently has a contract with Barnardos for the provision of the Advocacy service. The original budget for the service was £111,000, per annum, for 2018-2019, 2019-2020 and was reduced in 2020-2021 down to £100,000. Going forward the available budget for this provision will be reduced further to £95,000 per annum. This has been the result of a close and positive contract monitoring of the service, where we have improved operational expectations whilst delivering efficiencies to the contract value.
- 1.3. The role of an advocate is to offer independent support to those in the affected group who feel they are not being heard, to ensure they are taken seriously and that their rights are respected. It is also to assist people to access and understand appropriate information and services. An advocate will ensure the service user has the tools to make an informed decision; it is not about making the decision for that service user. It is also about supporting the person to say what they want even if other people consider that they are making an unwise decision.

¹ *There is a significant amount of government legislation and guidance around the provision of advocacy services including, Children & Young Persons Act 2008, Section 24D or Section 26 of the Children Act 1989, The London Child Protection Procedures in force at the Commencement Date 2018, as amended from time to time); Working Together to Safeguard Children (2017)*

- 1.4. The provision of the children's advocacy services enables the Council to meet its statutory duty and deliver a service offer in line with the new Ofsted requirements.

Extension Progress

- 1.5. Work began on this report in April 2022 and has not run to the expected timescales. This is due to a number of changes in processes, and governance, which has meant this report has needed to be redrafted a number of times to reflect the changing priorities during this time – in consultation with legal, finance and procurement.
- 1.6. This built in several months of delay up until September 2022, when the requirement for KPIs to be submitted was also made clear. In the case of Advocacy, the council receive KPIs but also detailed quarterly reports that needed to be summarised – furthermore, as referenced in 4.3.2 – discrepancies due to administrative errors on the provider's end at the beginning of the contract meant that a number of these statistics needed to be re-collated.
- 1.7. Within the year, broader considerations were explored which also contributed to the delay. These were:
 - Considering joint procurement of the service with Adult Social Care's for their Advocacy service, whose contract ends 30th September 2023.
 - Use the extended time to gather market intelligence about whether this is something that will be viable and possible with joint approach. This will be done through market engagement exercises.
- 1.8. All of the above elements have taken time to resolve up until December 2022, when Stage 2 sign offs took place. However, due to corporate pressures around several reports being presented at different boards, and also internal pressures (with this report being one of four due for CCB at a similar time) these sign offs took around two months to complete, taking us to January.

Proposed New Procurement – Procurement Strategy

- 1.9. The proposed length of the contract for the new service will be 5 years, with a further possible extension of 2 years. The rationale for the length of this proposed contract is to:
 - Help establish a long-term working relationship and partnership with the successful provider.
 - Build in a robust contract management process which can be measured across the lifetime of the contract.
 - Build in clear break clauses should the provider not perform as required.
 - Drive greater competition and rates between providers. This will lend itself well as there will be no inflation uplift (providers will be required to build into their pricing).

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- Reduce time and resource required for shorter contract durations enabling focus on achieving outcomes and efficiencies.
- Drive greater stability for the market and provider.

2. RECOMMENDATIONS

Approve the recommendations listed below in relation to 2 areas:

Existing contract extension request:

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Procurement strategy for future procurement:

3. Approve the procurement strategy for a 5-year contract with a 2-year extension for the delivery of a children's advocacy service from 30th September 2023 to 30th September 2030. The total estimated annual value is £95,000 which results in a total aggregated value of £665,000 for the 7 years (5 years, plus a possible 2-year extension).

3. BACKGROUND

- 3.1. The Council undertook a tendering exercise on 31st May 2018 with the aim of establishing a contract for the provision of the Advocacy Service for children in need of help and protection, Looked After Children & Care Leavers, which will ensure that children and young people have a voice, they are enabled to reach their full potential and have their overall needs met effectively.
- 3.2. On 12th April 2018 (ref CCB1356/18-19), after a competitive tender, the Council awarded a contract for a term of up to 3 years, from the 1st October 2018, with the option to extend for a further year from September 2022 to 30th September 2022.

