

CABINET

10 MAY 2011

REPORT OF THE CABINET MEMBER FOR CHILDREN AND EDUCATION

Title: Re-tendering of Contracts for the Provision of Day Nurseries at Becontree, William Bellamy, Gascoigne and Sydney Russell Children's Centres	For Decision
<p>Summary</p> <p>The Childcare Act 2006, Section 6, places a duty on local authorities to secure sufficient childcare for parents who are in education, training or work. The requirement to manage the market implies co-ordination of services and partnership working rather than direct delivery. In Barking and Dagenham the duty is discharged by working in partnership with the private and voluntary sector.</p> <p>There are eighteen children's centres in Barking and Dagenham, thirteen of which provide full day care for children aged 0-5. The Council currently manages two of the nurseries (Abbey and John Perry): the remainder are managed by a variety of voluntary sector and private providers.</p> <p>This report seeks the authority to commence a re- tender exercise to appoint provider/s of day-care nursery services at four children's centres - Becontree, William Bellamy, Gascoigne and Sydney Russell.</p> <p>The current providers of these services are Places for Children and Play-away Limited. Places for Children provide services at Becontree, William Bellamy and Gascoigne Children's Centres: this contract has been running for five years and is due to end on 31 August 2011. Play-away Limited provides services at Sydney Russell Children's Centre: this contract has been running for three years and is due to end on 2 November 2011.</p> <p>The new contract/s and lease/s to be awarded will be for a period of four years with an option for a further one year extension depending on performance. Costs will be met by parents' fees, not by the Council. The nursery fees will not be capped by the Council and so the provider/s will be able to determine the fee charged to parents.</p> <p>There will be no direct costs arising from the contract to run the four nurseries for the Council. The operational running cost of the four nurseries will be met by the contractor through parent/carer fees on a total cost recovery basis.</p> <p>Wards Affected: Becontree, Gascoigne, Heath and Parsloes.</p>	
<p>Recommendations</p> <p>The Cabinet is recommended to :</p> <p>(i) approve a competitive re - tender exercise for the appointment of provider/s of full day-care nursery services at Becontree, William Bellamy, Gascoigne and Sydney Russell Children's Centres, in accordance with the Council's Contract Rules, on the terms detailed in this report;</p>	

<p>(ii) advise, in accordance with the Constitution (Contract Rules 3.6) if Councillors wish to be further informed or consulted on the progress of the procurement and award of contract;</p> <p>(iii) authorise the Corporate Director of Children’s Services, in consultation with the Corporate Director of Finance and Resources and the Solicitor to the Council, to award the contract/s and coterminous lease/s for the four Children’s Centre Day Nurseries (Becontree, William Bellamy, Gascoigne and Sydney Russell) to the preferred bidder/s directly upon successful completion of the tender process.</p>		
<p>Reason</p> <p>To assist the Council in achieving its Community Priority of “Inspired and Successful” by ensuring the future sustainability of the nurseries.</p>		
<p>Comments of the Chief Financial Officer</p> <p>There will be no direct costs arising from the contract to run the four nurseries for the Council. The operational running cost of the four nurseries will be met by the contractor, through parent/carer fees on a total cost recovery basis. The costs of the provision will be borne solely by the provider, with no subsidy from the Council.</p>		
<p>Comments of the Solicitor to the Council</p> <p>The Council has the power under Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 to enter into service concession contracts for the provision of day nursery services on the basis that such services are properly required for the discharge of the Council’s duties. The value of the contracts would exceed £400,000 therefore there is a requirement under Council Contract Rule 3.6 for the strategy for the procurement of the contracts to be submitted to Cabinet for approval.</p>		
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1. Background

- 1.1 In 1998 the Government launched the National Childcare Strategy. This was a joint initiative by the then Department for Education and Schools and the Treasury. It aimed to increase the stock of accessible, affordable childcare places in order to allow more parents, (especially lone parents), to re-enter the job market. It also aimed to improve the quality of the early education experience for children below five years of age.

