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DATE: 25 October 2016

To: Members of the
CONTRACTS SUB-COMMITTEE

Councillor Stephen Wells (Chairman)
Councillor Chris Pierce (Vice-Chairman)
Councillors Simon Fawthrop, William Huntington-Thresher, Russell Mellor,
Keith Onslow and Angela Wilkins

A meeting of the Contracts Sub-Committee will be held at Bromley Civic Centre on
WEDNESDAY 2 NOVEMBER 2016 AT 7.00 PM

MARK BOWEN
Director of Corporate Services

Copies of the documents referred to below can be obtained from
<http://cds.bromley.gov.uk/>

AGENDA

1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

2 DECLARATIONS OF INTEREST

**3 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC
ATTENDING THE MEETING**

In accordance with the Council's Constitution, questions to the Chairman of this Sub-Committee must be received in writing 4 working days before the date of the meeting. Therefore please ensure questions are received by the Democratic Services Team by 5pm on Thursday 27th October 2016.

**4 MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 24
AUGUST 2016 (EXCLUDING EXEMPT ITEMS) AND MATTERS ARISING (Pages 1 -
8)**

5 EDUCATION CONTRACT WAIVERS (Pages 9 - 24)

6 PARKING CONTRACT - UPDATE (*to follow*)

- 8 **CHANGES TO CONTRACT PROCEDURE RULES** (Pages 25 - 32)
- 9 **GUIDANCE NOTES ON CONTRACT TIMETABLING** (Pages 33 - 36)
- 10 **TERMS OF REFERENCE** (Pages 37 - 40)
- 11 **WORK PROGRAMME 2016/17** (Pages 41 - 44)

12 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

Items of Business

Schedule 12A Description

- | | | |
|----|---|---|
| 13 | EXEMPT MINUTES OF THE MEETING HELD ON 24TH AUGUST 2016 (Pages 45 - 46) | Information relating to the financial or business affairs of any particular person (including the authority holding that information) |
|----|---|---|

CONTRACTS SUB-COMMITTEE

Minutes of the meeting held at 7.00 pm on 24 August 2016

Present

Councillor Stephen Wells (Chairman)
Councillor Chris Pierce (Vice-Chairman)
Simon Fawthrop, William Huntington-Thresher, Russell Mellor,
Keith Onslow and Angela Wilkins

12 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

There were no apologies.

13 DECLARATIONS OF INTEREST

There were no declarations.

14 QUESTIONS FROM COUNCILLORS AND MEMBERS OF THE PUBLIC ATTENDING THE MEETING

There were no questions.

15 MINUTES OF THE MEETING OF CONTRACTS SUB-COMMITTEE HELD ON 22 JUNE 2016 AND MATTERS ARISING

The minutes were agreed.

In considering matters arising, the Chairman reminded Members that contract summaries were available electronically with a hard copy also available in the Members' Room.

The summaries had been designed to provide all pertinent information and it was possible to "drill down" for further detail. They would also be regularly updated. When the database for the Contracts System is fully operational (by December 2016) training would be provided. It was suggested that Members bring their i-Pads to future meetings to carry out any interactive work.

Members considered how internal audit reports can be brought to the attention of PDS Committees. It was understood that specific issues are referred to PDS Committees and reports from Internal Audit are available electronically but the Chairman preferred a more pro-active approach. A Member suggested that E&R PDS undertake a higher level of scrutiny on contracts. However, the E&R PDS Chairman preferred Audit Sub-Committee to highlight particular matters for E&R PDS where possible and suggested a similar approach for all PDS Committees. Should such an approach not be sufficient further consideration could be given. Another view suggested that audit reports be provided routinely to PDS

Committees, although a number of findings were for a Portfolio Holder to take forward. It was suggested that findings referred to PDS Committees should be relevant for scrutiny e.g. matters concerned with KPIs, budget monitoring, policy development, procedures not being followed etc. A Member felt that PDS Chairmen would want to see audit reports.

In view of internal audit sometimes highlighting systemic issues, the Chairman felt that it was necessary for the Audit Sub-Committee Chairman to ensure a more active dissemination of audit reports to PDS Chairmen. Accordingly, the Chairman offered to write to the Chairman of Audit Sub-Committee to request that the Sub-Committee Chairman write to PDS Chairmen alerting them of such a proposal.

In regard to funding a system developer at £50k to assist in providing the contracts system, technical support was needed to ensure the production of relevant data from a variety of document types including word documents and Oracle data. There were no off the shelf systems that would be sufficiently comprehensive. It was about how Oracle related to all the relevant systems. At the end of the process it was intended to have a central data warehouse. Officers already had an Access database but it was necessary to “drill down” further e.g. to look at tables behind Oracle. The Chairman of E&R PDS Committee suggested there was possibly a risk in depending upon one person for the work but if successful the system could perhaps be marketed for other Local Authorities.

16 CONTRACT MONITORING (ADULT SOCIAL CARE/STREET CLEANSING)

Report CS17028

Contract Monitoring - Street Cleansing

The street cleansing contractor is required to meet Key Performance Indicators (KPIs) and officers meet regularly with the contractor, both of which are conditions of contract. Officers have mobile devices to help monitor contractor compliance with the KPIs and can input data e.g. customer complaints. The routine inspections are inputted into the Officers mobile devices randomly to ensure assets are checked annually and the system allows for ad hoc inspections of areas to ensure that intelligence led monitoring can occur. Officers are enabled to look at areas of concern and data can be retrieved from the CONFIRM system in order to manage reports in the field. More focus is given to repeat complaints and a report is presented annually to PDS reviewing the contractor's performance.

Certain efficiencies have been made by the service involving the frequency of cleansing activities and in response to enquiries by Members regarding isolated locations, it was clarified that more detailed cleansing requires further resource. The process of customer complaint/request management was outlined. When a complaint / service request is made, this information is logged on the CONFIRM system and the contractor is notified. The contractor then investigates and monitors the concern. Serious concerns are escalated to the Neighbourhood Officer and an action plan initiated. Generally, a street cleaning request is a contractor matter and a complaint is referred to the Neighbourhood Officer.

Different ways of working for street cleansing are being considered with PDS, particularly in view of problems caused by parked vehicles. If it is not possible to sweep a road (e.g. due to parked vehicles), operatives then move to the next road to maintain efficiency. A routine 'deep cleaning' programme funded from the £200k contingency approved by Executive in 2012, addresses the cleaning of heavily parked streets. Contract performance is output based and operatives might not sweep a road if it is already compliant with the DEFRA Code of Practice on litter and refuse. The contractor monitors its work by grading according to the Code of Practice.

The number of sweeps depends upon the road concerned. The contractor is not accountable for the rate of litter dropping; the key consideration (and contractor's responsibility) is whether a street is as clean as it can be after a clean. Most street cleansing vehicles have GPS technology and it is possible to identify whether a vehicle has travelled in a road and the appliances and rate of speed undertaken during the cleansing operation. The annual report to PDS refers heavily to customer satisfaction and this had increased at a time when efficiencies had been made to the cleansing specification. The next customer satisfaction survey is currently being undertaken by the contractor through an independent research company.

The Chairman felt that anything innovative that can be introduced for street cleansing would be good and it might be necessary to ask residents not to park at a location for the purpose of street cleansing.

In checking work of the contractor's crews, the Contractor's Supervisory team, Officers and Neighbourhood Managers refer to the DEFRA Code of Practice and a road should be clean at the end of cleansing. The Chairman suggested that the Code of Practice is made available to Sub Committee Members. (Democratic Services Note - the Code of Practice can be viewed via the Council's street cleaning web page which has embedded a link to this document - http://www.bromley.gov.uk/info/200089/street_care_and_cleaning/1038/street_cleaning)

Autumn leaf fall also impacts on cleanliness and plans have been developed using GIS data and arboriculture advice in order to work efficiently by clearing leaf fall in roads where it is known that leaves fall early in the season. For cleaning litter and leaves between parked cars and the gutter, a Member suggested use of modern innovative suction equipment that can act as an industrial vacuum cleaner. (Democratic Services Note: following the meeting it was confirmed that the Council provides the contractor with high powered vacuum units to collect autumn leafing.) The Member also highlighted leaf fall on the borough's roads from private trees. He also encouraged Friends Groups in the borough and the Chairman commended the Groups.

Contract Monitoring - Adult Social Care

The ECHS Procurement and Contract Compliance team provide advice to the ECHS department on best practice in compliance and monitoring, negotiation of fees, escalating and acting on concerns for poor performance. An annual report is presented to PDS on quality monitoring of commissioned care services, covering arrangements for monitoring contracts and progress made to raise standards in domiciliary care, extra care, and supported living schemes.

The frequency of monitoring is determined by an assessment of risk including: CQC rating, LBB QAF (Quality Assurance Framework) rating, numbers of complaints, safeguarding alerts, whistleblowing reports, local intelligence from partners, changes in management, and number of Bromley funded clients. The financial robustness of companies is regularly checked using an electronic credit rating tool alerting the Council to any change in status.

Quality Assurance Frameworks for each contract area monitored help focus compliance work and assist providers achieve continuous service improvement. Providers are expected to achieve a minimum of level C in each area of the QAF and to work towards the achievement of level A. After each monitoring visit the provider is required to respond to points of improvement raised and to follow an action plan to achieve these.

Contract monitoring information informs Commissioners and Senior Management on the quality of care being delivered. To focus on service user experience, home visits are undertaken to supported living schemes or to users receiving domiciliary care, helping to corroborate findings from office visits where the focus is on compliance, and scrutinising policies, procedures, and service record information. Providers are also asked to carry out a satisfaction survey and the Council also undertakes a survey on home care. For any concerns identified through regular monitoring visits or intelligence sharing, action plans are drawn up with the provider to work towards quality improvements. A reactive system is provided to complaints involving initial representations to the provider which can be escalated to the client unit should the concerns not be adequately dealt with.

Other adult social care contracts (covering Third Sector Service Contracts, Strategic Partnerships, IT contracts, Transport, Integrated Equipment, Domestic Violence, and Supported Accommodation) have a contract compliance officer and procurement officer with details recorded on the Contracts Register. The monitoring officer is expected to collect data, assess contract performance and update the relevant Commissioner, the Commissioner then being able to share the information at DMT level and use it to inform commissioning strategies.

