

LONDON BOROUGH OF CROYDON

To: All Members of Council
Croydon Council website
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PUBLIC NOTICE OF KEY DECISIONS MADE BY CABINET MEMBER FOR CHILDREN, YOUNG PEOPLE & LEARNING ON 19 SEPTEMBER 2019

This statement is produced in accordance with Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 27 September 2019** unless referred to the Scrutiny and Overview Committee (ie after 13.00 hours on the 6th working day following the day on which the decision was taken). The call-in procedure is appended to this notice.

The following apply to the decision below:

Reasons for these decisions: As detailed in the attached Part A report.

Other options considered and rejected: As detailed in the attached Part A 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 decision maker the power to make the Key Decisions noted out below:

Decision Title: CONTRACT EXTENSION: 15 HOURS CHILDCARE OFFER FOR SEND CHILDREN WITH COMPLEX NEEDS

Key Decision No:

Having carefully read and considered the Part A report and the requirements of the Council's public sector equality 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

Resolved:

To approve the extension to the contract for SEND 15 hours childcare offer for children with complex needs for a further term of one (1) academic year, at a maximum total contract value of £1,141,757.

Signed: Council Solicitor and Monitoring Officer

Notice Date: 19 September 2019

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 27 September 2019** (the 6th working day following the day on which the decision was taken) unless referred to the Scrutiny and Overview Committee.
2. The Council Solicitor shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair or Deputy Chair of the Scrutiny and Overview Committee and 4 members of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Victoria Lower by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Council Solicitor, this would cause undue delay. In such cases the Council Solicitor will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision taker for reconsideration, setting out in writing the nature of the concerns.
8. The Scrutiny and Overview Committee may refer the decision to Full Council if it considers that the decision is outside of the budget and policy framework of the Council.
9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

10. The Full Council may decide to take no further action in which case the decision may be implemented.
11. If the Council objects to the decision it can nullify the decision if it is outside of the policy framework and/or inconsistent with the budget.
12. If the decision is within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision. The decision taker shall choose whether to either amend / withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
13. The response shall be notified to all Members of the Scrutiny and Overview Committee
14. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
15. **URGENCY:** The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process.

Signed: Council Solicitor and Monitoring Officer

Notice Date: 19 September 2019

Contact Officers: victoria.lower@croydon.gov.uk and cliona.may@croydon.gov.uk

PROFORMA

**REFERRAL OF A KEY DECISION TO THE
SCRUTINY AND OVERVIEW COMMITTEE**

For the attention of: Victoria Lower, Democratic Services & Scrutiny
e-mail to
Victoria.lower@croydon.gov.uk and cliona.may@croydon.gov.uk

Meeting:
Meeting Date:
Agenda Item No:

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) Other: Please specify:

The outcome desired:

**Information required to assist the Scrutiny and Overview Committee to consider
the referral:**

Signed:

Date:

Member of _____ Committee

REPORT TO:	Cabinet Member for Children, Young People & Learning
SUBJECT:	Contract extension: SEND 15 hours childcare offer for children with complex needs
LEAD OFFICER:	Robert Henderson, Executive Director of Children Families and Education Shelley Davies, Director of Education
CABINET MEMBER:	Cllr Alisa Flemming, Cabinet Member for Children, Young People & Learning Cllr Simon Hall, Cabinet member for Finance & Resources
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

The Council's Corporate Plan 2018-2022 includes the following priorities which are relevant to this contract:

1. *Our children and young people thrive and reach their full potential*
- 2: *Everyone has the opportunity to work and build their career*

The 2006 Childcare Act, Section 7 (as amended), placed a duty on local authorities to secure pre-school early years provision free of charge for parents. This includes:

- the universal offer of **15 hours** for up to 38 weeks (570 hours) all 3-4year olds; and
- an entitlement to **15 hours** of free **childcare** a week for 2-year olds from disadvantaged backgrounds;
- the additional **15 hours** offer for working parents of 3-4year olds.

This contract enables the Council to continue to fulfil this obligation in respect of parents of disabled children aged 2-4 with complex needs.

This contract also contributes to the ambitions contained in the *Croydon Promise* of being 'The best place to learn in London'

FINANCIAL IMPACT:

The proposed contract extension with the Crosfield nursery school is for a period from 1st September 2019 to the 31st August 2020 at a value of £192k. The new total value of this contract including the proposed additional twelve (12) month variation is £1,142m, and is to be funded from the Dedicated School Grant (DSG) High Needs Block.

FORWARD PLAN KEY DECISION REFERENCE NO. 3319CYPL

This is a Key Decision as defined in the Council's Constitution.

The decision may be implemented from 1300 hours on the expiry of 5 working days after it is made, unless the decision is referred to the Scrutiny & Overview Committee by the requisite number of Councillors.

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 recommendation below:

RECOMMENDATION

1. The Cabinet Member for Children, Young People and Learning in consultation with the Cabinet Member for Finance and Resources is recommended by the Contracts and Commissioning Board in accordance with Regulation 29, to approve the extension to the contract for SEND 15 hours childcare offer for children with complex needs for a further term of one (1) academic year, at a maximum total contract value of £1,141,757.

