

## London Borough of Enfield

### Children's Services Portfolio Decision

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**Subject:** Award of contract – SEND Information, Advice & Support Service (IASS)

**Cabinet Member:** Cllr. Rick Jewell

**Executive Director:** Tony Theodoulou

**Key Decision:** KD 5245

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#### **Purpose of Report**

1. Approval is sought to award the contract to provide a Special Educational Needs and Disabilities (SEND) Information, Advice & Support Service (IASS) to Tenderer A, as detailed in Appendix 1.

#### **Proposal(s)**

2. The SEND IASS delivers a statutory information, advice and support service for children and young people aged 0-25 years with SEND, and their parents/carers. The current contract will end on 31.08.21.
3. Following a formal tender process, it is proposed that the contract be awarded to Tenderer A. The contract start date will be 01.09.21 and the contract will run for three years, with possible annual extensions of up to two years.

#### **Reason for Proposal(s)**

4. Local Authorities have a duty under Part 3 of the Children and Families Act 2014 and the Special Educational Needs and Disability Code of Practice: 0-25 Years (SEND Code of Practice) (2014), to ensure that parents of children with SEND, and young people aged 16-25 with SEND, are provided with information and advice about matters relating to their SEND, including matters relating to health and social care. Local authorities have a duty to ensure these services are known to children, their parents and young people in their area, head teachers, proprietors and principals of schools and post-16 institutions in their area, and others as appropriate. The obligations and expectations of an IASS are set out in Chapter 2 of the SEND Code of Practice and the standards expected are listed as the IASS Quality Standards.
5. The current contract ends on 31.08.21. A tender process has been undertaken to ensure that the service continues for Enfield's children and young people and their families.

## **Relevance to the Council Plan**

6. This service helps to sustain strong and healthy communities by providing or signposting to specialist support that enables children and young people with special educational needs and/or disabilities to realise their potential and achieve maximum independence, improving their learning and life outcomes, and helping them to contribute to the local community and workforce.

## **Main Considerations for the Council**

7. Local Authorities have a duty under Part 3 of the Children and Families Act 2014 and the SEND Code of Practice (2014), to ensure that parents of children with SEND, and young people aged 16-25 with SEND, are provided with information and advice about matters relating to their SEND, including matters relating to health and social care.
8. The Service falls under the 'light touch' regime of the Public Contracts Regulations 2015.
9. Funding for the Service is provided via the Council's general fund. The budget for provision of the service is £115,500 pa.
10. Employees of the incumbent provider are protected under the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006. Anonymised TUPE information was included within tender documentation.

## **Safeguarding Implications**

11. The nature of this service means that staff are in contact with vulnerable children and young people, and possibly vulnerable adults, during provision of contract requirements. The service is therefore subject to specific standards and targets in terms of safeguarding vulnerable young people. The contractor has responsibility for the management and control of Regulated Activity as set out within the service specification and for the purposes of the Safeguarding Vulnerable Groups Act (2006).
12. Amongst other safeguarding requirements, all staff working for the service must have a valid enhanced disclosure check regularly undertaken via the Disclosure and Barring Service (DBS). Adherence to this requirement is checked during contract monitoring meetings. Staff are also required to be trained in Safeguarding, Child Protection and Data Protection. Any staff training undertaken is also verified during contract meetings.

## **Public Health Implications**

13. This service provides information, advice and guidance pertaining to SEND, to help ensure that the wellbeing of service users – children and young people with SEND – is addressed in terms of their educational, health and social care

requirements. The service impacts positively on children and young people's employment, skills and educational opportunities, as it helps address the identified needs of children and young people in this area, including the requirements set out within individuals' Education, Health and Care Plans (EHCPs). The service supports the service user in accessing opportunities that can lead to employment, helps ensure their physical and mental wellbeing, and promotes family resilience.

### **Equalities Impact of the Proposal**

14. A predictive Equalities Impact Assessment has been completed. No negative impacts have been identified. This service complies with diversity and equal opportunities requirements.

### **Environmental and Climate Change Considerations**

15. This proposal is not expected to have significant impact on the Environment or Climate Change. The service is currently provided from Council-owned premises that are visited by service users. All prospective tenderers were asked to ensure that their proposal included access via public transport. Physical meetings have reduced during the COVID-19 pandemic, and it is likely that this will continue post-pandemic.