Each contract is risk assessed annually to gauge the level of monitoring required; each contract having key performance indicators detailed on contract monitoring forms to become source data for the new Contracts Register. Data is submitted quarterly, checked for accuracy (and against contractual requirements) and shared/discussed with the relevant Commissioner. Officers periodically review collected information to ensure it continues to be the most relevant.

Being recognised as best practice in the Council, the team for contract compliance and monitoring in Adult Social Care has recently moved to the Corporate Commissioning Team with the team's role intended to be expanded to oversee Compliance and Monitoring activity across other departments, as appropriate, for service arrangements in place. This will help provide assurance that performance issues are identified, raised and acted upon quickly and facilitate regular briefing and exception reporting to Councillors and Senior Managers (at a Corporate and Departmental level) as required.

Officers sometimes receive complaints from the public and staff also raise concerns

with management on occasions. A Member suggested a Press Statement to highlight that the Council welcomes a positive position on whistleblowing and it was confirmed that there would be no discrimination against a whistle-blower.

Concerning domiciliary care and care in homes, no new placements would be made where a provider had fallen below acceptable standards. Individuals would however remain in the home and the level of risk for such persons would be assessed. Options might include moving service users. The contractor and remaining service users would be monitored more closely and carefully (although it might be undesirable to move a particularly elderly client resident in a home for a number of years).

The Council had entered into core agreements with all the Care Homes it uses, both in and out of borough. Although such arrangements were not detailed individually on the contracts register due to volume and fluctuation of prices, it was possible to evidence value for money through (emergency) placements being reviewed within six weeks of placement. A ceiling rate would be set indicating a maximum amount that the Council was prepared to pay in a residential nursing home. If there was only one nursing home at the ceiling rate, the Council could be challenged; the Council was receiving pressure to hold the ceiling against other Local Authorities. The Commissioning team advised Care Management and tested the ceiling rate on value for money.

A provider given an inadequate rating by the CQC would not be used; if there were one or two concerns, officers would expect the provider to improve and show improvement, working with the CQC. A monthly review would be held with the Assistant Director, Adult Social Care for a provider receiving an inadequate rating. The Portfolio Holder also received a briefing each week and Members were welcome to visit care homes, domiciliary care agencies, and service users. The Chairman noted that take up for such visits was low and the Council has a duty of care for vulnerable adults.

Although the Chairman was more reassured on monitoring arrangements, he felt that it was necessary for Members to be more active in this area and to increase the level of care home visiting. Even though a low ceiling existed, it was also important to maintain the standard of service. Members heard that there were challenges concerning the introduction of the National Living Wage and officers were looking to establish a reasonable rate. Ceiling rates were reviewed each year and it was important for the Council to be successful against any challenge.

RESOLVED that the briefings on contract monitoring for Street Cleansing and Adult Social Care be noted.

17 CONTRACTS REGISTER

Noting the number of Red and Amber status markings on the Contracts Register, the Chairman suggested an apparent delay, lack of timetable, and lack of procurement understanding on the part of some officers. Generally, it seemed that officers had become accustomed to using extensions. Another Member referred to the importance of highlighting key dates.

It was accepted that some officers were not allowing sufficient time and not thinking differently on how to commission services. Where there were problems it

was necessary to seek waivers. Not understanding timescales was leaving the Council exposed. A minimum six months was needed for all contracts and up to 2 to 2.5 years needed for the larger more complex contracts. The Head of Corporate Procurement is preparing guidance for officers so that timetables for tendering are more robust. The Commissioning team were diligent in “ragging” contracts. On occasions services do not always carry out service reviews adequately and allow enough time for the reviews. There was also a skills set for officers to learn in thinking how desired outcomes for services can be achieved.

Cllr Simon Fawthrop, Executive and Resources PDS Chairman, confirmed that Register entries to contracts from the Chief Executive’s Department (marked CEX) were sufficient for the Committee.

The Chairman suggested the Contracts Register as a standard item at future Sub-Committee meetings and another Member asked for the register to be provided at least two to three days in advance of future meetings.

RESOLVED that:

(1) only entries in the Contracts Register related to contracts from the Chief Executive’s Department (marked CEX) be presented to future meetings of the Executive and Resources PDS Committee;

(2) the Contracts Register be a standard item at future meetings of the Sub-Committee; and

(3) the Contracts Register be provided to Sub-Committee Members at least two to three days in advance of future Sub-Committee meetings.

18 WORK PROGRAMME 2016/17

In addition to seeing the Contracts Register at each future meeting, the Chairman suggested that some of the issues highlighted in the Internal Audit Report at item 9 of the agenda be considered in October and December. A Member suggested that it might be helpful to look at aspects not normally looked for and to look at unexpected concerns. The contract related to Manorfields could be considered in October and the CCTV and Stray Dogs contracts could be looked at and tracked in future meetings.

It was agreed that Guidance Notes on contract timetabling would be produced for the next meeting. The Chairman would also work with Cllr Pierce, Vice-Chairman, in looking at the minutes of the Audit Sub-Committee meeting held on 6th July 2016.

RESOLVED that:

(1) the Contracts Register be presented to each future Sub-Committee meeting;

(2) some of the issues highlighted in the Internal Audit Report at item 9 of

the agenda be considered at the Sub-Committee's October and December meetings - the contract related to Manorfields being an issue for consideration in October;

(3) the CCTV and Stray Dogs contracts be considered and tracked at future meetings; and

(4) Guidance Notes on contract timetabling be presented to the next meeting.

19 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

20 CONTRACTS ISSUES ARISING FROM INTERNAL AUDIT

Report CSD16122

A summary of contracts was provided in view of related issues that had arisen from recent Internal Audit reviews.

The Meeting ended at 10.05 pm

Chairman

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Report No.

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **Contracts Sub-Committee**

Date: **2nd November 2016**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **EDUCATION CONTRACTS: REVIEW**

Contact Officer: Jane Bailey, Director of Education
Tel: 020 8313 4138 E-mail: jane.bailey@bromley.gov.uk

Chief Officer: Jane Bailey, Director of Education

Ward: N/A

1. Reason for report

1.1 In the period August/September 2016, three Education contracts were put forward for authorisation from the Portfolio Holder for Education. In each case, authorisation for an exemption to competitive tendering was sought to allow continuation of existing contract arrangements – but with insufficient time given to the Portfolio Holder, before the existing contract terms expired, to reasonably allow consideration of alternative courses of action.

1.2 This report provides background to the Education contracts in question, and provides information on management action taken to avoid further instances of late notified decisions on contract actions.

2. **RECOMMENDATION(S)**

2.1 **The Contracts Sub-Committee is asked to note the report and the management actions put in place to ensure timely action in relation to Education contracts in future.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: N/A
-

Corporate Policy

1. Policy Status: Existing Policy: Further Details: Bromley Contracts Procedure Rules and Financial Regulations
 2. BBB Priority: Children and Young People Excellent Council:
-

Financial

1. Cost of proposal: Not Applicable:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
-

Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: Statutory Requirement: Further Details All relevant UK and EU procurement legislation
 2. Call-in: Not Applicable:
-

Procurement

1. Summary of Procurement Implications: N/A
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 In the period August / September 2016, authorisation was sought from the Education Portfolio Holder for three Education contracts. In each case, authorisation for an exemption to competitive tendering was sought to allow continuation of existing contract arrangements – but with insufficient time given to the Portfolio Holder, before the existing contract terms expired, to reasonably allow consideration of alternative courses of action.
- 3.2 **Appendix 1** provides background and commentary for each contract.
- 3.3 The Portfolio Holder for Education expressed significant concern at being presented with multiple incidences of late notified requests for authorisation; and asked the Director of Education to ensure that management action was taken to ensure that all future requests for similar authorisations (contract extensions and exemptions) were sought with at least six months remaining on the existing contracts terms, as per the latest version of the Bromley Contract Procedure Rules.
- 3.4 From June 2016, ECHS was restructured so that commissioning support, previously separately based within the ECHS Commissioning Team, was transferred into the respective departments within ECHS. From August 2016 onwards, the Commissioner Education has been tasked with providing oversight and monitoring of the contract portfolio within Education. It is to be noted that responsibility and accountability for each contract still sits with the relevant Head of Service or Budget Holder.
- 3.5 The Commissioner Education now maintains a regularly updated status report on every contract held within Education Services. This is closely cross referenced with the ECHS Contract Register, with updates provided to the ECHS Procurement Team on a regular basis. The status report is Red/Amber/Green rated with Red contracts identified as at risk with immediate action necessary and Amber contracts identified as requiring action imminently (or action is underway and on track). The timeline for contract action is clearly identified for each contract. The status report is regularly circulated to all Education Managers and, more importantly, is a standing item at the fortnightly Education Management Team meeting where the status of each contract is reviewed.
- 3.6 This action has demonstrated immediate improvement in the timeliness of contract actions within the Education department. All contracts due to end in March 2017, which required Education Portfolio Holder authorisation for extension and/or exemption, have been successfully finalised six months in advance of the contract end date. Likewise, authorisation for similar contract actions below the threshold for Portfolio Holder authorisation, have been completed six months prior to contract end date. For other contracts that are due to end in March 2017, a Request for Quotes or tender process is underway. Heads of Service have been informed that no authorisation for extension or exemption, at any authorisation level, will be supported for any contract that requires a tender process or Request for Quotes process to take place – it will be up to the Head of Service to manage any issues that arise from any delay in completing the tender process.
- 3.7 **Appendix 2** provides the latest version of the Education Contracts Status Report for information.
- 3.8 It is not possible to guarantee that all exemption authorisation requests are finalised no later than six months prior to the existing contract end date as there are circumstances that could arise outside of officer control – for example, providers withdrawing bids at a late stage in an otherwise timely tender process, resulting in a single tender action requiring exemption authorisation to proceed. However, the Education department expects that, notwithstanding exceptional circumstances outside of officer control, all future contract authorisation actions

requiring Member decision will be presented at least six months in advance, allowing proper consideration of alternative options to be given.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children Policy Implications Financial Implications Personnel Implications Legal Implications Procurement Implications
Background Documents: (Access via Contact Officer)	None