2. EXECUTIVE SUMMARY

- 2.1. The 2006 Childcare Act places a responsibility on the local authority to ensure an adequate range of free early years' childcare for families that are eligible for support, with the aim to address the disparity in educational achievement between children from disadvantaged backgrounds and their peers. The aim is to ensure that every child is school ready by the time that they enter school.
- 2.2. In order to fulfil this duty with regards children with profound and multiple physical and learning disabilities, the Council approved a contract award on the 20th October 2015 to Crosfield Nursery School to deliver the service known as the 'Rainbow Group'. This original award was for an initial contract term from 1st January 2016 to the 31st July 2018, which was extended in April 2018 to provide continuity of service until the end of the 2018/19 academic year, pending approval of the SEND strategy.
- 2.3. This report seeks approval to agree a variation to the contract to extend the provision for a further 12 months in order to:
 - Finalise development plans for this service as part of the wider strategic plans for SEND early years provision
 - Ensure continuity and stability of a statutory provision, by enabling a planned transition period for any change in future provider, given the significant and highly complex health and care needs of the children attending the nursery.
- 2.4. In addition, a contract variation is required for the duration of the extension period in order to refocus the eligibility criteria for the service to prioritise those children with significant physical and medical health needs. This will result in a reduction in the number of commissioned places from 27 to 20 places with

effect from September 2019, which will reduce the annual contract value from £259,000 to £192,090.

- 2.5. The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB Ref. Number
26/07/2019	CCB1505/19-20

3. DETAIL

- 3.1. Under the 2006 Childcare Act, the Council has a statutory responsibility to commission or provide a range of childcare schemes that are available free to eligible families in the borough. This includes:
- The universal offer of 15 hours for up to 38 weeks (570 hours) all 3-4year olds;
 - An entitlement to 15 hours of free childcare a week for disadvantaged 2-year olds;
 - An additional 15 hours offer for working parents of 3-4year olds.
- 3.2. This free childcare offer can be taken in playgroups and pre-schools, nursery schools, nursery classes in primary schools, in children's centres or with childminders. The aim of the universal offer is to ensure that all children are 'school-ready' and to close the educational achievement gap for those children from disadvantaged backgrounds and their peers. This contract enables the Council to enact this duty for parents with a SEND child with complex needs.
- 3.3. Croydon's aim for the vast majority of children with SEND, is to attend a local, mainstream setting. However, it is recognised that for a small number of children because of the complexity of their disability, they will need to attend a specialist provision or a specially adapted environment within a mainstream provision. This is classed as special educational provision under Section 21 of the Children and Families Act 2014.
- 3.4. In order to respond to these statutory duties and meet the needs of Croydon's early years SEND population, a decision was made in 2015 to commission the 15 hours free childcare offer as an external SEND specialist provision, to deliver a consistent, high quality approach defined by a clear service specification.
- 3.5. Crosfield Nursery School (who now form part of a wider federation), were awarded the contract to provide specialist nursery provision known as the 'Rainbow Group', for children with profound and multiple learning disabilities and/or complex medical needs.
- 3.6. Services are delivered in fully adapted premises, which have been refurbished and equipped to meet the needs of children accessing the specialist provision,

situated in the Shirley North Ward of Croydon. The site is also fully accessible by road and public transport.

- 3.7. The Crystal Child Development Centre is co-located on the site, which means that the location of the specialist early years provision offers significant additional benefits in terms of support and advice, for those children and families accessing places within Rainbow Group.
- 3.8. The service level commissioned to date has been for 27 places of 15 hours provision per week, for those children with special educational needs and disabilities, whose needs could not be met through mainstream services. This allocation of places has been sub-divided as:
 - 15 places for children aged 2-4 with a range of significant communication needs and developmental delay
 - 12 places for children aged 2-4 with significant medical needs and/or profound and multiple learning difficulties (PMLD)
- 3.9. The current Provider has independently extended the offer for those children who are eligible for the 30 hours provision, in response to those working parents that have requested the additional hours.
- 3.10. The 2018 annual performance report produced by the provider, demonstrated that they had met or exceeded all the KPI targets contained in the service specification, apart from attendance figures due to the child's ill health.
- 3.11. The outcome report from the most recent Ofsted inspection, which took place on the 18th December 2018, noted that: *'The specialist provision for children who have multiple and profound learning difficulties, Rainbow Group, is a significant strength. Children's complex needs are exceptionally well catered for by a multisensory curriculum that focuses on ways to stimulate the senses and remove barriers to learning.Children enjoy the security of well - established routines that are in place. Individual learning is meticulously planned and each step in the journey carefully recorded. This ensures that children are making very good progress against their individual targets'*
- 3.12. The intention is that for the recommended contract extension period the Council will reduce both the commissioned number of places and eligibility criteria for Early Years childcare provision on this site. This is in order to prioritise places for those young children with the highest complexity of health support needs, who require a specialist provision (PMLD). This will see a volume reduction from 27 to 20 commissioned places.
- 3.13. During 2019, the Council will be developing the future commissioning intentions in relation to Early Years foundation stage for all SEND children, which is intended to be implemented with effect from September 2020.