- 3.3. Barnardo's Services Ltd were the successful tenderer for this provision. The permitted extension period of 12 months was activated up until the 30th September 2022.

4. CURRENT SERVICE

4.1. Purpose

The Advocacy Service supports the Council in meeting its statutory responsibilities by:

- Ensuring that all children who request advocacy can access a service in line with statutory requirements.
- Improving the promotion of advocacy services for children and young people in Croydon.
- Ensuring we meet these outcomes in a defined financial envelope

4.2. Service Aims

The service aims are to ensure that children who are Looked After, are Care Experienced Adults, and who are subject to CP Plans have access to independent advocacy as per their needs. 1500 hours of advocacy are delivered each year. Advocacy was supplied in line with National Standards to provide independent and confidential information, advice, representation, and support. The three specific statutory groups in this cohort are Children Looked After (CLA), Children at Child Protection (CP) and Care Experienced Adults (CEA).

4.3. Performance

- 4.3.1. A full breakdown of KPIs from the commencement of this contract is set out in **Appendix 1**.

- 4.3.2. Since the commencement of the contract, the provider has been meeting the estimated 1500 hours of advocacy on an annual basis.

- This equates to approximately 150 referrals per annum (10 hours of advocacy anticipated per referral).
- During the permitted 12-month extension period, the number of referrals exceeded the anticipated 10 hours of advocacy per referral resulting in the estimated 1500 hours of advocacy on an annual basis being exceeded.
- Whilst there is a mechanism in the current contract to gatekeep these hours, it was poorly defined; the new contract will be clear in how these hours will be agreed and monitored, ensuring that appropriate approval is obtained if advocacy hours exceed agreed levels.

- Despite the core demographics being Children Looked After and children at Corporate Parenting conferences, nearly 60% of 2021-2022's work was with care leavers on housing issues.

4.3.4. To meet the council's financial challenges there will be a reduced budget for the re-commissioning of this service from 30th September 2023. The contract value per year will be set at a max of £95,000 per annum, which will equate to a saving of £5,000 a year or £35,000 over the lifetime of the contract.

4. REASONS FOR RECOMMENDATION

5.1. The reasons for the recommendations are set out above and below:

- This model reduces the committed core spend to fit the financial envelope.
- Information from our previous tendering exercise and from recent benchmarking shows that it is highly likely competitive rates can be achieved by going out to tender in this way, and that in general local authorities are adopting similar models.
- While performance has been good, gatekeeping of individual case hours and extended advocacy work needs to be stronger.
- The extension is required to ensure both a commissioning process can be effectively undertaken, and that time is given for any necessary TUPE transfer, whilst exploring whether joint commissioning the service with Adult Social care is a viable option.

6. OPTIONS CONSIDERED AND REJECTED

| Option 1 | |
|---|---|
| Existing model with a reduction of the number of hours per referral, and extend the contract – recommended option | |
| Description | |
| <p>Sticking to the existing model but reducing the number of hours per referral in order to achieve to the savings required. Following consultation with the service, it is proposed to reduce the existing 10 committed hours to 8 hours per referral. Thus, the committed number of hours per annum will reduce from 1500 to 1200 hours. Below gives an idea of what this is likely to cost us utilising the current unit rates, with inflationary increases applied.</p> <p>The tendering exercise which was carried out in 2018 indicates that the hourly spot purchase rate generally does not exceed the committed hourly rate and is likely to be less than the committed hourly rate. Out of the four tenderers who were price evaluated, three reduced their hourly spot purchase rate, with one having the same rate for both committed and spot purchase. Barnardo's were also the most expensive of the tenderers. To ensure budgets are met here, we will cap the price of this procurement at the budget level.</p> <p>There will be a gatekeeping process where there will be robust approval process by the service manager for every referral that may need to go over the agreed 8 hours.</p> | |
| Benefits | Risks |
| <ul style="list-style-type: none"> • Outcomes for young people will continue to be achieved • Maintains spread of advocacy services • This is a commissioning model that the service is familiar with and has identified the areas required to achieve better outcomes and efficiencies • This commissioning model is similar to well performing local authorities that have been benchmarked • Longer proposed contract length will drive greater competition which will impact pricing favourably • A gatekeeping process being put in place with a robust approval process by the service manager that will focus on determining every referral that may need to go over the agreed 8 hours. • | <ul style="list-style-type: none"> • Average hours per referral rate goes above 8 hours because of discrepancies with the gatekeeping service • An increase in the number requiring advocacy within the cohort leads to an increase in overall hours, or an increase in young people seeking advice from other external sources |
| Option 2 | |
| Spot purchase arrangements, and do not extend the contract - rejected option | |
| Description | |
| This option will require the Council to establish spot purchase arrangements to ensure this statutory service is fulfilled. | |