APPENDIX 1

Education Contract Authorisations August/September 2016

The details of the three contracts for which Portfolio Holder authorisation was sought where less than six months remained on the original contract terms are as follows:

Contract Description	Existing Provider	Contract Start Date	Contract End Date	Contract Whole Life Value	Portfolio Holder Decision Date	Commentary
Counselling	Bromley Y	01/10/14	31/07/16	£60,000	17/08/16	<p>The decision sought from the Portfolio Holder was to award a further contract to Bromley Y, via exemption, for a period of up to six months commencing September 2016.</p> <p>The purpose of the existing contract was to provide counselling support in term time only to pupils attending alternative provision.</p> <p>Commencement of the tendering process for this contract was delayed while the service sought clarification as to whether alternative options were appropriate.</p> <p>Alternative options included aligning this contract with another contract held by the same provider for CAMHS services; however this was ruled out due to substantive differences in the nature of the service provided.</p> <p>The service's preferred option was to allow the contract to terminate at the end of its contract term and to recruit resource directly to provide the counselling function.</p> <p>However, pending resolution of the preferred option of recruitment, the service was advised to commence a tender process for a new contract to ensure that this was in progress if the preferred option was not possible. After a review of progress by the Commissioner Education in June 2016, it was apparent that the service may not be able to complete the tender process in the remaining time before the service was potentially required in September 2016; therefore, as a contingency, authorisation was sought from the Portfolio Holder to allow the service to award, if required, a further contract to the existing provider, via exemption, to allow continuation of the service pending the completion of the tendering process.</p>

Contract Description	Existing Provider	Contract Start Date	Contract End Date	Contract Whole Life Value	Portfolio Holder Decision Date	Commentary
						<p>The final outcome was that the service received approval to recruit resource to deliver the counselling function directly; the existing contract was therefore confirmed as having finished at the end of its contract term in July 2016. The authorisation to award a further contract was not used.</p>
Flexible Learning	Multiple providers	01/09/14	31/07/16	£761,923	02/09/16	<p>The decision sought from the Portfolio Holder was to award a contract to Bromley College, via exemption, for a period of twelve months commencing September 2016 for a specific element of flexible learning provision at an estimated value of £146k.</p> <p>The existing contract was a framework of contracts with multiple providers, including Bromley College, for a range of alternative provision for pupils at risk of exclusion or Yr 10/ Yr 11 in-year admissions for whom a school place could not be found.</p> <p>The Head of Service for Behaviour Services had previously confirmed that the framework contract would not need to be retendered – alternative provision would now be procured by schools directly as necessary while in-year admission provision would be managed and funded via the Fair Access Protocol. The post of Head of Service subsequently became vacant and has not yet been replaced.</p> <p>Staff in the Education Business Partnership (EBP) team (who had been managing administrative tasks on the contract on behalf of Behaviour Services) alerted the Commissioner Education in May 2016 that there was in fact an ongoing need for one element of the Flexible Learning provision – specifically English as an Additional Language provision for Yr 11 in-year admissions (refugees and unaccompanied asylum seekers) who could not be placed in a mainstream school due to the extent of their language needs. Bromley College had been providing provision to such pupils as part of the Framework contract.</p> <p>With insufficient time to commence a tender process for this provision, arrangements were put in place to seek authorisation to award a contract to Bromley College via exemption. The finalisation of the report was delayed pending discussion with Bromley College on the nature, volume and funding of the proposed provision. These discussions were extended due to the lack of a Head of Service with</p>

Contract Description	Existing Provider	Contract Start Date	Contract End Date	Contract Whole Life Value	Portfolio Holder Decision Date	Commentary
						<p>detailed knowledge of the requirements of the function.</p> <p>The outcome is that, following Portfolio Holder approval, a one year contract was awarded to Bromley College commencing September 2016. The EBP staff, with the support of the Commissioner Education and input from education staff are now working on a specification for this requirement and will go out to tender for a 2017/18 contract.</p>
James Dixon Primary School – temporary classrooms	Elliot Group Ltd	23/06/14	31/08/16	£236,331	21/09/16	<p>The decision sought from the Portfolio Holder was to award a further contract to Elliot Group Ltd, via exemption, for a period of five years commencing September 2016, for the provision of temporary classrooms at James Dixon primary school.</p> <p>The Education Capital team had been working with James Dixon for two years on a proposal to expand the school. As part of this arrangement, the school had taken on bulge classes with temporary classroom accommodation put in place to accommodate them via the contract with Elliot Group.</p> <p>The intent was to tender and procure an appropriate provider to deliver the agreed building project, which would involve the removal of the temporary classrooms as part of the build project arrangements.</p> <p>However, agreement of the final project could not be reached with the school who sought a design that went beyond the DfE BB103 guidelines for new school buildings, and by April 2016, all indications were that the school would not proceed with the expansion project at all. However, this was not formally confirmed by the school until July 2016.</p> <p>With the expansion project not going ahead, this left an ongoing need for temporary accommodation for the bulge classes until they passed through the school. The proposal to award a further contract to renew the rental of the existing temporary classrooms for a further five years was put forward to meet this requirement, as the most cost effective way of securing the temporary classroom space.</p> <p>The service acknowledges that they were aware by April/May 2016 that the indications were that the arrangements for temporary classrooms would need to continue beyond August 2016. However,</p>

Contract Description	Existing Provider	Contract Start Date	Contract End Date	Contract Whole Life Value	Portfolio Holder Decision Date	Commentary
						<p>until the point that the school confirmed that the expansion project would not proceed, which was not received until July 2016, it was not possible to know with certainty the proposed duration and cost of the new contract; and also to apply correctly for the appropriate planning permission to allow the contract to continue. The service felt in this case that it would be better to achieve certainty and submit a proposal for authorisation for the correct timescale and funding rather than submit a proposal for 'a best guess' that would most likely have to be resubmitted in due course once the full details were known.</p> <p>The decision to wait also allowed the service to obtain a cheaper rate for the five year contract than would otherwise have been achieved if they had proceeded with agreeing a short term contract pending confirmation by the school of their decision.</p>

APPENDIX 2

EDUCATION CONTRACTS STATUS REPORT

November 2016 Update

The purpose of this document is to highlight to each Manager and each team within Education Services the range of contracts for which they are responsible (as per the latest ECHS Contracts Register) and to recommend actions and timescales. Each contract is RAG rated as follows:

- Green – no immediate action / all actions on track;
- Amber – action required soon / action should be underway;
- Red – at risk, immediate action to be taken.

Service leads and teams should notify the Commissioner Education of any inaccuracies within the data (e.g. where action has already been taken).

In addition, every team should notify the Commissioner Education and ECHS Head of Procurement of any existing contracts that are not showing on this list.

