

Item No.	Classification: Open	Date: 11 March 2016	Decision Taker Strategic Director of Finance and Governance
Report title:		Gateway 1&2 Procurement Strategy Approval and Award of Contract: Special Educational Needs and Disabilities – Portage Service	
Ward(s) or groups affected:		Children and Young People with Special Educational Needs and Disabilities aged 0-5 and their Families in Southwark	
From:		Director of Education	

RECOMMENDATIONS

1. That the strategic director of finance and governance retrospectively approves agreement of the procurement strategy outlined in this report for a Portage (Home Learning) service, namely to undertake single supplier negotiations with the service provider for the reasons detailed at paragraphs 15-19.
2. That the strategic director of finance and governance retrospectively approves the award of the Portage service, to KIDS for an initial period of three years commencing on 1 October 2015 at an annual value of £200,000 with the option to extend up to a further two years giving a total contract value of £1,000,000. This contract will also be subject to a six month break clause. The award will be effected by way of a legal variation of the existing contract.

BACKGROUND INFORMATION

3. There is no legal requirement on local authorities to provide portage service. The Children and Families Act 2014 replaced the statement of special educational needs with an integrated education, health and care (EHC) plan and a single assessment process. This and other changes necessitated changes in the way local authorities support children and young people with special educational needs and disabilities (SEND). Although not a statutory service it does contribute to the local authority's duty to make adjustments in order to be inclusive under the terms of the Disability Discrimination Act 1995.
4. Portage is a home visiting educational service for pre-school children with significant learning difficulties or complex needs and their families. The staff delivering the service needs to receive the National Portage Association (NPA) accredited training and workshops. Registration with the NPA is a prerequisite for service delivery. The portage service is provided in most London boroughs (apart from Islington, Lambeth, Newham and Redbridge) and nearly exclusively it is in-house provision. Where portage is delivered in-house it is usually located within Special Educational Needs and Disabilities sections or Early Years, both being part of the education department.
5. The portage model of teaching/learning is characterised by the following attributes:
 - regular home visiting;
 - supporting the development of play, communication, relationships, and learning for young children within the family;
 - supporting the child and family's participation and inclusion in the community in their own right;

- working together with parents within the family, with them taking the leading role in the partnership that is established;
 - helping parents to identify what is important to them and their child and plan goals for learning and participation;
 - keeping a shared record of the child's progress and other issues raised by the family;
 - responding flexibly to the needs of the child and family when providing support;
6. The service provides support to, and the portage workers assess the child's progress against the following skills/competencies areas:
- a. Cognitive
 - b. Language and communication
 - c. Motor
 - d. Self help
 - e. Social
7. In Southwark portage is currently provided for children aged 0-5 with developmental delay and disabilities, and who are not accessing any early years provisions. In partnership with parents/carers, the service provider plans an individualised education programme for each child and provides home visits to children for up to a maximum of six months (24 home visits). This service is also offered in the form of group sessions (developmental play sessions) for children aged 2 and under who are not attending any nursery and for whom there are some concerns about their general development, or if they have a disability or a developmental delay. The group session can be attended by up to 12 families at any given time. At any given time there are around 53 children receiving home learning and around 10 receive developmental play sessions. Children receiving the portage service progress developmentally. This is quantified through the portage assessment, whereby, children are assessed at the start and end of the service, their development is monitored through reviewing aims and progress reports. As children reach the age of five years old they access primary education and portage is no longer available to them.
8. The portage service has been provided in Southwark by KIDS, a voluntary organisation for many years and originally was commissioned through Sure Start PCT grant in 2005.
9. A review of the service has been conducted comparing the service provided in Southwark to other portage services provided elsewhere within London. The review undertaken looked at the different aspects of the portage service:
- Location (in-house or outsourced) – only two other than Southwark London boroughs – Camden and Westminster – have the portage service outsourced to an independent service provider. In both cases KIDS is delivering that service on their behalf
 - Cohort (age) – most boroughs provide the service to pre-school children aged 0-5. However, the age of children in some boroughs plays a significant role in prioritising the service. For example some boroughs are moving towards providing the service mainly to children aged 0-2 as two year olds are eligible for a free childcare.
 - Length of portage support – this is the area where there are the biggest differences among London boroughs' service provision of portage. As a minimum portage should be provided over six months (24 home visits). In most boroughs the home visiting support is not time limited and in most cases is provided on the basis of individual needs. Portage in some boroughs is extended to support for staff in early years settings to ensure smooth hand over/personalised pathway to pre-school education and continuity of individual children educational development.
 - Waiting list – in most boroughs the waiting list is managed by providing drop-in sessions. Also one borough response to the growing demand for the service was offering home visits on fortnightly instead of weekly basis.
 - Unit cost – the financial information gathered during the review offers an interesting point of reference in terms of budget allocation in other boroughs. Southwark budget is very similar to Camden, Greenwich, Lewisham; Hounslow, Sutton and Wandsworth.

