

Please note Part 2 report is now confidential appendix.

London Borough of Enfield

Portfolio Report

Report of: Simon Pollock – Interim Director of Customer Experience

Subject: Review of Enfield Catering Service Level Agreement

Cabinet Member: Cllr. Tim Leaver

Executive Director: Fay Hammond

Ward: All

Key Decision: KD5572

Purpose of Report

1. That approval be given to not renew the Enfield Catering Service, Service Level Agreements (SLA's) with schools when they expire on 31st March 2023. To support schools procuring a new provider a decision needs to be made with pace.

Proposal(s)

2. Agree to not renew the Service Level Agreements (SLAs) with schools for the provision of school meals when they expire at the end of March 2023, and to give notice to schools of the intention of the Council not to renew the SLAs.
3. Agree to support schools in the procurement of suitable alternative provision or to move to a different model.
4. Agree Enfield Catering Service to provide meals until the point a new provider is appointed by each school.

Reason for Proposal(s)

5. The provision of school meals is not a statutory service for the Council, yet this financial year Enfield Catering Service has been subsidised with £710k from the general fund. There are several reasons why operating costs are higher than the budgeted amount, including high inflation affecting the cost of ingredients, and reduction in the number of pupils attending the schools where we have contracts.

6. The remaining reasons for the proposals are set out within the confidential appendix as the content is confidential due to commercially sensitive information.

Relevance to the Council's Plan

7. The budget saving that would be offered if the service was to close would support the Council's Corporate Plan objective of financial resilience under the Modern Council pillar. Officers would look to work in partnership with the schools to procure and transition the service from Enfield Catering to alternative provision, should the decision be taken.
8. As part of the school's transition to new provision, kitchen staff would be eligible for transfer to a new catering provider under TUPE. This will ensure that the kitchen staff, who are predominately Enfield residents, will continue to have employment opportunities within the borough and contribute towards the local economy.

Background

9. Enfield Catering Service provide school meals to children in 42 of the 96 schools in borough. The service caters for 34 primary schools, 3 secondary schools and 5 special schools, serving an average of 10,500 young people per day.
10. When joining the service, schools enter into a 3-year Service Level Agreement with Enfield Catering Service, but most of the current agreements are due to expire in March 2023, and those schools whose SLAs are not due to expire will also tender for alternative provision from April 2023. The service is comprised of 254 staff, who are paid in line with Council's terms and conditions, with 87% of the team living within the borough.
11. Children in Reception, Year 1 and Year 2 receive funded school meals at the rate of £2.41, which includes an additional 7p following a funded increase earlier this financial year. The funding, provided by central Government, is ringfenced to be spent on the cost of the meal but can cover the cost of food, staff, energy, equipment, lunch staff and maintenance.
12. Schools also receive £2.41 per Free School Meal child, who are eligible to Free School Meals (FSM) if the family income is less the £7,400. This funding is not ringfenced to meals and can be spent on other elements of the child's school day to support the child. However, schools tend to spend it on meals.
13. Both Universal Infant Free School Meals and FSM funding is paid to the school, but the school only pay Enfield Catering Service for meals consumed and the rest of the funding remains with schools.
14. In 2018, the service started to see schools leaving the service and move to the private sector. In response the service launched a recovery plan that stopped the trend, but by then many schools had left and had entered into either 3 or 5-year contracts with alternative providers. The service was left with 39

schools who in the main were costly due to the complexity of delivery or the school number was low. The recovery plan consisted of:

- Supplier review and re procurement
- Restructure
- Co creation of menus with children
- Review of processes across the piece looking for efficiencies

Main Considerations for the Council

15. The provision of school catering is not a statutory responsibility for the Council, yet a traded service has been offered to schools for many years. Between 2017 – 2019 schools started to leave the Council's provision, leaving the Authority with mainly the less financially viable smaller schools and special schools. This has resulted in the service requiring a subsidy to deliver provision.
16. Over the last three years the service has cost the council nearly £3m¹ to deliver (please see table below), and whilst it would be expected that the customer base would grow as schools with other providers start to return as their contracts end, there are currently a range of risks that might affect growth. These include current inflationary pressures on global food prices, the availability of staff, and changing eating habits post pandemic.

