

KEY DECISION REFERENCE NO: This is not a key decision.

Croydon Council

The Leader of the Council has delegated to the Cabinet Member for Children, Families and Learning the power to make the decisions set out in the recommendations below:

1. RECOMMENDATIONS

The Cabinet Member for Children, Families and Learning is recommended to approve the award of contract to John Ruskin College for the sums detailed in the associated Part B report on this agenda, in respect of the following Lot of the Alternative Education Provision Approved Provider Framework:

Lot 1: Provision of up to 150 Key Stage 4 in-year admission places, to include looked-after children and unaccompanied minors, for the academic year September 2014 to July 2015.

2. EXECUTIVE SUMMARY

- 2.1. This report seeks recommendation of agreement to award contracts for the provision of Key Stage 4 (National Curriculum school years 10 and 11) in-year admissions to John Ruskin College for September 2014-July 2015. The majority of the learners for whom this provision is required are not indigenous to the United Kingdom, including unaccompanied minors and looked after children who are aged 14-16 years old, who may require English Speakers of Other Languages (ESOL) provision and who have applied for a school place.
- 2.2. The Local Authority is under a duty to ensure suitable education is available to all learners of statutory school age who reside in the borough. The proposal seeks to support the Local Authority's fulfilment of this function.
- 2.3. The funding for this provision comes from the Dedicated Schools Grant (DSG) and the agreement from the Schools Forum has been attained.
- 2.4. The Council has previously established a Framework of approved education providers from which the Council may procure alternative education provision for compulsory age unplaced learners (CCB0539/12). The Framework is valid from September 2012-2015 with an option to extend for a further twelve months, with an estimated value of approximately £3.5m over the contract term, although it does not provide any guarantee of volume and/or value.

CCB Approval Date	CCB ref. number
2/5/2012	CCB0539/12 : (Framework Award Report)
11/7/2012	CCB590/12: (1s Call Off : 2012/13 Award Report)
13/03/2013	CCB0714/13- (2 nd Call Off : 2013/14 Award Report)
14/11/2013	CCB0828/13-14: (2013/14 Delegated Authority Report – Variation of 2013/14 of 2 nd Call Off Contract)

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3. DETAIL

- 3.1 Local authorities have a duty to provide “suitable education at school, or otherwise, than at school, for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them”. Suitable education is defined as “efficient education suitable to the age, ability, aptitude and to any special educational needs”, the child (or young person) may have. Local authorities must decide, in consultation with parents/carers, what is suitable education out of school for a particular child, whilst having regard to the efficient use of resources and DfE guidance.
- 3.3 The provision of up to 150 Key Stage 4 in-year admission places contracts are required to meet the fluctuating demand for educational provision from September 2014-July 2015 and to mitigate the likelihood of legal challenge and reputational damage for non-compliance of the Council’s statutory obligations, specifically with regards to provision of education for compulsory age children.

4. The Procurement Process

- 4.1 The existing Framework defines the service provision Lot One as per following:
- 4.2 **Lot One:** Where schools are unable to accommodate full time Key Stage 4 (KS4) learners applying in-year due to capacity. The learners accessing this service provision may be new to the UK and require English for Speakers of Other languages (ESOL) provision. Therefore the provision delivered in this Lot is divided into two groups: ESOL and non-ESOL. The curriculum for both groups includes English and maths and supports progression to positive post 16 destinations. These services are procured via a mini-competition. The Lot One providers are:
- ◆ CACFO
 - ◆ Education Excellence
 - ◆ John Ruskin College
 - ◆ Lifeline Community Projects
 - ◆ RW Recher
 - ◆ Street Vibes UK
- 4.3 The original ITT document stated that the Council reserves the right to ‘call off’ from the framework in accordance with Lot One through mini-competition, applying the same Price/Quality rating stated within the framework to the 2014/15 mini-competition.

