

LONDON BOROUGH OF CROYDON

To: All Member of Council
Croydon Council website
Access Croydon & Town Hall Reception

STATEMENT OF EXECUTIVE DECISIONS MADE BY CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE & LEARNING ON 20 MARCH 2020

This statement is produced in accordance with Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Further to the associated public notice of Key Decisions no scrutiny call-in has been received, and therefore the following decisions can be implemented.

The following apply to the decisions listed below:

Reasons for these decisions: Contained within attached report

Other options considered and rejected: Contained within attached report

Details of Conflicts of Interest declared by the Decision Maker: None

Note of dispensation granted by the head of paid service in relation to a declared conflict of interest by that Decision Maker:
None.

The Leader of the Council has delegated to the Cabinet Member for Children, Young People & Learning in consultation with the Cabinet Member for Finance & Resources the power to make the Key Decisions set out below:

Key Decision no.: 0620CYPL

Decision Title: RP3 REPORT: OPEN-ACCESS COUNSELLING & YOUNG CARERS' SUPPORT SERVICES

Details of decision:

Having carefully read and considered the Part A report and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Cabinet Member for Children, Young People & Learning in consultation with the Cabinet Member for Finance & Resources

Details of decision:

1. The Cabinet Member for Children Families and Education in consultation with the Cabinet Member for Finance and Resources, is recommended by the Contracts and Commissioning Board to approve the award of contracts (jointly with NHS Croydon Clinical Commissioning Group) in accordance with Regulation 28.4(c) of the Council's Contracts and Tenders Regulations to:

- a. Croydon Drop In for the provision of Open-Access Counselling Services for a contract term of 2 years with 3 x 1 year extensions up to five (5) years for a maximum contract value (to the Council) of £750,000.00.
 - b. Off The Record for Open Access Counselling and Young Carers Services for a contract-term of 2 years with 3 x 1 year extensions up to five (5) years for a maximum contract value (to the Council) of £1,171,500.00.
2. The Cabinet Member is asked to note that the Director for Commissioning & Procurement has approved a waiver of Regulation 11.3 of the Council's Tenders and Contracts Regulations to allow for the direct award of the contracts, subject to finalisation of the due diligence and assurance process required by Croydon CCG by the date of contract signature.

Signed: Council Solicitor and Monitoring Officer

Notice date: 30 March 2020

REPORT TO:	Cabinet Member for Children, Young People and Learning
SUBJECT:	Open Access Counselling and Young Carers Services for Children and Young People
LEAD OFFICER:	Jacqueline Harris Baker, Executive Director Sarah Warman, Director Amanda Tuke, Head of Service
CABINET MEMBER:	Councillor Alisa Flemming Cabinet Member for Children, Young People and Learning Councillor Simon Hall Cabinet Member for Finance and Resources
WARDS:	All
<p>CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON</p> <p>Delivering appropriate and safe emotional wellbeing and mental health support through open-access counselling, advice and advocacy supports the Council’s outcome:</p> <p><i>“Children and young people in Croydon are safe, healthy and happy and aspire to be the best they can be.”</i></p> <p>Other relevant local priorities include:</p> <p>Croydon’s Community Strategy priorities and outcomes:</p> <ul style="list-style-type: none"> • Outcome 1: A great place to learn, work and live. • Outcome 2: A place of opportunity for everyone – in particular: Priority Two; Support individuals and families with complex needs and; Priority Four: Deliver better education and the opportunity for everyone to reach their full potential. <p>Croydon’s Corporate Plan “Ambitious for Croydon”</p> <ul style="list-style-type: none"> • To help families be healthy and resilient and able to maximise their life chances and independence. • To help people from all communities live longer, healthier lives through positive lifestyle choices. • To drive fairness for all communities, people and places. 	

FINANCIAL IMPACT

The service is well-established and has recurrent funding streams (Council & CCG) as set out below.

Council & CCG Directors have confirmed their support for its continued funding at 2019/20 recurrent levels.

	Croydon CCG	Croydon Council	Annual Total
Croydon Drop In	£153,000	£150,000	£303,000
Off the Record	£600,000	£234,300	£843,300
Total over 2 years	£1,506,000	£768,600	£2,292,600
Total Over 5 years	£3,765,000	£1,921,500	£5,731,500

FORWARD PLAN KEY DECISION REFERENCE NO.: 0620CYPL

The notice of the decision will specify that the decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee.

