

	<p>Children, Education, Libraries and Safeguarding Committee</p> <p>18th November 2015</p>
Title	<p>Education and Skills – Future Delivery of Services</p>
Report of	<p>Commissioning Director – Children and Young People</p>
Wards	<p>All</p>
Status	<p>Public (except Appendix B, which is not for publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972)</p>
Urgent	<p>No</p>
Key	<p>Yes</p>
Enclosures	<p>Appendix A: Full Business Case Appendix B: Financial Evaluation (exempt) Appendix C: Equalities Impact Assessment</p>
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Summary

At its meeting on 12th January 2015, the Children, Education, Libraries and Safeguarding Committee considered a final outline business case, which set out proposals for developing a new way of delivering the Council’s Education and Skills service in order to:

- Maintain Barnet’s excellent education offer
- Maintain an excellent relationship between the Council and schools
- Achieve the budget savings target for the service up to 2020

The final outline business case set out a detailed options appraisal of four possible future models for the delivery of these services, along with the outcome of consultation with the public and with schools on the four options. The outline business case concluded that the option that was most likely to meet the project's overall objectives was a joint venture.

The Committee gave approval to commence a procurement exercise to identify a third party partner to inform the development of a full business case for the establishment of a joint venture with a third party for the future delivery of the Education and Skills service.

That procurement exercise has now concluded with the submission and evaluation of a final tender from Mott MacDonald Ltd trading as Cambridge Education (Cambridge Education). The outcomes of that evaluation are set out in detail in the attached full business case (Appendix A) and summarised in this report.

The full business case concludes that Cambridge Education's final tender meets all three of the Council's objectives, as set out above and expanded upon in the tender evaluation criteria. In summary, it is considered that the final tender confirms that Cambridge Education is a sound provider with a wealth of relevant experience. It demonstrates a desire to expand services and a clear commitment to continue excellent performance, along with a clear understanding of the Council's requirements and a strong desire to work in partnership with the Council and schools. As well as providing a strong voice for schools in the governance process, the tender also identifies significant benefits and opportunities for staff, not least of which is a commitment to continuing to pay the London Living Wage. Finally, the tender price meets the Council's challenging MTFs savings targets with no reduction in services. The full business case proposes that Cambridge Education should, therefore, be selected as the Council's preferred bidder for the future delivery of Education and Skills services.

The procurement was carried out using the Competitive Dialogue process, which is designed to provide a degree of flexibility to enable development of the most appropriate solution to meet the client's needs. As part of this process, Cambridge Education put forward an alternative strategic partnering delivery model, which would not involve the establishment of a separate Joint Venture Company. This alternative model would have many of the characteristics and advantages of a joint venture, without the additional costs associated with the establishment of a separate company. A detailed description and evaluation of the two options is included in the full business case and it is proposed that the Council should proceed on the basis of the strategic partnering option.

Recommendations

- 1. That the Children, Education, Libraries and Safeguarding Committee makes the following recommendations to full Council:**
 - a. That Mott MacDonald Ltd trading as Cambridge Education be selected as the Council's preferred bidder for the future delivery of Education and Skills services;**
 - b. That the Council enters into a strategic partnering arrangement with Mott MacDonald Ltd trading as Cambridge Education, including entering into a services contract and a partnering agreement;**

- c. **That the Commissioning Director – Children and Young People be delegated to finalise the contract documentation, in consultation with the Committee Chairman;**
- d. **That the functions set out in paragraph 1.45 of the report are contracted out to Mott MacDonald Ltd trading as Cambridge Education; and**
- e. **That the Commissioning Director – Children and Young People be delegated to proceed with all necessary planning and preparation for mobilisation of the contract, in consultation with the Committee Chairman.**

1. WHY THIS REPORT IS NEEDED

Strategic Context and Case for Change

- 1.1 On 12th January 2015, the Children, Education, Libraries and Safeguarding Committee considered a final outline business case, which set out proposals for developing a new way of delivering the Council's Education and Skills service in order to:
 - Maintain Barnet's excellent education offer;
 - Maintain an excellent relationship between the Council and schools; and
 - Achieve the budget savings target for the service up to 2020.