- 1.2 The Neighbourhood Nursery Initiative, launched in 2001, recognised that while independent providers were developing sustainable childcare in moderately disadvantaged areas, extending this to the most deprived areas would require significant financial support. Funding was allocated to local authorities in order that pump-priming grants could be issued to providers from the statutory, private, or not-for-profit sectors thus creating a three-year lead-in period to achieve full sustainability.
- 1.3 In 2003 the Government introduced its children's centre Initiative. This aimed to integrate existing day-care provision with the health, family support, and training service developed through Sure Start, locating the full range of services for under-fives in appropriate neighbourhood locations. It was recommended that neighbourhood nurseries were absorbed into children's centres. Capital funding for new children's centres was allocated with the requirement that all major new-build projects provided at least 50 full day-care places.
- 1.4 There are currently 18 children's centres in the borough, 13 of which provide full day care. The Council manages two of the nurseries, the remainder are provided by a variety of providers in the voluntary and private sector as follows:

Children's Centre Nursery	Provider
Abbey	Council
Becontree	Places For Children
Castle Green	Lifeline
Eastbury	London Early Years Foundation
Ford Road	London Early Years Foundation
Furze	London Early Years Foundation
Gascoigne	Places for Children
John Perry	Council
Leys	London Early Years Foundation
Sue Bramley	Chestnut Nursery School Ltd
Sydney Russell	Play-away Ltd
Wellgate	London Early Years Foundation
William Bellamy	Places for Children

- 1.5 The Childcare Act 2006, Section 6, places a duty on local authorities to secure sufficient childcare for parents who are in education, training or work. The requirement to manage the market implies co-ordination of services and partnership working rather than direct delivery. In Barking and Dagenham the duty is discharged by working in partnership with the private and voluntary sector.
- 1.6 Our Childcare Sufficiency Assessment shows that there is a continued demand for full day-care in these areas. Demand for the free 15 hour entitlement for 3 and 4 year olds, is particularly high and increasing as a result of the rise in the 0-5 population. There is also an additional pressure to provide 15 hours of free education to the most disadvantaged 2 year olds.
- 1.7 In 2006, as part of phase two of the children's centre programme, three nurseries (Becontree, William Bellamy and Gascoigne) were outsourced: after a competitive tender exercise a five year contract was awarded to the preferred provider, Places for Children. Sydney Russell was originally operated by the Council but was

outsourced, following a competitive tender exercise, in 2008 to the preferred provider Play-away Limited.

- 1.8 The four nurseries are sustained through fees paid to the providers by parents/carers. At present the providers pay business rates, utility costs and recharges for various other services such as cleaning, waste disposal and grounds maintenance to the Council.
- 1.9 It is not a viable option for the Council to take on the running of the childcare. This is due to the high cost of running the nurseries in-house and the volatility of the childcare market, particularly during a recession. The key risk to the Council is that of employing staff who might have to be made redundant should the childcare market decline.

2. Proposal

- 2.1 The current contract with the provider Places for Children is due to expire on 31 August 2011 and the contract with Playaway Ltd is due to expire on 2 November 2011. The proposal is to re-tender the four children's centre day nurseries (Becontree, William Bellamy, Gascoigne and Sydney Russell) to a provider in the Private, Voluntary or Independent Sector.
- 2.2 There will be a competitive tender exercise for the appointment of provider/s of these nursery services in accordance with the Council's Contract Rules. The contract/s and coterminous lease/s will be awarded to the preferred bidder/s upon successful completion of the tender process. The contract/s will specify clearly the need for the childcare to be of the highest quality and will be closely monitored by Children's Services' officers.

3. Financial Issues

- 3.1 There will be no direct costs arising from the contract to run the four nurseries for the Council. The operational running cost of the four nurseries will be met by the contractor, through parent/carer fees on a total cost recovery basis. The costs of the provision will be borne solely by the provider, with no subsidy from the Council.
- 3.2 The indirect cost of the tender process will be managed through the existing staffing resources within Children's Services. The tender exercise will assist in assessing the financial stability of any prospective provider/s. One of the tender evaluation criteria will be based on the financial viability of the contractor/s to ensure the sustainability of the provision.
- 3.3 All prospective providers will be required to submit a business plan based on a specified template. This will be used to assess their financial viability. Providers will also be requested to submit a copy of their accounts for the last two years and credit checks will be requested for those providers who progress through to the second stage of the tender.
- 3.4 Fees are currently capped at a maximum of £200 per week. However this cap will be removed and the new providers will be enabled to determine their own level of fees in line with their business plans. As stated above the provider/s will be

expected to recover the operational running costs of the nurseries through the income generated.