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
Page 17 Head of School Standards and Adult Education	Governor Services	Octavo	05/09/16	04/09/17	£4,590 (annual)	The contract has two extension options of one year. Extension options should be signed off six months in advance. Paperwork for contract extension (if applicable) should be ready for sign off no later than January 2017.	
	Nursery Meals	Zebedee's	01/05/15	31/07/17	£26,851 (whole life) £20,543 (annual)	A Request for Quotes must be implemented. It is recommended that an RFQ commences no later than October 2016 to ensure finalisation in time for contract end. Proceeding with RFQ is recommended regardless of potential future delivery alternatives for Nursery. The contract can be novated or terminated early.	
	Governance Support	National Governors Association	01/03/15	31/08/17	£29,690 (whole life)	This contract should be terminated in line with the procurement of Governor Services via Octavo.	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
					£11,876 (annual)	Manager to confirm that contract has been terminated.	
Post-16 SEN Lead	Post-16 FE SEND Placements	Multiple	01/09/16	31/08/17	£1,329,127	This relates to multiple SEN contracts, collated into a single authorisation for Director approval. It is recognised that authorisation cannot be finalised until September each academic year due to the national timescales and processes outside of LA control.	
	Post-16 ISP SEND Placements	Multiple	01/09/16	31/08/17	£2,505,348	This relates to multiple SEN contracts, collated into a single authorisation for Director approval. It is recognised that authorisation cannot be finalised until September each academic year due to the national timescales and processes outside of LA control.	
Head of Admissions	Software Licence – home to school mapping	Hometrack Data Systems	01/04/04	31/03/17	£67,680 (whole life) £4,230 (annual)	The contract is no longer required and will not need to be retendered.	
	Pan London Admissions System	London Grid for Learning Trust	01/04/04	31/03/20	£112,000 (whole life) £14,000 (annual)	No immediate action. The system and supplier is linked in with Pan-London arrangements and therefore any future contract is likely to be via exemption.	
Head of Youth Services	Information Support Officer	CACI Ltd	01/06/16	30/11/16	£16,100	This contract is a one off contract and will end upon expiry of contract term. No further action required.	
	Appropriate Adult Service	Appropriate Adult Service	01/04/15	31/03/17	£50,000 (whole life) £25,000 (annual)	A Request for Quotes must be undertaken. This should commence no later than August 2016 (it has been confirmed that this is in progress). No exemption or extension will be allowed for	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
						this contract.	
	Youth Services MIS	CACI Ltd	01/04/13	31/03/17	£45,372 (whole life) £11,343 (annual)	Authorisation for 2017/18 annual renewal completed and signed off by Portfolio Holder. 2018/19 continuation must be based upon Gateway Review and consideration of market testing.	
Virtual School Head	Monitoring of LAC attendance and attainment	Welfare Call Ltd	01/04/16	31/03/18	£20,342 (whole life) £10,171 (annual)	No immediate action. In due course, complete a Request for Quotes for any continuation of service. RFQ should commence no later than July 2017.	
Director of Education	DPS for supply teachers, tutors and educational specialists	Matrix SCM Ltd	01/01/14	31/12/17	£22,737 (whole life) £4,513 (annual)	No immediate action. In due course, either: <ul style="list-style-type: none"> • Authorisation for one year extension of current contract; or • Request for Quotes for new contract. Action to commence no later than May 2017.	
Page 19 Head of SEN	Pupil Referral Unit: Top Up Funding	Bromley Educational Trust	01/09/15	31/08/18	£7,525,000 (whole life) £1,505,000 (annual)	No immediate action. Two year extension option available. Extension authorisation, if required, in place no later than February 2018.	
	Burwood Special School: Top Up Funding	Bromley Educational Trust	01/09/16	31/08/19	£5,292,500 (whole life) £1,058,500 (annual)	No immediate action. Two year extension option available. Extension authorisation, if required, in place no later than February 2019.	
	SEN Mediation and	Global Mediation	01/10/15	30/09/17	£37,500	A one year extension option is available.	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
	Dispute Resolution	Ltd			(whole life) £12,500 (annual)	Extension option, if sought, must be in place by March 2017.	
Commissioner Education	SIMS Licences	Capita	01/04/15	31/03/17	£90,000 (whole life) £56,000 (annual)	This contract will not continue. Supplier and schools have been notified.	
	Capita One Education MIS	Capita	01/04/16	31/03/17	£118,463 (whole life and annual)	Authorisation for 2017/18 renewal fully in place. Gateway Review for 2018/19 to commence.	
Youth Services Programme Manager	Post 16 Learner Tracker and Transition Support	RBK	01/04/15	31/03/18	£126,390 (whole life) £42,130 (annual)	No immediate action. This contract was awarded via exemption, therefore cumulative value applicable for future actions. Either: <ul style="list-style-type: none"> • Tender to commence no later than June 2017; • One year extension – decision confirmed no later than September 2017 • New contract via exemption – decision confirmed no later than September 2017 	
Head of SEN	Young Advisor Support to Pathfinder and Short Breaks Review	Advocacy for All	01/04/16	31/03/17	£20,000 (whole life and annual)	Authorisation for 2017/18 renewal fully in place. 2018/19 continuation must be based upon Gateway Review and Request for Quotes.	
	Parental Support Pathfinder	Bromley Parent Voice	01/04/16	31/03/17	£15,000 (whole life and annual)	Authorisation for 2017/18 renewal fully in place. 2018/19 continuation must be based upon Gateway Review and Request for Quotes.	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
	SEN Placement DPS	Croydon Borough Council	01/08/16	31/07/20	£60,000 (whole life) £15,000 (annual)	No immediate action. Continuation of this contract will be via exemption or extension. Ensure authorisation (via Exec due to value of placements purchased through DPS) decision is in good time.	
	Family Support Services	Bromley Mencap	08/07/16	07/07/19	£105,655 (whole life) £26,477 (annual)	No immediate action. One year extension option available. Extension option, if sought, must be in place by December 2018.	
SEN Transport Lead	Travel Training for Young People with Disabilities	Bexley Accessible Transport Scheme	01/09/14	31/08/17	£265,410 (whole life) £88,470 (annual)	Executive paper for authorisation to proceed to retender the contract in draft with decision expected by January. There should be sufficient time to complete the tender before contract end.	
Head of Strategic Place Planning	Multiple Construction Contracts	Various	Various	Various	Various	The majority, if not all, of such contracts are one off and are not recurrent. However, if extensions/exemptions are applicable, decisions must be made six months before contract end.	
EBP Lead	Software Licence	Perspective Ltd	01/09/14	30/08/17	£14,550 (whole life) £4,850 (annual)	The contract term applies to authorisation – it is actually an annual agreement, renewed each year. Either RFQ or exemption/extension – if latter, decision and authorisation by February 2017. Should be within Director of Education authorisation unless there are previous cumulative values that apply.	
	Software Licence	Edufocus Ltd	01/04/12	31/03/18	£29,994 (whole life) £4,999 (annual)	No immediate action. The contract term applies to authorisation – it is actually an annual agreement, renewed each year. Either RFQ or exemption/extension – if latter, decision and authorisation by September 2017. Should be within Director of Education	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
						authorisation unless there are previous cumulative values that apply.	
	Software Licence	Veryan Software Ltd	01/04/12	31/03/18	£26,770 (whole life) £4,295 (annual)	No immediate action. The contract term applies to authorisation – it is actually an annual agreement, renewed each year. Either RFQ or exemption/extension – if latter, decision and authorisation by September 2017. Should be within Director of Education authorisation unless there are previous cumulative values that apply.	
	Website Maintenance and Upgrade	Cleverbox UK	01/05/13	30/04/25	£11,475 (whole life)	No immediate action. The contract term applies to authorisation – it is actually an annual agreement, renewed each year. Either RFQ or exemption/extension – if latter, decision and authorisation by October 2025. Should be within Director of Education authorisation unless there are previous cumulative values that apply.	
Vison Service Lead	Griffins Office Cleaning	CRN Contract Services Ltd	01/06/16	31/03/19	£25,070 (whole life) £5,014 (annual)	No immediate action. Two year extension option available. Extension option, if sought, must be in place by September 2018.	
SS&DS Lead	IT Equipment	Structured Network Solutions	06/01/16	31/12/16	£5,000 (whole life and annual)	A Request for Quotes must be undertaken. This should commence no later than August 2016. No exemption or extension will be allowed for this contract.	
	IT Support	Structured Network Solutions	06/01/16	31/12/16	£17,009 (whole life)	A Request for Quotes must be undertaken. This should commence no later than August	

Service Lead	Service	Supplier	Contract Start Date	Contract End Date	Contract Value	Options, Comments & Timescales	RAG Rating
					and annual)	2016. No exemption or extension will be allowed for this contract.	
	SIPS Support	Various Early Years Settings	01/04/16	31/03/17	£225,700 (whole life and annual)	Authorisation for 2017/18 renewal fully in place. No immediate action. Next authorisation due by September 2017.	
	Additional Support in Mainstream	Various – schools and academies	01/04/16	31/03/17	£423,950 (whole life and annual)	Authorisation for 2017/18 renewal fully in place. No immediate action. Next authorisation due by September 2017.	
EBP Lead	English as an Additional Language	Bromley College	05/09/16	31/08/17	£144,000	Authorisation from the Portfolio Holder to continue (via exemption to competitive tendering) contracting with the provider in 2016/17 academic year for a maximum of one year is in place. A competitive tender for a contract for 2017/18, based on a new specification, is to be carried out. The tender planning and spec development needs to commence now in order to ensure the tender process is completed sufficiently in advance of the 2017/18 academic year.	

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Report To Commissioning Board for Discussion and Agreement

Summary of Content – The consideration of the necessary Amendments to Contract Procedure Rules and Associated Guidance and Practice Notes to enable improved management and member scrutiny of Contract Waivers and Exemptions and reflect the Councils' revised Commissioning arrangements.

Context

- 1) In recent months members and officers have expressed considerable concern at the use being made of the current arrangements identified within the Council's Contract Procedures Rules, when insufficient time is being allowed for the consideration of any alternative action, for example retendering arrangements instead of the use of a contract extension or other Waiver activity.
- 2) While there needs to be a balance between the proper use of delegated authority and the generation of additional reporting requirements, it is clear that in many cases the current consideration, around the use of extension provisions within contracts, results from the lack of timely action within service areas, of the alternatives available to them.
- 3) There is also a need to amend Contract Procedure Rules to reflect the New Structures being put in place around the Councils management arrangements and the creation of a post (Director of Commissioning), with responsibility to overview procurement and commissioning arrangements around service provision.
- 4) These proposed amendments seek to provide for the right level of member and management scrutiny of intended actions, while also providing the necessary degree of flexibility in contract management arrangements.
- 5) It should be noted that any amendments to Contract Procedure Rules, which are over viewed by Audit Sub, will require agreement by the Executive or the Council.
- 6) There are also a number of associated Guidance & Practice Notes, together with Template Documents, which cover elements of the current requirements which will need to be amended to reflect any agreed changes (i.e. Corporate Procurement Practice Note – Exemptions and Waiver Requirements; Formal Reporting Requirements on Commissioning Activity; Approval of Variations an Extensions; various Waiver Activities and Gate Report Templates and Guidance Notes).

7) Proposed Amendments to Contract Procedure Rules

(Attached to provide context are the proposed amendments inserted in to the current CPR's)

Add to existing Preamble - Introduction to CPR's - "...Director of Commissioning..." in final paragraph.

Add to existing 1.3 (and renumber 1.3.1) – "... and Director of Commissioning..."

New CPR 1.3.2 – "Where it is proposed to change, amend or extinguish an element of service delivery, either in total or part, and where the estimated value of such change has an estimated value of £100k and above; or where there is a disproportionate impact on other areas of the Councils services. The Director of Commissioning will be consulted on the proposed change, including the consideration of the service business case and associated management reports, at least 3 months prior to the intended implementation."

Add to existing 1.4 – "... and Director of Commissioning..."

Add to existing CPR 2.2.1 – "...and above, and complete the Contract Summary Document, in the details...."

Add new bullet point to CPR 2.2.2 – "Ensure the timely consideration of Contracts and associated actions identified and recorded in the Contract Register and Contract Summary Documents"

Add to existing 5.1 final Bullet point – "... Director of Commissioning..."

Add to existing CPR 5.3 – "... Director of Commissioning..."

New CPR 5.5 – Where the estimated value of the intended arrangement is £500k and above, the Councils Commissioning Board shall receive a copy of the draft Gate Report, prior to its submission to the relevant Portfolio Holder or Executive as required by CPR 5.3 and 5.4.

Add to existing CPR 7.4.1 – "...Director of Commissioning..."

Add to existing CPR 8.3 – "... Director of Commissioning..."

Add to existing CPR 8.4 – "... Director of Commissioning..."

Note CPR 8.5.4 is being amended to reflect Consultants Tax position.

Add to existing CPR 9.1 – Third Bullet point – "Must Consult with the Director of Commissioning and seek advice from....."

Add to Existing CPR 13.1 - action box 2-4 "... Director of Commissioning... "

Add to existing CPR13.4 – "... *Director of Commissioning*..." and "... make use of this permissible extension providing, (a) there is at least six months left on the existing contract term and (b) it is notified to the Audit Sub committee...."

Add to Existing CPR 15.5 - "...Director of Commissioning.."

Existing CPR 16.6 add “...Where a report is required to be submitted to the Portfolio Holder or Executive, under the requirements of this Clause, the Director of Commissioning shall be given an opportunity to review the report prior to its submission to Members.”

Add to Existing CPR 23.7.4 add “...Director of Commissioning...”

Add to Definitions “..Corporate and Service Contract register, includes the required Contract Summary Information ...”

