	<p align="center"><b>London Borough of Hammersmith &amp; Fulham</b></p> <p align="center"><b>CHILDREN AND EDUCATION POLICY AND ACCOUNTABILITY COMMITTEE</b></p> <p align="center"><b>18 NOVEMBER 2014</b></p>
<p align="center"><b>PROPOSALS FOR THE COMMISSIONING OF SCHOOL MEAL SERVICES</b></p>	
<p><b>Report of the Director of Children's Commissioning</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification - For Review &amp; Comment</b></p>	
<p><b>Key Decision: No</b></p>	
<p><b>Wards Affected: All</b></p>	
<p><b>Accountable Executive Director:</b> Andrew Christie, Executive Director of Children's Services</p>	
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## 1. EXECUTIVE SUMMARY

- 1.1. The legal responsibility for the provision of school meals transferred to the Governing Bodies of schools with the delegation of school meals funding. The cost of providing school meals is funded from Dedicated Schools Grant and income from parents and carers. The value of the special/nursery/primary and secondary school contract is approximately £4m per annum for LBHF.
- 1.2. In 2012 the Schools Forum in the London Borough of Hammersmith and Fulham agreed to work with children's services commissioners to consider a new school meals model developed in partnership with the Royal Borough of Kensington and Chelsea, and the City of Westminster. The priority remains to deliver a high quality nutritious meal that children want to eat and that parents and carers can afford.
- 1.3. The three boroughs agreed in 2013 to align their commissioning timetables in order to increase their purchasing leverage through combining volumes and contract management arrangements, without compromising the principle of individual borough based contracts. The School Meals project has worked with schools in all three boroughs to

deliver this approach, and provide an opportunity to achieve efficiencies through partnership working.

## **2. RECOMMENDATIONS**

- 2.1. Members are asked to review and comment on the schools meals commissioning plans for the London Borough of Hammersmith and Fulham, including:
- the approach to commissioning and involvement of Schools Working Group;
  - proposals for service requirements and quality standards;
  - proposals for future contracting arrangements;
  - consultation and engagement with schools;
  - engagement with the market;
  - social value considerations;
  - commissioning and service implementation timetable (Appendix 1).

## **3. CURRENT ARRANGEMENTS**

- 3.1. The provision of free school meals is a statutory provision within the Education Act 2003 (amended 2011). Each governing body has a statutory duty to provide free lunches for eligible pupils and the opportunity for other pupils to buy a lunch each day. Since September 2014, schools also have a duty to provide a free infant meal for all children in Key Stage 1.
- 3.2. The current school meals contract is delivered by Eden Foodservices, and is commissioned by the Council on behalf of participating schools. 43 special, nursery, primary, and secondary schools/academies are currently provided a schools meals service through this centrally held contract.
- 3.3. The LBHF contract was awarded by Cabinet in 2009 and has now been extended to November 2015 to support the commissioning process for new arrangements, providing sufficient time for a planned transition and contract mobilisation.
- 3.4. During the original procurement the initial intention was that schools would hold their own contracts with the provider. However schools at that time requested that the Council retain a lead role a little longer, to oversee the initial outsourcing of the service. This was a first-generation TUPE transfer and schools felt that it would be too complex to introduce new contracting responsibilities at the same time. It was proposed that the Council would lead the first contract but that moving forward schools would take contracting responsibility for the second generation contracts, bringing school meals commissioning in line with the majority of school third party spend.
- 3.5. Take-up of school meals is very high in the borough at over 70% compared to 45% nationally. Results from the latest round of site inspections by the Council's client-side organisation showed good levels of satisfaction from schools with the centrally held contract.

- 3.6. The catering provision within special, nursery and primary schools are generally similar but with different portion sizes. A hot meal is offered at lunchtime and meals are either prepaid or free. The catering provision within each secondary school is substantially different to those of primary schools and is bespoke to each school. In secondary schools the service can include retail breakfast, mid-morning break, lunch, and other catering and vending services.
- 3.7. There are some schools without kitchens (“Dining Centres”) which are supplied by other schools with kitchens (“Production Kitchens”). The management of these arrangements is between school governing bodies, which are generally collegiate in their approach.
- 3.8. The cost of a school meal in a nursery, primary, or special school is £3.13 per meal (as at March 2014). This cost is a fixed price, and includes the following elements: cost of the food, costs to provide the meal including staffing, transportation and light equipment, administrative overheads, and costs for the repair, maintenance, replacement and purchase of heavy equipment. In addition, some schools choose to pay for an adult meal for those who are supervising at lunchtime.

