

London Borough of Hammersmith & Fulham

**LEADER'S URGENCY REPORT**

**24 April 2019**



**TRAVEL CARE AND SUPPORT - JACK TIZARD AWARD REPORT**

**Report to the Leader – Councillor Stephen Cowan**

**Open Report with exempt appendix**

The appendix A is exempt from disclosure on the grounds that it contains information relating to the **financial or business affairs of a particular person (including the authority holding that information) under paragraph 3 of Schedule 12A of the Local Government Act 1972**, and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

**Classification - For Decision**

**Key Decision: Yes**

**Consultation**

Jack Tizard School, Children's Services, Social Care.

**Wards Affected: All**

**Accountable Director:** Steve Miley, Director of Children's Services and Lisa Redfern, Strategic Director of Social Care.

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**Reasons for Urgency:**

Home to School transport is an essential front-line service used by children and young people in the London Borough of Hammersmith and Fulham (H&F).

The Local Authority's responsibilities are set out in the Education Act 1996, as amended in section 77 of the Education and Inspections Act 2006.

The Travel Care and Support Service met with Procurement in November 2018 to review the options available. Based on the initial advice it was intended to vary the main framework contract using a delegated authority approved in the original award report in 2017 which had been included for this purpose. A Directors Award Report was drafted and legal were engaged for comments. They reviewed the recommendations however felt that these did not fully meet the regulations for a contract variation as not all the safe harbours were satisfied in full. They subsequently recommended issuing a call off contract from the main framework procured in 2017 which would achieve the same outcome and would be the safest option. Regrettably, working through these options has delayed the governance processes considerably resulting in this Leader Urgency Decision Report.

**Date by which decision is required: 10 May 2019**

AUTHORISED BY:

The Leader has signed this report.

DATE: 14 May 2019

## **1. EXECUTIVE SUMMARY**

- 1.1. On 26 May 2017, the London Borough of Hammersmith and Fulham ('H&F') procured a framework for the provision of travel care and support services for Special Educational Needs ('SEN') and Adult Social Care ('ASC') for a term of 4 years ('Framework'). Under Lot 1 of this Framework is the mini-bus provision and the Council made a direct award to CT Plus via a call-off contract. The framework permits the direct award to the highest scoring provider which is CT Plus. This call-off contract is for an initial term of 5 years until May 2022 with an option to extend for a further two years until May 2024.
- 1.2. The contract for a mini-bus service to Jack Tizard School ('Jack Tizard Contract') was initially procured in 2016 and is separate to the call-off contract under the Framework. The Jack Tizard contract is a stand-alone contract and was procured via the 'light touch regime'. The Jack Tizard Contract expires on the 27 May 2019 with no option to extend with the current forecasted value of the contract outlined in the exempt appendix A.
- 1.3. This report seeks approval to direct award a call-off contract to CT Plus for the provision of a mini-bus service to Jack Tizard School under Lot 1 of the Framework and is forecasted to deliver savings outlined in the exempt appendix A.

## **2. RECOMMENDATIONS**

### **It is recommended that the Leader:**

- 2.1. Approves the direct award of a call off contract to CT Plus for a mini-bus service to Jack Tizard School for a period of 3 years from 28 May 2019 to 27 May 2022 with the option to extend for up to 2 years at an annual value noted in the exempt appendix A.
- 2.2. Delegates the decision to extend the proposed contract with CT Plus following the initial term of three years to the Director of Children Services in conjunction with the Cabinet Member for Children and Education subject to satisfactory performance reviews.

## **3. REASONS FOR DECISION**

- 3.1 The Jack Tizard contract is due to expire on the 27 May 2019 with no option to extend.
- 3.2 Jack Tizard School provides for pupils with a complex range of special educational needs, including: profound and multiple learning difficulties; severe learning difficulties; behavioural, emotional and social difficulties; and autism. The majority of pupils have complex medical and physical disabilities, and a few are visually impaired. Most pupils have underlying speech, language and communication difficulties. A high proportion of pupils are non-verbal.