Consequential Revisions to Drafting of CPR's

Preamble - Various Best Practice Guidance Notes and associated processes can be found on the Council's Intranet Site in the Procurement element of the “Manager Toolkit”. These complement these Procedural Rules and have been prepared to assist those involved in the Procurement process to identify and use best practice. The practices identified should be used by those involved in contracting processes and arrangements unless an alternative course of action has been agreed by the **Head of Procurement** in consultation with the **Director of Corporate Services** and **Director of Commissioning** as necessary. In any case the requirements set out in these Contract Procedural Rules must be followed unless a general or specific derogation has been agreed by the Council.

1.3.1 The formal advice of the **Director of Corporate Services** **Director of Commissioning** and the **Director of Finance** (or their **nominees**) must be sought for the following contracts:

- Where the *Total Value* exceeds **£100,000**;
- Those involving leasing arrangements;
- Where it is proposed to use a supplier's own terms;
- Those involving the purchase of application software with a *Total Value* of more than **£50,000**;
- Involve the placement of a *Contract* with another *Public Sector Organisation*, other than through a *Framework Agreement*, authorised as required in these Contract Procedure Rules;
- Arrangements which require the provision of a formal *Gate Report* to be made to Members during any stage of the contracting process;
- Those that are complex in any other way.

New CPR 1.3.2 – “Where it is proposed to change, amend or extinguish an element of service delivery, either in total or part, and where the estimated value of such change has an estimated value of £100k and above; or where there is a disproportionate impact on other areas of the Councils services. The Director of Commissioning will be consulted on the proposed change, including the consideration of the service business case and associated management reports, at least 3 months prior to the intended implementation.”

1.4 The *Public Contract Regulations* (see Annex B of these *Contract Procedure Rules*) provide for five (5) main processes under which *Works, Services and Supplies*, that fall within their provisions can be placed. These are identified as being the (1) “*Open Procedure*”; the (2) “*Restricted Procedure*”; the (3) “*Competitive Dialogue Procedure*”; (4) “*Competitive Procedure with Negotiation*” and (5) the “*Innovation Partnership Procedure*”. In addition, but only in very limited circumstances, (6) a “*Negotiated Procedure without Prior Publication*” may be used. However, unless the formal Advice of the **Head of Procurement** has been obtained, and the Agreement of the **Director of Corporate Service**, **the Director of Commissioning** and the **Director of Finance** given, only the first two of these options may otherwise be used.

2.2 Chief Officers

2.2.1 The **Head of Procurement** will maintain a Register of all Contracts with a value of **£200,000** and above. Directorates are required to use the Corporate System to record contracts with an estimated value of **£50,000** and above **and complete the Contract Summary Document**, in the detail it requires and provide for its update on a quarterly basis.

2.2.2 **Chief Officers** must:

- Ensure that their staff comply with Rule 2.1;
 - **Ensure the timely consideration of Contracts and associated actions identified and recorded in the Contract Register and Contract Summary Documents”**
 - Keep a registers of:
 - Contracts completed by signature, rather than by the Council’s Seal (see Rule 17.3) and arrange their safekeeping on Council premises;
 - Exemptions recorded under Rule 3.2.
-

STEPS PRIOR TO PURCHASE

5.1 The **Officer** must review the intended *Procurement* in a manner commensurate with its complexity, risk and value, taking into account any relevant guidance contained in in the *Best Practice Guidance Notes and associated processes included in the Procurement Element of the Managers Toolkit*,

- Taking into account the requirements from any relevant Service review;
- Appraising the need for the expenditure and its priority;
- Defining the objectives of the purchase;
- Assessing the risks associated with the purchase / procurement and how to manage them, including those associated with any required consultation, TUPE, Pensions, Insurance and the Tax implications of any contracting arrangements proposed, together with the Social Value Act Legislation;
- *Undertake Preliminary Market Consultation* with the “Market” and Service Providers as appropriate and to the extent provided for in the *Public Contract Regulations* (Cl.40), providing this does not distort or compromise the contracting process;

- Considering what *Procurement* method is most likely to achieve the *Procurement* objectives, including internal or external sourcing, partnering, packaging strategy and collaborative *procurement* arrangements with another local authority, government departments, statutory undertakers, public service procurement consortium or Central Purchasing Organisations (CPO's);
- Contract Length; Consider the appropriate time limits allowed for the completion of the tender process and any statutory requirements that may apply;
- Consulting users, staff and other interested parties, as appropriate, about the proposed *procurement* method, contract standards and performance and user satisfaction monitoring;
- Identify and record the reasons for any “*Lotting*” Strategy to be used;
- Drafting the terms and conditions that are to apply to the proposed contract;
- Consider the approach to be taken to performance and contract management and the reporting arrangements needed to ensure the delivery of the required service.
- Ensuring the correctness of any use of member or delegated approval for the expenditure and that the purchase is in accords with the approved policy framework, *Scheme of Delegation* as set out in the *Constitution*;
- If the purchase is a *Key Decision*, all appropriate steps have been taken
- Setting out these matters in writing if the *Total Value* of the purchase exceeds **£50,000**.
- Ensure that for any Contracts involving the Outsourcing (or Insourcing) of any requirements, the necessary **Commissioning**. Legal, Finance, HR, Pensions, Procurement and IT advice is obtained.

5.2 Where the estimated value of the intended arrangement requires the publication of an *OJEU* and / or *Contract Finder Notice*, the required Procurement Documents must be available at the point of publication.

5.3 Where the estimated value of the intended arrangement is **£500,000** or more the relevant *Portfolio Holder* will be *Formally Consulted* on the intended action and contracting arrangements, having submitted, for consideration, a formal “*Gate Report*”, covering, as appropriate, the matters identified in the Council’s Standard “*Gate Reporting Template*”. Reports produced must identify, after discussion with the *Relevant Officers in Commissioning* Legal, Finance, Human Resources, Procurement and Information Technology, any service and cost implications arising from the proposals being considered.

5.4 Where the value of the intended arrangement is **£1,000,000** or more the *Executive* will be *Formally Consulted* on the intended action and contracting arrangements, having submitted for consideration a formal “*Gate Report*”, covering as appropriate, the matters identified in the Council’s Standard “*Gate Reporting*” Template..

New CPR 5.5 – Where the estimated value of the intended arrangement is £500k and above, the Councils Commissioning Board shall receive a copy of the draft Gate Report, prior to its submission to the relevant Portfolio Holder or Executive as required by CPR 5.3 and 5.4.

7.4 Framework Agreements, Dynamic Purchasing Systems and Electronic Catalogues

7.4.1 The term of a *Framework Agreement*, unless otherwise agreed, by the **Director of Corporate Services**, **Director of Commissioning** and **Director of Finance**, must not exceed four years

8.3 Providing Services to External Purchasers and other Public Sector Organisations

8.3.1 The **Director of Corporate Services**, **Director of Commissioning** and **Director of Finance** must be *Consulted* where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these *Contract Procedure Rules*. If in doubt, **Officers** must seek the advice of the **Director of Corporate Services**, **Director of Commissioning** and **Head of Procurement**.

Note CPR 8.5.4 is being amended to reflect Consultants Tax position.

9. PRELIMINARY MARKET CONSULTATION

9.1 The **Officer** responsible for the purchase:

- May consult potential suppliers prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential *Candidate*; but
 - Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Candidates* or distort competition; and
 - Must Consult **with the Director of Commissioning** and seek advice from the **Head of Procurement** where the tender under consideration has an estimated value greater than the relevant EU Threshold and observe the requirements of the Public Contract Regulations Cl.40/41 in the approach taken on such consultation and any subsequent involvement, by those consulted in the tender process.
-

13. EXEMPTIONS TO THE NEED FOR COMPETITIVE TENDER

13.1 A decision to negotiate with one or more candidates on any arrangements required within the *Procurement* process shall not be made except in compliance with the following and any Public Contract Regulations (see also Rule 3). Note - For the purpose of this Rule the establishment of a *Service Level Agreement* is treated as being a negotiated arrangement;

<i>Estimated Cost(or Value)</i>	Authorisation Requirement
£5,000 - £50,000	Chief Officer Agreement
£50,000 - up to £100,000	Chief Officer in agreement with <i>Director of Corporate Services</i> , <i>Director of Commissioning</i> and <i>Director of Finance</i> with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£100,000 – up to £1,000,000	Chief Officer in agreement with <i>Director of Corporate Services</i> , <i>Director of Commissioning</i> and <i>Director of Finance</i> and following Approval of the relevant <i>Portfolio Holder</i> , with a report of the use made of this exemption being made to <i>Audit Sub committee</i> on a bi-annual basis.
£1,000,000 and above	Chief Officer in agreement with <i>Director of Corporate Services</i> , <i>Director of Commissioning</i> and <i>Director of Finance</i> and the approval of the <i>Executive or the Council</i> as appropriate.

13.4 Subject to the satisfactory completion of any required Contract Monitoring Report (see CPR 23), and where the Report produced as required by CPR 5 provides for a discretionary Extension of the Contract for an additional period of time. Providing the Authorising Committee have indicated their agreement at the point of the CPR 5 Report **and** without the need for further referral, then the relevant Chief Officer may, in agreement with the *Director of Corporate Services*, *Director of Commissioning* and *Director of Finance*, and any other person specified in the authorisation and in *Consultation* with the Portfolio Holder, make use of this permissible extension providing, **(a) there is at least six months left on the existing contract term and (b)** it is notified to the Audit Sub committee, as part of the Bi Annual Report produced and identified in this CPR.

15.5 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered unless the *Director of Corporate Services*, *Director of Commissioning* and the *Director of Finance* agree to an alternative course of action.

16.6 **Officers** may accept, within their relevant financial limit, delegated authority and providing the stipulated degree of separation of duties is maintained, Quotations and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules and, in respect of proposed contracts that are expected to exceed **£500,000**, the approval of the relevant **Portfolio Holder** has been secured. The awarding of contracts that are expected to exceed **£1,000,000** shall be approved by the **Executive or the Council**, the responsible **Officers** having submitted for consideration a formal “Gate Report”, covering, as appropriate, the matters identified in the Council’s Standard “Gate Reporting Template for consideration at Award of Contract. **Where a report is required to be submitted to the Portfolio Holder or Executive, under the requirements of this Clause, the Director of Commissioning shall be given an opportunity to review the report prior to its submission to Members.”**

23.7 *Variations and Extensions*

23.7.1 No *Variation* should be issued or *Extension* agreed unless there is sufficient budgetary provision for each contract or where it is permitted under the Council’s *Capital Programme Procedures* and related responsibilities for financial control of capital projects.

