

LONDON BOROUGH OF CROYDON

To: all Members of the Council (via e-mail)
Access Croydon, Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE BY THE CABINET MEMBER FOR FAMILIES HEALTH AND SOCIAL CARE ON 20 OCTOBER 2015

In accordance with the Scrutiny and Overview Procedure Rules, the following decisions may be implemented from **1300 hours on 28 October 2015** unless referred to the Scrutiny and Overview Committee:

The following apply to each decision listed below

Reasons for these decisions: are contained in the **attached** Part A report

Other options considered and rejected: are contained in the **attached** Part A report

Details of conflicts of Interest declared by any Cabinet Member: none

The Leader of the Council has delegated to the Cabinet Member the power to make the decisions set out below:

CABINET MEMBER'S EXECUTIVE DECISION REFERENCE NO. : 58/15/FHSC

Decision Title: Contract award - Meals on Wheels

Having carefully read and considered the attached 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 report, the Cabinet Member for Families, Health and Social Care in consultation with the Cabinet Member for Finance and Treasury:

RESOLVED to

approve the direct award of a contract for the provision of a Meals on Wheels service to Apetito Ltd. for a term of 5 years at an estimated total annual contract cost of £694,840 total contract value of £3,474,200 over five years and on the terms further detailed in the attached report.

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 28 October 2015** (5 working days after the decisions were made) unless referred to the Scrutiny and Overview Committee.
2. The Borough Solicitor, Director of Legal and Democratic Services 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 Solomon Agutu and Jim Simpson by **1300 hours on 28 October.2015** 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 Borough Solicitor, Director of Legal and Democratic Services, this would cause undue delay. In such cases The Borough Solicitor, Director of Legal and Democratic Services 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: Borough Solicitor & Monitoring Officer, Director of Legal and Democratic Services

Date: 21 October 2015

Contact Officers: Solomon.Agutu@croydon.gov.uk;
jim.simpson@croydon.gov.uk

Telephone: 020 8726 6000 Ext. 62326

PROFORMA

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

For the attention of: Solomon Agutu & Jim Simpson,
Legal & Democratic Services Division

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

For General Release: 14.10.2015

REPORT TO:	The Cabinet Member for Families, Health and Social Care 20 October 2015
AGENDA ITEM:	Part A background paper to item 13.1
SUBJECT:	Meals on Wheels
LEAD OFFICER:	Paul Greenhalgh Executive Director of People
CABINET MEMBER:	Councillor Louisa Woodley Cabinet Member for Families, Health and Social Care Councillor Simon Hall Cabinet Member for Finance and Treasury
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT The key objectives of this project are aligned with corporate priorities, specifically corporate priority five <i>“Enable children and adults to maximise their independence and ensure they are safe from harm through the provision of high quality specialist services”</i> by helping service users to continue to live in their homes and by reducing their social isolation.	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: This project falls under the Ambitious for Croydon priority area Health“ <i>People from all communities live longer, healthier lives through positive lifestyle choices”</i> by ensuring service users unable to prepare their food obtain healthy nutrition.	
FINANCIAL IMPACT: Approval of this recommendation to enter into a contract for delivery of Meals on Wheels service will commit a total of £694,840 annually and £3,474,200 over a period of five years. This represents annual savings of £90,884 on the current contract value, a saving of 11.56%.However, when compared to the budget this equates to an annual saving of £13,000.	
KEY DECISION REFERENCE NO.: 58/15/FHSC 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 & Strategic Overview Committee by the requisite number of Councillors.	
The Leader of the Council has delegated to the nominated Cabinet Member the power to make the decisions set out in the recommendations below	
1. RECOMMENDATIONS	
1.1 The Cabinet Member for Families, Health and Social Care in consultation with the Cabinet Member for Finance and Treasury is recommended to approve the direct award of a contract for the provision of a Meals on Wheels service to Apetito Ltd. for a term of 5 years at an estimated total annual contract cost of £694,840 total contract value of £3,474,200 over five years and on the terms further detailed in this report	