- 3.5 The estimated income for any of the preferred provider/s, based on current fees of £200 per week for 51 weeks of the year, will be:
- Becontree Children's Centre Day Nursery: approximately £306,000 per annum, based on 30 places;
 - William Bellamy Children's Centre Day Nursery: approximately £550,800 per annum, based on 54 places;
 - Gascoigne Children's Centre Day Nursery: approximately £775,200 per annum, based on 76 places;
 - Sydney Russell Children's Centre Day Nursery: approximately £275,400 per annum, based on 27 places.
- 3.6 The successful provider/s will receive full use of the nurseries and equipment, which are owned by the Council, in return for an appropriate rent and service charge. The service charges will be calculated in line with the principles applied for the outsourcing of the Sue Bramley Children's Centre nursery, based on an assessment of shared and common spaces between the nurseries and the other occupants of the building. The service charges are estimated to be £8,900 (Becontree), £7,100 (Sydney Russell), £13,600 (William Bellamy) and £18,900 (Gascoigne).
- 3.7 There is currently an independent market valuation being undertaken on the properties to determine the level of rent to be charged; this will be at full market value. The rent will generate additional income for the Council as previously the buildings were leased to the providers on a peppercorn rent basis. The rent will be used to cover the cost of repairs and maintenance of the building and equipment.
- 3.8 The provider/s will also be recharged by the Council for insurance, utilities, telephone, cleaning and any other charges associated with the nurseries. This will be based on the actual usage.

4. Legal Issues

- 4.1 The Council has the power under Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 to enter into service concession contracts for the provision of day nursery services on the basis that such services are properly required for the discharge of the Council's duties. The value of the contracts would exceed £400,000 therefore there is a requirement under Council Contract Rule 3.6 for the strategy for the procurement of the contracts to be submitted to Cabinet for approval.
- 4.2 Service concession contracts fall outside the scope of the application of the Public Contracts Regulations 2006 (the EU public procurement regulations), therefore the full rigour of the EU public procurement regulations would not apply to the procurement of this contract. However, as the value of the contracts would exceed the EU threshold for services, the Council still has a legal obligation to comply with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in procuring the contracts. This includes a requirement to publicise the contract opportunity in a manner that would allow any providers likely to be interested in the contract the opportunity to bid for the contract.

4.3 The procurement strategy outlined in this report complies with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency.

5. Risk Management

5.1 The tender exercise will assist in assessing the financial stability of any prospective provider/s. Providers will be requested to submit a copy of their accounts for the last two years and credit checks will be requested for those providers who progress through to the second stage of the tender. A potential risk is that the provider raises fees to a level that is not affordable to local people on low incomes. However this risk will be mitigated by a robust business plan.

5.2 Once financial stability has been established the main risk involved will be delivery of the service. Technical ability will be assessed during the tender stages.

Providers will be expected to demonstrate:

- five years relevant experience;
- a commitment to quality and continuous improvement;
- evidence of running Ofsted registered nurseries rated “good” or “outstanding”;
- evidence of providing inclusive childcare;
- evidence of how they intend to deal with the matter of TUPE for staff currently employed by the incumbent provider/s.

5.3 Once a provider/s has been chosen, written contractual arrangements will contribute to ensuring a quality service. The contract/s will have a dedicated contract manager. Quarterly monitoring reviews will be conducted and the preferred provider/s will be requested to complete a monitoring form on a quarterly basis before these reviews. The monitoring form will collect information about the service and will be based around the contract terms and conditions and service specification.

5.4 Council Officers will conduct unannounced monitoring visits to the nurseries focusing on general or specific matters. Quality surveys will be conducted by the provider/s and the Council and will be aimed at parents / carers and children attending the nursery. The provider/s will have to report any complaints made to the Council. The nursery will also be subject to external inspection from Ofsted.