- 1.2 Those proposals were developed in response to an evolving educational landscape, which together with the financial constraints facing local authority services, creates three compelling key drivers for reviewing the way education services are delivered:
 - i. A **performance** driver to maintain Barnet's excellent education offer, contributing to the quality of life in the Borough. This driver recognises that, in recent years, Barnet schools have been among the best in the country. However, maintaining this performance is challenging and some recent Ofsted inspections have been disappointing – a potential early warning sign that we need to review and evolve to adapt our systems and services to better reflect the new educational environment in which our partnership with schools is operating. It also recognises that the vast majority of school improvement resource and expertise is now controlled and managed by schools themselves and that the effective involvement of schools is essential to delivering better educational outcomes for Barnet as a whole.

 - ii. A **strategic direction** driver to maintain Barnet's excellent relationship with schools. This driver recognises the increasingly diverse range of school governance arrangements that are emerging, including academies and free schools, and the need to ensure that future service provision is of a high standard and that services are responsive to the needs of all schools. It also recognises that these changes in school leadership place schools in a strong position to play a much more central role in shaping and driving future service provision.

- iii. A **financial driver** to meet the Council's savings target, whilst maximising the opportunity to provide sustainable services into the future. This driver recognises that funding going to schools has been well protected, despite recent reforms. However, the ability of the local authority to fund services to meet its remaining statutory duties is less secure, being impacted by both the reduction in local government funding overall, and by a reduction in government grant as individual schools convert to academy status.
- 1.3 The shift in responsibility and financial resources for managing and leading school improvement to schools is resulting in schools increasingly becoming drivers and designers of the services they need to support them. This is particularly the case in respect of the development of school to school support and represents a significant change in the role of local authorities and schools. Developing a model of delivery based on the partnership with schools provides an opportunity to provide services that are responsive to the needs of schools and that are sustainable over time by allowing schools to commission the services they need.
- 1.4 The final outline business case that Members considered in January set out the results of detailed work that had been carried out to assess the most appropriate way of delivering Education and Skills services, given the three key drivers above and recognising the emergence of a range of new models for the delivery of these services across the country.
- 1.5 As a result of the assessment that had been carried out, the Children, Education, Libraries and Safeguarding Committee agreed that a full business case should be developed on the establishment of a joint venture with a third party for the future delivery of the Education and Skills service and that procurement should be commenced to identify a third party partner to inform the development of that full business case. The results of that procurement exercise are set out in the attached full business case and summarised in the remainder of this report.

The Procurement Process

- 1.6 An OJEU Contract Notice was published on 31st January 2015, inviting the submission of pre-qualification questionnaires from appropriately qualified parties. The Contract Notice identified the following services as being in scope:
- Strategic and financial management of the service
 - School improvement
 - Special educational needs (SEN) services (including management of SEN transport)
 - Admissions and sufficiency of school places
 - Vulnerable pupils
 - Post 16 learning

- Traded services within the Education and Skills delivery unit:
 - Catering service
 - Governor clerking service
 - School improvement traded service (Barnet Partnership for School Improvement)
 - Newly Qualified Teachers support
 - Educational psychology (part-traded)
 - Education Welfare Service (part-traded)
 - North London Schools International Network (NLSIN)
- 1.7 The current budget and MTFs savings targets for these services are summarised in paragraphs 5.19 and 5.20 of this report and set out in detail in the full business case.
- 1.8 The OJEU notice named all Barnet schools as stakeholder members, to enable schools to benefit from any resulting contract, without having to undertake a further procurement exercise.
- 1.9 The notice specified that the procurement would be carried out using the competitive dialogue process, which is designed for particularly complex contracts. The notice specified that this would include dialogue to shape the structure of any joint venture and also permitted variant bids, in order to maintain maximum flexibility in securing the best way of meeting the Council's needs.
- 1.10 11 organisations expressed an interest in the opportunity and four pre-qualification questionnaires were received by the deadline of 2nd March 2015. One of these was substantially incomplete and was, therefore, not compliant with the Council's minimum requirements. The remaining three questionnaires were evaluated by a panel of officers and the three organisations were subsequently invited to participate in dialogue.
- 1.11 All three organisations indicated their intention to consider using sub-contractors to deliver part of the service. One bidder withdrew from the process prior to dialogue commencing, as it believed that the overall package of services was not appropriate for its business portfolio. The remaining two bidders both participated in the first phase of dialogue and were invited to submit Outline Solutions by Friday 12th June 2015. Mott MacDonald Ltd, trading as Cambridge Education (Cambridge Education) submitted an Outline Solution, which confirmed ISS as their catering sub-contractor. Mott MacDonald Ltd is a wholly employee-owned company. The other bidder submitted a letter withdrawing from the procurement process, as it had concluded that this particular opportunity did not provide the right fit with its business model.
- 1.12 The Cambridge Education submission was subsequently evaluated by the project team, which included headteachers, as well as Barnet officers and specialist advisors. The team concluded that the submission provided sufficient, credible evidence that continuing dialogue would be likely to result