23.7.2 All *Variation* Orders must be issued promptly and authorised before the work is undertaken. All variations will be contained within agreed limits for each contract and made within the authorised limits determined by the **Chief Officer** as provided for in *Financial Regulations* and the *Capital Programme Procedures*.

23.7.3 Subject to any requirements of *Financial Regulations*, statutory restrictions and compliance with any provisions of the Public Procurement Regulations (particularly those relating to negotiation; modifications and extensions and any limitations imposed by Clause 72 of the Regulations above), a **Chief Officer** may authorise the following extension to an existing contact:

- An extension for a particular period provided for within the terms of the contract (but subject to satisfactory outcomes of contract monitoring, such information having been provided to where required in these Rules to the relevant **Portfolio Holder** and/or **Executive**); or
- A single extension of the contract by up to one year; or
- An increase in the scope of activities being undertaken.

Providing that where the value of any single and/or all extensions granted is greater than **£50,000** the processes and authorisation procedures required shall be the same as those identified in Rule 13 above.

23.7.4 The **Chief Officer** shall consult with the **Head of Procurement** the **Director of Commissioning** and the **Director of Corporate Services** on any need to issue a *Modification Notice* or take other action required by Cl.72 of the *Public Contract Regulations*.

Draft Practice Note - Timescale Requirements CPR's and Commissioning

The following information provides advice on the potential timescale which may be required when completing Commissioning and Procurement activity. It includes allowance for any necessary Reporting /Authorisation requirements set out in the Councils' Financial / Commissioning and Procurement Procedures.

The indicated timescales include for the need to Consult and / or get the agreement of various **Corporate Officers**, to the proposed service delivery arrangements, as appropriate for the intended action and estimated value.

Chief Officers are responsible for ensuring that these requirements are met for all staff, Consultants and budgets under their control.

The timescales indicated need to be considered in the context of the Commissioning / Procurement process envisaged, the degree of legal/service complexity of the approach proposed, service change requirements and any service user consultation these may entail.

It should be remembered that a complex contract, particularly where it is associated with service change requirements and or/ negotiation (which may need significant consultation both within and outside the Council), may take 12-18 months to complete, before getting to a position where the service is ready for Tender. The Tender process itself will need to be completed in compliance with various Procurement Regulations and, may take a similar time period to complete.

Service Client Officers and Commissioners need to carefully consider all relevant factors and ensure that sufficient time is allowed for the completion of the envisaged arrangements and that they manage the process with sufficient discipline to ensure time critical factors are met, without detriment to the overall tender timelines or required inputs from the other interested parties, such as Legal, Finance and Procurement.

The Indicative Timetables included give an indication of the steps and timing that may be appropriate to allow for in contracting arrangements for activities:

(1) With an estimated value below the thresholds of the Public Contract Regulations and considered Straightforward (Identified as “Simple “in the table below);

(2) With an estimated value above the threshold of the Public Contract Regulations, but which do not have Service or Client change requirement (Identified as “Complex” in the table below);

(3) That are considered more complex, are above the Public Contract Regulations Threshold, with changed levels of service and /or need for discussion with other authorities (such as in a shared service proposal), or have TUPE transfer implications (identified as “Complicated” in the table below).

These timetables are indicative only and judgment calls will need to be made where contracts present any unusual attributes which might require additional time allowances to be made.

Client Officers and Commissioners will also need to ensure that a proper assessment of the lead in times to contract are considered, to ensure sufficient time for any potential service transfer and /or service change arrangements to be completed.

Remember there are also some specific CPR Requirements on Timings to provide for Consultation with the Director of Commissioning and the Commissioning Board.

CPR 1.3.2 – The Director of Commissioning must be consulted at least 3 months before any proposed change/amendment or extinguishment of an element of service, either in part or full with an estimated impact of £100k and above in Value. In addition The Director of Commissioning must be consulted where;

- **CPR 5.5** – Any Member Report provided under CPR5.5 (Contract Pre Tender Gate Report £500k and above), prior to its submission;
- **CPR 13.4** – Requirement for gaining any Authority for waiver Action – (Must be taken at least 6 Months before the end of the Contract) for a permissible extension.
- **CPR 16.6** – Any Member Report provided under CPR16.6 (Contract Award above £500k), prior to its submission.
- **CPR 22 & 23** – Any Member Report on Contract Monitoring and Management Change requirements etc. including Waivers for Variations and/or Extensions, prior to its submission.

These need to be align with any “Gate Reporting” requirements to Portfolio Holders and Executive at £500K and £1M, respectively – as identified in CPR 5.3 & 5.4 - (Formal Consultation on the intended Contracting Arrangements); CPR 16.6 - (Approval to Award) and CPR 23.3 – (Monitoring and Management Requirements). Together with any other consultation/authorisation requirements set out within Contract Procedure Rules or the Council’s Governance arrangements.

(1) “Simple” - Below PCR’s; (2) “Complex” - Above Threshold but no Service or Client change requirements; (3) “Complicated” - Arrangement With Service Change /TUPE	Time	Stage		
		Simple	Complex	Complicated
Indicative Actions Required		Service Review and Options Appraisal		
		Simple	Complex	Complicated
Investment Requirements / Programme Level VFM Assessment				
Commission any supporting reviews - External Parties				
Commission any internal reviews – Internal Parties				
Position on Risks and Liabilities Investments in Service (i.e. Service Development, Pensions and IT)				
Contract Structure including interface with supply chain and other contracting arrangements				
Options Appraisal				
Service Review				
Client /Contractor Split – Position support arrangements to be retained or placed with others				
Soft market Testing / Supplier Meetings				
Consider issue of PIN Notice (Market warm up)				
Client and External Resources / Budget Review				
Stakeholder Consultation Requirements; Impact Assessments Consider Social Value Act Strategy				
Initial Staff Consultation				
Any Further Consultation				
Policy Amendments / Agreement				
Outline Evaluation Process				
Consider Consortium/Sub Contractor position				
Finalise Contract/Tender Documents				
Draft Contract Gate 0 Report - Justification of process to be used				
Management Approval				
Commissioning Board Approval				
Gateway Report – Procurement Strategy Accepted - including Call-in		3 Months	6 Months	15 Months
Invitation to Tender				
		Simple	Complex	Complicated
Complete All Contract Documentation – Note - EU Timetable will depend on Contracting Route Taken				
Despatch of OJEU – Publication of UK advertisement. (Check Journal copy deadlines)				
Publish Relevant Documents				
Finalise Evaluation Arrangements and Task Team Membership				
Deadline for Questions				
Return of pre-qualification questionnaire /IT T (30 Day Minimum)				
Client References and any Site Inspections as required – Organisation basis –Capacity and Capability				
Complete review of responses and shortlist bidders				
Set up (and Maintain) Data Room				
Despatch of invitation to Tender/Participate		2 Months	6 Months	6 Months

		Tender Evaluation		
		Simple	Complex	Complicated
Tender submission				
Clarification and Questions				
Head Office and Client visits to Test basis of bid				
Bid Clarification Process/Evaluation /Downsizing of list as necessary				
Final Negotiations where allowed /Evaluation/Finalise Contract on all substantive issues				
Assess Readiness to Award				
Financial Close				
Evaluation Report to Management				
Evaluation Award Report – to Commission Board				
Submission to PDS/PF/Executive as necessary				
Gate Report - Contract Award – Including Standstill and Call-in		3 Months	6 Months	9 Months
		Award Process		
		Simple	Complex	Complicated
Award Process – including “Stand still” (10 days)				
Any Residual Due Diligence both parties				
Contract Lead in Arrangements Contractor – Including TUPE Consultation				
Contract Lead in Arrangements Council_ Including TUPE Consultation				
Contract Mobilisation				
Contract Start		1 Month	3 Months	6 Months
Elapse Time Contracting Process Review to Contract Start		9 Months	21 Months	36 Months
Gate Report Annual Performance Reports – Management and Monitoring		Performance Reports – as required		
Management / Commissioning Board / Members as Necessary				

Report No.
CSD16141

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **CONTRACTS SUB-COMMITTEE**

Date: **Wednesday 2 November 2016**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **TERMS OF REFERENCE**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

1.1 The Sub-Committee is requested to clarify its terms of reference.

2. **RECOMMENDATION(S)**

That the proposed terms of reference set out in section 3.2 of this report be considered and recommended to Executive and Resources PDS Committee for approval.

Impact on Vulnerable Adults and Children

1. Summary of Impact: None
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £335,590
 5. Source of funding: 2016/17 Revenue Budget
-

Personnel

1. Number of staff (current and additional): 8 (7.27fte)
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: None
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 The Contracts Sub-Committee was established by the Executive and Resources PDS Committee in May 2016, with the following terms of reference –

“To undertake the policy development and scrutiny role in respect of the Council’s commissioning and contracts functions (whilst respecting the responsibilities of service PDS Committees) and report to Executive and Resources PDS Committee as appropriate.”

3.2 Further consideration has been given to these terms of reference with a view to clarifying the Sub-Committee’s role. The following new terms of reference are proposed -

“To undertake the policy development and scrutiny role in respect of the Council’s commissioning and contracts functions (whilst respecting the responsibilities of service PDS Committees) and report to Executive and Resources PDS Committee as appropriate.

This will include –

- **promoting best practice across the Council on commissioning, contracts and contract monitoring issues;**
- **reviewing the corporate contracts register and in particular the “commissioning journey” for contracts with a value of £500k and above making recommendations as appropriate;**
- **considering contracts issues raised by the Executive, Policy Development and Scrutiny Committees and the Audit Sub-Committee;**
- **making recommendations to Audit Sub-Committee on the Contract Procedure Rules.”**

3.3 If the Sub-Committee is content with these amended terms of reference they should be referred to the Executive and Resources PDS Committee for formal approval.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children/Policy/Financial/Personnel/Legal/Procurement
Background Documents: (Access via Contact Officer)	None

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Report No.
CSD16140

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **CONTRACTS SUB-COMMITTEE**

Date: **Wednesday 2nd November 2016**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **WORK PROGRAMME 2016/17**

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 0208 461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Corporate Services

Ward: N/A

1. Reason for report

1.1 This report offers the Sub-Committee an opportunity to consider its work programme for 2016/17 and in particular to confirm dates of meetings for the remainder of the year.