#### **4. APPROACH TO COMMISSIONING AND ENGAGEMENT WITH SCHOOLS**

- 4.1. It is proposed that the school meals commissioning process is aligned with the Royal Borough of Kensington and Chelsea (RBKC) and Westminster City Council (WCC). In 2013, the three boroughs agreed to align their re-procurement timetables in order to provide an opportunity to realise potential economies of scale, without compromising the principle of individual borough based contracts or the option of different contractors in different boroughs. The School Meals project has worked closely with schools in all three boroughs to deliver this approach.
- 4.2. The first phase of commissioning is focused on services for nursery, primary and special schools across the three Boroughs. Secondary schools have significantly different requirements and further work is in progress to identify an appropriate commissioning strategy to meet their needs. This can be provided to CEPAC for consideration at a future date.
- 4.3. A School Representative Working Group with representatives, from 21 schools, meets regularly with council officers to inform the design of future service arrangements and commissioning strategy. The purpose of the Schools Working Group is to:
  - a) Ensure that schools and Head Teachers are fully involved, and schools’ interests are represented, in the delivery of the project’s aims and objectives;
  - b) Secure agreement, on behalf of all schools, on key decisions regarding the development of the project;

- c) Reduce the risk of project failure through the early identification of risks and issues.

4.4. The Working Group has held workshops to consider decisions on price harmonisation, food standards, social value, contracting models, and customer feedback. Schools will be heavily involved in the evaluation of tenders with the intention that borough specific representatives making recommendations on the provider for each borough lot.

4.5. In addition to the detailed work carried out by the Schools Working group, regular engagement with stakeholders has been carried out in a variety of ways:

- Four e-bulletins have been sent to schools in December 2013, and February, May and September 2014 to inform them of developments and decisions made by their representatives at the Schools Working Group.
- A survey of 25,000 parents, carers and guardians was distributed in January 2014 (with nearly 4000 responses).
- Council officers have produced reports and presentations for schools, School Forums and Governing Body Forums
- A detailed Questions and Answers pamphlet and a 'procurement indication form' was sent to head teachers and chairs of governors in June 2014
- A change readiness assessment will be carried out with schools in each Borough after October half term 2014.

4.6. Feedback from schools to date has been that they feel involved and well-informed about the commissioning project.

## **5. SERVICE DETAILS**

5.1. The Schools Working Group and council officers are in the final stages of work to develop a service specification which covers both food and non-food requirements. This sets out expectations regarding specifics such as food quality and menu standards, use of premises, equipment, compliance to legislation, performance monitoring arrangements, transportation, payment, or deep cleaning schedules.

5.2. There is provision in the specification for sustainable food, local sourcing, and organic food in accordance with prescribed food and buying standards, including the Food for Life Silver or Gold Catering Mark.

