

**Decision Maker:** EDUCATION PORTFOLIO HOLDER

**Date:** For Pre-Decision Scrutiny by the Education Policy Development and Scrutiny Committee on Wednesday 8 July 2015

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

**Title:** PROVISION OF COURSES FOR THE BROMLEY FLEXIBLE LEARNING PROGRAMME

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**Chief Officer:** Chief Executive

**Ward:** (All Wards);

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## 1. REASON FOR REPORT

- 1.1 A tendering process for a Framework Agreement was undertaken in 2013, with a selection of learning providers being added to the Framework. The Framework was established and contracts awarded for a period of one year with an annual extension for up to 2 further years.
  - 1.2 The Framework was extended for a year under the terms of the contract to July 2015; this current extension request, if approved, would be the last year of that contract award.
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## 2. RECOMMENDATION

- 2.1 The Education Portfolio Holder is asked to approve the request to extend the Framework for the provision of courses for the Bromley Flexible Learning Programme until 31<sup>st</sup> July 2016, as outlined in paragraphs 4.5 and 4.6 of this report.

### Corporate Policy

1. Policy Status: Behaviour Support Policy
  2. BBB Priority: Children and Young People :
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### Financial

1. Cost of proposal: £170,720
  2. Ongoing costs: Not Applicable
  3. Budget head/performance centre: Education: Progression Courses 121554
  4. Total current budget for this head: £170,720
  5. Source of funding: Dedicated Schools Grant
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### Staff

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

1. Legal Requirement: Statutory Requirement Statutory Duty under “Raising the Participation Age”; Bromley Financial Regulations and Contract Procedure Rules
  2. Call-in: Applicable
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): See paragraphs 3.5 and 3.6
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### Ward Councillor Views

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

### 3. AIMS OF THE SERVICE

- 3.1 The aim of the Bromley Flexible Learning Programme (BFLP) is to increase the participation and educational achievement of young people and to reduce the risk of their exclusion from learning.
- 3.2 This programme enables ECHS to work with Contractors to offer a range of highly successful accredited courses for students aged 14-16 years old for whom an alternative learning style is more appropriate than attendance at a mainstream school.
- 3.3 The BFLP contributes to the Local Authority's statutory duty in "Raising the Participation Age" and directly supports the strategy to reduce the number of young people age 16-19 who are Not in Education Employment or Training (NEET).
- 3.4. The aim of the providers of this Service is to enable students to achieve the course qualification(s), units and/or awards, to obtain additional pastoral and study support and to improve their chances to achieve their full potential.
- 3.5 Currently, 31 young people are participating in the Programme, of which 23 are Year 11s and 8 are Year10s. They have been referred by the following 8 agencies:

| Agency                        | Number Referred |
|-------------------------------|-----------------|
| LBB (FAP)                     | 17              |
| LBB SEN                       | 4               |
| LBB Home and Hospital Tuition | 2               |
| The Nightingale Centre        | 1               |
| Bromley Trust Academy         | 2               |
| Bishop Justus School          | 1               |
| Burwood School                | 1               |
| Chislehurst School for Girls  | 3               |

- 3.6 A total of 50 young people have participated in the programme since the start of this academic year. The 19 who have been withdrawn so far were referred by the following agencies:

| Agency                        | Number Referred |
|-------------------------------|-----------------|
| LBB (FAP)                     | 12              |
| LBB SEN                       | 2               |
| LBB Home and Hospital Tuition | 2               |
| Bromley Trust Academy         | 1               |
| Burwood School                | 2               |

3.7 The reasons for the withdrawal of these 19 young people included

- Offered a place at a mainstream school
- Moved out of Borough
- Received a custodial sentence
- Placed with an alternative provider not part of the BFLP

#### 4. CONTRACTING ARRANGEMENTS

4.1 Until September 2012, providers had contracts awarded by exemption or extension on an ad hoc basis; the last contract awarded under this arrangement expired in July 2013. Prior to the expiry of these contracts, a review of the procurement arrangements concluded that a more competitive approach should be taken and a Framework of potential providers established, from which contracts could be 'called-off'.

4.2 A tendering exercise was undertaken in 2013 via the Council's electronic tendering portal, to establish a Framework of providers to provide courses in the following areas:

- Animal Care
- Catering
- Childcare
- Construction (Carpentry/Brickwork/Plumbing/Painting & Decorating or Multiskills)
- ESOL Provision (for those for whom English is not a first language)
- Foundation Learning
- Functional Skills
- GCSE Programmes of Study (Higher and Foundation)
- Hair and Beauty
- Information Technology
- Horticulture
- Media
- Music Technology
- Motor Vehicle Maintenance
- Public Services

4.3 As a result, the following providers were approved to be placed on the Framework:

- Academy21
- Bromley College of Further and Higher Education
- Croydon IT Training Centre
- Educ8
- Springboard Bromley [*subsequently removed, as they are no longer trading*]
- Streetvibes Youth
- Wizeup

4.4 A gap was subsequently identified in the provision of courses for Hair and Beauty, and a further tendering exercise was undertaken and the following 3 organisations were added to the Framework:

- Blingz
- Shears Academy
- Top Line Therapists Academy

- 4.5 The Framework and call-off contracts were awarded for a period of one year, with an option to extend on an annual basis for up to a further two years. A 1-year extension was subsequently approved; this current request will be the final extension available under the terms of the contract.
- 4.6 The proposed cumulative value of the contract would be £761,923 as identified in Section 5 (Financial Implications). Authorisation to extend for a further year is sought from the Portfolio Holder via pre-decision scrutiny from the Education Policy & Development Scrutiny Committee.

## 5. FINANCIAL IMPLICATIONS

- 5.1 This provision is primarily funded through the Behaviour Support element of the Dedicated Schools Grant. Other funding is derived from direct charges for referrals to other Local Authority departments or Schools.
- 5.2 The value of contracts called-off under the Framework is as follows:

|          |          |  |
|----------|----------|--|
| 2013/14: | £315,926 |  |
| 2014/15: | £275,277 |  |
| 2015/16: | £170,720 | (the estimated value is less this year due to the transfer out of the Respite Service) |

## 6. LEGAL IMPLICATIONS

- 6.1 The proposed extension to the framework is proposed in line with paragraph 23.7.3 of the Contract Procedure Rules, which allows for an extension to a contract subject to appropriate authorisation as per section 13 of the Contract Procedure Rules (which set the thresholds for authorisation of contracts).
- 6.2 The Public Contracts Regulations 2015 replaced the 2006 Regulations. As the transitional provisions set out in regulation 119 of the 2015 regulations do not apply and having regard to Crown Commercial Service guidance on contract variations post-26 February 2015 then we are looking at the 2015 regulations being the applicable provisions and there must be compliance with these.
- 6.3 Regulation 72 provides that contracts may be modified without a new procurement during their term in accordance with that regulation but not otherwise. Regulation 72 (1) (a) provides that one of the permissible circumstances is as follows:
3. “where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses—
  4. (i)state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
  5. (ii)do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;”
- 6.4 As there was a clear provision within the contract allowing extensions then the recommendation falls within regulation 72 and is compliant with the 2015 Regulations

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| <b>Non-Applicable Sections:</b>                       | Policy Implications<br>Personnel Implications |
| Background Documents:<br>(Access via Contact Officer) | N/A   |