- 3.3 A direct award of a call-off contract to CT Plus from the Framework will ensure there is no impact on the vulnerable residents attending Jack Tizard School who may react negatively to a change in personnel as they are comforted by regularity and consistency in the service. Any change to such arrangements could cause potential distress to vulnerable service users and significant inconvenience.
- 3.4 This direct award will maintain consistency and bring all contracts in line seamlessly and with continuity in service to Jack Tizard School.
- 3.5 Furthermore, feedback from stakeholders including schools and parent is positive and performance to date remains consistently good.

#### **4. PROPOSAL AND ISSUES**

##### **Context**

- 4.1. Following the request by members to procure transport services for Jack Tizard School in 2016 with an enhanced specification which stipulated greater emphasis on the quality of service and on the individual needs of children using home/school transport, CT Plus were awarded a 3-year contract under the 'light touch regime' with no option of extension.
- 4.2. The vision was outlined to include the delivery of a high quality, transparent Travel Care and Support Service, which is first and foremost about caring for, and understanding the travel and mobility needs of vulnerable children. The service was co-designed and has been continually improved in partnership with shareholders and stakeholders.
- 4.3. Prior to the procurement of the Jack Tizard service, H&F had an increase in the volume of complaints from 2014 which coincided with the implementation of a new service and new contracts which were shared service arrangements across the London Borough of Hammersmith and Fulham, Westminster City Council and the Royal Borough of Kensington and Chelsea.
- 4.4. The success of the new contract awarded to CT Plus for mini-bus services to Jack Tizard School, demonstrated that providers were able to deliver a quality service in line with H&F's strategic ambition.
- 4.5. This presented an opportunity to review the transport arrangements ahead of the 2017 procurement for the remainder of the SEN and ASC service to ensure it aligned to H&F's strategic objectives. This included:
  - A dedicated focus on H&F residents.
  - An enhanced quality of service for service users, parents and carers.
  - A strategic relationship between the council and providers.
  - Contractors providing clear community benefits.

- 4.6. This resulted in the development of the Framework in which CT Plus were awarded a call off contract to provide mini-bus services under Lot 1 for a duration of 5 years with an option to extend for up to a further 24 months. The Jack Tizard Contract remained on a separate standalone contract.

### **Proposal**

- 4.7. It is proposed to direct award a call-off contract to CT Plus under Lot 1 of the Framework procured in 2017 on the expiry of the standalone existing contract in May 2019.
- 4.8. This proposal aligns to the manifesto pledge of improving children's chances in life, by avoiding unnecessary disruption to vulnerable residents; ensuring the service meets their needs whilst bringing together all SEN minibuses services.
- 4.9. The 2017 specification is of a higher standard to the stand-alone contract for the existing mini-bus service to Jack Tizard School, in particular:
- a. Ensuring that providers pay London Living Wage as a minimum
  - b. The development of technology to communicate with parents and carers of children, young people, and vulnerable adults where they are delayed on their journey providing enhanced levels of communication and assurance.
  - c. Contribution to social value for Hammersmith and Fulham residents. This includes:
  - d. Extending their Learning Centre activities to H&F residents. Engaging with local organisations that work with the long term unemployed and providing employment training for at least 20 people per year.
  - e. Providing employment opportunities for H&F residents: All vacancies will be advertised locally, via the local job centre and other local hub organisations.
- 4.10. Whilst the specification is higher in view of London Living Wage and the added Social Value benefits, Officers have negotiated a decrease in costs in view of maintained economies of scale, reduced mobilisation costs and CT Plus's commitment to a strategic relationship with H&F. The current estimated saving per annum is noted in the exempt appendix A Financial Implications with further opportunities to develop future efficiencies.

## **5. OPTIONS AND ANALYSIS OF OPTIONS**

- 5.1. This paper explores four options as listed below and outlines their viability for the Council.
- Option A: Undertake a direct award of a call-off contract from the main H&F SEN and ASC framework to CT Plus for the Jack Tizard provision.

- Option B: Undertake a mini competition from the minibus framework procurement in 2017 which could result in an award to a different provider.
- Option C: Do nothing upon expiry which will lead to termination of provision of this service.