## **Quality Standards**

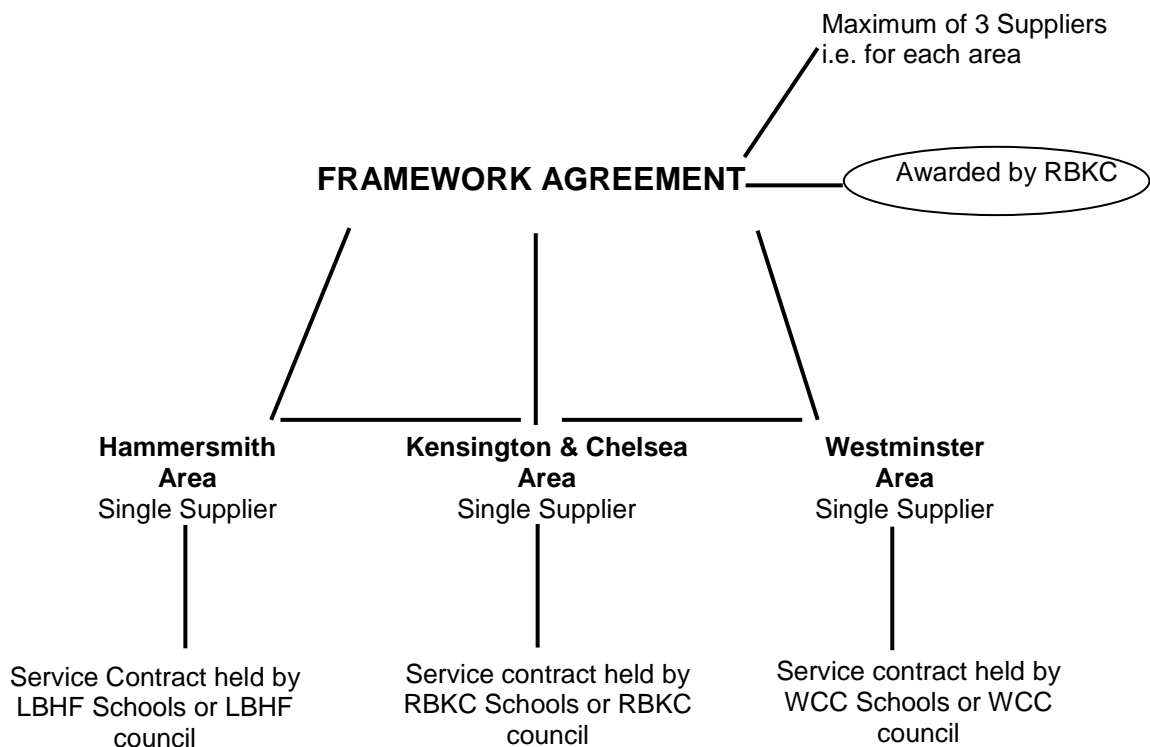
- 5.3. The Food for Life Catering Mark is a standard that sets the proportion of freshly cooked, local, seasonal and organic food on a menu that is freshly cooked, local, seasonal and organic, and currently has three standards: Gold, Silver, and Bronze. It is independently audited and recognised by Government as a tool to identify best practice. More information is in Appendix 2.
- 5.4. The school meals team secured a Silver standard for nursery, primary and special schools meals in April 2014. Schools have been consulted on which standard they would like in the new contract. Some LBHF schools are interested in having the Gold standard and the project team has been asking potential contractors for a clearer indication on the difference in price. From the information currently available it appears that the difference in food cost is likely to be around 10p per meal. Public Health has assured schools that all three standards meet nutritional values.
- 5.5. The proposed school meals specification makes specific provision that the contractor informs the School Meals Contract Board (comprising school representatives and council officers) about the supply chain and undertakes DNA food sampling audits termly for a range of foodstuffs agreed in advance with the School Meals Contracts Team.

## **6. MARKET ENGAGEMENT**

- 6.1. Two market engagement events (May 2013 and June 2014) have been held with potential and current providers to inform the development of service requirements and commissioning strategy. The initial two day soft market testing gained the views of eight potential providers to ensure the direction of travel was realistic.
- 6.2. In June 2014 six school meals providers, including the three incumbent contractors, were invited to a second managed soft market testing process. They each provided invaluable insight from their viewpoint into issues of commercial viability, risk, managing multi tiered workforces, tendering timetables, contract mobilisation and decommissioning timeframes, pricing mechanisms, selling price and best value optimisation and how these issues might be addressed through the procurement process, the framework agreement and subsequent call off contracts.
- 6.3. Each contractor expressed that a borough based arrangement would be the best model to follow, with a discounted pricing mechanism should more than contract be awarded to the same contractor and that the secondary schools should be contained in a different package to special, nursery and primary schools.

## 7. PROPOSED PROCUREMENT AND CONTRACT ARRANGEMENTS

- 7.1. The proposed procurement strategy was considered by the Contract Approvals Board in August 2014. It is proposed to establish a Framework Agreement, to be hosted by RBKC, from which the Councils or schools could “call-off”, to contract directly with providers from the framework for services. Services will be bundled into Borough specific ‘packages or lots’ (i.e. sovereign) – meaning that tenders will be invited and evaluated for the delivery of services in each borough specific ‘lot’ of participating special, nursery and primary schools.
- 7.2. Providers may choose to tender for services in one borough only, or for two, or for all three borough lots. Each lot will be evaluated independently. In the event that one provider is successfully appointed to two or more lots, the advantage of collaboration within a framework arrangement presents opportunities to achieve volume discounts and efficiencies through economies of scale.



- 7.3. To date 37 special /nursery/primary schools in the London Borough of Hammersmith and Fulham have indicated in writing, their intention to join the procurement approach. Eight schools have indicated that they will make their own arrangements.
- 7.4. Across the three boroughs, 99 special/nursery/primary schools have indicated in writing, their intention to join the procurement approach. Twenty five schools have indicated that they will make their own arrangements.

