

Procurement Board (CCB)

Contract Award Report

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| Date of meeting | 17 February 2022 |
| By | Jon Martin Interim Head of Specialist Systems CDS |
| Title | Capita ONE, Education Management System, Support & Maintenance Contract Extension |
| Project Sponsor | Paul Golland, Interim Chief Digital Officer & Director of Resident Access |
| Corporate Director | Elaine Jackson, Assistant Chief Executive |
| Lead Member | Cabinet Member for Resources and Financial Governance, Cllr Young |
| Key Decision | 1022RFG |

1. Recommendations

The Contracts and Commissioning Board is asked to

1. Recommend to the Cabinet Member for Resources and Financial Governance, in consultation with the Leader to approve a contract variation as set out in the detail below:

The Leader of the Council has delegated to the Cabinet Member for Resources and Financial Governance the power to make the decisions set out in the recommendations below:

DRAFT RECOMMENDATIONS

1. The Cabinet Member for Resources and Financial Governance, in consultation with the Leader, is recommended by the Contracts and Commissioning Board to approve the contract variation with Capita One for 1 year from 1/4/22 to 31/3/23 at an extension value of £140,271 for the support of the Capita One Education Management System.
2. Note that the contract value of this extension will be £140,271 bringing the overall aggregate spend with the supplier to £1,088,120.

2. Background & strategic context

- 1 A new education management system, Synergy, was procured from Serverlec (KEY DECISION REFERENCE NO.:1018FT) and the implementation work started in 2019.
- 2 The Children Centres and Admissions modules have been successfully implemented and are live. However, the implementation of the SEN module was stopped as the new system was not able to manage SEN finances in a way that the SEN Case Management & Finance teams required. There are also several additional statutory modules that still need to be implemented:
 - Special Education Needs Service for children with funded Education, Health and Care Plans
 - Early Years Funding
 - Educational Psychology Service
 - Hearing and Visual Impairment Service
 - School Admissions and School Place Planning Service
 - Learning Access Service which covers:
 - Education Welfare and Poor School Attendance Legal Intervention
 - Children in Employment
 - Education Commissioning
 - Fair Access and Inclusion to Alternative Education provision

- 3 The existing Capita One contract will expire on 31 March 2022 -the solution continues to be used to provide the functionality which has not yet been implemented in the Servelec solution as listed above. Payments to Capita are for the functionality required, note however that the Capita solution is more expensive than the Servelec solution. Servelec were paid for the completed implementations and ongoing support charges just for the elements of the system being used. When the Servelec solution is fully implemented the full contract charges will apply but payments to Capita will cease from March 2023.
- 4 CDS are working with the service to review the current systems' functionality, usage and user needs in order to establish a long-term strategy for IT systems to support the needs of the Education service as a whole. This work commenced in January 2022, after delays caused in receiving approval to recruit the necessary resource, resulting from the Council's financial situation, to deliver the project, and the overarching impact of COVID 19. The intention is to complete the implementation of the Servelec solution and terminate the Capita One contract. Notice needs to be served on Capita by September 2022 in order to meet notice periods in the contract.

The following were consulted when identifying the needs and requirements arising from the latest situation

- Education SMT
- Procurement Programme Board
- CDS Governance Board (DAB)

5 **Brief contract history**

Capita's Education Management System (EMS) was implemented in 2004 and was subsequently rebranded as Capita ONE.

We have been unable to confirm the duration or cost of the initial contract and any extensions or variations until the RP3 (**CCB1485/19-20**) approved on 17/5/19 to extend current Capita ONE contract for 2 years from 31st March 2019 until 31st March 2021. The total contract value to March 2022 is £947,849.

This extension was to allow the implementation of the new Education system (see 6 below) and decommissioning of Capita ONE. Approval for further extension to March 2022 was sought however the record of approval has not been located.

6 **Background to the planned decommissioning of Capita ONE**

In 2015, following the formation of the People Department, a review of the key operational systems for Social Care, Education and Housing was commissioned. The scope was to determine whether a single IT solution existed for all services. The conclusion at that time (2016) was that there wasn't, consequently, separate tenders were undertaken for each service area.

The tender for Education was run in accordance with LBC regulations. Capita chose not to submit a response to the tender and the eventual preferred bidder to whom the new contract was awarded was Synergy.