Due to significant differences in the way the service is organised and the length of time the support is provided by the unit cost is not reliable measure to use.

10. Although the cost per visit lasting an hour in Southwark is around £70, the cost includes additional two hours of preparation/supervision and travel time. There are three full time and two part time portage service workers engaged in providing the service and an office manager who also holds two/three cases at any given time. A full time portage worker on average holds ten cases.
11. The current contract with the contractor ended on 30 September 2015.

Summary of the business case/justification for the procurement

12. The proposed procurement route ensures the council continues to offer access to early education to children aged 0-5 with developmental delay and disabilities and who are not accessing any other early years provision and parents/carers receive support in coping with their child's disability.
13. Given the needs of the children locally between 0-5 and that those needs are not always highlighted within the first two years of the child's life, it is proposed that the service continues to support children from 0-5 years old.
14. We have negotiated the following:
 - f. a reduced hourly rate
 - g. number of visits per child – especially to request the provider to seek prior agreement/authorisation from the council for providing more visits than 24 over six months
 - h. additional support for the child after it's enrolment to a nursery – this could constitute either alternative home visits and support in early years setting or support in early years setting only (training to staff)
 - i. graduated response for some more complex cases (intensive package at the beginning followed by more fluid and flexible reviews of progress)
 - j. ensure priority for the older children.
15. The new contract will be outcomes-based with clear and measurable outcomes that reflect service user needs. The service provider will be required to review at least twice a year, plans and goals with parents/carers that promote each child's:
 - play and personal development;
 - learning, physical development and communication;
 - participation and inclusion within the day to day life of the family and the wider community.

Market Considerations

16. KIDS is the only independent provider among the 64 portage services currently registered with the National Portage Association (NPA) in the London and South East region. All the rest are provided by local authorities providing their own in-house portage service except for KIDS which provide portage services on behalf of three London boroughs; Camden, Westminster and Southwark. Six other London boroughs do not have a registered portage service.
17. KIDS has a proven track record of delivering a high quality portage service. It has developed effective local relationships with the council and other partners. Given the expertise and relationships that KIDS has there is confidence that it can continue to deliver the service for Southwark in the future.

18. The council and children and their families additionally benefit from funding raised by KIDS through their fundraising activities.
19. It is unlikely that additional value for money or improved outcomes would be achieved by following any other procurement route and that the strong relationship with KIDS will ensure that the service model described can be delivered in an effective and efficient way.
20. A detailed review and costed plan showed there is also no added value or benefit (in terms of delivering savings or improved service delivery) identified by bringing the service in-house.

KEY ISSUES FOR CONSIDERATION

Options for procurement including procurement approach

21.

Option	Advantages	Disadvantages
Single supplier negotiations	<ul style="list-style-type: none"> • The existing provider - KIDS is highly experienced in providing the portage service. This option offers the consistency and continuity of support and care in a time of significant change • Protection from budget cuts as it is not a statutory requirement to provide portage service • Control over the cost of the service 	<ul style="list-style-type: none"> • None - KIDS are performing to the contract standard and do not pose any financial risks to the council. • EU risk - given the lack of competition in the market (only one independent provider registered with NPA) an open tender is not a viable option.
Bring the service in-house	<ul style="list-style-type: none"> • Opportunity to integrate the service fully within other Early Years and SEND services • Flexibility to respond to changes 	<ul style="list-style-type: none"> • TUPE implications including staff costs, provision of management and workplaces (office space, desks, IT etc) • Prone to frequent changes in team structure • Lack of focus on portage service as staff may be requested to perform other duties
Undertake a competitive tender	<ul style="list-style-type: none"> • Opportunity to go to the market in order to achieve good value for money 	<ul style="list-style-type: none"> • The market is not developed as most authorities provide it in-house • Lengthy and costly process
Discontinue the service	<ul style="list-style-type: none"> • Opportunity to rethink the whole offer for pre-school children with additional needs in light of the new legislation (SEND reform) • Saving of £200,000 per year 	<ul style="list-style-type: none"> • Discontinuation of support to the very vulnerable children in the borough and their families • Impact on other children's social and education services such as Early Help, SEND • Children's future development adversely affected • Possibility of getting complaints from the public leading to worsening reputation of the council

