



Officer Key Decision
21 April 2020

**Report to the Strategic Director of
Children and Young People**

**Authority to tender a combined contract for An Independent
Reviewing Officer Service for Looked After Children and a Fostering
Review Service**

Wards Affected:	All
Key or Non-Key Decision:	Key Decision
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	1. Equality Impact Assessment
Background Papers:	
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1.0 Purpose of the Report

- 1.1 This report sets out the commissioning and delivery approach for a combined contract for the provision of an Independent Reviewing Officer Service for Looked After Children and a Fostering Review Service.
- 1.2 The report seeks the Strategic Director of Children and Young People's approval to invite tenders in respect of the provision of an Independent Reviewing Officer Service for Looked After Children and a Fostering Review Service as required by Contract Standing Orders 88 and 89.

2.0 Recommendation(s)

That the Strategic Director of Children and Young People:

- 2.1 Approves the invitation of tenders for a Contract for an Independent Reviewing Officer Service for Looked After Children and Fostering Review Service on the basis of the pre-tender considerations set out in paragraph 5.1 of the report.
- 2.2 Approves that officers evaluate the tenders referred to in 2.1 above on the basis of the evaluation criteria set out in paragraph 5.1 of the report.

3.0 Detail

- 3.1 Under the Children Act 1989, the Children and Young Persons Act 2008 and the Care Planning, Placement and Case Review Regulations (2010) and Guidance April 2011, Local Authorities are required to provide an Independent Reviewing Officer for each Looked After Child (LAC). The National Independent Reviewing Officer (IRO) Handbook sets out the expectations of the role, which includes a regular review process and regular monitoring and follow-up between reviews. The IRO has a key role in relation to the improvement of care planning for Looked After Children and for challenging any drift or delay in associated processes.
- 3.2 The National IRO handbook sets clear expectations for an IRO service. It is meant to provide a highly personalised service responding to the requests and needs of LAC while also carrying the role of quality assurance, working with social workers and other multiagency practitioners giving advice, guidance and consultation about addressing effectively the health, educational and wellbeing needs of individual looked after children. IROs are meant to take account of relevant protected characteristics particularly disability, ethnicity, age and where relevant, sex, religious affiliation and sexual orientation.
- 3.3 Brent's IRO provision currently is a mixture of both in-house and commissioned services. The IRO provision currently consists of two in-house IROs and nine IROs provided by Aidhour, a not-for-profit organisation that is currently contracted by Brent Council to source and provide local independent IROs to enable the Local Authority to fulfill its statutory duty in reviewing care plans of children who are looked after by Brent Council. Aidhour has worked with Brent since 1998. A six-month contract was awarded to Aidhour from 1 April 2020 to 30 September 2020 while the procurement of a new service is undertaken.
- 3.4 The last Ofsted inspection of children's social care services in Brent in May 2018 highlighted the positive work undertaken by IROs: 'Children and young people's voices are listened to and heard... There is good evidence of

Independent Reviewing Officer (IRO) scrutiny and challenge with good impact.’
(Brent Children’s Services Ofsted Report published in July 2018)

- 3.5 Approximately 900 LAC reviews are carried out each year. In 2018/19 863 reviews were carried out and 870 have been undertaken 2019/20. The number of looked after children as at 31 March in each of the last three years was 318 2017/18, 299 in 2018/19 and 294 in 2019/20. While the number of LAC can change at any point in time, it is relatively consistent and it is anticipated that the number will remain broadly the same for the future. The actual number of reviews each year will fluctuate based on the number of LAC, changes in Care Plans and the amount of placement changes. Full time IROs carry a caseload of 60 to 65 children at any given time to be in line with national guidance and Ofsted recommendations.
- 3.6 The Fostering Services (England) Regulations 2011 outline how fostering service providers must review the approval of each foster parent annually. The local authority, as the fostering service provider, must ensure these reviews of approval are sufficiently thorough to allow the fostering service to properly satisfy itself about their carers’ ongoing suitability to foster. At the conclusion of the review, the fostering service provider must prepare a written report, setting out whether the foster parent continues to be suitable to be a foster parent and the foster parent’s household continues to be suitable, and whether the terms of the foster parent’s approval continue to be appropriate. 82 fostering reviews were undertaken in 2019/20 and a similar number is expected annually.

4.0 IRO and Fostering Review Service Model

- 4.1 The long-term model is to continue with a mix of in-house and externally commissioned IRO and Fostering Review services. The service will retain two in-house IROs who will cover approximately 300 reviews for 120 children. This is an efficient use of resources as IROs carry out other elements of quality assurance and learning and development activities in their roles.
- 4.2 The options of bringing IRO and Fostering Review services in-house or contracting out the services have been considered. Bringing the services in-house would require five IRO posts and one fostering review officer post (recruitment to a further four additional posts at a cost of approximately £300k/year). An in-house IRO service would make IROs more easily accessible to children and young people, practitioners and other partner agencies. However, it may be difficult to recruit staff with the experience and skills required and will cost more than a mixed approach. Likewise, a fully commissioned service is likely to cost more than the current approach, especially as there are very few agencies providing this type of specialist service. A fully commissioned service would also provide less flexibility in the deployment of resources and remove opportunities for career progression for experienced social workers within Brent.