5.2. Option A is assessed as viable and recommended. This option would ensure that the services remain with CT Plus to ensure consistency of services to Jack Tizard School. CT Plus are a Panel Member of the Framework. Clause 8 of the Framework Agreement sets out the Criteria for the award of call-off contracts with clause 8.2.1 stating that the Council may make a direct award in accordance with the terms of the Framework without re-opening competition. CT Plus achieved the highest score in the evaluation of its tender submission. This delivers financial efficiencies detailed in the exempt appendix A through maintained economies of scale and removal of mobilisation costs as well as a further savings through Travel Care Plan reviews with the ability to deliver future efficiencies during the life of the contract as well as offering the least risk to the council of a procurement challenge. Performance of the provider remains consistently good and this option will maintain economies of scale which are already delivering efficiencies through shared resource allocation. Furthermore, it will ensure consistency in staff and delivery for this group of residents where change can have significant impact and dysregulate behaviours.

5.3. Option B is also a viable option. The framework is weighted 60% quality and 40% price. There would be two possible outcomes:

- i) The incumbent provider is awarded. This would deliver the benefits under option A.
- ii) Another provider is awarded which would see a significant disruption to vulnerable residents with profound and multiple learning difficulties as well as a risk of a reduction in quality, reduced economy of scales, remove opportunities for route rationalisation and require officer time to coordinate and mobilise a new service.

5.4. In view of the increased risk of disruption to vulnerable service users this option is not recommended.

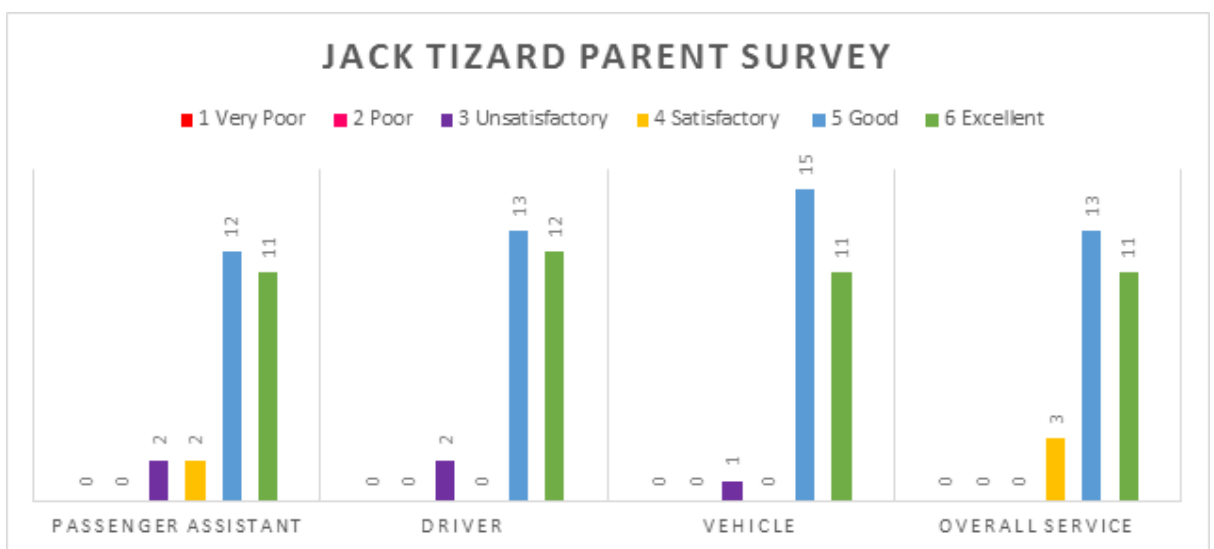
5.5. Option C: Do nothing and allow the existing contract to expire.

This will mean the service is no longer delivered and will impact on the vulnerable users. Therefore, this option is not recommended.

## **6. CONSULTATION**

6.1. A parent survey of Jack Tizard Service Users was conducted in February 2019 measuring satisfaction across the service in four key areas: Passenger Assistant, Driver, Vehicle and Overall Service.