6. Contractual Issues

6.1 The tender process will be conducted in compliance with European Union rules and principles and Council Rules. The tendering of the nurseries would be advertised on the Council’s website and on any other relevant websites and/or in appropriate trade journals. Interested parties would be invited to tender on the basis of an open tender three stage process.

6.2 In the first stage tender submissions would be invited from any providers who are able to demonstrate five years relevant experience, a commitment to quality and continuous improvement and have financial stability. Providers would also have to be running an average of Ofsted registered nurseries rated good or outstanding, have experience of working with a Local Authority Children’s Centre and either has proven TUPE experience or provide evidence of how they intend to deal with the matter of TUPE for staff currently employed by the incumbent provider/s.

6.3 Only Tenders submitted by organisations who satisfy the criteria contained in the Qualifying Questionnaire shall go on to be evaluated in accordance with the tender evaluation criteria. This process will result in a shortlist of a maximum of four preferred providers being invited to interview (stage three) and there will also be a visit to a nursery run by these provider/s (Stage two). The contract/s and lease will be awarded to the successful provider/s for a period of four years with an option to extend for a further year dependent on performance.

6.4 All tenderers will be advised of the detailed quality weightings in the tender documentation. The weightings are expected to be as follows:

Stage one

- 15% on service delivery and business planning
- 25% on management and staffing;
- 10% on communication and partnership working;

Stage two

- 20% based on an unannounced visit to a nursery operated by the selected provider/s;

Stage three

- 30% on a presentation and interview session. (Tenderers will be made aware of sub criteria that are expected to cover service delivery, monitoring and evaluation, staffing and business management in advance).

6.5 Expected Tender Outline

Cabinet approval / advertise	Mid May 2011
Qualifying Questionnaire and Invitation to tender sent out to interested parties	Mid May to early June 2011
Invitation to tender sent to be returned	Mid June 2011
Tender evaluations, nursery visits and interviews	Mid to late June/ Early July
Approval and award of Contract	Mid to late July
Facilitate possible TUPE meetings	Early August
Start of contract delivery for William Bellamy, Becontree and Gascoigne Children’s Centre Day Nursery Services.	Beginning of September 2011
Start of contract delivery for Sydney Russell Children’s Centre Day Nursery Services.	Beginning of November 2011

7. Staffing Issues

7.1 There are no staffing issues in respect of the Council’s workforce. However there could be possible TUPE implications for staff currently employed at the four nurseries by the incumbent provider/s. Where necessary this matter would need to

be dealt with by the preferred provider/s and the incumbent providers. The Council would be available to facilitate any required meetings in respect of this matter.

8. Customer Impact

- 8.1 Children's Services will be responsible for supporting the provider/s to provide high quality, inclusive childcare which is financially sustainable. The contract will specify expectations in this respect. Regular equality impact assessments will be made. Parents will be eligible for all current childcare support, including access to free early education places and access to the childcare element of Working Tax Credit.
- 8.2 Parents and carers will be kept fully informed of all events and processes. Once a preferred provider/s has been awarded the contract/s and leases/s for the provision of Becontree, William Bellamy, Gascoigne and Sydney Russell Children's Centre Day Nurseries all parents / carers of children attending the nurseries will be informed, where necessary, of any proposed changes in the service provider/s in writing. Parents and carers will also be invited to raise any concerns with a dedicated council officer at an open meeting at the nurseries.

9. Safeguarding Children

- 9.1 This re-tendering exercise will ensure that the childcare needs of working parents continue to be met. The chosen provider/s will be required to conform to all our local safeguarding procedures.

10. Property / Asset Issues

- 10.1 Children's Services will work closely with the Council's Legal and Property Services Departments to ensure that leases for the four Children's Centre Nurseries are put in place and run concurrently with the contract/s and are capable of being terminated, for whatever reason and justification, in accordance with the service contract/s awarded.

11. Background Papers Used in the Preparation of the Report

None

12. List of appendices

None