4.3 The combined Independent Reviewing Officer Service and Fostering Review Service will provide a service that:

- Listens and advocates for LAC and ensures that their voice is heard and shapes their care plan.
- Improves outcomes for children and young people through robust care planning alongside challenging and supporting practice and escalating of concerns through appropriate channels when required.
- Contributes to the monitoring of the activity of the Local Authority as a corporate parent.
- Delivers a consistent, experienced and stable work force of social work professionals carrying out the task of independent reviews.
- Ensure children and young people are included in the decision making process about their care plan
- Ensures that foster carers reviews provide a thorough analysis of carers ongoing suitability to foster
- Ensures that foster carer reviews identify any areas where additional support is required and that these are addressed in a timely manner.

4.4 Officers have considered the optimum duration of the contract and have concluded that this would be a contract for an initial term of 3 years with the ability to extend by a further year. Such a contract would have an estimated valued of £800k and would need to be procured by way of a tender.

5.0 Procurement

5.1 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations have been set out below for the approval of the Strategic Director.

Ref.	Requirement	Response	
(i)	The nature of the Services	Delivery of An Independent Reviewing Officer Service for Looked After Children and Fostering Review Service	
(ii)	The estimated value.	Total estimated contract value is £800k for the duration of the contracts (4 years in total).	
(iii)	The contract term.	The contract will be for three (3) year with an option to extend for up to a maximum of one (1) year.	
(iv)	The tender procedure to be adopted.	Open, two-envelope process under the "Light Touch Regime".	
v)	The procurement timetable.	Indicative dates are:	
		Adverts placed including issue of OJEU notice on London Tenders Portal	29 April 2020

Ref.	Requirement	Response	
		Issue Tender	30 April 2020
		Deadline for tender submissions	1 June 2020
		Panel evaluation	2 June to 12 June 2020
		Contract decision (Moderation)	15 -17 June 2020
		Report recommending contract award circulated internally for comment	29 June to 9 July 2020
		Report considered by Children and Young People Department Management Team	14 July 2020
		Strategic Director's decision to award	15 July 2020
		Simultaneous call in period of 5 days and minimum 10 calendar day standstill period – notification of intention to award issued to all tenderers and additional debriefing of unsuccessful tenderers	16 to 27 July 2020
		Contract mobilisation	30 July to 30 September 2020
		Contract start date	1 October 2020
(vi)	The evaluation criteria and process.	<ol style="list-style-type: none"> 1. At selection stage (Envelope 1) a shortlist is to be drawn up in accordance with the Council's Contract Procurement and Management Guidelines by the use of a selection questionnaire to identify organisations meeting the Council's financial standing requirements, technical capacity and technical expertise. 2. At tender evaluation stage (Envelope 2), the panel will evaluate the tenders against the following criteria: 	

Ref.	Requirement	Response
		<p>The most economically advantageous tender calculation will be based on: 45% of the points being awarded for Quality assessment, 45% of the points being awarded for Commercial assessment and 10% on Social Value.</p> <p>At tender evaluation stage, the panel will evaluate the tenders against the following Quality criteria:</p> <ul style="list-style-type: none"> • The Tenderer’s proposal to meet the requirements and outcomes as stated in the service specification • The Tenderer’s proposed plans for ensuring effective quality management of the Services and maintenance of the Contract Standard, including self-monitoring and evaluation • The Tenderer’s proposed approach to contract mobilisation including TUPE • The Tenderer’s proposed application of their business continuity plan or equivalent to ensure ongoing service delivery in the event of unforeseen occurrences. • The Tenderer’s proposal for Stakeholder Engagement / Partnership working. • The Tenderer’s proposal on how their safeguarding policies will be applied to this contract. • The Tenderer’s proposed approach to Social Value delivered through this contract (weighted at 10% of the total evaluation criteria)
(vii)	Any business risks associated with entering the contract.	<p>Risk 1 The Council will be committing to an initial three-year contract. This may disadvantage the Council as follows:</p> <ul style="list-style-type: none"> • The awarded provider(s) performance may not meet expectations and the Council will be in contract for the three year duration

Ref.	Requirement	Response
		<ul style="list-style-type: none"> The Council requirement may change <p>Mitigation 1 These risks will be mitigated by having a robust contract management procedure and terms and conditions in place.</p> <p>Risk 2 The impact of COVID-19 on the organisation and service:</p> <ul style="list-style-type: none"> Providers may not be able to bid due to COVID-19 COVID-19 may still be prevalent at the time of contract commencement impacting on mobilisation and service delivery. <p>Mitigation 2 The Council will be scoring how tenderers will apply their business continuity plan or equivalent to ensure an ongoing service as part of the tender evaluation. The current service provider and other potential organisations have stated they expect to be in a position to bid for this contract.</p> <p>Financial Services and Legal Services have been consulted concerning this contract.</p>
(viii)	The Council's Best Value duties.	The adoption of an open tendering process will enable the council to achieve best value.
(ix)	Consideration of Public Services (Social Value) Act 2012	See Section 11 below.
(x)	Any staffing implications, including TUPE and pensions.	See section 10 below.
(xi)	The relevant financial, legal and other considerations.	See sections 6 and 7 below.