Financial Year	Plan (Budget) £'000	Actuals £'000	Variance £'000
2020/21	£585	£1272	£687
2021/22	£475	£931	£456
2022/23	£470	£710 (Projected)	£240
TOTAL	£1530	£2913	£1383

17. The decision to not renew the Service Level Agreement with schools when they expire would deliver a financial saving for the Council, which would help to offset the current budgetary pressure facing the Authority. As outlined above, it is expected that a saving of £233k would be delivered for the Council by ceasing to trade Enfield Catering Service. The saving would be realised once the service and kitchen staff transition from the Council to the new providers.

Safeguarding Implications

18. There are no direct safeguarding implications for the Council from the proposals outlined within this report. That is because the Council has no statutory duty to provide schools meals for children in schools.

Public Health Implications

¹ Income was lower during 2020/21 and 2021/22 due to school closures during the pandemic. The variance to budget was funded by Central Government through the Covid support grant

19. The proposals outlined within this report would mean that the Council would have no control over the quality or healthiness of the meals provided within the borough's schools, and this responsibility would pass to the schools.

Equalities Impact of the Proposal

20. The proposals of this report will directly affect service users, who are young people below the age 19. To mitigate this impact, the Council will support schools in the procurement of suitable alternative provision, to ensure the young people continue to have access to healthy meal options.
21. The Equalities Impact assessment has also identified that women will be disproportionately affected by the proposals in the report with 95% of workforce female. To mitigate this impact the Council will provide appropriate support for staff as they transition to new forms of employment i.e. through the TUPE transfer regulations. Support will extend to advice associated with any changes to their terms of conditions as they leave the Council's employment.
22. Please refer to the full Equalities Impact Assessment below in Appendix 1.

Environmental and Climate Change Considerations

23. The decision to not renew the Service Level agreement with schools when they expire will mean that the Council has no control over the way that ingredients are sourced in the future or the environmental impact of the meals provided. Currently the service limits the environmental impact of the ingredients used by sourcing locally and by including meat free days. The council will no longer be able to enforce these policies moving forward. This duty will fall on the schools
24. To mitigate the potential environmental impacts of any changes to the ways that the ingredients are sourced, the Council could engage schools and encourage the continued sourcing of local ingredients and meals with the lowest environmental impact.

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

25. If the proposed decision is not taken then the Council will not benefit from the estimated cashable saving of £233k per annum, meaning that other frontline services may need to shoulder a greater burden to save money.
26. There is a risk that the market factors such as inflation and labour costs may continue to rise, and if the service is retained then the costs of delivery could continue to increase in the future.

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

27. If the decision is taken to implement the recommendations in this report the responsibility will transfer to the schools to ensure an alternative provider delivers the same ethically sourced food using local suppliers. There is also

reputational risk to the council not renewing the contract given the public focus on funding surround school meals currently.

28. We will manage these risks by supporting schools in writing the specifications as part of the tender process to find a new provider. We will also co-ordinate and offer schools support whilst procuring a new provider.

Financial Implications

29. If the decision is taken to close the Enfield Catering Service to facilitate a saving for the Council, then it should be noted that the savings would be lower than the £470k net budget for 2023/24. This is due to Schools Traded Service (STS) staff salary costs of £187k being recharged to the Catering Service. The roles in the STS team also support other services and therefore the full net budget saving would not be fully realised. A further £50k is recharged to the Schools Personnel Service that would also not be realisable if the catering service were to close.
30. This would therefore result in a cashable saving of £233k which could be incorporated into the MTFP and contribute to the councils 2023-24 budget gap.
31. Any redundancy or early retirement costs will be funded corporately.