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

1. DRAFT RECOMMENDATION

- 1.1 The Cabinet Member for Children Families and Education in consultation with the Cabinet Member for Finance and Resources, is recommended by the Contracts and Commissioning Board to approve the award of contracts (jointly with NHS Croydon Clinical Commissioning Group) in accordance with Regulation 28.4(c) of the Council's Contracts and Tenders Regulations to:
 - a. Croydon Drop In for the provision of Open-Access Counselling Services for a contract term of 2 years with 3 x 1 year extensions up to five (5) years for a maximum contract value (to the Council) of £750,000.00.
 - b. Off The Record for Open Access Counselling and Young Carers Services for a contract-term of 2 years with 3 x 1 year extensions up to five (5) years for a maximum contract value (to the Council) of £1,171,500.00.
- 1.2 The Cabinet Member is asked to note that the Director for Commissioning & Procurement has approved a waiver of Regulation 11.3 of the Council's Tenders and Contracts Regulations to allow for the direct award of the contracts, subject to finalisation of the due diligence and assurance process required by Croydon CCG by the date of contract signature.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to seek permission to directly award joint contracts (i.e. Croydon Council with NHS Croydon CCG) to two local VCS agencies, namely Croydon Drop In and Off The Record, for the provision of (respectively) open-access counselling services; and open-access counselling and young carers' services.
- 2.2 Croydon Council and Croydon CCG both have statutory duties to local children and young people (e.g. early intervention; emotional health & well-being) and this service contributes significantly to the discharge of those duties.
- 2.3 Both providers are already engaged in the delivery of this service under the auspices of separate Council & NHS contracts, which are due to expire shortly, and have been so for some years. As such, the move to a single contract (NHS shorter form) with defined contract-terms recognises the long-standing commitment of the providers; demonstrates the integration of commissioners in Croydon; and sets a framework for future development of the service.
- 2.4 Prior to recommending the direct award, commissioners have considered the available options for delivering the service and established that direct awards to the existing providers represent best value for the Council and the CCG. A due diligence and assurance process required by the CCG has been designed to ensure that the providers are "fit for purpose" and the first phase of this, screening of evidence, is completed with both providers and due for finalisation prior to the contract signature date.
- 2.5 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB ref. number	CCB Approval Date
CCB1556/19-20	05/03/2020

3. DETAIL

3.1 National context:

Local Authorities have a statutory duty to provide early intervention and prevention services to children & young people. These services include counselling and other similar interventions.

NHS England (NHSE) requires local areas to work in partnership to develop and update annually a Local Transformation Plan (LTP) for mental health & emotional well-being of children and young people. The LTP sets out (among other things) how ring-fenced funding from NHSE is invested to improve outcomes for children and young people in need of mental health and emotional well-being support.

A key requirement of the NHSE funding is that it is used to improve access and

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reduce waiting times to counselling services. Access to such services is an increasingly important indicator, both within NHS performance frameworks and in the wider public arena.

3.2 Local context:

Locally, the LTP is overseen within Croydon's partnership structures by the Mental Health and Emotional Well Being Board, a sub-group of the Children and Young People's Partnership Board.

Over a number of years (preceding the LTP), both Croydon Council and Croydon Clinical Commissioning Group (CCG) have separately commissioned open-access counselling, advocacy & advice services and a young carers service for children and young people from two Croydon-based voluntary sector providers, namely Off the Record and Croydon Drop In. These agreements are due to expire on 31 March 2020.

3.3 Objectives & outcomes:

In engaging in this process, commissioners established the following objectives and outcomes:

- To ensure Croydon Council can fulfil its statutory duty to provide early intervention and prevention services through continued delivery of open-access counselling, advocacy & advice and young carers services to children and young people in Croydon.
- To deliver on local priorities as set out in the Local Transformation Plan for Emotional Wellbeing and Mental Health; Early Help Strategy; and other national priorities in relation to improved access to mental health and emotional wellbeing services.
- To maximise the impact of available place-based resources in improving mental health and emotional wellbeing outcomes for children and young people, ensuring there is sufficient capacity to meet demand.
- To enable robust integrated contract management that develops the providers; delivers service improvements; and ensures that service-users experience positive and safe care within an appropriate and welcoming environment.

3.4 Commissioners' preferred option:

Commissioners have recommended the direct award of one joint contract (i.e. Croydon CCG with Croydon Council) to each of the current two voluntary sector providers, i.e. Off the Record and Croydon Drop In.