5.2 The Strategic Director is asked to give approval to these proposals as set out in the recommendations and in accordance with Standing Order 89.

5.3 TUPE considerations and recruitment actions have been considered as part of the mobilisation phase. At least two months between contract award and commencement have been allowed to manage these issues.

6.0 Financial Implications

6.1 The estimated value of this contract is £0.8m over a 4 year period consisting of a 3 year contract with the option to extend for another 1 year.

6.2 It is anticipated that the cost of this contract will be funded from existing budgets held within the Safeguarding & Quality Assurance service currently capped at £0.2m per annum. Any costs over and above this value will lead to pressures in the service.

7.0 Legal Implications

7.1 The Children Act 1989, the Children and Young Persons Act 2008 and the Care Planning, Placement and Case Review Regulations (2010) and Guidance April 2011, place duties on the Local Authority to ensure that any child and young person who is looked after has an Independent Reviewing Officer.

7.2 The nature and value of the contract is such that it is above the relevant threshold for application of the Public Contract Regulations 2015 (the EU Regulations). The services to be procured fall under Schedule 3 of the EU Regulations. The Contract must therefore be procured in accordance with the EU Regulations applicable to Schedule 3 services.

7.3 Based on the value of the contract, it is deemed a Medium Value Contract under the council's Contract Standing Orders (CSO) and for such contracts, CSO provides that tenders should be invited in accordance with CSO 89, CSO 95 (a) and CSO 95 (b).

7.4 Approval of the pre-tender considerations set out in paragraph 5.1 above and the invitation of tenders is required in accordance with Standing Order 89 and Standing Order 88. Paragraph 5.1 of this report sets out the procurement process that will be used and the pre-tender considerations for approval.

7.5 Once the tendering process is undertaken, officers will report back to the Strategic Director in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.

7.6 As this procurement is subject to the full application of the EU Regulations, the intention would be for the Council to observe the requirements of a mandatory minimum 10 calendar days standstill period imposed by the EU Regulations before the contract can be awarded. The requirements include notifying all tenderers in writing of the Council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of

a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the Council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the Council can issue a letter of acceptance to the successful tenderer and the contract may commence.

- 7.7 As this procurement may result in a change of Provider the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply as a result of a service provision change.

8.0 Equality Implications

- 8.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its public functions to have 'due regard' to the need to eliminate discrimination harassment and victimisation and other conduct prohibited under the Act; advance equality of opportunity, and foster good relations between those who share a "protected characteristic" and those who do not. This duty is known as the public sector equality duty (PSED). The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. All providers that are commissioned to deliver public services on behalf of or in partnership with Brent Council are required to comply with the PSED and the Council's Equality and Diversity policies.

- 8.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

- 8.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

- 8.4 Services are designed to reduce any adverse impact on Looked After Children by ensuring that there is an independent review of the local authority's role as Corporate Parent. A full Equality Impact Assessment has been undertaken to ensure that there are no adverse impacts for any groups on the basis of protected characteristics and has been attached at Appendix 1.

9.0 Consultation with Ward Members and Stakeholders

- 9.1 The Lead Member for Children's Safeguarding, Early Help and Social Care has been informed of the approach set out in this report.

9.2 Feedback from service users has been incorporated into the development of the service and specification. This includes feedback from looked after children through the annual Bright Spots Survey and LAC reviews.

10.0 Human Resources Implications

10.1 The service to be commissioned is currently provided by one external provider and therefore there are no direct staffing implications for the Council.

11.0 Public Services (Social Value) Act 2012

11.1 The council is under duty pursuant to the Public Services (Social Value) Act 2012 (“the Social Value Act”) to consider how services being procured might improve the economic, social and environmental wellbeing of its area; how, in conducting the procurement process, the council might act with a view to securing that improvement; and whether the council should undertake consultation. Officers have had regard to considerations contained in the Social Value Act in relation to the procurement.

11.2 The services under the proposed contract have as their primary aim improvement of the social wellbeing of vulnerable groups in Brent. The IRO Service plays a key role in relation to the improvement of care planning for Looked After Children and for challenging any drift or delay in associated processes for individual children. In procuring the services and in accordance with the council’s Social Value Policy, 10% of the total evaluation criteria will be reserved for social value considerations.

Report sign off:

Brian Grady
Operational Director, Safeguarding,
Partnerships and Strategy