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| Benefits | Risks |
|---|---|
| <ul style="list-style-type: none"> • Would be able to use a greater number of providers • Could purchase as and when, rather than being committed to a block spend • . | <ul style="list-style-type: none"> • There is uncertainty as to whether the most suitable organisations will be willing to accept such arrangement owing to the lack of security • There will be less ability to control quality of service, as there is far less buy-in from a spot purchase provider for this sort of service • There will be a greater burden of administration to be able to source and deliver this service • There is also a risk of higher fees per spot purchase, and less guarantee we could stay within the financial envelope • Significant, prolonged continued spot purchase would constitute a procurement risk, as it is reasonable to expect that a service could be tendered for successfully, and there is a market of providers ready to bid for this work. |

Option 3

Do nothing, and do not extend the contract - rejected option

Description

The do-nothing option would be to close the service and not offer advocacy services for young people.

Benefits

- We would in theory save the entire committed spend

Risk

- This is not an option as the service is a statutory service and must be delivered in line with the Children's Act 1989 – therefore ending the service with no replacement would breach this duty.
- Judicial Reviews could increase significantly, and the likely payouts needing to be made may well wipe out any savings made
- Good advocacy services help young people feel heard, and resolve problems with the council – this would offer neither.

Option 4

In house delivery, and do not extend the contract - rejected option

Description

The Council would be in direct control of the service delivery and would be able to dictate the direction of the offer and react more readily to changes in the landscape caused by fluctuating demand and changes in legislation.

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| Benefits | Risks |
|---|--|
| <ul style="list-style-type: none"> • Greater level of control of the service delivery around case management, outcome monitoring and efficiencies. • Likelihood is that Council will be better placed to deliver advocacy based on availability of referral options | <ul style="list-style-type: none"> • There is limited management capacity to develop this approach and timelines for setting up a new service would be too long • An advocacy service is commissioned out so that advocates do not report directly to the council to whom they are advocating, thus enabling more robust challenge and more confidence from service users that are approaching them with issues • Costs, and staffing demand is not clear; to employ full time permanent staff to deliver advocacy could be more expensive than the current model. • Statutory guidance on how Children Act complaints and advocacy services are delivered² and by delivering a service in house there is a risk our practice would be less defensible to OFSTED and in court. • Judicial Reviews could increase significantly • Costs are likely to be higher due to requiring bringing all salaries up to Council officer gradings, and the costs of the local authority pension scheme |
| Option 5 – FURTHER EXPLORATION NEEDED | |
| Joint Adults and ASC Contract | |
| Description | |
| The council would join up the adults and children’s advocacy service contracts to explore cost/volume opportunities. | |
| Benefits | Risks |
| <ul style="list-style-type: none"> • Potential Cost/Volume benefits | <ul style="list-style-type: none"> • The markets that provide adults advocacy (centred mainly on mental health/mental capacity) and children’s advocacy (centred mainly on an experience of Local Authority care) are currently made of very |

² [HYPERLINK](#)

"C:\Users\2001938\AppData\Local\Microsoft\Windows\NetCache\Content.Outlook\UNHNZNRD\vis" 2008, Section 24D or Section 26 of the Children Act 1989, The London Child Protection Procedures in force at the Commencement Date 2018,