The contract negotiations were protracted, and the contract wasn't signed until 2019.

Implementation scope was to migrate all processes and data from Capita ONE to Synergy so ONE could be fully decommissioned.

Two modules were implemented successfully. Special Educational Needs (SEN) especially the finance process then became problematic where the Synergy system couldn't directly replicate the ONE process – service felt Synergy wasn't fit for purpose and lost some confidence in the solution. Internal discussions were undertaken and the supplier was approached.

Whilst these discussions were ongoing the remaining module implementation was put on hold, some programme resources were released even though based on the requirements defined in the tender, and the Servelec response, the solution (Synergy) was found to be compliant with business requirements. In addition to the SEN modules, six other modules were therefore not progressed and the service continued to use the Capita solution. Development of the SEN finance module is in the Servelec development roadmap.

Due to solution confidence issues, it was agreed to undertake a Strategic Education Systems Review – funding for this was available within the People Systems Programme but securing the resource in the current financial climate has taken much longer than expected. Once that had finally been given the 'green light' the progress to recruit a suitable person to lead the review was also protracted.

The pandemic and then the financial situation in the Council delayed the ability to bring in additional resource to review the solution and progress any further work.

A project board has been set up and the planned review is now being initiated.

The recommendation is to complete the implementation and terminate the Capita One solution by March 2023. If the Servelec solution cannot meet all requirements other solutions will be procured and will be subject to additional reports and governance subject to business case approvals.

7 Service and Commercial Impact should Capita ONE not be extended

It is recognised that extending this contract is beyond what was originally envisaged, however, there would be significant impact if Capita ONE were not renewed.

Special Educational Needs and Disabilities (SEND)

The loss of Capita ONE would put the whole SEND Service data system out of use resulting in no statutory record of our most vulnerable children and young people aged 0-25 with SEND. This is a significant risk in so many ways – including safeguarding – but also failure to meet DfE and government statutory duties which could result in the council being issued with a section notice by DfE. This would evidence incompetence and provide for DfE to take steps and control

Education Services

There is insufficient time to implement the full Servelec Synergy software prior to 31st March 2022. ‘Turning off’ Capita would therefore pose significant risks in relation to statutory, safeguarding and financial functions in relation to:

- School attendance & exclusions
- Children missing in education
- Elective home education
- Child employment and entertainment
- Compliance with GDPR

Additionally, officers could not conduct ‘business as usual’ functions in relation to the above, which would result in an increase in complaints, inability to respond to FOIs, MP/councillor questions etc.

Commercial Risk

The contract required the council to give Capita six-months’ notice of our decision not to renew. The Council is committed to a full 12 month contract cost to March 2023 and needs to serve notice by September 2023 to avoid a further 12 months charges after March 2023. This is a target decision milestone backstop to review progress and ensure the statutory services can be delivered either with Servelec or other solutions.

3. Contract Providing for a Statutory Requirement

All current modules of the Capita One system are used to deliver statutory SEN and general education services

The data used is processed in accordance with the Council’s statutory powers in respect of education and related children’s services.

4. Financial implications

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| Budget Available | Yes / No | YES | Cost Centre (Internal/External) | C14095 > CFA 227 |
| In-year Pressures on Budget | Yes / No | NO | Future Pressure on Existing MTFS Budget | Yes / No |

| Details | Internal | | Period of funding | External | | Period of funding |
|---|----------|------------|-------------------|----------|---------|-------------------|
| | Capital | Revenue | | Capital | Revenue | |
| Capita ONE support & maintenance (Apr 22 to Mar 23) | | 140,270.70 | 22/23 | | | |

The implementation of this strategy will commit the Council to a 1- year contract extension at an estimated cost of £140,271 which will be met from existing CDS budgets. It is initially charged to the CDS revenue code and then transferred to the People Systems Programme capital budget.

Capita ONE runs on multiple servers and some dedicated infrastructure located in BWH. As part of the lifecycle of the platform and work to decommission the application and its servers is planned and linked to the Strategic Education Systems Review work stream within the People Systems Programme.

We are only paying Capita for the software modules we are using.

While implementation was paused implementation charges payable to Servelec were also paused and run charges not incurred for the modules not yet implemented.