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- 4.4 For Lot One, the Council has undertaken a mini-competition among the six approved Providers in accordance with the existing Framework for each of the academic years from 2012/13-2013/14.
- 4.5 The proposed award for Lot One is based on the requirements for the academic year (September 2014-July 2015). The original evaluation criteria implemented for the existing Framework was applied to the 2014/15 mini-competition in to ensure compliance with the terms and conditions of the existing Framework.
- 4.7 The tender evaluation was undertaken by each individual member of the evaluation team and then moderated collectively. The following scoring matrix was approved by the evaluation panel and no tender clarification interviews were held as all clarifications were raised via the London Tender portal. This was incorporated as part of the completed tender evaluations.
- 4.8 The Council received two tender responses but one was non-compliant due to late tender submission. An overview of the completed final quality/price evaluation outcome is shown in Part B of this report, reflects the recommended Tenderer to be awarded the call-off contract for 2014/15 in respect of lot 1.

5. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 5.1 The Tenderer recommended for the award has met all of the evaluation criteria and is deemed as the most economically advantageous tender against the respective requirements for Service provision Lot One and received a high quality/price score.
- 5.2 The recommended Awarded Provider, John Ruskin College, has been providing similar provision over the past few years. In 2013 the college was judged to be outstanding by OFSTED and it has demonstrated its ability to provide high quality services that achieves the best outcomes for the Children and Young People. Also, it was able to demonstrate their ability to provide a fit for purpose venue that meets all the safeguarding requirements and was conducive to providing an appropriate environment for learning.

6 ANY OPTIONS CONSIDERED AND REJECTED

- 6.1 A total of two responses were received from each Provider. One tender was rejected due to non-compliance of the Council's requirements.

7 FINANCIAL AND RISK ASSESSEMENT CONSIDERATIONS

- 7.1 **Effect of the Decision:** The proposed contract for 2014/15 is based on the existing Framework which contains the Approved Providers. This is fully funded by the Dedicated School Grant (held by Phil Edwards Pupil Referral Unit). The anticipated spend through the Framework is detailed in Part B of this report.

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7.2 **Risks:** The following risks have been identified and are being actively managed:

Risk	Mitigation
<p>Risk of procurement challenge from the non-successful bidders</p>	<p>The original ITT and tender clarification responses were shared with the Tenderers (if deemed not commercially sensitive). The evaluation matrix was based on the original evaluation criteria determined for the implementation of the Framework agreement.</p> <p>Evaluation process has been overseen by Category manager and Procurement officer.</p> <p>Feedback will be given in the unsuccessful tender by letter.</p> <p>10 day Alcatel period will be adhered to.</p>
<p>Risk that the demand will increase during 2014/15.</p>	<p>In line with the nature of a framework agreement, there is no guaranteed volume of work and the allocation of the Dedicated School Grant is agreed on an annual basis (during January each year) to support the projected level of demand.</p> <p>Due to the funding being awarded in financial years and the spend to be based on the academic years, there is sometimes a need to carry forward some of the funding to the following year. This is permissible as the funding is Dedicated School Grant and therefore ring fenced to education provision. The spend profiles shown within the Financial Section below are estimates and may vary depending on the demand.</p> <p>Due to the nature of provision required, this is service provided is determined by the needs of the individual learner. Therefore, there are external variables which may result in the actual cost of provision falling below or above the estimate shown within the Finance Section. Robust contract management will continue to be undertaken throughout the year to ensure that the budget is managed and where possible expenditure is contained within it. Any variances will be reported as part of the budget monitoring process and accordingly with the Tender and Contract regulations i.e. variation procedure.</p> <p>The recommended Tenderer is currently developing a proposal for direct entry admission therefore, it may not be necessary to issue a mini-competition for 2015/16 onward which may incur significant savings.</p>

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7.3 Options:

There are no alternative options under consideration at this stage. Options were considered and agreed within the Strategy Report.

7.4 Future Savings / Efficiencies:

There were no savings or efficiencies associated with the original strategy report however, as shown within Part B of the report (Effect of decision), it may be possible for significant savings to be gained if the college's proposal for direct entry is accepted and future places are funded through the Education Funding Agency. If this is the case then there is no financial outlay expected beyond 2014/15.

7.5 (Approved by: Lisa Taylor Head of Finance and Deputy S151 Officer)

8 COMMENTS OF THE COUNCIL SOLICITOR

8.1 The Council Solicitor comments that the procurement process as detailed in this report meets the requirements of the Council's Tenders and Contracts Regulations and the statutory duty to demonstrate best value under the Local Government Act 1999.