in the submission of a final tender that would meet the needs of the Council and schools. Following consultation with senior officers, it was agreed that the process should continue to the second phase of dialogue with a single bidder. It was recognised that this may raise questions about the lack of competitive tension in the process and the subsequent ability of the Council to test best value from the final tender. However, it is not unusual for competitive dialogue procurements to conclude with a single bidder and there are various means through which best value can be tested.

- 1.13 Key amongst these were the very clear objectives that had been set for this procurement, against which any final tender would be evaluated. Detailed sub-criteria were developed to strengthen the ability to test any final tender against those objectives. These are set out in the full business case. The move to a single bidder situation also allowed for more dialogue time with the remaining bidder, to increase the likelihood of any final tender being able to meet the needs of the Council and schools. The full business case includes a comparison of the final tender against the financial modelling that was previously carried out for the in-house and social enterprise models.
- 1.14 The proposed approach to securing best value with a single bidder was reviewed and endorsed by a Local Partnerships' Health Check review, the report from which is attached to the full business case.
- 1.15 In addition to involving headteachers in the dialogue meetings and evaluation of submissions, officers have continued to meet with the Headteacher Reference Group throughout the process, to update them and seek views on emerging issues. Officers also visited Slough Borough Council, where Cambridge Education currently provides a similar range of services.

The final tender

- 1.16 Following completion of the dialogue process, a Final Tender was submitted by Mott MacDonald Ltd trading as Cambridge Education on Monday 12th October 2015. ISS are confirmed as a key sub-contractor and would provide catering services under the contract. The contract itself would be for the provision of a range of specified services to the Council, with a requirement that specified traded services are offered to Barnet schools on a standard set of terms and conditions, in accordance with agreed service specifications that set out the level and quality of service required.
- 1.17 The key features of the Final Tender are as follows:

Maintain Barnet's excellent education offer

- i. All services would be provided in accordance with agreed method statements and service specifications. These set out the level and quality of service that is required and reflect current service provision;

- ii. Services would transfer “as is” and be subject to a rigorous service review process, using Cambridge Education’s 100 day plan approach and carried out in consultation with key stakeholders and staff, that would result in development plans;
- iii. Responsibility for managing the SEN transport budget and associated contracts would be included in the service offer;
- iv. A small number of employees would have joint employments with both Cambridge Education and the Council, in order to enable the Director of Children’s Services and the Council to properly discharge their statutory functions;
- v. The performance management regime, against which Cambridge Education have put 100% of their profit at risk, sets out agreed requirements for the maintenance of current service quality, as well as challenging targets for improving educational outcomes; and
- vi. The final tender confirms that Cambridge Education and ISS will have satisfactory policies and procedures in place in relation to staffing, customer service, equalities, health and safety and business continuity, as well as a commitment to continuing to support the corporate life of the Council, for example by permitting staff to participate in election duties.

Maintain an excellent relationship between the Council and schools

- i. The final tender sets out comprehensive proposals for stakeholder engagement, including governors, parents and pupils as appropriate;
- ii. Governance arrangements would have direct schools involvement and would enable greater influence over the quality and strategic direction of services than that provided by current arrangements;
- iii. Staff would transfer directly to the providers, i.e. Cambridge Education or ISS as appropriate, enabling them to benefit from being employed by established organisations that specialise in their area of expertise;
- iv. Enhanced TUPE arrangements would apply, in accordance with the Council’s current requirements; and
- v. ISS have committed to paying employees the London Living Wage after the Council ceases to fund the differential.