Procurement Route followed

22. Single supplier negotiation procurement would deliver the best contract outcomes and value for money.

Procurement project plan (Non Key decisions)

Activity	Complete/Completed by
Negotiations held with providers in preparation for the end of the current contract	29 May 2015
Children's and Adults' Board Review Gateway 1/ 2 : Procurement strategy and award report	14 October 2015
CCRB Review Gateway 1/ 2 : Procurement strategy and award report	22 October 2015
Approval of Gateway 1/ 2: Procurement strategy and award report	14 March 2016
Contract start	1 October 2015
Publish award notices in Contracts Finder	21 March 2016
Initial Annual Review of Contracts	30 October 2016
Initial Contract completion date	30 September 2018

Procurement Outcomes

23. The contract will be over the EU "light touch" threshold, however, given the lack of competition in the market (only one independent provider registered with NPA) an open tender is not a viable option. The absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.

Identified risks and how they were/ will be managed

24. There have been no significant risks identified for this service. The service provider is currently meeting all performance and activity requirements and families and professionals report positive experiences. There is an ongoing need for the service.

Key/Non Key Decision

25. This is a non-key decision.

Policy implications

26. Although not a statutory service it does contribute to the local authority's duty to make adjustments in order to be inclusive under the terms of the Disability Discrimination Act 1995.

Plans for monitoring and management of the contract

27. The contract will be performance managed by the quality and performance team in children's & adults' commissioning unit in conjunction with service leads.
28. The contract and performance management of a broad range of care and support services and has well established and robust monitoring processes in place to monitor this contract. Contract monitoring will also include:
 - Analysis of service user client record returns.
 - Analysis of service user outcome returns.
 - Provider visits that can be announced or unannounced spot checks.
 - Agreed action plans for continuous improvement.
 - Consultation with Service users.
29. Outcomes will also be a key focus for the contract and performance management of this contract. A range of outcome data will be collected through monitoring returns that the provider is required to send through to the council's Quality and Performance team.
30. Compliance with contractual terms, poor quality or poor performance is dealt with through comprehensive default procedures that can ultimately lead to decommissioning and /or substitution of provider.

Community Impact Statement

31. Officers have been mindful of the need to have due regard to the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010, which requires the Council to:
 - Eliminate discrimination, harassment, victimisation or other prohibited conduct;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it;
 - Foster good relations between person who share a relevant protected characteristic and those who do not share it.
32. The key affected groups are children with autism, developmental delay and other learning disabilities and their families. A large number of children with autism in Southwark come from BME backgrounds and the service is targeted at the 0-5 age group so there is the potential for a positive impact on these groups as well. This contract will enable the local authority's inclusion duties to be met regarding this cohort of families.
33. The provision of the portage home learning service responds to the needs of these groups by enabling parents and carers to access free inclusive childcare. This may enhance parents' ability to pursue employment and training opportunities and could also have a positive impact on those currently unable to work due to their children's disabilities.
34. This is a specialist targeted service that is unlikely to be delivered to more than 150 families annually and should not materially impact any other groups.

Sustainability considerations

35. The Public Services (Social Value) Act 2012 requires the council to consider a number of issues including how what is proposed to be procured may improve the economic, social and environmental well-being of the local area. These issues are considered in the following paragraphs which set out economic, social and environmental considerations.

Economic Considerations

36. The provider has satisfactory employment records and policies and will seek staff from the local area wherever possible.
37. The current provider is a small / medium sized enterprise with a base within Southwark. There is an expectation that providers will seek to employ, and recruit appropriate staff locally. In addition, one of the strategic drivers of the council is working with the local voluntary and charitable sector and this contract reflect this. The provider works with families who come from a wide range of hard to reach groups where social exclusion and pockets of economic deprivation persist.

Social Considerations

38. All their employees in connection with the contract funded support hours of this service are paid at the current LLW rate. The provider works with user groups who are reflective of the overall population of Southwark.

