



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Children's Services Executive Member for Resources
LEAD OFFICERS:	Director of Children's Services Director of HR, Legal and Corporate Services
DATE:	8 th March 2019

PORTFOLIO/S AFFECTED:	Schools and Education	(Please Select...)
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WARD/S AFFECTED:	All	(Please Select...)
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SUBJECT: Services to Schools – Provision of Facilities Management (Kitchens and Grounds Maintenance)

EXECUTIVE SUMMARY

To recommend a procurement for services following a review of the current arrangements in place for the provision of Facilities Management (Kitchens and Grounds maintenance) for schools in the Borough

2. RECOMMENDATIONS

That the Executive Members note the report and:

1. Approve the Director of Children's Services in consultation with the Director of HR, Legal and Governance to progress a procurement exercise to commission kitchen compliance management services from a 3rd party provider as described at Option 2 (below), to commence 1st April 2019.
2. Approve the Director of Children's Services in consultation with the Directors of Finance & Customer Services and Director of HR, Legal and Governance to amend current SLA's/procurement of grounds maintenance services as set out in this report with effect from 1st April 2019.
3. Approve a full review of services that are currently traded to schools to ensure that they continue to reflect the duties and functions of the LA.

3. BACKGROUND

The Schools Facilities Management Service Level Agreement has been directly delivered until recently by two facilities management officers employed by BwDBC. Both these officers left their employment at the end of the Summer 2018 term. During the Autumn 2018 term officers across the Education Access to Learning Team and the HR, Legal and Governance team have absorbed some of the work required, however by taking on these duties, it has been identified that the previous arrangements have not been meeting the expectations as regards to Health & Safety regulatory functions and statutory compliances in relation to school kitchen management.

The work associated to grounds maintenance services can be quickly met in the future by including this in the scope of future service level agreements from the corporate estates team and/or other 3rd party estates providers.

Research with other LA's has identified however that the full scope of the work required in relation to ensuring that schools and the LA are meeting their regulatory and statutory duties with regards to schools kitchens requires more investment in resources if it is to be continued to be provided internally and meet the ongoing statutory and regulatory requirements. In summary a greater staffing resource than that previously employed would now be required.

In this context the previous delivery model for this SLA is no longer viable based on a traded service model of delivery as the number of staff required to deliver the service based on minimum standards would significantly inflate the cost to schools and become unaffordable.

Schools do however need to be able to access a fit for purpose service and therefore consideration has been given to how this can be delivered in the most cost effective way whilst securing the Councils statutory duties and ensuring that regulatory functions are met.

4. KEY ISSUES & RISKS

The Council ceasing to be a provider of kitchen compliance services presents a risk for both schools and the Council. Schools may in the future for example choose not to purchase a kitchen compliance management service or they may enter into an agreement with an organisation unknown to the LA which will result in the LA having no knowledge as to whether schools are meeting the appropriate legislation and regulations. This is a significant risk to the statutory functions of the Director of Children's Services in respect of Health & Safety and Children's Safeguarding.

Additionally, the LA's reputation with schools may be damaged should the LA choose not to support schools in meeting their statutory compliances.

Due to the high cost of establishing an internal resource that would meet the needs of both schools and the Council in discharging their statutory functions, consideration has now been given to identify if the services could be successfully delivered in a more cost effective way via an external organisation. The expectation is that an established external organisation would be able to deliver a high quality service with the benefit of already having in place a fully supported and established infrastructure.

Therefore there are 2 options available to the Council in procuring these services for schools:

Option One - Schools to enter into a contract directly with a 3rd party organisation

This option would see involvement from the LA in respect of sourcing a selection of appropriate suppliers that the LA is confident in their abilities to discharge their statutory duties and functions to them to deliver.

There would be a requirement to enter into a legal contract of assurance between the LA and each of the suppliers identified so as to ensure that the LA retains knowledge of the services being delivered, has the ability to hold the suppliers to account and maintains oversight of the duties discharged from the Council.

The risks associated to this option include:

The LA will be required to enter into legal agreements with more than one supplier.

By discharging the LA's statutory duties across a number of suppliers, the monitoring becomes more resource intensive and creates additional pressure on existing staff teams to ensure that the discharge of duties is robust, safe and effective, whilst ensuring that actions and delivery across a number of suppliers is similar and not contradictory.

Option Two - BwD to commission a service provider to deliver the SLA (Preferred option)

BwD could enter into a commissioning arrangement via a full procurement exercise (either utilising an existing framework or through an open tender process) to secure one supplier to deliver services direct to all schools.

There will be a requirement to enter into a legal commissioning contract based on the LA discharging its statutory duties and functions to the supplier. The LA would continue to trade the service to schools and the cost of the commission would be based on the number of schools that purchase the service.

This type of contractual arrangement would allow the LA to appropriately put in place the necessary governance measures to assure the LA of robust and qualitative service delivery in respect of Health & Safety and Safeguarding whilst minimising risks. Maintaining one service supplier would reduce impact on internal resource and monitoring arrangements and could be managed from existing resource without any detrimental effect on current revenue budgets.

Whilst undertaking the necessary research to support the delivery of these functions, it has highlighted the need to review the provision of traded services, particularly for those schools where BwD is the ultimate employer, and for those services where the Director of Children's Services and/or BwD remains the accountable body, e.g. HR, Educational Trips and Visits, Health & Safety.

It is suggested therefore that a full review of traded services is required to ensure that where schools are purchasing services from a supplier unknown to the LA that these suppliers are suitable to deliver those services and, where required, an appropriate legal arrangement is put in place that permits a discharge of any statutory duties and functions from the LA to each supplier.

In this option the Strategic Commissioning Team for People Services would support the procurement process.

5. POLICY IMPLICATIONS

None

6. FINANCIAL IMPLICATIONS

There would be a requirement for schools to continue to buy into the service delivered by a 3rd party organisation. This would be based on the full cost of the service being delivered with a small management charge (currently 0.8%) to support the ongoing contract management and monitoring processes. Desktop research which has been undertaken would indicate that the cost to schools would be similar to those that schools are currently paying.

Further discussions are being progressed in relation to whether the service should in the future continue to be traded.

7. LEGAL IMPLICATIONS

Procurement of the Kitchen Compliance Management Service will be done in accordance with Council Contract Procurement Procedure Rules and the Public Contracts Regulations 2015 either by an existing framework or via an open tender. The form of contract with the successful provider shall

be in a form approved by legal officers in the Contracts and Procurement team.

8. RESOURCE IMPLICATIONS

There will be an initial requirement for staffing resource from Procurement, Legal, HR and Education staff teams to progress the work, with an ongoing requirement for staff to support effective governance of any contractual arrangements.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Consultation will take place with schools as party of the proposed procurement exercise.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Carol Grimshaw
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DATE:	2 nd January 2019
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BACKGROUND PAPER:	
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