

PART 1 - PUBLIC

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Decision Maker: Portfolio Holder, for Children, Education and Families

Date: 21st September 2018

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

Title: **GATEWAY 1: AWARD OF CONTRACT VIA EXEMPTION FOR SEN PARENT PARTICIPATION**

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Chief Officer: Ade Adetosoye, Deputy Chief Executive & Executive Director
Education, Care and Health Services

Ward: n/a

1. REASON FOR REPORT

- 1.1 Under section 19 of the Children and Families Act 2014, the local authority has a statutory duty to engage with parents of children and young people who have special educational needs and/or disabilities. Bromley Parent Voice are a local voluntary parent carer forum with long standing established connections and presence. London Borough of Bromley has worked with Bromley Parent Voice since 2012 to support parental engagement.
- 1.2 This report seeks authorisation to award a further one year contract via exemption at the cost of £20k commencing on 1st October 2018 and that authorisation is required from the Portfolio Holder due to the cumulative value of previous contracts, totalling £120k to date.

RECOMMENDATION(S)

- 2.1 The Portfolio Holder is asked to approve an exemption to tender for a one year contract with Bromley Parent Voice from 1st October 2018 for the sum of £20,000, a cumulative value of £140,000.
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Corporate Policy

1. Policy Status: Existing policy. Education Care and Health Services and Government Directed
 2. BBB Priority: Children and Young People.
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Financial

1. Cost of proposal: <please select> £20,000
 2. Ongoing costs: Non-recurring cost. £0
 3. Budget head/performance centre: SEN/D Reform Implementation (136034)
 4. Total current budget for this head: £273,290
 5. Source of funding: The one year contract will be for a value of £20,000. This will be funded from the DfE Grant to support the SEN/D reforms and for 2018/19, the drawdown and use of funding was agreed at the Executive on 28th March 2018 (agenda item 16).
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Staff

1. Number of staff (current and additional): 0
 2. If from existing staff resources, number of staff hours: 0
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Legal

1. Legal Requirement: Statutory requirement. The Children and Families Act 2014
 2. Call-in: Call-in is applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This contract supports parent/carer engagement of children and young people who have SEN/D. In Bromley approximately 6,000 children and young people with special educational needs and/or disabilities, 2,112 of whom have a statutory Statement of SEN or an Education Health and Care Plan
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Ward Councillor Views

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

3. COMMENTARY

- 3.1 The Children and Families Act 2014 (C & F Act 2014) introduced significant reforms for the provision of Education, Health and Social Care services for Children and Young People (C&YP) who have special educational needs and/or disabilities (SEN/D). The reforms place C&YP and families at the centre of support, service provision and development.
- 3.2 The Act and Special Educational Needs and Disability Code of Practice set out the functions and guiding principles required and ensure Local Authorities must have regard to the views, wishes and feelings of C&YP and parents when exercising their functions in implementing the SEN/D reforms and delivering services. These principles offer C&YP, families and communities greater influence over local service provision (the 'Local Offer').
- 3.3 Priority 4 of the ECHS SEN/D Strategic Vision and Priorities is '*Children, young people and families are actively engaged in planning, commissioning and evaluating the services that they need*'. This contract supports the SEN/D Reforms Implementation programme, a key part of which is preparation for the imminent Ofsted/CQC local area SEN/D inspection.
- 3.3 Since 2012, London Borough of Bromley have spent £15k per annum on parent participation activities with Bromley Parent Voice (BPV). In addition, there has been a one-off payment of £30k that supported a specific project around SEN Keyworking.
- 3.4 BPV is a local Parent Carer Forum in Bromley, representing parent/carers within Bromley who have CYP with SEN/D. Parent Carer Forums support the engagement and participation families in SEN/D reforms and play an important role in the SEN/D local area inspection requirements.
- 3.5 Stakeholder engagement and participation is a key component of the new SEN Code of Practice. Local Authorities must actively engage, involve and support CYP and parents in decision making , shaping and developing the Local SEN/D Offer.
- 3.6 BPV works in partnership with the Local Authority, Bromley Clinical Commissioning Group, partners, providers and stakeholders across the local area to provide meaningful opportunities for parent/carers to express their views and have input into the planning, development and delivery of SEN/D services.
- 3.7 This report seeks approval for an exemption to tender for a one year contract with BPV, in the sum of £20,000, to support the continuation of the stakeholder engagement and participation as the Local Authority continues it's SEN/D reform. The increase of £5,000 in the contract value is required to cover the cost of additional contract requirements to reflect the additional engagement and partnership work across the broader local area, with a stronger focus on Social Care and Health.