The contract form recommended is the NHS Standard Contract (shorter form), with additions to the service conditions to reflect key aspects of the Council's procurement agenda (e.g. compliance with London Living Wage).

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The scope of each contract will be all services that the provider currently delivers to support mental health and emotional wellbeing.

The contracts are due to commence on 1 April 2020. The proposed contract-term is for two (2) years initially, with the option of up to three (3) 1-year extensions, initially maintaining the annual contract-price at the recurrent 2019/20 funding levels shown below:

	Croydon CCG (£000)	Croydon Council (£000)	Provider Total (£000)
Croydon Drop In	153.0	150.0	303.0
Off the Record	600.0	234.3	834.3
Commissioner Total	753.0	384.3	1,137.3
Total over 2 years	1,506.0	768.6	2,274.6
Total over 5 years	3,765.0	1,921.5	5,686.5

At a meeting on 18 December 2019, the CCG's Procurement Advisory Group (PAG) made an identical recommendation to the CCG Accountable Officer and Governing Body.

The rationale for the above recommendations (including direct award) and the decisions made by these groups is set out in detail below in sections 3.5 to 3.10.

3.5 Rationale for joint contract:

In recommending one joint contract to each voluntary sector provider, commissioners acknowledged the duplication inherent in the status quo; recognised that integrated commissioning should deliver outputs such as joint contracts as a norm; and sought to offer greater clarity to providers. Commissioners were not aware of any specific reason to deviate from those principles.

3.6 Rationale for direct award:

Commissioners acknowledged the risk of a procurement challenge under PCR 2015 by other provider organisations, but established that this risk is low and that the direct award is eminently defensible.

Firstly, commissioners believe that competitive tendering is unlikely to offer better value than the current local service offer. Secondly, commissioners believe that the external provider market is unlikely to offer providers that are technically capable of delivering these services. Supporting factors in both these beliefs include the geography & demographics of Croydon (in particular, the unusual concentration of young refugees and asylum seekers); the absence of a specialist provider delivering these services in other comparable areas; and the infrastructure costs inherent in setting up a new service in Croydon.

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This case is set out below in sections 3.7 to 3.10.

3.7 Current local service offer:

The open-access counselling service provides primary-care-level intervention and also helps to identify and signpost those with higher levels of need to more appropriate services through the “single point of contact”. The service offers evidence-based face-to-face counselling, support services and digital services also for vulnerable groups, in particular unaccompanied asylum-seeking young people and young carers (see below). Off the Record also provides on-line counselling; a young carers project; and a youth drug & alcohol project. Clients accessing the open-access counselling service in either provider may be referred to these services as appropriate.

Research shows that children and young people experiencing mild to moderate mental health problems are likely to respond to evidence-based mental health counselling interventions (identified as appropriate within the National Children and Young People’s IAPT Programme), which is the core intervention provided by the service.

Advice and advocacy is also provided in-service to support family members, young people and children (aged 10-25) accessing the service in relation to: welfare rights; benefits; maintaining school attendance; family support; debt; housing and homeless issues - all within the human rights framework.

Strategically, the fundamental aim of these services are entirely consistent with the Croydon agenda: to support children and young people to be well, remain well and gain resilience and life coping skills to support them into adulthood.

Both providers are:

- Well-established voluntary sector bodies within the communities of Croydon;
- Well-regarded within the local health & care community and operating as a provider under the ambit of commissioner contracts and agreements;
- Engaged with partners & service users in developing their current service offer, singly and jointly (e.g. seeking to employ joint posts to deliver the national “trailblazer” of mental health support in schools).

Given all the above, while there is undoubtedly some scope for provider development, the current service offer and set of providers in Croydon seems broadly sound; “fit for purpose”; and is already responding to the need for change.

3.8 Croydon’s geography & demographics:

In the latest benchmarking data (March 2018) Croydon had the highest number of unaccompanied asylum seeking children (UASCs) in the children looked after population. Croydon is one of a very small number of local authorities who

For Publication

have very significant numbers of UASCs, in the South East and London areas. The next highest numbers are in Kent and Hampshire respectively (see table below).