Achieve the budget savings target for the service up to 2020

- i. The tender is based on the provision of existing service levels at a fixed annual price that takes into account the Council’s MTFS savings requirements, including the savings target for SEN transport;
- ii. The risk of generating the income growth that is necessary to reduce the net cost of these services to match the price being charged to the Council sits entirely with Cambridge Education;
- iii. Any additional profit from growth in education services within a defined geographical area, above that required to meet the MTFS savings target and Cambridge Education’s initial investment, will be shared between the Council and Cambridge Education, with an element being set aside for the benefit of education and schools in Barnet;

- iv. Services will be marketed utilising the established brands of the two organisations, presented as “Barnet with Cambridge Education”; and
 - v. Whilst the risk in respect of growth sits entirely with Cambridge Education, the tender sets out clear proposals on how that growth will be achieved.
- 1.17 The detailed financial evaluation of the tender is contained in Appendix B.
- 1.18 The services contract and shareholders agreement are based on the OGC model contracts, modified by agreement between the parties. Key elements include:
- Responsibilities of the parties
 - Guarantees and indemnities between the parties
 - Governance arrangements
 - Indexation of contract price
 - Performance management regime and deductions for poor performance
 - Arrangements for dealing with changing circumstances or requirements
 - Dealing with disagreements and termination
- 1.19 The primary objective of negotiations in respect of the contract clauses has been to ensure a fair and appropriate apportionment of risk, whereby both parties accept the risk for matters that are under their control and there is a reasonable apportionment of other risks over which neither party has control. The purpose of this is to ensure that the Council does not pay within the contract price for non-commercial risks, whilst Cambridge Education take on the commercial risks of securing the level of income required to under-write the contract price.

Alternative proposal

- 1.20 One of the key benefits of using the competitive dialogue process is that it allows for the development of solutions that are specifically designed to meet the needs of the client. The report to the Children, Education, Libraries and Safeguarding Committee in January 2015 advised that a joint venture company was the option that was most likely to meet the Council’s objectives.
- 1.21 Through the dialogue process and within their final tender, Cambridge Education has proposed a strategic partnering agreement as an alternative delivery model. This is in addition to submitting a tender based on the joint venture company option. The partnering model can be summarised as being a hybrid of the joint venture option and the traditional outsourcing option, providing some of the benefits of each model, whilst avoiding some of the perceived disadvantages of each.
- 1.22 Under the joint venture company model, there would be a new company owned by the Council and Cambridge Education that would deliver the services to schools as well to the Council. The Council would enter into the service contract with the company. The company would contract directly with

schools for traded services and would sub-contract the task of delivery to Cambridge Education and ISS Ltd. Cambridge Education would own the majority of the company and be in overall control, subject to certain reserved matters that would require the Council's consent in recognition of its financial and reputational interest in the Traded Services. Profit would accrue within the joint venture company and be shared by dividends.

1.23 Under the partnering model, the Council would enter into the services contract directly with Cambridge Education. Cambridge Education and its catering sub-contractor ISS would enter into contracts directly with the schools for traded services. There would be a partnership board that would replicate in part the function of the board of directors in reviewing performance. There would still be reserved matters to the Council in recognition of its financial and reputational interest in the Traded Services, which would materially be the same. Profit would accrue within Cambridge Education and be shared with the Council via payments under the services contract.

1.24 The two options share the following common features:

- i. Staff would transfer to Cambridge Education or ISS under the provisions of TUPE;
- ii. Cambridge Education would be in control of the services and would be responsible for the obligations and liabilities in the services contract;
- iii. The opportunity to consider and influence service quality and strategic direction would sit at the strategic partnership board level;
- iv. The Council would have the right to veto certain key decisions that could affect Traded Services and gain share;
- v. The performance management regime would be the same for both models;
- vi. There would be an enhanced voice for schools through the strategic partnership board and sub-board arrangements;
- vii. Gain share arrangements would enable the Council and schools to benefit from growth over and above that required to meet the MTFS savings;
- viii. The branding of the service (Barnet with Cambridge Education) would be the same; and
- ix. Contract management and client arrangements would be the same.