4. SUMMARY OF YOUR BUSINESS CASE

- i. This report sets out the case for the delivery of parent/carers engagement and participation as part of the SEN/D Reforms Implementation programme. The activity of parental engagement is a statutory requirement and a key component of the Ofsted/Care Quality Commission local area SEN/D inspection framework
- ii. The report seeks agreement to award a one year contract to Bromley Parent Voice for £20,000. The increase of £5,000 is required to reflect the additional engagement and partnership work across the broader local area, with a stronger focus on social care and health. The contract will be funded from the DfE Grant to support the SEN/D reforms for 2018/19. The drawdown and use of that Grant was agreed at Executive on 28th March 2018 (agenda item 16).

4.1 SERVICE PROFILE/DATA ANALYSIS

- 4.1.1 Bromley has approximately 8,000 children and young people with special educational needs; the majority of which within the SEN support cohort. Approximately 25% of children and young people are supported through a statutory Education Health and Care Plan. The borough has a diverse resident population in terms of socio economic groups and ethnicity.
- 4.1.2 The parent carer forum delivers a range of activities and events, often on specific themed areas in response to the membership, or the local authority where trends are emerging where additional support may be required, these have included conferences, community activities, social media reach, regular school visits, supporting transfers in education settings for children, providing representatives for Council governance boards and commissioning activities.
- 4.1.3 BPV currently has 778 members, with 603 followers on social media and 3,849 website users. Much good work has been undertaken and the foundations of good engagement have been laid. However both the service and the forum accept that further targeted activity is necessary to increase the volume and diversity of the group of parent/carers that are actively engaged and fully participate in the SEN/D reform agenda. The forum recognises that specific groups of parent/carers are not currently engaged and whose voices are seldom heard.
- 4.1.4 Membership of Bromley Parent Voice (BPV) is voluntary and free. The number of parent carers members has grown steadily since the forum was established. Since April 2017, BPV has increased their reach from 1,148 parent carers to 1,487, an increase of 29.52%. In addition, Bromley Parent Voice reaches parent carers through their website which had 5,758 hits during 2017/18 and 1,710 hits since April 2018.
- 4.1.5 In 2017/18, to directly support the local authority and CCG in implementation of the SEND Reform Programme, BPV has recruited and trained 24 parent representatives who have attended meetings with the Council or health partners. Since April 2017 as a result of the thematic work streams and consultation reviews, BPV has supported 562 parent carers to contribute their experience of services to the forum via social media, focus groups, surveys and consultations. This represents an increase from 162 during 2016/17, a 347% increase.
- 4.1.6 Through the contract with Bromley Parent Voice, the Council's ability to actively engage parent/carers in understanding the needs of children, young people and their families has been increased. This has resulted in improved commissioning for services and also in some cases creating efficiencies. For example an online system to determine eligibility for short breaks for children – this enabled a relatively time consuming assessment carried out by a social worker (or SW assistant) with a family to be carried out efficiently and effectively online, thus freeing up social workers for vital front line work.
- 4.1.7 Bromley are anticipating the Local Area SEND Ofsted/CQC inspection imminently. The lead HMI will contact the local area's parent carer forum and work with them to make arrangements. Meetings with parents and carers will be carried out by the inspection team to hear their views, discuss their involvement in identifying and assessing their children's needs and review how well they are engaged in working with leaders across the local area to drive improvement.
- 4.1.8 The expectation of an active parent carer forum that is engaged and involved with the local authority in making strategic decisions is increasing. Recent inspection reports have heavily criticised those areas that have not continued to maintain and develop this critical relationship, which is a statutory duty under the Children and Families Act 2014.
- 4.1.9 BPV will complete a gap analysis with parent / carers within the local area through a range of methods that will identify where universal services are supporting specific needs and where there are gaps in services to inform commissioning.

- 4.1.10 BPV will hold monthly events in different parts of the borough and within a wider range of communities to broaden membership and reach. These will be themed and used for direct engagement and consultation by the Council to support commissioning of services more effectively. Some of the key areas of consultation in 2018/19 are health therapies including speech and language therapy within education settings, short breaks and the sufficiency of school places.
- 4.1.11 BPV will continue to build upon the success of 2017/18 in terms of reaching new parents from both specialist and mainstream schools, with a particular focus on those groups whose voice is seldom heard. This will be achieved by developing their work with schools and delivering training to parent representatives who have expressed an interest in becoming more actively involved in the work of the forum, to enable greater reach and influence.