Environmental Considerations

39. The council will expect the majority of the workforce to use public transport to travel. The provider is expected to use digital resources, including electronic mail and databases in order to eliminate the unnecessary use of paper.

Resource implications

40. The contract will be monitored and supported within the existing resources of the commissioning department.

Staffing/procurement implications

41. N/A

Financial implications (CSC0359SR)

42. The budget for this service sits within the Commissioning Service and will be funded by £100,000 from SP046. £50,000 - SP041 and £50,000 - SP047. From 1st April 2016 all three budgets will be consolidated under one budget cost centre (SP046)
43. This service supports children through access to learning and development opportunities at home, reducing the need for more expensive specialist provision in schools. The service also supports children with challenging behaviour.

Legal implications

44. The report advises that the nature and expected individual value of the proposed negotiated contract is such that they are not subject to the full application of the EU procurement regulations, including public advertisement.
45. The council's Contract Standing Orders ("CSOs") require that all reasonable steps should be taken to obtain at least five tenders following a publicly advertised competitive tendering process; however, CSOs also permit an exemption to be granted from such tendering requirements where exceptional circumstances exist. Paragraphs 12 and 15 explain why it is considered necessary and appropriate to enter into a contract directly with the service provider listed under paragraph 2.
46. Although this is a new award, it will be implemented by way of a legal variation of the existing contract.

Other implications or issues

47. None

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Procurement

46. This report is seeking retrospective approval for both the procurement strategy and award decision in relation to a Portage (home learning) service.
47. The report summarises the context for this service including the nature and delivery of current community-based preventative services. Paragraphs 12 to 15 outline the financial and qualitative rationale for procuring a five year contract with Kids namely the features of this service and the benefits it will bring to children with learning difficulties aged 0 to 5.
48. Paragraphs 16 to 20 confirms that there are no other independent providers other than Kids, with local authorities providing their own in-house portage service. As this concurrent is provided retrospectively it is not possible to confirm whether market conditions have altered.
49. Paragraph 21 confirms the alternative procurement options that were considered and discounted including the possibility of delivering the service in-house.
50. Paragraphs 27 to 30 confirm the monitoring and management arrangements that will be established.

Director of Law and Democracy

51. This report seeks approval of a procurement strategy and contract award in relation to the provision of a portage service as described within paragraphs 4 to 6.
52. The director of law and democracy ("DLD", acting through the corporate team) notes the content of this report and, in particular the reasons why a single supplier negotiation has been undertaken. Paragraph 42 confirms that adequate budgetary provision has been made to cover the expenditure associated with the proposed contract, in line with the requirements of the council's Contract Standing Orders ("CSOs"). The Community Impact Statement acknowledges the requirements of the Public Sector Equality Duty and explains that the key affected groups who are intended to benefit from the provision of the portage service have one or more of the protected characteristics defined in the Equality Act 2010.


- 53. The decision to approve the recommendations is one which is required to be taken by the strategic director of finance and governance under CSOs. In this instance CSOs further require that a separate report must be submitted to the audit and governance committee.
- 54. The DLD will provide advice and assistance to officers as necessary in connection with the drafting of appropriate legal terms to record and regulate the proposed continuation of the contractual relationship between the council and KIDS.

Strategic Director of Finance and Governance (CAS15/009)

- 55. The strategic director of finance and governance notes the recommendations in this report, and the financial implications which demonstrate how the contract will be funded. The contract covers a period over which government grant to the council will reduce significantly, and the contract includes a six month break clause, should this be required.

FOR DELEGATED APPROVAL

Under the powers delegated to me in accordance with the Council's Contract Standing Orders, I authorise action in accordance with the recommendation(s) contained in the above report.

Signature  Date..... 6-6-16

Designation STRATEGIC DIRECTOR OF FINANCE AND GOVERNANCE

BACKGROUND DOCUMENTS

Background Documents	Held At	Contact

APPENDICES

No	Title

AUDIT TRAIL

Lead Officer	Nina Dohel, Director of Education	
Report Author	Peta Smith, Commissioning Manager	
Version	FINAL	
Dated	11 March 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Head of Procurement	Yes	Yes
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Contract Review Boards		
Departmental Contract Review Board	Yes	Yes
Corporate Contract Review Board	Yes	Yes