## **CONTRACT ARRANGEMENTS**

- 7.5. It is proposed that the contract(s) are for three years with the opportunity to extend for a further two years. This is favoured by both the Schools Working Party and the providers involved in soft market testing in 2014.
- 7.6. Preliminary legal advice suggests that existing catering staff are likely to be eligible to transfer to any new contractor on their current pay, terms, conditions, and pension entitlements under the Transfer of Undertakings (Protection of Employment) Regulations ("TUPE"). Officers will shortly be consulting with the current school meals contractor on how best to communicate the forthcoming procurement, and the applicability of TUPE, to their catering staff.
- 7.7. The Local Authority currently holds the catering contract on behalf of schools. The commissioning of new contracts requires an assessment of whether to continue with this arrangement, or whether schools will contract directly with catering providers. There are advantages and disadvantages to both schools and the Council from either approach, and these are summarised in Appendix 3.
- 7.8. In either scenario the Council will continue to manage and support the commissioning and procurement process and will provide schools with contract monitoring and management services through a Service Level Agreement. Schools have made clear that they value the commissioning and procurement support provided by the Council.
- 7.9. The Council has historically been responsible for paying the contractor (as the contracting authority) and the associated costs. There is an administrative overhead associated with collecting the information from the school and reconciling this to the invoice produced by the contractor. In the event that schools were to hold contracts this process can be managed directly by schools utilising the information already available to them and without the need to inform the local authority of the number of meals produced, and increasing their ability to manage their own expenditure and budget control.
- 7.10. A further engagement exercise will be undertaken with schools to inform the final stages of commissioning and inform final contract arrangements. Officers will work with schools in the second half of Autumn term 2014 to assess their readiness for the implementation of new service arrangements, and determine views about the contracting arrangements. School feedback will be reported to the Lead Member for Children's Services.
- 7.11. Decisions on contracting arrangements for each Borough need to be made before the final service specification and Invitation to Tender can be released to the market, currently scheduled for January 2015.

## **8. SOCIAL VALUE CONSIDERATIONS**

- 8.1. Following consultation with the Schools Working Group, the specification, framework agreement and key performance indicators include provision regarding food sourcing and traceability, minimum food wastage practices, energy efficiency, environmental issues, staff development, apprenticeships, links to the curriculum, healthy eating awards, cultural and dietary requirements requested by schools and family friendly policies.
- 8.2. The Schools Working Group also identified that schools wish to allow small and medium sized enterprises (SME) to enter the tendering process. The proposed procurement approach and the packaging into borough based 'lots' would achieve this aim and the intention is that there are no barriers for SMEs to tender for the contract(s).
- 8.3. The H&F Procurement and Social Value Task Force will also be considering proposals for the commissioning of School Meals in November. Social Value considerations are expected to be a particular focus for this discussion.

## **9. CONSULTATION**

- 9.1. See sections 4 and 6 for a summary of consultation and engagement methods used so far in the school meals project. This has included consulting eight potential and current providers, 25,000 parents and children, all head teachers and governing bodies, school business managers and bursars, three Lead Members and council officers.

## **10. EQUALITY IMPLICATIONS**

- 10.1. An initial Equalities Impact Assessment was carried out by project staff and the Equalities Manager when the project was initiated in 2013 and updated at regular intervals by the project staff. The EIA applies to the customers only. In summary, there are no equalities implications given that a school meal will continue to be provided (as the legislation demands) with very few changes to the service.
- 10.2. With regard to the potential TUPE of staff, the Council should be confident through its consultation that this will be carried out by Eden Foodservice with all due regard to equalities impacts on the affected group.
- 10.3. Implications verified/completed by: David Bennett, Acting Head of Change Delivery, Innovation and Change Management Division. 0208 753 1628.

## **11. LEGAL IMPLICATIONS**

- 11.1. The services are Part B for the purposes of the Public Contract Regulations 2006 ("the Regulations") and so not subject to full rigour of the



Regulations. Nevertheless, certain parts of the Regulations apply and a contracting authority must still comply with Treaty Principles of equal treatment, transparency and non-discrimination.

- 11.2. It is the intention of the Council to use Capital E-sourcing to advertise these opportunities as well as issue an OJEU advertisement for undertaking the competitive procurement using the Framework Agreement with lots route and this would be in compliance with the Council's obligations under the Regulations.
- 11.3. Implications completed by: Babul Mukherjee, Solicitor (Contracts), telephone 0207 361 3410.