2. EXECUTIVE SUMMARY

- 2.1 This report recommends a direct award to Apetito Ltd to provide Meals on Wheels service (the service). The strategy to negotiate with Apetito for the direct award of a contract was approved through the Council's Contracts and Commissioning Board on 28.05.2015 (CCB reference CCB1011/15-16). The contract award which is now being recommended is anticipated to produce annual savings of £90,884 (11.56%) compared to the previous contract value.
- 2.2 This strategy followed an unsuccessful joint tender exercise undertaken with LB Merton in February 2015 when the tenders received were deemed not to be suitable because they introduced impermissible variations in the tender or were unaffordable with respect to the available budget. It was not considered an option to have a gap in delivering a key service providing food to vulnerable adults, which would have resulted from re-running a tender exercise. Hence it was decided that best option going forward was to negotiate a new contract which the current provider which in the particular circumstances that have arisen is considered to be permissible under the Public Contract Regulations (PCR) 2006 (which would have applied at the time of the original invitation to tender).
- 2.3 The content of this report has been endorsed by the Contracts and Commissioning Board.

CCB Approval Date	CCB ref. number
13.10.2015	CCB1053/15-16

3. DETAIL

3.1 Background:

3.1.1 Strategic Position

This contract forms part of a wider community resources transformation programme that will encourage intelligent use of community assets and other preventative services, thereby improving support available to residents. The award of a five year contract with 6 month notice termination provision ensures the council is able to continue to commission a consistent and high quality service for its residents, whilst being flexible enough to allow the council to shape the service to meet future needs. It should be noted that work is continuing on the appropriate long term service delivery model, including taking a fresh look at how the Council joins up services and work on a different approach to this area funded by a DCLG grant. This is why the contract construct outlined in Section 3.2 has been adopted.

3.1.2 Current service provision

The current Meals on Wheels service contract extension expired 31.03.2015. There is no contractual option to extend this contract further. The total value of the contract for the financial year 2014/15 was £785,724, against which there

was £461,300 of income from service users.

The Meals on Wheels service provision includes door to door Hot Meals (Hot Meals) provided to individual service users in their homes and Lunch Clubs (multiple meals) service. Hot Meals provision accounts for about 82 % of the overall door to door service. Frozen Meals are also available to individual service users, although the current numbers requested are negligible (0.2% of the service) and not viable for either the council (number of meals taken) or the contractor (financially). A variety of meals are available; Standard, Asian Vegetarian, Halal, Kosher, Afro Caribbean, Salads. Food types provided are chosen by the client with all meals created to specific nutritional standards. Service users are referred to the contractor by their Care Manager.

The service users' feedback on the service has been very positive.

3.1.3 Procurement exercise undertaken.

A business case providing the commissioning and procurement options was presented and approved by the Director of Integrated Commissioning Unit in September 2014. Various options were analysed and as an interim solution it was recommended that the council procure a short term contract (two years with an option to extend for further 2 years) with the neighbouring London Borough of Merton to allow time for the development of a new service delivery model.

The CCB report recommending a joint procurement that included savings analysis was presented and approved on 06.11.2014 (CCB reference CCB0953/14-15).

A joint tender with Merton Council was published 3rd of February 2015 with the tender return date 30th of March 2015.

Three organisations returned tenders.

Two of the tenderers were not able to make a tender offer within the terms of the Councils' requirements. The third tender was unaffordable. As a consequence Merton Council decided that it was not in a position to continue with this procurement and withdrew from the tender process. In these circumstances and after considering its options, Croydon Council has determined that it was in the interest of local residents to withdraw from the current process and enter negotiation with the incumbent provider to ensure continuity of service and secure as much saving as possible.

A direct award was recommended as a most appropriate solution going forward as there was a need for service continuity and having a gap in service delivery that provides food to vulnerable adults wasn't an option. In consultation with Legal Services, it was considered that provision existed under the Public Contract Regulations 2006, under which the original tender was run, as well as the Public Contract Regulations 2015 which have since been introduced, which makes provision for direct negotiation without public advertisement in the circumstances which have arisen in this case.

A strategy report recommending a direct contract award to the current provider Apetito Ltd. was approved by CCB on 28.05.2015 (CCB reference CCB1011/15-16).

3.1.4 Contract Negotiations

Consequently, the Council entered into negotiations with Apetito Ltd. A range of different scenarios were presented and considered, as detailed in 11.1.