Implementation charges to continue migration to Servelec will be incurred from the capital budget when activities resume and as elements of the Servelec solution go live run charges will be incurred.

Essential spend criteria:

This request falls within the ongoing "Provision of mandatory services" essential spend criteria

The statutory nature of the Education Services support processes means LBC qualify for grant funding from the DFE. However, it is not clear where these funds get allocated within LBC to offset the ongoing support costs of Capita ONE.

5. Supporting information

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| 5.1 | Procurement Process followed: Incl. details of the competition, advertisement, tenders received and any clarifications or issues. | The variation will be undertaken via the change control provision of the contract. |
| 5.2 | Evaluation results: Incl. each providers scores in accordance with the published criteria. Winning providers VFM offer | The contract variation is an extension of the current arrangements with no changes to service scope or terms. |
| 5.3 | Any compliance issues with PCR or TCR? | London Living Wage (LLW) This was not part of the original Capita ONE EMS contract we are aiming to extend however Capita are an accredited LLW provider. PCR |

The proposed variation does not fulfil the criteria for permitted modification of contracts under the PCR 2015 regulation 72. However there is minimal risk of challenge to this extension as its purpose is to provide a smooth transition to the new system, a system which was procured via an OJEU compliant Restricted Tender process which allowed all relevant market suppliers to initially tender for, or the council will terminate this contract and procure a solution to meet needs if they cannot be met by the Servelec solution.

5.4 Contract Management: Please detail how this will be delivered and by who?

Strategic contract management is led by CDS, supported by the Education Senior Management Team with oversight and guidance from Strategic Procurement.

Account performance reviews are held with the supplier at least quarterly, and a contract board is already established with membership comprising of service departments, Croydon Digital Services and Strategic Procurement.

5.5 Risks: Incl. how they will be managed

Key risks are set out below. CDS and the service maintain a risk log.

| No. | Risk | Mitigation |
|-----|---|---|
| 1 | Supplier looks to increase charges for extension or new arrangement. | Negotiation with Supplier to minimise impact |
| 2 | There is a challenge from another supplier. Challenge from Servelec considered low as we have paid Servelec to date and intend to complete implementation. | With a variation to extend there is a risk but this is considered low as the council had tendered for a new solution. |
| 3 | Lack of funding to progress activities needed to achieve key dates | Budget exists for this contract extension; it is being funded from the capital budget for the People's systems Programme. If capital budget queried by finance, then may put pressure on revenue budget. |
| 4 | Approval to extend support not granted impacting delivery of statutory services | Escalated to senior service stakeholders to state the case. |

5.6 Mobilisation plan How will it be managed?

Retaining the solution will only require a contract change control for an extension. This will be managed by the existing IT project team in CDS with support from Strategic Procurement. There will be no system changes carried out as part of this project

5.7 Decommissioning plans: How will they be managed between providers?

If the Capita One system is decommissioned exit provisions in the contract will be followed. Data will be migrated and then destroyed securely. Server hardware is already resolved, and equipment disposed of in accordance with WEEE directives as most council solutions have been migrated to cloud hosting. The scope of the education systems strategic review will identify the extent of this work.

5.8 TUPE: If applicable, how will it be managed?

TUPE is not applicable.

5.9 Interdependencies – If any: Incl. details of any arrangements i.e.

There are internal interdependencies with the Capita contract and the Servelec contract for the new Education management system. Systems interfaces exist and will need to be maintained and changed. This will be managed by the project team.

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| | Landlords, Consortiums, Assets connections and how they will be managed | |
| 5.10 | GDPR implications: Has an assessment been completed, do legal know to include in t&cs? | The solution processes personal data and a DPIA (dated September 2019) already exists from when the contract was previously extended. The system holds data relating to education, early years funding, school admissions, learning access, school place/planning, post 16 participation and youth engagement, special educational needs. This has been reviewed and signed off by the CDO. |
| 5.11 | Equalities: Please confirm how the proposed contract will support the EQIA? | An Equalities Assessment has been performed for the project. The services will continue to support some of the most vulnerable residents in Croydon and as such will need to be assessed as fully meeting their needs in terms of customer care and quality of delivery. No discernible impacts identified as a result of this strategy as it is a continuation of an existing service. |
| 5.12 | Social Value: Please confirm how the provider will deliver the 10%? | This was not part of the original Capita ONE EMS contract we are aiming to extend. Capita were asked whether they wished to offer any social value options but they declined so therefore a waiver will be required. |
| 5.13 | London Living Wage (LLW): Please confirm the provider pays LLW? | This was not part of the original Capita ONE EMS contract that we are aiming to extend, however, Capita are an accredited LLW employer |
| 5.14 | Premier Supplier Scheme (PSP): Please confirm this is included in the requirements | This was not part of original Capita ONE EMS contract we are aiming to extend. Capita were asked whether they wished to join the scheme, but they declined. |