## **12. FINANCIAL AND RESOURCES IMPLICATIONS**

- 12.1. The School Meals Contract value in 2014/15 for the London Borough of Hammersmith and Fulham will be circa £4 million.
- 12.2. The Contracts Monitoring Team will calculate the price band and rates by amalgamating all the meals served by a contractor in a particular month and communicate that price band to the contractor who will then submit invoices appropriately according to the number of meals delivered per school.
- 12.3. The Local Authority will continue to act as a monitoring service in either contracting scenario. In the event that schools assume the contracting responsibilities, the Local Authority could achieve an efficiency saving equivalent to 1 full time post as a result of reduced data processing activities.
- 12.4. Implications completed by: Andrew Tagg, 0208 753 5040

## **13. RISK MANAGEMENT**

- 13.1 The Children's Services Department are responsible for the identification, measurement and management of procurement risk. The principal risks are those relating to the effective implementation of the new framework and post implementation contract performance management. In determining future arrangements the Council will consider the risks associated with either contracting arrangement and ensure these are appropriately managed. Market testing is a strategic risk noted as risk number 2 on the Council's strategic risk register.
- 13.2 Implications completed by: Michael Sloniowski, Bi-borough Risk Manager 020 8753 2587.

## 14. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 14.1. LBHF's current school meals contract with Eden Foodservice was awarded by Cabinet in September 2009 has now been extended to November 2015 to support the commissioning process for new arrangements.
- 14.2. School meals are defined under the Public Contracts Regulations 2006 (as amended) as being a "Part B" service, as opposed to "Part A" which would require a fully regulated competition. As such, this allows the Council a measure of discretion in how the contract is procured, so long as it complies with the principles of transparency, non-discrimination and equal treatment, which the strategy proposed in this report seeks to ensure.
- 14.3. The Policy and Accountability Committee may also wish to note that:
- 14.4. Maintaining volume and take-up, and therefore an affordable sale-price to parents, is important to the commercial viability of a school meals contract;
  - use of a "lots" approach will allow each sovereign borough "lot" to be awarded separately of each other, and to the provider that submits the best bid for that specific "lot", whilst leaving open the possibility of price discounts should the same provider win two or more lots and any savings being redirected into school priorities;
  - award of each lot to the "most economically advantageous tender" will mean quality and cost must be taken into account, with each of these factors having a transparent relative weighting in the award criteria. If desired, the relative weightings of quality and price in the award criteria can be different for each separate "lot";
- 14.5. The H&F Procurement and Social Value Task Force, chaired by Councillor Coleman, has requested a discussion at its November meeting on how social value, community benefits, and involvement of Small-Medium-Enterprises might be achieved through the procurement of the new school meals contract. The Member-led Task Force discussion (along with comments from this PAC) will help inform the service specification and tender evaluation model issued to short-listed bidders in the new year;
- 14.6. Commencement of the new arrangements after school half-term in November 15 avoids contract mobilisation during the school summer holiday period. This should help facilitate an efficient TUPE transfer of affected staff to a new contractor (including their pensions provision), should this be the outcome of the forthcoming competition.
- 14.7. Implications completed by: John Francis, Procurement Officer, H&F Corporate Procurement. 020-8753-2582.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Equalities Impact Assessment	Kerry Russell, Children's Policy officer (0207 6411 6033)	Children's Services, Kensington Town Hall.

**LIST OF APPENDICES:**

Appendix 1 – Proposed timetable for the commissioning process

Appendix 2 – Summary of Food for Life catering standards for Silver and Gold awards.

Appendix 3 – Benefits and risks of LA or school being contracting authority for school meals.

## **Appendix 1**

<b>Key milestones</b>	<b>Key dates</b>
Release of PQQ	10 <sup>th</sup> November 2014
Return of PQQ	3 <sup>rd</sup> December 2014
Evaluation and shortlist	5 <sup>th</sup> January 2015
Release of ITT	6 <sup>th</sup> January 2015
Return of ITT	3 <sup>rd</sup> February 2015
Evaluation of tenders (5 weeks)	4 <sup>th</sup> February 2015 – 11 <sup>th</sup> March 2015
Recommendations and CAB approval	March 2015
Governance approvals to award Framework contract (RBKC Cabinet)	May 2015
Notification of contract award and debriefing of unsuccessful applicants	June 2015
Call-off process in each Borough	June 2015
Governance approvals: Contract awards via Cabinet x 3 or Schools Governing Bodies	July 2015
Decommissioning and mobilisation	August - October 2015
Contract commencement	2 <sup>nd</sup> November 2015 (after half-term)

## **Appendix 2**

The Catering Mark provides an independent endorsement that food providers are taking steps to improve the food they serve, using **fresh ingredients** which are **free from trans fats, harmful additives and GM**, and **better for animal welfare**.

