

EDUCATION AND CHILDREN'S SERVICES OVERVIEW AND SCRUTINY COMMITTEE

6 NOVEMBER 2017 AT 6.00 PM AT THE COUNCIL HOUSE

Committee Members present	Councillor C. Towe (Chair) Councillor T. Jukes (Vice-Chair) Councillor A. Andrew Councillor D. Barker Councillor M. Bird Councillor E. Hazell Councillor D. James Councillor A. Nazir Councillor T. Wilson
Portfolio Holders present	Councillor K. Chambers - Agenda for Change/ Personnel and Business support Councillor L. Jeavons - Deputy Leader and Regeneration Councillor C. Jones - Clean and Green Councillor I. Shires - Community, Leisure and Culture
Members in attendance	Councillor C. Bott Councillor P. Bott Councillor S. Ditta Councillor N. Gultasib Councillor M. Nazir Councillor H. Sarohi Councillor P. Washbrook
Non-elected voting Members Present	Mrs T. Tunnell (Parent Governor)
Non-elected non-voting Members present	Mr R. Bragger (Primary Teacher Representative)
Officers present	Ms E. Ioannides - Interim Executive Director (Children's Services) Ms A. Potts - Assistant Director (Early Help, Commissioning and Workforce Development) Mr J. Iqbal - Head of Law (Contentious) Ms I. Vanderheeren - Strategic Lead (Early Help) Ms S. Wright - Head of Procurement Mr D. Sheldon - Interim Senior Procurement Officer Mr C. Goodall - Senior Democratic Services Officer Dr P. Fantom - Democratic Services Officer
In attendance	Superintendent S. Parker - West Midlands Police

84/17 APOLOGIES

Apologies for absence were received on behalf of Councillors A. Ditta, J. Fitzpatrick, M. Follows and A. Kudhail, and from Mrs P. Welter.

85/17 SUBSTITUTIONS

Councillor A. Andrew substituted for Councillor M. Follows and Councillor M. Bird substituted for Councillor A. Kudhail.

86/17 DECLARATIONS OF INTEREST AND PARTY WHIP

There were no declarations of interest or party whip for the duration of the meeting.

87/17 LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 (AS AMENDED)

Resolved

That the public be excluded from the meeting during consideration of the item set out in the private agenda for the reasons set out therein and Section 100A of the Local Government Act 1972.

88/17 CALL-IN OF CABINET DECISION: 'AWARD OF NEW CONTRACT FOR 0-19 EARLY HELP LOCALITY SERVICES'

The Committee received a report [annexed] on the decision taken by the Cabinet on 25 October 2017 to award a new contract for 0-19 early help locality services. Also received were a chronology for the commissioning process, the invitation to tender and the questions and answers during the evaluation process [annexed].

In accordance with Part 4.5 of the Walsall Council Constitution, this decision had been called in on 25 October 2017 by five Members of the Council, namely Councillors S. Ditta, N. Gultasib, M. Nazir, E. Russell and H. Sarohi. The reason for the call-in was that: 'The above award has raised concerns and many local residents are asking questions of the tendering processes for the benefit of openness, transparency and justice we are seeking the call-in of the Cabinet decision to be reviewed.'

The Chair opened discussion by drawing attention to the Committee's proceedings being in two parts. The public session would consider Cabinet's decision to award a new contract for 0-19 early help locality services; the private session would consider the tender evaluation. He explained that the Committee's role was to review the decision in order to ensure that the process was fair and equitable.

A point of order was raised by a Member of the Committee, to seek clarification regarding the participation in the calling-in of the decision and in this meeting of Councillor S. Ditta. This was in view of the involvement of her father, Councillor A. Ditta, as a director of the Palfrey Community Association. Councillor S. Ditta responded by pointing out that this was an unpaid, voluntary position and that advice had been sought on this matter, it being confirmed that there was no conflict of interest.

The Chair invited Councillor M. Nazir to address the Committee. Councillor Nazir confirmed that comments would also be forthcoming from three of the other Members who had signed the Call-in notice, together with three representatives from the local community. He also stated that there had been an exchange of correspondence between Ms Valerie Vaz MP and the Chief Executive.

The Chair then invited the other Councillors who had signed the Call-in notice to address the Committee.