Detailed documents should be included as appendices to the report.

6. Conclusion and reasons for recommendations

A summary of the purpose of the report and reasons for recommendations

NOTE: If the current system is not extended, it would prevent Croydon from providing essential & mandatory services creating a serious business critical risk which would leave the Council open to challenge, if not legal action, both locally and nationally. There would also be a very high risk of the council incurring severe reputational damage

Options Analysis

| Option | Pros | Cons | Comments |
|----------------|---------------------------------|--|--|
| 1 – Do Nothing | No further expenditure incurred | <p>LBC unable to meet statutory education delivery obligations across the borough</p> <p>System remains not fit for purpose</p> <p>Risk of legal challenges, both locally & nationally</p> <p>Reputational damage incurred</p> <p>Contract requires LBC to give 6 months' notice to terminate.</p> | Not an Option due to contract termination period required and current systems supporting statutory services. |

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| 2: Extend Current contract for 12 months | <p>Limited expenditure</p> <p>Provides defined time frame for completion of the Service Review</p> <p>Continuation of service with incumbent supplier (short term)</p> | <p>Further expenditure commitment</p> <p>Roll out of new system delayed</p> <p>Continue to pay for two solutions for 12 months</p> <p>Risk of legal challenge, considered low</p> | Recommended Option |
| 3 – Extend contract for up to 24 months (Year 2 for remaining modules only) | <p>Continuation of service with incumbent supplier (medium term)</p> <p>Allows more time to complete implementation and remediation work on new system.</p> <p>Allows more time for the completion of the service review, should it be required</p> <p>Could yield a small discount to the Capita One charges</p> | <p>Further, but reducing expenditure with incumbent provider.</p> <p>Further delays. in commencing new system delivery</p> <p>2 more years of additional expenditure.</p> <p>Could present a higher legal risk of challenge</p> | Not recommended |
| 4 – New Award via Framework for 1 year contract | Service receives a fully functioning, fit for purpose system | <p>Increased expenditure</p> <p>Time required to complete procurement</p> <p>Adding a further system into the LBC IT estate</p> <p>Duplication of systems and effort to manage & support them</p> <p>Pressure on already overstretched resources in CDS and the service.</p> | Capita are not willing to commit to this route |

Recommended Option:

Extend current contract for 12 months at a cost of £140,271.

7. Outcome and approvals

| Outcome | Date agreed | |
|---------------------------|---|---------|
| Approved CCB1726/21-22 | Service Director: Shelley Davies (to confirm Corporate Director has approved the report) | 17/2/22 |
| | Service Director: Paul Golland | 17/2/22 |

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| | <i>(to confirm Corporate Director has approved the report)</i> | |
| | Cabinet Member for Resources & Financial Governance | <i>Briefing 17/2/22</i> |
| | Legal Sonia Likhari CCBReportsforlegal@croydon.gov.uk | <i>2/2/2021</i> |
| | Head of Finance | <i>03.03.2022</i> |
| | Human Resources (if applicable) | <i>n/a</i> |
| | C&P Head of Service Scott Funnell | <i>1/2/22</i> |
| | Lead Member <i>(for contract award over £500k)</i> | <i>Briefing 17/2/22</i> |
| | Procurement Board | <i>CCB1726/21-22 04.03.2022</i> |

8. Comments of the Council Solicitor

Relevant legal considerations are set out in the report

Approved by Sonia Likhari on behalf of the interim Director of Legal Services

9. Chief Finance Officer comments on the financial implications

Approved

Approved by Gerry Glover on behalf of the Chief Finance Officer