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| | <p>separate providers with vastly differing expertise</p> <ul style="list-style-type: none"> • It is unclear whether the providers in the adults market would feel comfortable giving children's advocacy, or vice versa without further market warming. • It is also unclear even if they would whether there would be enough expertise for the service to be a high quality one, or whether we may lose out for one or both cohorts. |
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7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

7.1 Revenue consequences of report recommendations

| | Current Year | Medium Term Financial Strategy – 3-year forecast | | |
|---------------------------------------|------------------|--|------------------|---------|
| | 2022/23 £'000 | 2023/24 £'000 | 2024/25 £'000 | 2025/26 |
| Revenue Budget Available | | | | |
| Expenditure Income | £100,000 | £95,000 | £95,000 | £95,000 |
| Effect of decision from report | | | | |
| Expenditure Income | £95,000 | £95,000 | £95,000 | £95,000 |
| Remaining Budget | £0 | £0 | £0 | £0 |

7.2 The effect of the decision

7.2.1. The total current Council expenditure in 2022/23 in respect of this service has reduced to £95,000 per annum. The proposed extension (1st October 2022 to 30th September 2023 at £95,000) will take place within financial year 2022-23 and 2023-24 and it is expected and agreed that the current provider will meet budget envelope for 2022-23 and 2023-24.

7.2.2. The table above gives an indication of the spend against the budget allowed. This table takes into account the proposed extension and the first 3 years of the re-commissioned service. The total aggregated value for the proposed re-commissioned service is (5+2 year contract) is £665,000 which commences 1st October 2023 to 30th September 2030.

7.2.3. The extension and re-commission for this contract is required to enable the Council to meet its statutory duties and deliver an enhanced service offer in line with the required Ofsted improvements.

7.3 Risks

The risks identified include:

| Key Risk | Risk Rating | Mitigation |
|---|-------------|---|
| Contract Extension | | |
| Risks to service delivery - delays arising from the new service not being in place before the current contract expires by the 31 st September 2022 | High | <p>There have been procurement timeline delays and a project plan is in place which factors in those delays and contingencies.</p> <p>Close working with legal and procurement colleagues have taken place to ensure that the extension has been executed as soon as possible.</p> <p>Close working with service provider to ensure continuity of provision to ensure adequate support continues to young people and that the council continues to meet its statutory duties.</p> |
| The extension is beyond the original awarded contract length/value and could be the subject of challenge | Low | <p>The variation is considered to be compliant with regulation 72(1) e of the PCR 2015 in that:</p> <p>a) the modification does not render the contract materially different in character from the one initially concluded.</p> <p>(b) the modification does not introduce conditions which, had they been part of the initial procurement procedure, would have—</p> |

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| | | <p>(ii) allowed for the acceptance of a tender other than that originally accepted, or</p> <p>(c) the modification does not change the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement.</p> <p>(d) the modification does not extend the scope of the contract or framework agreement considerably.</p> <p>Furthermore the value of the extension is well below the PCR threshold and would not need to be tendered if awarded as a standalone contract.</p> |
| Procurement of new contract | | |
| Meeting Timescales - Failure to meet the deadlines for approvals, publication of tender, and service commencement. | Medium | Continued engagement with partner boroughs, stakeholders, operational and service lead including the joint development of a Project plan with key dates, resource requirements and procurement strategy shared with partner boroughs and key stakeholders. |
| Managing performance and delivery from incumbent supplier during a transition period | Medium | Managing relationships with the existing provider via the contract management regular contract and transition meetings and involve senior management team as and when required. |
| Risk that the service does not deliver the expected improvements/efficiencies | Medium | <p>Ensure potential providers meet the standard requirements in terms of their technical and financial capacity through the tendering process</p> <p>The contract performance will be measured in line with the Contract Management Framework and the progress against the delivery of the service specifications and KPIs will be regularly scrutinised. A robust improvement plan will also be</p> |

| | | |
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| | | implemented to ensure the requisite improvements/efficiencies are achieved. |
| Provider not performing to a good standard | Medium | Robust contract management system in place. Performance will be measured via the KPIs itemised in the Specification, and payments will be based on satisfactory performance. A robust improvement plan will also be implemented to ensure the requisite standards are achieved. |

7.4 **Future savings/efficiencies**

7.5 By ensuring a long-term contract is in place, and by ensuring that the tender process has a clear upper limit for pricing, this will support the contract operating to budget.