2. RECOMMENDATIONS

- (1) That the Sub-Committee considers its work programme and indicates any particular issues that it wishes to consider.**
- (2) The Committee considers and confirms future meeting dates (8th December 2016, 31st January 2017 and 11th April 2017 are proposed.)**

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £335,590
 5. Source of funding: 2016/17 Revenue budget
-

Staff

1. Number of staff (current and additional): 8 (7.27 fte)
 2. If from existing staff resources, number of staff hours: N/A
-

Legal

1. Legal Requirement: None: Further Details
 2. Call-in: Not Applicable: This report does not involve an executive decision
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 This report offers the Sub-Committee an opportunity to consider its future work programme and prioritise the key issues that need consideration.
- 3.2 A draft work programme is set out in Appendix A. The programme is based on holding six meetings through the year – roughly every two months. Proposed dates are set out in the appendix, based on Sub-Committee Members' availability as canvassed in July 2016. Members can add to these dates, or remove dates as necessary. Potential alternative dates are also set out in italics in the first column. For 2017/18, dates can be included in the main programme of meetings.
- 3.3 At the Sub-Committee's first meeting on 22nd June 2016, Members requested that further Member briefing sessions on Contracts and Commissioning be arranged in September. These sessions, run by the Director of Commissioning and Head of Corporate Procurement, provide key information about procedures in Bromley and an update on the latest information and approaches. A briefing session was held on Thursday 22nd September 2016 at 2.30pm. Four Councillors attended this session, bringing the total number trained to thirty nine out of sixty. A further session was arranged for Thursday 13th October 2016 at 7pm, but there was no take-up for this session so it was cancelled.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel/Impact on Vulnerable People & Children/Commissioning
Background Documents: (Access via Contact Officer)	None

Work Programme 2016/17

Proposed Date	Issue	Officer
<u>Meeting 3</u> Tuesday 2nd November 2016	Corporate Contracts Register	Head of Corporate Procurement
	Terms of Reference	DS Manager
	Guidance Notes on Contracts Timetabling	Head of Corporate Procurement
	Changes to Contract Procedure Rules	Head of Corporate Procurement
	Parking Contract Update	AD Culture
	Education Waivers Update	Director of Education
	Work Programme	DS Manager
<u>Meeting 4</u> Thursday 8th December 2016 (Or, 13/14 December?)	Corporate Contracts Register	Head of Corporate Procurement
	Update on Waivers (from meeting 1)	Director of Finance
	Work Programme	DS Manager
<u>Meeting 5</u> Tuesday 31st January 2017 (Or, 9, 14, 15 February?)	Corporate Contracts Register	Head of Corporate Procurement
	Manorfields Contract – Update	Head of Audit
	Work Programme	DS Manager
<u>Meeting 6</u> Tuesday 11th April 2017 (Or, 29 March, or 6, 12, 19, 20 April)	Corporate Contracts Register	Head of Corporate Procurement
	Work Programme	DS Manager

CONTRACTS SUB-COMMITTEE

Exempt minutes of the meeting held at 7.00 pm on 24 August 2016

20 /1 CONTRACTS ISSUES ARISING FROM INTERNAL AUDIT

Report CSD16122

A summary of contracts was provided in view of related issues that had arisen from recent Internal Audit reviews.

The Public Protection service had received critical Internal Audit reports on contracts concerning CCTV and Stray Dogs. Issues had been highlighted around contracting processes with Personnel issues, Key Documentation, and Contract Monitoring identified as themes across the cases.

Other issues arising from a number of Internal Audit investigations were also covered. All the highlighted issues had already been reported to Audit Sub-Committee, which normally received copies of the actual Internal Audit reports.

Members considered the various issues raised by audit findings from the contracts. Members found the issues particularly disturbing and expressed concerns in relation to timing/timetabling, an apparent lack of training and skills sets, a lack of understanding of contract monitoring, and a poor quality of management and knowledge of a contract.

To help improve overall contract management a number of broad measures were suggested. This included training and better contract specifications and definitions. It was important for a contract to be clear on what happens should KPIs not be met. The importance of Contract Management (in contrast to Contract Monitoring) was highlighted as a key foundation. Having a Contract Compliance expert to look through contracts was also suggested and this was supported by another Member. It was important the Council performed highly in Contract Management given the level of services being commissioned.

To raise concerns, the Contracts Register provided Red and Amber warnings; developing the Register further would provide a valuable contract management tool to drill down for relevant detail. Contract material was also seen by the Commissioning Board and contracts were regularly prevented from going forward given problems. Additionally, the Council's Legal team saw a number of contracts (other than smaller contracts).

Every contract over £200k should be seen by legal (with the commissioner in a Department). Officers undertake contract planning, involving experts as necessary, to ultimately arrive at a contract package. Generally, contract documentation was considered satisfactory; however, problems sometimes occurred in monitoring. Different services had different approaches, some of which were poor and a central team was being created for contract monitoring, headed by the Director of Commissioning.

Contracts Sub-Committee
24 August 2016

Members agreed that Report CSD16122 should be escalated to the next E&R PDS Committee along with minutes of the Sub-Committee's meeting. The Chief Executive could also be questioned on Contract Management at the meeting. A summary of actions proposed by Audit Sub could also be available to E&R PDS along with a record of progress made to help address the concerns.

For the moment, it was agreed that future minutes would exceptionally be referred to E&R PDS, to draw a particular matter to the Committee's attention; an assessment would subsequently be made on whether to regularly refer minutes to the Committee. The Sub-Committee's Annual Report would also go to E&R PDS.

In view of concerns for the contracts highlighted in Report CSD16122, it was RESOLVED that the report and minutes of the Sub Committee's meeting be referred to the Executive and Resources PDS Committee.

The Meeting ended at 10.05 pm

Chairman

Contract Sub Committee

AWARD OF PARKING ENFORCEMENT AND ASSOCIATED SERVICES CONTRACT

PART 2 – NOT FOR PUBLICATION – Exempt Information

Decision Maker: Executive Date: 30th November 2016

For Pre-Decision Scrutiny by the Environment PDS and Executive and Resources Committee

Reason for report: To report to the members on the outcome of re-tendering of the Parking Enforcement and Associated services contract and seek approval for the award of the contract to X.

PROPOSED RECOMMENDATION(S)

That the Executive agrees to:

Approve the award of the Parking Enforcement and Associated services contract to XXX. For X years at a total cost of X, with the option to extend the contract for a further 5 years and a start date of the contract will be 3 April 2017. The list of services are set out in Appendix 1.

Optional and coded services as set out in the invitation to tender may be adopted at any time during the term of the contract in order to offer best value to the council.

COMMENTARY

A commencement of Procurement Gateway review report ES14034 was approved by the Portfolio Holder in July 2014. The report set out in principle the range of services and existing contracts to review and the method of evaluating the benefits of contracting out services.

In April 2013 the shared parking service between LB Bromley and LB Bexley which LB Bromley was agreed to be the host borough formally came into being. The formal Collaboration Agreement between the two boroughs was approved in February 2013 (Bromley's Executive met on 6th February 2013). The shared service's principal objectives are to develop best service practice and to realise a saving in management costs and other overheads without detriment to the delivery of the front-line service.

A key element of the business case for establishing the shared parking service was the opportunity to realise further savings and efficiencies by bringing the boroughs together in a single shared parking contract when their existing contracts expire. Harmonisation of the boroughs' approaches to parking enforcement was already underway when report ES14034 was approved and joint procurement of a single shared service contract commenced.

Bromley's current contract with Vinci Park Services (now known as Indigo) commenced in October 2006 ends in September 2016. The contract includes the following services –

- Patrolling and enforcing on-street parking restrictions through the issue of PCNs.
- Patrolling and enforcing all council-owned car parks through the issue of PCNs.
- Car park management and maintenance.
- Equipment maintenance and management.
- Collecting cash from pay and display machines, and pay stations in multi-storey car parks.
- School crossing patrols, funded by TfL and individual schools

Bexley's current contract with NSL commenced in April 2010 and is now also due to end in April 2017, following agreement to align the contract end date with LB Bromley. The contract includes the following services:

- Patrolling and enforcing on-street parking restrictions through the issue of PCNs;
- Patrolling and enforcing car parks through the issue of PCNs;
- CCTV mobile units

Since the commencement of the current parking contract for Bromley in 2006 (Bexley's contract commenced in 2010) there have been a number of changes in Government guidance; in particular revised Statutory Guidance was issued in 2008. There have also been changes across the country in local authorities' enforcement practice, equipment and policy. In particular, greater emphasis has been placed on improved transparency, including;

- publication of annual reports
- more transparent financial information
- adoption and publication of parking strategies
- Use of Body Worn Video
- GPS tracking of enforcement , showing where PCNs have been issued
- Real time data transfer to the back office.
- Greater emphasis on customer service, including:
- Sharing of evidence recorded online including photographs and recordings
- Ability to challenge PCNs online.
- Sharing of policies and practices with customers via the web.

The Executive agreed in March 2015 recommendations in report ES15020, Joint Parking Services Contract: Gateway Review. This report set out in some detail the scope of the procurement and indicative timetables. The Services included in the contract are shown in appendix 1.

Officers worked on and developed a Contract and Specifications with associated KPIs which is fit for purpose and meets the requirements of Parking Services and the Council over the next 10 years.

A contract extension report ES16029 was approved by the Portfolio Holder July 2016 to ensure continuity of service through to 2 April 2017

Members will recall the Tender Specification and process was drafted in such a way as to obtain quotes from companies for the provision of service to either one authority or both authorities for a period of 5 years with a possible extension of 5 years or a period of a straight 10 years.

The shared service led on this joint procurement exercise. A management board was created comprising of officers at senior officer and operational level who worked closely together over a two year period to establish a specification which is fit for individual authorities or as a joint solution.