Councillor M. Nazir stated that the Committee was being asked to scrutinise the evaluation and process that had led to the new contract being awarded to Change, Grow, Live (CGL). Having regard to the unsuccessful bid of Palfrey Community Association, he also asked the Committee to consider the numerous benefits provided by small community-led businesses, which were more responsive to local needs, flexible in solving problems and that promoted community cohesion. In his view, where a service was designed for local need and local people, this meant that local people were more likely to use such a service, that they would take up a range of volunteering activities which would enable them to increase their skills and improve their life chances. Local community-led businesses could provide high quality services in a way that larger organisations could not. He asserted that such engagement by and with the local community would diminish as they would lose involvement in delivering services should the new contract not be awarded to the Palfrey Community Association. Furthermore, in his view, the Council should encourage the delivery of local services and should demonstrate its role as an enabler of those services.

It was noted by Councillor S. Ditta that the Palfrey Community Association managed several projects that brought the community together, and that if taken away this would be a crippling blow to the people of an area that was economically deprived. In accordance with the locality model, services should empower the local community as well as being based on local need and she highlighted the importance of local organisations. As a national organisation, CGL would not have the connection and degree of understanding with the local community that the Palfrey Community Association already enjoyed. She maintained that Palfrey Community Association offered community cohesion and developed its services based on local need in order to empower the local community.

Councillor Sarohi reminded the Committee that the Palfrey Community Association had been running for fifteen years, with its contract being extended due to high levels of satisfaction with the services offered, and that excellent results had been achieved during inspections by Ofsted. In view of the prospective TUPE transfer of employees

from the Palfrey Community Association to CGL, this was indicative of the competence and professionalism of the members of staff concerned.

Councillor Gultasib, referred to the large number of members of the public who had come to attend the meeting, stated that this was testament to the importance of Palfrey Community Association to the community. She also referred to her own experience of attending training sessions on safeguarding run by the Association and which had been of valuable to her own professional development.

Three representatives of the local community were then invited by the Chair to briefly address the Committee.

Ms Shaheen Akhtar stated that a petition had been initiated to save the Palfrey Sure Start. It was noted that by this stage, there had been 846 signatures to the petition. She asked why, when the service provided was excellent, was there a need for these changes to be made. Reference was made to the Association being cited by former Prime Minister, David Cameron, as an outstanding service provider.

Ms Samina Shami told the Committee that she had first-hand experience of the help provided to the mothers of young children, and how they had not only helped to save her son's life but had followed this up. She asked the Committee what guarantee would there be that this level of care would be continued by another service provider.

Ms Alia Raja informed the Committee that the Sure Start Centre also provided advice and support on dealing with domestic violence, child abuse and post-natal depression. This service was especially beneficial to new mothers and their families, with the advice being trusted by the local community.

The Chair enquired whether any members of the public wished to ask a question. Mr M. Davies, Manager of the Palfrey Sure Start Centre, accepted this invitation. He informed the Committee that as well as working with young children, the Sure Start Centre had always worked with older children, and that it had much more experience in regard to this than CGL. Mr Davies also referred to the evidence he had in relation to the TUPE transfer process, which could entail the terms and conditions of current employees being changed.

The Chair invited the Deputy Leader and Portfolio Holder for Regeneration, Councillor Jeavons, and the Portfolio Holder for Agenda for Change/Personnel and Business support, Councillor Chambers, to respond to the points and questions raised.

Councillor Jeavons drew Members' attention to section 1.1 of the report to the Cabinet on 8 February 2017 and the approval of the undertaking of the competitive procurement process to determine the most suitable providers(s) for the delivery of 0-19 early help locality services. He pointed out that the Association's current contract for 0-5 year olds had come to an end. The Council was required to seek bids from the marketplace for the new contract as part of its procurement rules. He highlighted the procurement implications in terms of public contract regulations and the Council's own contractual and social value policies, which was set out in Sections 8.1 to 8.5 of the report. He acknowledged that people had fears regarding what might happen because the Association had not secured the contract, but that

there had been no representations from bidders regarding whether they deemed the process to be unfair.

Councillor Chambers welcomed the contributions that had been made by Councillors and the members of the public present at the meeting. As the Cabinet Member with responsibility for procurement, he sought to provide reassurance as to the competitiveness and transparency of the procurement process, emphasising that the proper notice had been given in the Official Journal of the European Union (OJEU), details had been uploaded to the Council's e-portal, and that the tendering process had been equitable and that the Council's contract rules and social value policy had been applied. This demonstrated clear evidence that an open and transparent procurement process had been followed.