4.2 OPTIONS APPRAISAL

- 4.2.1 The following options have been considered:
- 4.2.2 **Undertake the work in house:** this option is not recommended at this time as the service does not have the capacity or the resources to meet the Council's legal requirement for stakeholder engagement and participation in the SEN/D reforms. The service is fully occupied with the implementation of the new Education Care & Health Plans and the SEN/D reform agenda.
- 4.2.3 **Competitive Tender:** this option is not viable at this time, whilst the Local Authority progresses its SEN/D reform agenda. The nature of the contract is to expand the existing participation and engagement levels and build on the partnerships already forged. Currently, BPV are uniquely placed to support this requirement.
- 4.2.4 **Offering a new contract to the existing provider under the Council's exemption regulations:** Contract procedure rule section 3.5.5 states that where a *Service* is to be provided by a *Voluntary Sector Organisation* through an external *Service Level Agreement* and providing such *Services* are amongst those covered within the arrangements identified in the "Light Touch Regime" provided for under Section 7 of the *Public Contracts Regulations*, the relevant Chief Officer, in consultation with the Director of Corporate Services, can decide not to obtain competitive tenders or quotations provided that:
- The Chief Officer is satisfied that the *Voluntary Sector Organisation* is or will be able to provide a satisfactory quality of *Service* and that the sums payable under any *Service Level Agreement* entered into represent *Value For Money*.
 - The relevant Head of Finance keeps a record of all payments made and any *Grants* received under the *Service Level Agreement*.
 - The *Service Level Agreement* is time limited and subject to renewal under the arrangements identified in this Rule.
- 4.2.5 The Council is required to engage with families and securing the services of BPV will deliver this requirement.
- 4.2.6 Bromley Parent Voice has a strong membership that has grown steadily over the past 10 years. There is currently no other organisation who would have the depth of local knowledge and established networks to deliver the service that is required.
- 4.2.7 The DfE strongly encourage local areas to develop a single conduit to harness the views of families. The new SEN/D Code of Practice recommends Local Authorities work in partnership with Parent Carer Forums, other local similar organisations and community groups.

- 4.2.8 Other options are not available and the new contract will include key performance indicators for the provider to demonstrate increased participation and engagement levels across all service users and their families.

4.3 PREFERRED OPTION

Option 4.2.4 is recommended for the reasons stated.

4.4 MARKET CONSIDERATIONS

- 4.4.1 Currently there is not an expansive market in Bromley for a provision of this nature. Whilst there are groups such as Bromley Mind, Bromley Mencap, MCCH or other similar organisations, they each focus on specific needs. Bromley Parent Voice currently represents the only parent led organisation for parents/carers of disabled children within Bromley. They are a member of the National Network of Parent Carer forums and receive support from Contact (the national delivery partner for Parent Participation). They act as a conduit for information which is obtained from parents through other voluntary sector organisations and support groups such as Bromley Mencap, the Friends of the Phoenix, Kids and Crew, CASPA and Family Link.

5. STAKEHOLDER ENGAGEMENT

- 5.1 Local parents and carers are a key part of the SEN/D Implementation programme and have been fully engaged in the SEN/D review that has been carried out by SEN/D4Change over the past year. Parental representation is also part of the SEN/D Governance Board which provides support and challenge to the local authority to deliver improved outcomes for children and young people who have SEN/D in Bromley.

6. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS

- 6.1 Following approval for exemption to tender, a new contract will be awarded to Bromley Parent Voice for a period of one year. The annual value of the contract is £20,000, and the whole life value (including the previous contract) will be £140,000.
- 6.2 The monitoring of the contract will be part of the SEN/D Reforms Implementation Programme and the area of engagement is led by the SEN/D Lead on participation.
- 6.3 BPV will facilitate parent/carer engagement with families whose CYP have SEN/D including Health & Social Care needs. The activity will be delivered to an agreed work plan, to be developed and which will be underpinned by Bromley's SEN/D Strategic Vision and Priorities for 2018/19. The work plan will contribute directly to *Priority 4: Children, young people and families are actively engaged in planning, commissioning and evaluating the services that they need.*
- 6.4 The existing contract specifications will be revised to include performance indicators that reflect the outcomes sought with evidence based data monitoring to demonstrate the results of the increased and targeted activity actions, volume increases in engagement, participation and the increase in the diversity in socio economic groups and ethnicity of participants. These outcomes will support the development of services that meet the needs of the many.
- 6.5 Specific KPI's will be included to demonstrate the use of the additional funding of £5,000. for the Health and Social Care element.