### **Risks that may arise if the proposed decision and related work is not taken**

16. If the decision is not approved, the service would need to be retendered. This process could take an additional year.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

17. Included within Appendix 1.

### **Financial Implications**

18. The current budget for this service is £117,700. The annual cost for tenderer A is £112,526, £337,579 over a 3 year period, so would result in an annual general fund saving of just over £5,000. Staff from the current provider will be transferred to the new provider via TUPE and this will not result in any additional costs.

### **Legal Implications**

19. Section 32 of the Children and Families Act 2014 places a duty on Local Authorities to arrange for children and young people for whom they are responsible, and the parents of those children, to be provided with advice and

information about matters relating to the special educational needs and disability of the children or young people, including matters relating to health and social care. This must include information, advice and support on the take-up and management of Personal Budgets.

20. A Local Authority also has a duty to ensure that the services available are made known to the parents, children and young people in its area, together with head teachers, proprietors and principals of schools and post-16 institutions in its area.
21. The SEND code of practice suggests that Information, advice and support should be provided through a dedicated and easily identifiable service and that Local Authorities should design and commission services by involving children and parents and young people.
22. Section 111 of the Local Government Act 1972, includes the power to do anything ancillary to, incidental to or conducive to the discharge of any of its statutory functions. Therefore, the appointment of the service provider to assist the Council is in accordance with the above powers.
23. In addition, the Council has the power under s.1(1) Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.
24. The tender exercise has been conducted in accordance with the Council's Contract Procedure Rules (CPRs) and the Public Contract Regulations 2015. In accordance with Rule 14 of the CPRs, due to service falling under the Light Touch Regime services in the Public Contracts Regulations 2015, as educational services, and due to the estimated value of the contract, the Council was required to undertake a procurement via the E-Tendering Portal and in line with the Procurement manual. The procurement exercise must be carried out in accordance with a formal tender process and that the selection process must be fair, transparent, proportionate and non-discriminatory and must ensure value for money in accordance with the overriding Best Value Principles under the Local Government Act 1999.
25. This Report constitutes a Key Decision, and the Key Decision procedure must be followed.
26. A services contract in a form approved by Legal Services will be drafted.
27. The contract shall be sealed by Legal Services, in accordance with Rule 25 PCR's.

*Legal implication provided by I Deuchars on 24/06/21 and O.Danova on 29/06/21*

## **Other Implications - Procurement**

28. Any procurement must be undertaken in accordance with the Councils Contract Procedure Rules (CPR's) and the Public Contracts Regulations (2015).
29. The award of the contract, including evidence of authority to award, promoting to the Councils Contract Register, and the uploading of executed contracts must be undertaken on the London Tenders Portal including future management of the contract.
30. All awarded projects must be promoted to Contracts Finder to comply with the Government's transparency requirements.
31. The procurement was carried out in accordance with the 'Light Touch' regime as set out in the Public Contract Regulations 2015. The procurement met the Light Touch criteria and was below the threshold of £663,540.
32. The opportunity was advertised with around 20 suppliers showing an interest. 4 suppliers submitted bids, which was not surprising as this is a small market and was more than the previous process where only 2 bidders responded. These were evaluated by a panel taken from the SEND environment.
33. Given the contract value, under the CPR's this contract must have a nominated contract owner in the London Tenders Portal, and must have evidence of regular reviews of the contract, management of performance of the supplier and risk assessments for resilience undertaken, through the lifetime of the contract, uploaded into the LTP.
34. Any changes or extensions must be updated into the LTP to ensure the Corporate Contract register is accurate and support strategic procurement activity, and in line with new government procurement notice to have a procurement pipeline.

## **Options Considered**

35. There were no alternative options to tendering this service externally, as the service must legally be provided independently of the Council.

## **Conclusions**

36. It is recommended that the contract to provide a SEND IAS Service be awarded to Tenderer A, as detailed in Appendix 1.

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**Date of report: 17.06.21**

## **Appendices**

Appendix 1 Tender process and results [**CONFIDENTIAL**]

## **Background Papers**

**The following documents have been relied on in the preparation of this report:**

None.