

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.

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BACKGROUND PAPERS - LOCAL GOVERNMENT ACT 1972: None