- 6.2. Responses were categorised 1 to 6, with 1 being very poor and 6 being excellent.
- 6.3. Of the 34 Service Users, 27 responses were received (79%).
- 6.4. Parent views on satisfaction has provided insight to inform the options assessment and recommended approach. 100% of parents that responded rated their overall satisfaction of the service as Satisfactory to Excellent.
- 6.5. Concerns raised by two parents were already known by the service and were in the process of being addressed. Changes were implemented, and parents have been engaged with in resolving these concerns.



## 7. EQUALITY IMPLICATIONS

- 7.1. There are no direct negative impacts on protected groups under the Equalities Act 2010 as the report seeks to maintain the current service with the same providers.
- 7.2. When Jack Tizard was re-procured, an Equality Impact Assessment was carried out as part of the papers on the proposed changes to the Travel Care and Support Service. This went to the H&F Cabinet meeting on 01 June 2015. The results of this assessment remain relevant to this procurement. The analysis of the proposed changes and their impact upon people with protected characteristics, highlighted that, by improving accountability and responsiveness, this would have a positive impact on children, young people and adults. Eligibility for the service remains the same, with proposed changes that would increase service users, parent/carer and organisational confidence in the service and its ability to respond to need.

Implications verified by: Fawad Bhatti, Social Inclusion Policy Manager, tel 07500 103617

## **8. LEGAL IMPLICATIONS**

- 8.1. This report recommends a direct award of a call-off contract to CT Plus under Lot 1 of the Framework with a total contract value noted in the exempt appendix A.
- 8.2. The lifetime value of this call-off contract exceeds the current EU threshold of £181,302 for Services set out in the Public Contracts Regulations ('PCR'). Therefore, this procurement is subject to the full procurement regime set out in the Public Contract Regulations ('PCR').
- 8.3. However, the PCR's do allow for use of a legal framework which complies with the PCR under Regulation 33. Use of an existing framework agreement also secures compliance with Contract Standing Order (CSO) 10.2a on permitted tendering procedures.
- 8.4. The Framework for the provision of Travel Care and Support Services was procured by H&F in accordance with the PCR. It runs for the maximum term of 4 years from 26 May 2017 to 25 May 2021 in line with Regulation 33(3) PCR.
- 8.5. As mentioned in the Commercial Implications at paragraph 11.2, the methods to call-off under the Framework (direct award and mini-competition) are in accordance with Regulation 33(8)(b).
- 8.6. This contract award that is based on a framework agreement, therefore the Council must publish the award, within a reasonable time, on Contracts finder in accordance with regulation 108 of the PCR. The Council must provide the name of the contractor, the date on which the contract was entered into and the value of the contract.

Implications completed by: Hannah Ismail, Solicitor, Sharpe Pritchard LLP, external legal advisers seconded to H&F, telephone: 0207 405 4600

## **9. FINANCIAL IMPLICATIONS**

- 9.1. The financial implications are contained within exempt appendix A.

Implications completed by: Tony Burton – Head of Finance Children's Services and Education, Tel. 07909 004 710)

Implications verified by Emily Hill, Assistant Director, Corporate Finance, Tel. 020 8753 3145.

## **10. IMPLICATIONS FOR LOCAL BUSINESS**



- 10.1. The business implications for the award of this call off are positive. CT Plus have good social value contributions (see 4.10 of the report) including
- 10.2. Extending their Learning Centre activities to H&F residents.
- 10.3. Engaging with local organisations that work with the long term unemployed and providing employment training for at least 20 people per year.
- 10.4. Providing employment opportunities for H&F residents: All vacancies will be advertised locally, via the local job centre and other local hub organisations.