4. CONSULTATION

- 4.1. A consultation event with parents of children receiving the service, was

conducted in July 2015 prior to the contract procurement process commencing. Feedback was incorporated in designing the current service specification and tender evaluation documentation.

- 4.2. Any proposed changes to the service delivery beyond the requested extension period, will need to be subject to further consultation with parents using the service.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1. The contract price and payments schedule reflects that the annual contract amount of is inclusive of the Early Years Funding Formula rate, payable for every 3 and 4year old child and eligible 2year olds who are taking up the provision The financial appraisal of the decision will lead to a savings of 39k and £28k over 12 months to August 2020 within the High Needs DSG block.

Medium-term Financial Strategy (MTFS) revenue

Financial Year	2019/20	2020/21
	£'000	£'000
Revenue Budget available		
Expenditure	151	108
Income - DSG	(151)	(108)
Effect of decision from report		
Expenditure	112	80
Income	(151)	(108)
Remaining budget	(39)	(28)

Risk

- 5.2. Without the contract extension, the Council will be unable to meet its statutory duty in ensuring access to the 15hour childcare entitlement for children with SEND from September 2019.
- 5.3. There is considered to be little or no risk of procurement challenge by other providers given that Crosfield Nursery school is currently the only local provision in Croydon, which has suitably adapted space and facilities available in the timeframe required, that can accommodate the complexity of disabilities and physical health/medical needs for this group of pre-school needs children. This position will be reviewed as part of future commissioning planning.
- 5.4. Approval for the contract extension therefore provides continuity of service for the children currently attending the provision, to ensure equality of opportunity for those children with multiple and complex physical health needs, to Early Years preparation for school.
- 5.5. Commissioners are confident that the removal of commissioned places for children with communication and developmental delay at this service, can be

accommodated safely in alternative commissioned provision that is better suited to meeting their support needs.

Future savings

- 5.6 Future savings and/or efficiencies will be considered as part of the commissioning process for the future service provision from September 2020.
- 5.7 The RP1 'Make or Buy' report at that stage will explore the options to secure the future provision to ensure that the Council is achieving the best Value for Money from a new service to be in place by the 1st September 2020.
- 5.8 Budgetary provision for this contract already exists.

Approved by: Kate Bingham, Department Head of Finance

6. LEGAL CONSIDERATIONS

- 6.1 The legal considerations with regards approving the extension of this contract are as set out in this report.

Approved by: Sonia Likhari, Solicitor, on behalf of Sean Murphy, Director of Law and Governance and Deputy Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 This report recommends a direct award to Crosfield Nursery School, and considers that there would be no HR considerations arising from this decision for Croydon Council.

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

8. EQUALITIES IMPACT

- 8.1. An Equality Analysis (EA) was undertaken to ascertain the potential impact would have on groups that share protected characteristics prior to the initial Contract Award in 2015. This concluded that there would be no adverse impacts on any groups with protected characteristics, and that all opportunities to advance equality had been taken.
- 8.2. The contracted provision addresses equality of opportunity in ensuring access to the universal free childcare offer, for the parents of young children with severe and complex medical needs needs, whilst provided within high quality early years childcare provision.
- 8.3. The statutory requirement for the childcare offer is designed to reduce inequalities in educational achievement, and in this instance to meet the developmental needs of children with severe and complex additional needs.

- 8.3 Where changes to the commissioned provision are being considered for 2020, the EA will be reviewed for continued validity and informed through consultation from parents of children using the service

Approved by Yvonne Okiyo, Equalities

9. ENVIRONMENTAL IMPACT

- 9.1 It is considered that there are no increased or decreased environmental sustainability impacts, from the proposed contract extension contained in this report.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 It is considered that there are no implications from the proposed contract extension for the reduction/prevention of crime and disorder.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1. A variation to approve a contract extension for this provision is considered appropriate for the following reasons:
- The Rainbow group facility at Crosfield Nursery School is the only current local provision with an environment that is suitably equipped to meet the needs of this age group, given the complexity of physical and learning disabilities of the children attending the provision
 - The extension enables the Council to conduct a comprehensive review of the SEND provision in Early Years, to ensure an equitable and improved offer for the parents of all children with disabilities, as part of the pathway to inclusive mainstream school provision.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1. **Decommission the service:** There is a statutory requirement of the Council to ensure that this specialist provision is available locally for SEND children. This option would leave the Council in breach of these statutory obligations and equalities duties.
- 12.2. **Open Competitive tender:** This option is not considered feasible as the future commissioning requirements are pending the outcome of a review of all SEND Early Years provision to inform the future service model.
- 12.3. The recommendation contained in this report is therefore considered to be the only option at this stage to ensure continuity of service provision for the children and families, and continued compliance by the Council with the statutory duty for pre-school children with complex needs.

CONTACT OFFICER: Alison Farmer, Head 0-25 SEN

BACKGROUND DOCUMENTS: None