7. SUSTAINABILITY AND IMPACT ASSESSMENTS

- 7.1 The SEN/D Reform Implementation Programme sits within the governance arrangements and the impact of parental engagement will be monitored through the SEN/D Governance Board.

8. POLICY CONSIDERATIONS

- 8.1 This proposal fulfils priority four in the ECHS Business plan 2018-2022

9. IT AND GDPR CONSIDERATIONS

- 9.1 The Council, as part of its on-going commitment to fostering and sustaining an evolved approach to data protection and information management requires the following be considered;
- 9.2 As this is an already established function we would recommend a review of the consent/legal basis for processing and ensure any privacy notices and all parents that are part of the group or participate in wider consultations are aware of what we do with the data.
- 9.3 If we are using social media and other such online platforms that we are ensuring we are not inadvertently advertising and again our legal basis is justified.
- 9.4 A review of the sharing of information with CCG and other partners to assure that we have captured this activity in our asset register and register of processing activities.
- 9.5 At the end of this proposed current term consideration needs to be made as to the closing down of the service and the impact on the existing data.
- 9.6 When a new ITT is to be created a DPIA must be completed along side the procurement activity.

10. PROCUREMENT CONSIDERATIONS

- 10.1 The paper proposes to directly award a one year contract for £20k to Bromley Parent Voice via an exemption to competitive tendering.
- 10.2 The Council's Contract Procedure Rules 3.5.5 allows that, where a service is provided by a Voluntary Sector Organisation and provided such service(s) are covered within the arrangement identified in the 'Light Touch Regime' provided for under Section 7 of the Public Contracts Regulations, the Chief Officer can decide not to obtain competitive tenders or quotations provided that the Chief Officer is satisfied that the Voluntary Sector Organisation will be able to provide a satisfactory quality of Service and that sums payable to the provider represent Value for Money. 3.5.5 also notes that the contract with the provider must be time limited and subject to renewal.
- 10.3 Where a direct award of contract via 3.5.5 of the CPR is proposed, approval for this action is as per 13.1 of the CPR. The cumulative value of this contract, inclusive of the proposed contract award, is £140k. Therefore Agreement is required from the Chief Officer, the Director of Commissioning, the Director of Corporate Services and the Director of Finance, followed by Approval from the Portfolio Holder for Education, Children and Families. Following Approval, the use of this exemption must be reported to Audit Sub-Committee as part of the bi-annual reporting to the Sub-Committee.

- 10.4 It is noted that a contract has been awarded via exemption to this provider every year since 2012. This appears to be an ongoing requirement and the cumulative value of repeated awards is now significant. It is recommended that any future contracts beyond August 2019 to meet this service requirement are awarded through a formal competitive tender process. This will also allow longer term contract arrangements to be put in place as appropriate.

11. LEGAL CONSIDERATIONS

- 11.1 As the value of the contract is below the EU threshold level for services (under the “light touch” regime) the contract does not need to be tendered in full compliance with the Public Contracts Regulation 2015. An exemption from tendering requirements under Rule 8 of the Council’s Contract Procedure Rules (CPR) can be granted under CPR Rule 13, if there is justification to do so. Rule 3.5.5 in relation to contract awards to voluntary sector organisations as set out in section 4.2.4 of this report applies.

12. FINANCIAL CONSIDERATIONS

- 12.1 The last three financial years expenditure and outturn and the proposed extension are detailed in the table below

<u>Bromley Parent Voice</u>						
	<u>2016/17</u>	<u>2017/18</u>	<u>2018/19</u>		<u>2018/19</u>	<u>2019/20</u>
			<u>6 mths</u>		<u>6 mths</u>	<u>6 mths</u>
	<u>£'000</u>	<u>£'000</u>	<u>£'000</u>		<u>£'000</u>	<u>£'000</u>
					Extension	
Budget	15	15	8		10	10
Outturn	15	15	8		10	10
Variance	0	0	0		0	0

- 12.2 As in previous years the expenditure is financed through the SEND grant, and the drawdown of this funding and its use has been agreed at Executive in March 2018.
- 12.3 The SEND grant is not guaranteed to continue. Therefore this may be the final year that this contract can be utilised. The service will need to take a view as to how/if this is going to be commissioned in the future if the grant ceases.

Non-Applicable Sections:	HR Considerations
Background Documents: (Access via Contact Officer)	[Title of document and date] (Appendices to be Included)