Implications verified by Albena Karameros, Economic Development Team, tel. 020 7938 8583

## **11. COMMERCIAL IMPLICATIONS**

- 11.1. The author of the report is requesting approval for the award of a call off contract from the Special Educational Needs (SEN) and Adult Social Care (ASC) Framework Agreement to CT Plus (the incumbent provider of the service) for the provision of the Jack Tizard School Transport Service. The proposed contract would have a commencement date of 28 May 2019 and an initial duration of three years with the option to extend for up to an additional two years. The maximum lifetime value over a five-year period is noted in the exempt appendix A.
- 11.2. In 2017 the council procured a multi provider Framework Agreement for the provision of SEN and ASC Mini Bus Transport Services. The council can either award call off contracts from the framework to the highest scoring tenderer, this being CT Plus, or conduct mini competitions among all providers admitted to the framework. A mini competition will not necessarily result in a lower contract sum than a call off contract awarded to the highest scoring tenderer. Officer resources will be required to run a mini competition and crucially a call off contract can be mobilised far quicker than a contract awarded as a result of a mini competition.
- 11.3. Hammersmith & Fulham Contract Standing Order (CSO) 17.3 requires that the decision to award of a contract with a value of £100,000 or more which has not been the subject a Cabinet approved Procurement Strategy & Business Case should be made by Cabinet. As it is imperative to ensure the service is operational from 28 May 2019 there is insufficient time for Cabinet to make this decision and consequently the author is requesting it be taken as a Leader's Urgent decision.
- 11.4. Section 15 (9) of the Local Government Act 2000 provides for the Leader of a local authority to exercise any executive function which has been delegated to the Cabinet. This statutory authority is also expressly provided for by the Hammersmith & Fulham Constitution (Part 3: Responsibility for Functions/Section 3: Delegated Powers Para. 3.1).

- 11.5. The Leader's Portfolio as contained in the Hammersmith & Fulham Constitution contains inter alia "ensuring the delivery of greater value services that seek to improve outcomes and customer services" (Part 3: Responsibility for Functions/Section 3: Delegated Powers Para. 2.11). The author of the report has demonstrated that the requested decision would satisfy this objective.
- 11.6. In the event the Leader awards the call off contract the award must be published in Contracts Finder, the contract between the council and CT Plus must be formally executed in accordance with CSO 19 and the contract details entered on capitalEsourcing.
- 11.7. It is noted that the award of a call off contract to the incumbent provider should ensure the service will continue in a seamless manner with no disruption to or any noticeable change for the pupils of the school. This is very important given the effect that change can have on this group of pupils.

Implications verified/completed by: Tim Lothian [tel 0208 753 3667](tel:02087533667)

## **12. IT IMPLICATIONS**

- 12.1. No IT implications are considered to arise from this report as it requests approval to award a call off contract to CT Plus for mini-bus services to Jack Tizard School for a period of 3 years until 2022 with the option to extend for up to 2 years. Should this not be the case, for example, by requiring new systems to be procured or existing systems to be modified, IT Services should be consulted.
- 12.2. IM implications: A Privacy Impact Assessment(s) should be carried out to ensure that all the potential data protection risks (e.g. in consulting with users of the transport service) around extending this contract are properly assessed with mitigating actions agreed and implemented.
- 12.3. CT Plus will be expected to have a GDPR policy in place and all staff will be expected to have received GDPR training.
- 12.4. The contract with CT Plus will need to include H&F's data protection and processing schedule. This is compliant with the General Data Protection Regulation (GDPR) enacted from 25 May 2018.

Implications verified/completed by: Tina Akpogheneta, Interim Head of Strategy and Strategic Relationship Manager, IT Services, tel 0208 753 5748.

## **13. RISK MANAGEMENT**

- 13.1 Home to School transport is an essential front-line service used by children and young people in the borough. The Local Authority's responsibilities are set out in the Education Act 1996, as amended in section 77 of the Education and Inspections Act 2006.

- 13.2 The recommendations are in line with the Council priority “Creating a compassionate Council” and propose extensions which are allowed within existing contracts to protect this vital service to children and young people attending schools within the borough. The proposed award of a call off contract will enable the Council to discharge its responsibilities.
- 13.3 Officers will need to ensure that a Privacy Impact Assessment is completed, and appropriate measures put in place to protect the sensitive personal data of those using the service.

Implications verified/completed by: David Hughes, Director of Audit, Fraud, Risk and Insurance on 0207 361 2389.

#### **14. BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

None

#### **LIST OF APPENDICES:**

Exempt appendix A