3.2 New Contract Details

The new contract is for a period of five years with a six months no fault termination clause (break of convenience). The total contract value is £3,474,200 or £694,840 annually. It will be delivered in two service elements; door to door Hot Meals (Hot Meals) provided to individual service users in their homes and Lunch Clubs (multiple meals) service.

This contract is based on a “cost and volume” basis. The proposed contractor has provided a banding table, whereby prices increase/decrease dependent on the volume of meals. The current meals numbers are about 116,000 per year. Changes to meals volumes will potentially affect the unit price. However, the proposed contractor pricing will still produce savings compared to the current contract price.

3.2.1 London Living Wage

This contract adheres to the Council’s commitment to work with the Living Wage Foundation and Citizens UK to become a fully-accredited London Living Wage employer, and therefore, the contract price includes the provision for London Living Wage.

4. CONSULTATION

- 4.1 Consultation with service users has been undertaken. This included; telephone interviews with services users, focus groups with lunch clubs in receipt of the service and attending a delivery round.
- 4.2 Feedback was very positive, and the service users had high satisfaction levels with Apetito.
- 4.3 Clients valued most the interaction they had with the delivery drivers.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

5.1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
Revenue Budget available				
Expenditure	*295	708	708	708
Effect of decision from report				
Expenditure	289	695	695	695
	6	13	13	13

* a 5 month period

5.2 The effect of the decision

The award of this contract will commit £695,000 of expenditure per annum from the meals on wheels budget. Client contributions for the service are estimated at £455,000 per annum, with the balance being funded from the service revenue budget.

The award of this contract is forecast to save £13,000 per annum in contract costs.

5.3 Risks

There is a risk that demand for the service may change over the life time of the contract and in order to ensure the Council and service user achieve value for money at all times the contract needs to be flexible.

5.4 Future savings/efficiencies

Compared to the current contract value this contract will produce annual savings of £90,900 however if compared to budget this revised contract will lead to an annual saving of £13,000

(Approved by: Lisa Taylor, Head of Finance and Deputy S151 Officer.

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Council Solicitor comments that the procurement process as detailed in this report meets the requirements of the Council's Tenders and Contracts Regulations and the statutory duty to demonstrate best value under the Local Government Act 1999

(Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Director of Democratic & Legal Services)

7. HUMAN RESOURCES IMPACT

This report does not raise direct HR considerations for LBC staff since this is a third party provider. However, the contract referred to carries a legacy commitment from the current contract executed in 2008 on behalf of the Council, whereby should TUPE not apply in the future (either at the contract expiry date or at any termination date) the Council will be responsible for the any cost of redundancy; this will be capped contractually at £65,000.

(Approved by: Michael Pichamuthu HRBP on behalf of, Heather Daley, Director of Human Resources)

8. EQUALITIES IMPACT

- 8.1 An initial Equality Analysis has been undertaken and indicates that a detailed / full Equality Analysis is not required. This is on the basis that there should be no noticeable effect on the community or service user other than an improved service provision capacity and resilience.

9. ENVIRONMENTAL IMPACT

- 9.1 The contractor is required to have in place targets in accordance with the contract model to minimise consumption of energy and emission of pollutants (reduced CO2) Data will be obtained from the contractor on an annual basis. This will include: Energy use, such as reduced CO2 emissions by way of minimising carbon emissions in their vehicles
Waste recycling

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 There are no crime and disorder consequences of this proposal.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The recommended contract represents a significant improvement in price to the Council relative to the previous contract providing £90,884 annual savings on the current contract price which is 11.56 % saving. The contract also represents good value benchmarked against similar comparative London based service contract. The proposed five year contract represents better value than shorter length contract proposals (a two year contract providing £55,000 annual saving is more expensive while a three year contract providing £30,000 annual saving is more expensive than a five year contract). The contract is negotiated with provision for a six month no-fault break clause which provides the required flexibility for the Council in the duration of the contract.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 A range of options for sourcing this service were considered (detailed in the approved strategy report) and due to the service continuity need a direct award to the current provider was recommended.

CONTACT OFFICER:

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Background documents: exempt from public disclosure