7.6 Where possible and appropriate further efficiencies will be explored within the new contract during the contract term

7.7 Due to the cost-of-living crisis and rise in prices, the level of savings cannot be confirmed.

7.8 Approved by: Maiyani Henry-Hercules, Acting Head of Finance, Children Young People and Education Directorate

8. PROCUREMENT PLAN

8.1 Proposed Procurement Route

8.1.1 The planned procurement exercise will be undertaken in accordance with the 'Light Touch' regime under PCR 2015.

8.1.2 The opportunity will be advertised on the London Tenders Portal and Contracts Finder.

8.1.3 The tender opportunity will be open to the market for a minimum of 30 days and tenders will be returned electronically via the e-tendering portal.

8.1.4 The Incumbent provider will be informed of the open tender opportunity.

8.1.5 The recommendation is to secure one provider under a single contract (in line with Croydon's standard terms and conditions).

8.1.6 Tender submissions will be evaluated by a representative from the appropriate service, a representative from the Council which sits outside of

the appropriate service and a representative for service users. The moderation meeting will be chaired by representation from Quality Commissioning and Performance Improvement.

- 8.1.7 All tenderers who meet the initial compliance checks will be evaluated for financial viability using the Company's Watch Health Check.
- 8.1.8 The financial assessment of the prospective suppliers will be conducted to determine their financial viability. However, so to not disproportionately impact on sole trader or smaller to medium size enterprises, the intention is to gain approval for the removal of the minimum financial turnover threshold from the S151 Officer.

3.2 Evaluation approach

- 8.2.1 A Price/Quality ratio split of 50% quality, 10% social value and 40% price will be applied.
- 8.2.2 It is proposed that the evaluation panel will include members evaluated by a representative from the appropriate service, a representative from the Council which sits outside of the appropriate service and a representative for service users.
- 8.2.3 Compliance with the Council's mandatory requirements and minimum quality standards will be specified in the eligibility and tenders will be evaluated using a 4-stage process:

Stage 1 – Minimum Requirements

- 8.2.4 Mandatory, Discretionary, Economic, and financial standing, technical and professional ability, modern slavery, GDPR, insurance and any additional minimum service requirements e.g. Ofsted rating

Stage 2 – Method Statements at 50% quality and 10% social value

- 8.2.5 The proposed weighting for the quality categorisations will be as follows:

| Question | Weighting |
|---|------------------|
| Service Delivery | 10% |
| Safeguarding | 8% |
| Workforce | 8% |
| Quality Assurance & Contract Management | 8% |

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| Mobilisation | 8% |
| Confidentiality | 6% |
| Social Value | 10% |
| Premier Supply Programme | 2% |

Stage 3 – Price at 40%

8.2.6 Completed Pricing Matrices/Pricing Schedule – Prices will be provided based the following:

- Annual Service Figure based on the total number of committed advocacy hours per annum (1200 hours)
- Unit cost per hour of in respect of committed hours. This unit cost per hour will be capped.
- Spot purchased unit cost per hour/rate. The unit cost per hour will be capped.

8.2.7 The financial assessment of the prospective suppliers will be conducted to determine their financial viability. However, so to not disproportionately impact on sole trader or smaller to medium size enterprises, the intention is to gain approval for the removal of the minimum financial turnover threshold from the S151 Officer.

8.2.8 With permission, we intend to amend the criteria of the economic and grounds for financial assessment to enable an assessment of the bidder's turnover to be assessed after submission.

8.2.9 The question would ask the bidders to state their annual turnover and to declare any known financial situation which would prevent them from carrying out work on behalf of Croydon. This will be assessed as part of the overall economic and financial standing of bidders by a methodology set out by Finance.

Stage 4 – Clarification meetings

8.2.10 The local authority will reserve the right to have clarification meetings/or invite applicants to present to the evaluation panel if deemed necessary.