Further information on the procurement process was provided by the Strategic Lead (Early Help). She advised the Committee that the decision to initiate the tendering process had been due to the imminent ending of the current contract. Following Cabinet approval, a consultation process had taken place with stakeholders in the locality, together with a 'market warming' event, and community views had been taken into account. A final specification was published with three specific delivery outcomes, a scoring criteria and deadlines. Three bids had been submitted, which were considered by an evaluation panel comprising representatives of Public Health, West Midlands Police and the Community Teams. There had been support from a moderation panel. Further to this a series of questions were asked of the bidders for clarification. Following the scoring of the respective bids, a recommendation had been made to Cabinet, which was for the contract to be awarded to CGL.

The Chair requested assurance that throughout the consultation process, that the Palfrey Community Association had received all opportunities to be involved. The Strategic Lead (Early Help) confirmed that this had been the case, that that the Association had attended the market-warming event. She also gave further information regarding the engagement with the local community.

The Lead Procurement Officer informed the Committee of the legal necessity for advertising in the public domain on occasions when a contract was due to end, so that all external organisations would have the opportunity to apply for the contract. The tender documents had been publicly published on 28 June 2017 and there had been 46 requests for clarification, which had all been responded to. At this stage, no objections or expressions of concern were received with regard to the process, specification or methodology, and the deadline for bids to be received was 11 August 2017. Further to questions from the Chair and Members, she explained the scoring process and the rationale for the weighting attributed to elements within this of 70:30 for quality and price respectively. She pointed out that this was not untypical in such contracts, where there was a greater emphasis on quality rather than price, and this had been clearly set out in the tender documentation. In terms of the evaluation process, there was a panel comprised of four professionals, who would undertake the scoring of the bids. It was also emphasised that the procurement process for this contract had yet to be concluded and would not be until the call-in process had been completed. When this had been done, intention to award letters would be sent to all of the bidders. Following this there was a ten day standstill period during which the

bidders could raise concerns with the Council if they deemed the process to have been flawed.

The Senior Democratic Services Officer provided the Committee with information regarding the status of the aforementioned petition. He advised that were this to achieve in excess of 500 signatures, then there would be a debate on the matter at the Education and Children's Services Overview and Scrutiny Committee; however, should there be in excess of 1,500 signatures, then the debate would take place at a meeting of the Council.

In response to questions from Members on the business case for the new contract, the Strategic Lead (Early Years) detailed the arrangements under the 0-19 locality model, which entailed services being provided in four locality areas. In three of the areas, the services would be provided by the Council, whereas in the fourth area, it was proposed to go to the open market for tender because the current contract with Palfrey Community Association was reaching its conclusion. This was in accordance with the mixed economy model that had been endorsed by the Cabinet on 8 February 2017.

Having regard to a question concerning the Leader of the Council's involvement, in accordance with the Council's Constitution, it was noted that, Cabinet Members were not involved in the procurement process other than in considering which services should be subject to competitive tender. It was also noted that there had been changes to the Portfolio responsibilities during the time of the process.

There were further questions from Members regarding pricing and the percentage split, and the rationale underpinning this. The Lead Procurement Officer stated that this had been done with reference to the Council's objectives and in light of what the contract was to deliver. There was a legal requirement for the Council to consider quality and price, and to ensure that a reasonable balance was achieved. The Lead Procurement Officer informed the Committee that in her experience, the 70:30 split was not untypical for this type of contract. Furthermore, that in determining the split, due regard was given to the Council's budget and the needs of the locality, with a view to the successful bid demonstrating the maximising of capacity and of resources.

A Member referred to some examples of those services that had been good at marketing themselves but which had not delivered effectively, and which caused a loss of public confidence. He argued that it should be recognised that the Palfrey Community Association had operated over many years and that due to uncertainty, there was a risk associated with a new organisation coming into this area.

The Lead Procurement Officer, in answering a question from the Committee on the Council's experience in awarding contracts in such a diverse geographic area, highlighted the processes for dealing with this and assessing capability to meet local needs, with this being included in the tender specification. She reminded the Committee that the law set out conditions and prevented discriminatory questions. Prospective contractors were given the opportunity through the tendering process to demonstrate their capabilities and could draw on their experience to do so. This would be taken into account and scored accordingly.

A Member related her experience as a service user when scoring tenders for Council services that had been received from contractors and enquired whether any members of the local community in Palfrey had been similarly involved? The Strategic Lead (Early Help) advised that there had been consultation with service users in the central and south area of the Borough in designing the contract but not in its evaluation. The involvement of service users in tender evaluations was not standard policy, in this case it was not undertaken due to the complexity of the contract and the need for the scoring to be meaningful. The timescales involved with the contract also constrained the scope for this type of engagement with the community.