Table: Numbers of unaccompanied asylum-seeking children in the local authorities in London and the South East (three highest) Mar 2018

Local authority	Number of unaccompanied asylum seeking children (UASC)
Croydon	295
Kent	235
Hampshire	112

UASCs frequently arrive at the Home Office in Croydon having experienced considerable trauma and therefore with a range of emotional well-being and mental health issues. A large proportion clearly remain in Croydon – often for several years. These individuals may be subsequently categorised as children looked after and then care leavers, so the numbers reported above probably under-estimate the scale of the issue. It is certainly the case that UASCs (and care-leavers who were previously UASC) make up a considerable proportion of the current service-user population for both the voluntary sector counselling services described in this report.

3.9 Current provider market:

Given this long-standing presence of UASCs, both the statutory and voluntary sector services in Croydon have developed considerable expertise in supporting this group of children and young people. As evidence of this, local providers are regularly consulted as experts by colleagues in other areas. The fact that they are consulted by other areas suggests that this expertise is not readily available from another source.

Commissioners sought information from other areas with significant numbers of UASCs, including Kent and Hampshire. In both cases, the Designated LAC nurse in the area confirmed that unlike Croydon there was no provider delivering specialist UASC counselling service in their areas. In both cases, UASCs received only the same general service emotional wellbeing and mental health support that other young people in the area receive and this situation had been identified as a gap in service provision there.

On that basis, the evidence suggests that there are no other providers currently operating in a comparable environment and therefore technically capable of delivering the specific service that is needed in Croydon.

3.10 Infrastructure costs:

As a further consideration, both providers are well-established in Croydon with good access to local agencies & infrastructure (e.g. premises). It seems likely that any new provider entering the Croydon area would have to invest in relationship-building and infrastructure and that costs for this would feature in

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the contract price. Given the property market within Croydon, infrastructure costs alone (both start-up and recurrent) are likely to be significant and will eliminate any efficiency saving likely to be obtained through competitive tendering.

3.11 Conclusions, recommendations and next steps:

Given all the above, commissioners concluded that:

- There was a clear benefit to be gained from maintaining continuity with the current providers;
- The benefits of such continuity outweighed any potential financial advantage to be gained by competitive tendering; &
- The risk of legal challenge to a direct award exists, but it is low and the decision has a firm evidence-base to support it, as set out above in sections 3.7 to 3.10.

3.12 Due diligence and assurance:

Commissioners have consulted with NHS Shared Business Services (procurement advisors to NHS Croydon CCG) and designed a framework for “due diligence and assurance” to ensure that both providers are capable of discharging the contract and delivering the service within available resources. It should be stressed that the due diligence & assurance work is not a point-based evaluation but a more in-depth and iterative dialogue with the provider.

Commissioners have completed phase one of the CCG due diligence and assurance process and this will be finalized prior to the date of contract signature date.

4. CONSULTATION

- 4.1 There is no significant service-change proposed, and therefore there is no requirement for formal consultation on the decision at hand.
- 4.2 However, the due diligence and assurance process described above will include both scrutiny of past engagement work by the two providers. An independent engagement exercise with service-users of each provider, to be designed and led by the Council’s Youth Engagement team, will be carried within six months of the date of contract signature to support service development.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATION

5.1 Revenue and Capital consequences of report recommendations

For Publication

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2019/20	2020/21	2021/22	2022/23
	£'000	£'000	£'000	£'000
Revenue Budget available				
Expenditure	384.3	384.3	384.3	384.3
Income	384.3	384.3	384.3	384.3
Effect of decision from report				
Expenditure	384.3	384.3	384.3	384.3
Income	384.3	384.3	384.3	384.3
Remaining budget	0.0	0.0	0.0	
Capital Budget available	N/A	N/A	N/A	N/A
Expenditure				
Effect of decision from report				
Expenditure				
Remaining budget	0.0	0.0	0.0	0.0

5.2 The effect of the decision:

- The decision commits funding at 2019/20 levels for 2020/21 & 2021/22 (but see below re savings/efficiencies).
- Relevant Council & CCG Directors have confirmed their approval for continuation of recurrent 2019/20 funding.

5.3 Risks:

- There is a significant risk of rising demand and/or unmet need.
- The block-funded contract proposed minimises the risk of budget over-run.
- There is a risk in the financial standing of providers – however, both are long-established organisations. This will be tested by due diligence & assurance.

5.4 Options:

- Failure to fund the service would leave the Council vulnerable to a charge of failing in its statutory duties, e.g. early intervention & prevention.