Caterers are audited to ensure they meet high standards of provenance and traceability, providing reassurance to customers that meals are freshly prepared using environmentally-sustainable and seasonal ingredients.

The Catering Mark has been recognised by DEFRA's Plan for Public Procurement as a tool to help procurers identify best practice. The scheme is also cited by NHS England and the Department of Education as a framework to improve the food served in hospitals and schools.

The main differences between the Silver and Gold food standards are shown in the table below:

<b>“Silver” Food for Life Catering Mark</b>	<b>“Gold” Food for Life Catering Mark (in addition to “Silver”)</b>
<ul style="list-style-type: none"> <li>• Meals contain no undesirable food additives or hydrogenated fats</li> </ul>	<ul style="list-style-type: none"> <li>• At least 30% of ingredients are organic or Marine Stewardship Council certified</li> </ul>
<ul style="list-style-type: none"> <li>• 75% of the dishes are freshly prepared</li> </ul>	<ul style="list-style-type: none"> <li>• At least 50% of the ingredients are locally sourced</li> </ul>
<ul style="list-style-type: none"> <li>• Meat is sourced from farms that satisfy UK welfare standards</li> </ul>	<ul style="list-style-type: none"> <li>• Organic meat, dairy products or eggs are served as the highest welfare standard</li> </ul>
<ul style="list-style-type: none"> <li>• Eggs are from cage-free hens</li> </ul>	<ul style="list-style-type: none"> <li>• Non-meat dishes are being promoted as part of a healthy and balanced diet</li> </ul>
<ul style="list-style-type: none"> <li>• Menus are seasonal</li> </ul>	
<ul style="list-style-type: none"> <li>• Training is provided for all catering staff</li> </ul>	
<ul style="list-style-type: none"> <li>• No GM ingredients are used</li> </ul>	
<ul style="list-style-type: none"> <li>• A range of local, organic and fair trade produce is served</li> </ul>	
<ul style="list-style-type: none"> <li>• Chicken, eggs and pork products are from sources which meet high welfare standards or 10% of food is organic</li> </ul>	
<ul style="list-style-type: none"> <li>• No fish is served from the Marine Conservation Society “fish to avoid” list</li> </ul>	
<ul style="list-style-type: none"> <li>• Information about where the food has come from is displayed</li> </ul>	

### Appendix 3

## **Benefits and Risks associated with LA or schools being contracting authority for school meals**

	<b>Assessment</b>
<b>Benefits for schools if responsible for contracts</b>	<ul style="list-style-type: none"><li>• Schools will have more “ownership” and “direct control” over their school meals service and associated budgets, as they are contracting individually with the contractor.</li></ul>
	<ul style="list-style-type: none"><li>• In keeping with local management of schools and improved visibility regarding the finances associated with the service.</li></ul>
	<ul style="list-style-type: none"><li>• Schools will have more flexibility to tailor the service to their local needs.</li></ul>
	<ul style="list-style-type: none"><li>• Schools will be aware of families who have difficulty paying and will be able to direct them to the appropriate support</li></ul>
<b>Risks for schools if responsible for contracts</b>	<ul style="list-style-type: none"><li>• Schools may be worried that a change in contracting arrangements will mean they need to get more involved in the day to day management of contracts and the delivery of catering services. However, schools will continue to be able to purchase contract management support centrally, so that schools will not need to create this operational capacity or commercial acumen to operate the delivery of catering services on a daily basis or “fire fight” during occasional operational bumps.</li></ul>
	<ul style="list-style-type: none"><li>• School Governing Bodies will bear the risk of the contract.</li></ul>
<b>Benefits for the Local Authority if responsible for contracts</b>	<ul style="list-style-type: none"><li>• There are no assessed benefits to the Local Authority as a result of holding contracts for schools. This arrangement is not consistent with statutory responsibilities or the direction of travel for the local management of school services and budgets.</li></ul>
<b>Risks for Local Authority if responsible for contracts</b>	<ul style="list-style-type: none"><li>• Regardless of contract holder, an element of reputational risk will reside with the LA.</li><li>• LA will continue to carry some risk for school services (i.e. essentially underwriting school expenditure and activity).</li></ul>