1.25 The key differences between the two options are set out in the table below.

Joint Venture Company	Strategic Partnership
Creates separate legal entity governed by company law and shareholders' agreement	No separate legal entity created – relationship is governed by partnering agreement
Creates additional cost associated with servicing a separate entity and added complexity to governance arrangements, including potential conflicts of interest for directors	No additional cost and greater simplicity of governance arrangements

Services contract would be between LBB and the joint venture company, which would sub-contract it to CE	Services contract would be directly between LBB and CE
Traded Services contracts between school and company with all revenue going into company potentially creating greater transparency and control of operation and profits available for gain share.	Traded Services contracts between CE or its sub-contractor and schools. Revenue going into CE with Council relying on contractual rights to assess operation, financial performance and profits available for gain share.
Value of Traded Services and brand would be in the company with clear framework for selling ownership and continuing to grow Traded Services and brand at expiry of contract.	Value of Traded Services and brand held by CE with more challenges to managing the commercial value of the Council's ownership and any on-going development of the brand and Traded services.

Evaluation of the final tender

1.26 The final tender was evaluated by a panel comprising:

Service Experts

Commissioning Director – Children and Young People: Chris Munday
 Programme Director, Education and Learning: Val White
 Education and Skills Director: Ian Harrison
 Head of Education Partnerships and Commercial Services: Alison Dawes
 Headteacher representatives: Robin Archibald, Ian Kingham

Subject Matter Experts

Project Lead: Deborah Hinde
 HR: Liz Hammond
 Finance: Anisa Darr, Ruth Hodson
 LBB Commercial Team: Philip Hamberger
 Head of Programmes and Resources: Tom Pike
 Programmes and Resources Officer: Cara Elkins
 Commercial advisors (iMPOWER): Jason Walton, Martin Cresswell

Legal Resources

External legal advisors (Bevan Brittan): Lucinda Price, Matthew Waters, Laura Miskelly
 LBB legal advisors (HB Public Law): Sarah Wilson, Linda Cohen

1.27 Panel members evaluated the relevant sections of the tender individually and then came together in a moderation meeting to agree consensus scores. The following table sets out a summary of the moderated scores for each element of the tender.

Element of tender response	Weighting	JV model	Partnering model
Service quality	30%	23.0%	23.0%
Stakeholder engagement	25%	20.0%	20.0%
Financial benefits	30%	14.0%	16.2%
Legal/contract	15%	9.0%	6.0%
Total	100%	66.0%	65.2%

- 1.28 Following the moderation meeting, further clarification meetings took place with Cambridge Education, to progress the development of the strategic partnering agreement. As a result of these meetings, the Council's legal advisors have concluded that, based on the progress made, the strategic partnering model would now warrant a score of 3 for the legal/contract element. This would increase the weighted score to 9% and have the following effect on the overall scoring:

Element of tender response	Weighting	JV model	Partnering model
Service quality	30%	23.0%	23.0%
Stakeholder engagement	25%	20.0%	20.0%
Financial benefits	30%	14.0%	16.2%
Legal/contract	15%	9.0%	9.0%
Total	100%	66.0%	68.2%

- 1.29 Overall, evaluators were of the view that this was a good, solid submission from a sound provider with a wealth of experience that demonstrates a desire to expand services and a commitment to continue excellent performance. The proposal reflected the ethos and approach that had been adopted by Cambridge Education during dialogue and demonstrated their understanding of the requirements and desire to work in partnership with the Council and schools. Particular strengths were identified as:

- i. Both Cambridge Education and their sub-contractor, ISS, are part of large, global organisations, are experienced in the provision of these services and have a solid track record of delivery;
- ii. The proposal presented a rigorous approach to the management and delivery of services and good evidence of understanding our requirements;
- iii. There was a strong emphasis on partnership working, with a range of forums on which schools and other stakeholders would have a voice, building on existing arrangements and providing strong formal governance;
- iv. There was recognition of the existing strengths of the service and an emphasis on the need for a smooth transition and a strategy for building on those strengths;
- v. In respect of staff, the commitments to enhanced TUPE provisions and the London Living Wage were welcomed and the proposal set out a good approach to staff recruitment, retention, motivation and development;