8.2 (Approved by Gabriel Macgregor Head of Corporate Law, on behalf of the Council Solicitor and Monitoring Officer)

9 HUMAN RESOURCES IMPACT

9.1 There are no implications for Council staff and TUPE. There are no major changes that would have impact on the HR implications.

9.2 (Approved by: Deborah Calliste HR Business Partner- Human Resources)

10 EQUALITIES ANALYSIS

10.1 An initial Equality Impact Analysis has been completed for this project which seeks to support learners into suitable education provision. The largest cohort accessing the provision are attending ESOL courses and include a notable number of looked after children. The analysis of data for Croydon, indicates that the pupils most vulnerable to underachievement include those from minority ethnic groups (Black, Caribbean, Black African), and refugee and asylum seekers. Implementing the recommendations has reduced the risk of under achievement for these learners.

10.2 The equality considerations were taken into account as part of the requirements defined within the original Invitation to Tender (including terms

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and conditions of contract) whereby there is a need for the Tenderers to demonstrate compliance with the Equality Act.

11 ENVIRONMENTAL IMPACT

- 11.1 There are no direct environmental impacts. However, as part of the proposed Framework Agreement the recommended Providers have agreed to the Council's terms and conditions of contract which includes the obligation to comply with sustainability/environmental regulations.

12 CRIME AND DISORDER REDUCTION IMPACT

- 12.1 The correlation between being NEET, (Not in Education, Employment or Training) and the heightened risk of involvement in criminal, gang and anti-social activity is well evidenced and documented. The recommendations implemented increases engagement of local young people in education, which is proven to reduce youth crime and disorder.

13 FREEDOM OF INFORMATION (FoI) / DATA PROTECTION CONSIDERATIONS

- 13.1 There are no specific Data Protection considerations arising from this report.
- 13.2 The Council's Procurement Strategy and Tenders & Contracts Regulations are accessible under the Freedom of Information Act 2000 as part of the Council's Publication Scheme. Information requested under that Act about the specific procurement exercise and contract which are the subject of this report, held internally or supplied by external organisations, will be accessible subject to legal advice as to its commercial confidentiality, or other applicable exemption, and whether or not it is in the public interest to do so.

14 CUSTOMER IMPACT

- 14.1 The difficulties in securing school places has heightened customer anxiety and resulted in an increased customer contact. Implementing the recommendations has allowed the Local Authority to proactively engage with parents/carers, exploring their choice of the options presented.

15 HUMAN RIGHTS IMPACT

- 15.1 The recommendations proposed support the Local Authority's compliance with article two of the First Protocol to the European Convention on Human Rights (Convention Rights): The right to an education.
- 15.2 The right to an education has been held to include the following:
- ◆ To an effective education (that is adequate and appropriate);
 - ◆ To access to existing educational institutions;
 - ◆ To be educated in the national language; and
 - ◆ To obtain official recognition when studies have been completed.

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16 CONSULTATION

- 16.1 On-going feedback from families and professionals informed the development of the specification with a focus on ensuring that contact and assessment services meet the needs of Croydon's most vulnerable families and ensure the best possible outcomes.

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APPENDICES:

Annex 1 : Glossary

BACKGROUND PAPERS: N/A

Annex 1
Alternative Education Provision for Unplaced Learners
Glossary

AEP	Alternative Education Provision for unplaced learners
APL	Alternative Education Provision Approval List
CIN	Children In Need
ESOL	English for Speakers of Other Languages provision
ITT	Invitation to Tender
LAC	Looked After Children
Lot	<p>The service provision Lot e.g:</p> <p>Lot One : Where schools are unable to accommodate Full time key stage 4 (KS4) learners applying in-year due to capacity. The learners accessing this service provision lot may be new to the UK and require English for Speakers of Other languages (ESOL) provision. Therefore the provision delivered in this Lot is divided into two groups: ESOL and non-ESOL. The curriculum for both groups includes English and maths and supports progression to positive post 16 destinations.</p>
Method Statement	Tenderer submitted response to demonstrate evidence of meeting the Council's quality requirements in accordance with the Specification.
Providers	The Tenderers who are recommended for the award of the contract for September 2014-July 2015 for Lot One.