Legal Implications

32. Powers and duties:
Section 512(1) of the Education Act 1996 (EA 1996) provides that a local authority may provide meals, milk and other refreshments to registered pupils or other persons who receive education at a maintained school. Section 512(3) EA 1996 provides that a local authority shall exercise their duty under section 512(1) to provide school lunches where certain conditions are met and these conditions include where the person is eligible for free lunches and a request for school lunches to be provided free of charge has been made to the local authority or where it would not be unreasonable for the authority to provide the lunches to a registered pupil at a maintained school
33. The general duty to obtain Best Value is set out in section 3(1) of the Local Government Act 1999 (LGA 1999). It provides that a best value authority makes arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The revised Best Value Statutory Guidance issued in 2015 states that under the duty of Best Value, authorities should consider overall value including economic, environmental and social value when reviewing service provision.
34. Public law principles will apply to the decisions made by the Council. The Council is also under a general duty to act reasonably and fairly and show that its decisions are made after having given due and proper consideration to all relevant factors including an implied duty to consult where the nature and impact of a decision may mean that fairness will require a consultation. The more serious the impact, the more likely that fairness requires the involvement of affected bodies.

35. TUPE:

The Council must be mindful of its obligations as a transferor under the Transfer of Undertakings (Protection of Employment) Regulations 2006/246 (TUPE) as a result of any service provision change following the proposals in this report. Accordingly, the Council must ensure that adequate time is allowed for consultations and to take any measures in connection with it in order to fulfil its obligations under TUPE. The Council must further have regard to the Best Value Authorities Staff Transfers (Pensions) Direction 2007 in the transfer of any affected employees under TUPE.

Workforce Implications

36. The staff solely based within the schools are highly likely to be covered by TUPE regulations and will therefore transfer on their current terms and conditions as per TUPE legislation.
37. The Central Support Team are unlikely to be able to transfer under TUPE regulations and this report indicates that the Central Support function will require reviewing and restructuring.
38. Restructuring of this Team will need to take place in accordance with Council and statutory procedures. This will include the payment of redundancy pay and associated on costs where appropriate.
39. Given the timelines indicated on the report and the significant number of employees impacted, dedicated HR and Schools Personnel Service support will be required to ensure that the LBE remains compliant with the consultation and information sharing legislative requirements of the TUPE regulations.
40. This will be a difficult time for all impacted employees and due consideration needs to be given to timely and effective communication and signposting of all support available.

Property Implications

41. It is not believed that there are any property implications from the proposals outlined within this report. That is because the service does not own any property assets, with all canteens and kitchens owned by the schools.

Other Implications

42. There will potentially be procurement implications from the proposals outlined within this report. As outlined above, it is proposed that the Council either support or lead on the procurement of alternative provision for the schools that are currently contracted to the Council. Schools will be provided the option but the decision will sit with schools if they wish to engage or not.

Options Considered

43. Do nothing, Enfield Catering Service continues to trade as it currently does, but seeks to gain more school catering contracts as schools look to retender.

It is estimated that an additional 9 larger school contracts would be needed to break even through the current operating model. This option has been discounted because it does not offer the Council the same financial saving or mitigate the risk of further financial pressures caused by rising inflation.

44. Increase the price of school meals offered by Enfield Catering Service by 70 pence per meal (30% increase) at the existing 42 school contracts to achieve a break-even position for the service. This option has been discounted because there is a risk that with increased prices, the demand for school meal in the 42 existing schools would fall and then the price would need to increase further to achieve cost neutrality.
45. Don't renew the Service Level agreement with schools when they expire, approach the next largest provider of school catering in the borough and work with the provider to transition all schools (that want to transfer) to the third party. Those schools that don't wish to transfer would be responsible for sourcing an alternative provider themselves. This option has been discounted because it is not within the Council's gift to determine which operator provides catering for the schools.
46. Don't renew the Service Level agreement with schools when they expire, but move to a consultancy model where the Council supports the school's chefs to provide the school meals. This option has been rejected as it would not offer the Council the same level of saving as the recommended option within this report.

Conclusions

47. Given the budgetary pressures currently facing the Council and the ongoing risk of increased expenditure caused by rising inflation, it is recommended that the Council should not renew the Service Level Agreements with schools when they expire on 31st March 2023, and Enfield Catering Service ceases trading from April 2023. The decision is required urgently because the contracts of 39 of the 42 schools currently contracted to the Council are due to end at the end of March 2023.
48. The proposals outlined within this report do pose significant reputational risk for the Council, but given the service is non-statutory and financially high-risk, the recommendation to cease trading does offer the Council best value. Furthermore, with the proposed support being offered, the Council can ensure that the borough's school secure suitable alternative provision.

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Background Papers

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

None