3.3 Commissioning Timescales

8.3.1 The proposed extension for a period of 12 months will allow for the continuation of this service while we put in place suitable arrangement for the re-commission of this service. The table below provides an indicative

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timetable on the activities to be undertaken during the proposed extension period:

| Activity | Proposed Completion Date |
|---|---------------------------------|
| Explore the possibility of a joint advocacy contract with Adult Social Care | December 2022 |
| Market engagement and consultation | February 2023 |
| Specification and Procurement Documents finalised | March 2023 |
| Publish Notices (4 Weeks) | April 2023 |
| Tender return deadline | May 2023 |
| Evaluation | June 2023 |
| Mayor and Cabinet Sign Off | July 2023 |
| Contract award | August 2023 |
| Contract commencement | October 2023 |

9. LEGAL CONSIDERATIONS

The Executive Mayor has the power to exercise executive functions pursuant to s9E of the Local Government Act 2000 and has the power to delegate those functions.

At present the delegations in the Council's Tenders and Contracts Regulations have been superseded by the Executive Mayor's Scheme of Delegation following the introduction of the Mayoral Model and the specific delegations in the annual procurement plan approved by the Executive Mayor in Cabinet on 16th November 2022.

The recommendations fall outside if the scope of the specific delegations and so the Executive Mayor retains authority to approve them

The Council is under a duty to comply with the Public Contracts Regulations 2015 (PCR). Procurement of the contract was subject to the so called 'light touch' regime as described in Section 7 and schedule 3 the PCR. These provisions allow for flexible approaches to the procurement route. The report describes in section 8 the procurement route to be taken. In terms of the variation, the report describes in the 'Risks' section why this is considered to also be compliant and low risk.

The report describes the legal framework within which the services are provided by the Council.

The Council is also under a general Duty of Best Value to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness (Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007)).

Approved by Kiri Bailey, Head of Commercial and Property Law, on behalf of the Director of Legal Services

10. HUMAN RESOURCES IMPACT

10.1 While no council staff are affected by these changes, this report makes recommendations involving a service provision change which may invoke the effects of TUPE (Transfer of Undertakings (Protection of Employment) 2006 Legislation (amended 2014) should a provider other than the incumbent provider be successful in the tender. Where the activities of the new service are “fundamentally not the same”, TUPE may not apply, as provided for by the 2014 amendments to the Transfer of Undertakings (Protection of Employment) 2006 Legislation. Barnardos have provided an anonymised TUPE matrix and confirmation that TUPE applies to the two staff affected – these staff would have to feature in any procurement.

10.2 (Approved by: *[A N. Other]* on behalf of the Director of Human Resources)

11. EQUALITIES IMPACT

11.1 The contract for the new service will contribute to the corporate equality objective of improving access to independent advice for vulnerable children and young people.

11.2 An Equality Analysis will be undertaken as part of the procurement process. The new service provision is expected to maintain children and young people’s access to the advocacy services in a way that reducing cases rather than advocacy length would perhaps not.

11.3 A full equalities analysis has been undertaken (Approved by: Barbara Grant on behalf of the Director of Equalities dated 9th September 2022).

11.4 The conclusion of the assessment is that our analysis demonstrates that the policy is robust. The evidence shows no potential for discrimination and we have taken all opportunities to advance equality and foster good relations, subject to continuing monitoring and review.

11.5 The awarded provider is required to monitor equality data and information for the purpose of ensuring that the service is accessible and responds well to the individual needs.

12. ENVIRONMENTAL IMPACT

12.1 There are no adverse environmental impacts to the report.

13. CRIME AND DISORDER REDUCTION IMPACT

13.1 There are no adverse implications for crime and disorder arising from this report.

14. DATA PROTECTION IMPLICATIONS

14.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

YES

(If yes, please provide brief details as to what 'personal data' will be processed and complete the next question).

(If no, please complete the sign off)

14.2 **HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

Awaiting approval.

(If yes, please attach a copy).

(If no, please provide the reason why a DPIA was not completed. Please also attach any relevant advice)

Appendix 1

Key Performance Indicators



Advocacy KPIs 20-21
to 22-23 figures confi