5.5 Future savings/efficiencies:

- There has been no consideration of savings or efficiencies in 2020/21.
- However, the contract term permits this for future years.
- The NHS standard contract permits savings (and ultimately service termination) within reasonable notice periods.

For Publication

Approved by Ian Geary, Department Head of Finance.

6. LEGAL CONSIDERATIONS

- 6.1 The Solicitor to the Council comments as follows:
- 6.2 There are no additional legal considerations arising directly from this report.

Approved by Sonia Likhari, Solicitor, on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

7. HUMAN RESOURCES IMPACT

- 7.1 The direct award between Croydon Clinical Commissioning Group and Croydon Council to each of the current two voluntary sector providers - Off the Record and Croydon Drop In, deems that the service provisions remain unchanged and there are no TUPE or HR implications arising from this report for Croydon Council staff.
- 7.2 However, if there are any changes in the future that result in a service provision (such as the service being retendered to another provider), this may invoke the effects of the Transfer of Undertakings (Protection of Employment) 2006 Legislation (amended 2014). It is therefore important to seek HR advice at an early stage.

Approved by Nadine Maloney, on behalf of the Director of Human Resources.

8. EQUALITIES IMPACT

- 8.1 The proposal represents the continuation (and development over time) of an existing local service with a clear remit to tackle inequalities & exclusion. The current service helps the Council meet its equality objective by offering support to vulnerable young people from minority groups (e.g. black & minority ethnic (BAME) communities; refugees & asylum seekers; and LGBTQ+).
- 8.2 Notwithstanding the eligibility criteria of a service for children and young people (0-25), the service seeks to address all equalities priorities (age, disability, gender, gender reassignment, marriage & civil partnership, religion or belief, race, sexual orientation, pregnancy or maternity). Indeed, the providers can identify case-studies demonstrating that commitment.
- 8.3 An initial equalities assessment has been completed. However, it will be revisited with the providers as part of the due diligence and assurance process before final sign-off.

Approved by Yvonne Okiyo, Equalities Manager.

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9. ENVIRONMENTAL IMPACT

- 9.1 The proposal represents the continuation (and development over time) of an existing local service within a small existing estate in central locations convenient for public transport. As such, there are no direct environmental impacts.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 Open-access counselling and young carers services play a role in offering support to vulnerable young people who may be experiencing domestic violence, hate crime or sexual exploitation.
- 10.2 Both providers are well-established within Croydon and have good links with partner agencies in the areas of both crime and disorder reduction and also safeguarding children.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The rationale for the preferred option and subsequent recommendation is set out at some length in Section 3 of this report.
- 11.2 Also please see below in Section 12.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 Section 3 of this report considers and sets out the reasons for arriving at its preferred option of a direct award to the existing providers. However, at an earlier stage in the process, other options were considered and rejected.
- 12.2 In brief, the high-level options could be viewed as:

Option 0: discontinue the service – **rejected** because both Council and CCG would be in breach of their obligations and duties;

Option 1: status quo, i.e. continue as before with two contracts and funding streams – **rejected** because it fails to acknowledge the real changes in the local care systems in Croydon;

Option 2: continue the service, but bring it “in-house” – **rejected** because of the lack of relevant expertise in any statutory provider in Croydon.

Option 3: re-procurement through external tender – **rejected** because of the rationale for direct award set out in sections 3.7 to 3.10; &

Option 4: direct award to existing providers – this is the **recommended** option.

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13. DATA PROTECTION IMPLICATIONS

13.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

YES – BUT AT PROVIDER-LEVEL ONLY.

13.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

YES.

13.3 The Director of Commissioning & Procurement comments as follows:

13.4 The providers will process “personal data” and also maintain clinical and case records. The providers may make onward referrals to other agencies (statutory and voluntary) and to the local safeguarding arrangements. In so doing, the providers will comply with all required standards of confidentiality.

13.5 The providers will also provide monitoring information to the commissioner on both a regular and ad-hoc basis. It is envisaged that this monitoring information will always be in anonymised formats. It is **not** envisaged that the commissioner should process or hold any “personal data”.

13.6 The terms and conditions of the NHS standard contract relating to data protection (“information governance” in NHS terms), require the providers to comply with all statutory, clinical & professional standards. The due diligence and assurance process is currently testing that compliance.

Approved by Amanda Tuke on behalf of the Director of Commissioning & Procurement.

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APPENDICES TO THIS REPORT: None.

BACKGROUND PAPERS: None.