

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**

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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
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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:
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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
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Personnel

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: Further Details All relevant UK and EU procurement legislation
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: N/A
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Customer Impact

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