The Chair enquired whether the Lead Procurement Officer was satisfied that the process had been completed in exactly the way it should have been. She confirmed that she was satisfied and she added that there had been no objections from the bidders.

At this point in the proceedings, a point of order was raised by a Member, who reminded the Committee that the purpose of the meeting was to scrutinise the decision and not those officers who had been involved in the process.

Questions regarding the social value policy and the steps to minimise procurement-related risk were posed by the Committee. The Lead Procurement Officer referred to the Cabinet report's reference regarding the risk of not complying with regulations. The Deputy Leader and Portfolio Holder for Regeneration added that Cabinet's view was that the process was well thought out and that there was full confidence in it.

A question from the Committee was put to the call-in Members and community representatives regarding information on services beyond the 0-5 age range being undertaken at Palfrey Community Association. In response, Mr Davies informed Members that the Association had always provided services for families and had recently undertaken casework for older children.

The contribution that an Ofsted inspection might have made to the evaluation process was raised by a Member. The Lead Procurement Officer advised that all bidders had the opportunity to provide examples and information, including successful outcomes, within their submission information and by reference to the evaluation criteria. With reference to a question on which representative of an organisation would act as signatory to the bid documentation, the Lead Procurement Officer stated that typically this would be the chair or company secretary.

There were further questions from the Committee regarding the consultation of service users and stakeholders, particularly via the use of a questionnaire. The Strategic Lead (Early Help) elaborated on the steps that had been taken to consult with and inform parties about the tender process. Some Members expressed concern that cultural and language barriers had reduced the effectiveness of this given that some of the community representatives highlighted difficulties in understanding the questionnaire. In response, the Strategic Lead (Early Help) reported on the work undertaken with Palfrey Community Association's staff so that feedback could be received. Focus groups had also been arranged and work undertaken with the Corporate Team so that further consultation was arranged.

89/17 PRIVATE SESSION

Exclusion of the Public

Resolved

That, during consideration of the remaining item on the agenda, the Committee considers that the item for consideration is exempt information for the reasons set out therein and Section 100A of the Local Government Act 1972 and accordingly resolved to consider this item in private.

Summary of an item considered in private session.

90/17 CALL-IN OF CABINET DECISION: 'AWARD OF NEW CONTRACT FOR 0-19 EARLY HELP LOCALITY SERVICES'

The Committee received further documentation [annexed] on the decision taken by the Cabinet on 25 October 2017 to award a new contract for 0-19 early help locality services. This included examples of scoring and rationale. Also circulated to the Committee were copies of correspondence from Ms Valerie Vaz MP.

Members sought clarification regarding the initiation of the call-in of the decision and received further information concerning the procedures and requirements relating to the procurement process and the need to ensure that this had been followed in the correct manner. In accordance with the Council's Corporate Plan 2017-19, the importance of empowering communities to increasingly support themselves was emphasised and noted by the Committee.

Having considered the matter and receiving expert legal and technical explanations in relation to the entirety of the procurement process, the Committee concluded that the process was fair, open and transparent, that it had been correctly adhered to, and that no organisation tendering for the contract had been disadvantaged. However, some Committee Members expressed doubt that there was full compliance with the principles contained within the Corporate Plan and requested that the Cabinet review the decision's compliance with the Corporate Plan and Marmot principles. An example of non-compliance was given from the penultimate paragraph of page 8 of the Corporate Plan that emphasises the importance of working with the local voluntary and community sector, designing services around local need and empowering communities to support themselves.

Accordingly, a recommendation was proposed by Councillor A. Andrew and seconded by Councillor M. Bird, that the decision should be referred back to the meeting of the Cabinet to be held on 13 November 2017.

A vote being taken, nine Members of the Committee voted in favour of this recommendation, none against and there were no abstentions.

Resolved:

That the decision be referred back to the Cabinet to ensure that the decision is in line with the principles and policies of the Corporate Plan and, if not, to agree to re-tender the contract with specific direction that all tenders must be in line with the Corporate Plan directives and Marmot principles.

The meeting terminated at 8.45 pm.

[Exempt information under paragraph 3 of Part I of Schedule 12A of the Local Government Act, 1972 (as amended)]

Chair.....

Date.....