The board provided close scrutiny and governance of the process and insured all procurement and legal requirements were fully adhered to and monitoring procedures established as part of the contract to insure the highest standards are achieved and maintained by the successful contractor. Members should be reassured that the shared service will continue to monitor the performance of contractors as it has successfully been doing since the commencement of the service in April 2013.

5 th May	Advert published on OJEU
May	34 Companies expressed an interest on the Procurement Portal Indigo, G4S, Cobalt, Egis, NSL, Xerox, APCOA, Newlyn, Vysionics, Monchel, Serco, ICES, Chandlers, Loomis, Agendum, ARST &TT, BDI Securities Ltd, Brandsbury Wilson Parking Solutions Ltd, Civica, Creative Car Park Ltd, Direct Health Care, EME Holding DMBH, Equita Ltd, JJB Bross Ltd, Kabaku General Services LTD, Marston's Group Ltd, Openview Securities Ltd, Phoenix, Questas Consulting Ltd, Resurf Asphalt Ltd, Rundal & Co, Spur Information Ltd, Startrag UK Ltd, Tenders UK.
24 th May	Council and Service Providers open day. Presentation by key council officers explaining the principles and scope of the contract. This event was very well received and we received very positive feedback. 16 x companies – Indigo, G4S, NCP, Cobalt, Egis, NSL, Xerox, APCOA, Newlyn, Vysionics, Monchel, Serco, ICES, BarbourLogic, Chandlers, Loomis.
6 th June	Return of PQQ stage 6 x companies - NSL, Indigo, G4S, Egis, Serco, APCOA
4 th July	Dispatch of Invitation. – 4 x companies - NSL, Indigo, G4S, APCOA.
19 th September	Return of Tenders 3 x companies - NSL, Indigo, APCOA
December 2016	Award
3 April	Go Live

Analysis of Tender Returns

Four companies were invited to tender for the Parking Enforcement and Associated services contract , APCOA, Indigo, G4S and NSL.

Tender responses for the Parking Enforcement and Associated services contract were only received from 3 companies APCOA, Indigo and NSL. G4S did not respond to the Invitation to Tender for the contract.

Corporate procurement rules require evaluation and award of the tender to be based on a 60:40 Price/Quality split. The quality evaluation criteria was broken down as follows:

Financial Resources and Contract Affordability	5%
Quality and Operational Competence	40%
Technical Ability	30%
Customer care/service Development	10%
Health and Safety	5%
Equal Opportunities and HR matters	5%
Environmental issues	5%

Evaluation Summary

Quality

The Parking Enforcement and Associated services contract underpins the delivery of all Parking services within Bromley and Bexley, the quality aspect was explored in detail in order to gain assurance that the selected contractor would be able to provide the necessary services required for an efficient and effective parking service.

The table below shows the evaluation matrix and scores achieved by the companies tendering for the Parking Enforcement and Associated Services contract:

<u>Company</u>	<u>Financial Score</u>	<u>Quality Score</u>	<u>Total</u>	<u>Rank</u>
A	X	X	X	1
B	X	X	X	2
C	X	X	X	3

Note: this table will be completed on completion of evaluation process.

The evaluation team scrutinised the method statements returned and challenged all aspects of tender submissions including visits to reference sites.

Quality and Operational Competence

The successful submission provided a high level of reassurance in their operational competence specifically offering reassurance in respect of enforcement activity on street. The evaluation team was confident that there would be continuity of service in this respect in the future. To support this enforcement activity the team was satisfied that the ICT system was fully able to provide core functions and associated customer interfaces and scanning, logging and printing of statutory documents as well as DVLA data transfer management.

The successful bidder was keen to highlight the important role CEOs have on street both in offering local information and being an on street presence to help within the local community, including their role in identifying and addressing blue badge misuse within the borough. Also how their systems offer real time communication and GPS tracking etc to ensure existing levels of transparency and deployment are maintained and can be built upon in future.

Technical ability

An important aspect of the parking service is the security of data and cash including cash collections from our car parks, the successful tenderer demonstrated compliance with industry standards and many best practice procedures. They offered a good use of technology and access to information in order for reports and data to be accessed and interrogated in order to monitor performance against KPIs and ensure all audit requirements are adhered to.

Customer care and service development

The review team were satisfied the services provided took in consideration the needs and expectation of our customers, these included functions as ability to pay, renew and purchase permits on line along with the ability to challenge an appeal, penalty charge notice at the customers convenience. These services gives clear communication to the customer where their cases in the process and what action they require to take next. All communication and data is in real time insuring the customer has the latest information. Customers are adopting the use of cashless parking which has been well established and the successful tenderer gave

reassurance on how this service would continue and grow over the contract period. The expectations of customers we expect will continue to grow and we are satisfied that the systems in place and companies being used to deliver these services along with interesting innovations we will continue to meet the needs of customers in the future.

On-site presentations and visits to reference sites in respect of all 3 companies were undertaken and provided clarification on a number of points. X and X were assessed as being describe here the benefits and strengths of the winning company.

Health and safety

The successful bidder outlined clear health and safety policies and certification to ensure the safety of all employees. These policies included the use of body worn video, panic buttons, GPS tracking of CEOs and appropriate uniforms. In respect of car park management the evaluation team was satisfied there were sufficient policies and procedures in place for the removal of materials, chemicals, graffiti etc to ensure the car parks are maintained in a safe way. Another area of risk is the cash collection and counting process and again the successful tenderer provided good evidence to demonstrate these risks have been minimised through the use of industry standard practices. The council remain responsible for health and safety matters in respect of School crossing patrols, road safety will work closely with the contractor to ensure safety audits continue to be undertaken in the highest standards of safety for our children and family members around schools are maintained.

Equal Opportunities and employment regulations

The successful bidder provided a full equal opportunities policy as well as a staffing structure to show the relationship between all service areas. A full recruitment process was provided which ensured the appropriate quality checks of all the employees will be undertaken including their right to work in the UK. The process includes the councils Authorised Officer checking original documentation and minuting approval for any employee to be allowed to work on the contract.

For CEOs, School Crossing Patrol officers and Enforcement Agents (bailiffs) appropriate Disclosure and Barring Service checks (DBS) will be required throughout their employment on the contract

Examples of how the quality evaluation element was managed is shown in appendix 2.

Financial evaluation

Note: the financial evaluation is still ongoing and clarification is being sought on a number of points. Officers will provide a verbal update at the meeting.

X had the lowest price and the quality rating from all 3 companies were X. In addition to the strength set out in above X were able to demonstrate that the level of service and management that adequately met the needs of Parking Enforcement and Associated Services. It is recommended that the award of the Parking Enforcement and Associated services Contract is made to X.

The table below shows a 5/10 year cost of the Parking Enforcement and Associated services, for Bromley to appoint on a stand alone contract; or as a shared service with LB Bexley. The current Bromley Parking Enforcement and Associated Services Budget is £X per year, i.e. £X for X years.

5 Year	APCOA	Indigo	NSL
Total 5 year cost for Bromley alone.	£X	£X	£X
Total 5 year costs jointly with LB Bexley	£X	£X	£X
10 Year			
Total 10 year cost for Bromley alone.	£X	£X	£X
Total 10 year costs jointly with LB Bexley	£X	£X	£X

Note: this table will be completed on completion of evaluation process.

LB Bromley and LB Bexley have (obtained savings / increased costs) as a result of going out to tender jointly. LB Bexley officers are concurrently recommending that their Members **also award**

FINANCIAL IMPLICATIONS

The current budget for the Parking Enforcement and Associated services Parking Enforcement and Associated Services totals £X; over X years this equates to £X. The table in above sets out the bid prices received in the tenders. Tenderers were evaluated on a 60% financial and 40% quality basis. This is in accordance with the Council's procurement guidelines to establish the best value for money. The financial evaluation assessed the financial position of each company and examined the tenders, including estimated one-off costs. There is a **significant** saving on the current contract budget.

The contract for LB Bromley will commence on 3 April 2017 and full year savings of £X will be realised in 2017/18. From the commencement of contract until 1 April 2019 there will be no CPI applied. Thereafter CPI will be applied to the contract price to address inflation.

It is estimated the new contract would generate total savings/cost over X years from 3 April 2017 of circa £X.

The scope of the contracts allows for a number of optional services such as FPN, School crossing patrol and cash counting.

POLICY IMPLICATIONS

The Parking Enforcement and Associated services supports the Council's aim to meet the objectives set out in the Environment Portfolio and Parking Strategy Plan.

LEGAL & PROCUREMENT IMPLICATIONS

Wording to be provided by Legal and Procurement

KEY ISSUES / RISKS

There are two known primary risks/issues:

- Change of IT system

- Data migration
- Interfaces for payment modules and online customer interfaces

- Change of on street enforcement provider

10.2 Any change in service produces a risk however solutions provided by the successful tenderer have reduced risk in many cases by working with existing sub-contractors which will provide continuity of service. Tenderers have also provided comprehensive risk registers and proposed action to avoid potential problems in their tender submissions, the tenderers implementation plans have been scrutinised and target dates and objectives are manageable and achievable.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	Report ES14034 (July 2014), Procurement gateway review Report ES15020 (March 2015) Joint parking services contract: Gateway review Report ES16029 (June 2016) Parking Contract

Parking Enforcement and Associated Services award report

List of mandatory services

1. ENFORCEMENT (INC CCTV) AND ASSOCIATED SERVICES
5. SUSPENSION AND DISPENSATION MANAGEMENT
6. SURFACE CAR PARK MAINTENANCE
7. SIGNS AND LINES MAINTENANCE
8. ASSET MANAGEMENT
9. CASHLESS PARKING SOLUTION
10. CIVIL ENFORCEMENT SYSTEM
11. PERMITS SYSTEM
12. BUSINESS PROCESS SOLUTION
13. ENFORCEMENT AGENTS
14. MSCP MAINTENANCE
15. CLEANING SURFACE AND MSCP SPECIFICATION
16. CASH COLLECTION SERVICE (MACHINE TO COUNTING HOUSE)
17. PERMIT PROCESSING ADMINISTRATION
18. KIOSK STAFF FOR MULTI STORY CAR PARKS

Optional services

19. CASH COUNTING AND BANKING SERVICE
20. FPN SYSTEM
21. SCHOOL CROSSING PATROLS

Evaluation schedule and marking records

These documents will be provided at the meeting.

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