- vi. Gain share proposals are simple and fair, including an element of benefit to education and schools in Barnet;
 - vii. The proposal provides a good performance management structure, with appropriate governance arrangements and puts 100% of Cambridge Education's estimated profit at risk for any poor performance; and
 - viii. The proposal guarantees a contract price to the Council that incorporate the MTFS savings requirement.
- 1.30 It was recognised that there remain some issues to be resolved prior to the signing of any contract. However, it was considered that these are matters for clarification and completion only and that they are not material to the overall proposal.
- 1.31 As identified above, the key risk of proceeding with a single bidder was the ability to test Best Value from any subsequent bid. It is considered that Cambridge Education's final tender meets the Best Value test, due to the following factors:
- i. Within the invitation to submit final tender, the bidder was advised that the Council reserved the right to reject any tender that failed to score a minimum of 2 on any single element, or that failed to score 60% overall. Both options passed this "double hurdle" requirement;
 - ii. Both options put forward by Cambridge Education significantly exceed the level of savings from growth and efficiency that has been identified as achievable through either of the alternative enhanced in-house or social enterprise models;
 - iii. The proposals put forward by Cambridge Education represent the best offer the market has to offer;
 - iv. Gain share and open book accounting arrangements will provide assurance that the Council will share in any benefits over and above those secured through the guaranteed contract price; and
 - v. It was made clear to Cambridge Education that non-award of the contract remained an option and any tender would have to clearly demonstrate that it would meet the objectives set for the project. This resulted in significant improvements between Detailed Solution and Final Tender, most notably in relation to the percentage of profit put at risk in the event of poor performance.

Evaluation of options

- 1.32 The options that are now available to the Council are:
- i. Award contract to Cambridge Education and establish a joint venture company
 - ii. Award contract to Cambridge Education on the basis of a strategic partnering agreement
 - iii. Do not award the contract and revisit in-house and social enterprise models

- 1.33 These options are described in further detail in the full business case.
- 1.34 The key considerations in respect of awarding a contract to Cambridge Education and establishing a joint venture company are that:
- i. It is consistent with the approach approved by the Children, Education, Libraries and Safeguarding Committee in January 2015;
 - ii. It meets the Council's minimum award criteria across all elements of the tender evaluation;
 - iii. It involves additional costs for servicing a separate entity, which means that it falls short of the MTFS savings target by £90k per annum. However, it would still maintain existing service levels at significantly lower cost than at present;
 - iv. It brings added complexity to governance arrangements, together with potential conflicts of interest for Council or school directors of the company, for little, if any, added value to the partnering option; and
 - v. It was less supported by headteacher representatives on the evaluation panel than the strategic partnering arrangement.
- 1.35 The key considerations in respect of awarding the contract to Cambridge Education on the basis of a strategic partnering arrangement are that:
- i. It meets the Council's minimum award criteria across all elements of the evaluation, including meeting MTFS savings targets;
 - ii. It would maintain existing service levels at significantly lower cost than at present;
 - iii. It provides schools with a stronger voice in governance arrangements and was strongly supported by headteacher representatives on the evaluation panel;
 - iv. It achieves the same aims as those envisaged by the Committee when agreeing the recommendation of the joint venture, but with a simpler governance structure and fewer issues in relation to conflicts of interest for Council or school representatives on the board.
- 1.36 It is acknowledged that this option raises three particular concerns, in that:
- i. It varies from the model previously approved by Members;
 - ii. It may be considered that the single bidder situation has put the Council in a weaker position regarding securing its preferred model; and
 - iii. There is a risk of it being perceived by some as being closer to a straight outsourcing of services than the establishment of a joint venture company would be.
- 1.37 Whilst the strategic partnering option was not previously considered by Members, it is considered that it does meet the requirements and benefits expected from the joint venture company option. The key difference relates to "ownership" of the venture and, in particular, the desire to enable schools to participate in that ownership. Ongoing consultation through the Headteacher

Reference Group has shown that there is no excitement within the school community to be owners of the vehicle and that what matters to schools is the opportunity to have a voice and to influence the direction of services, which the strategic partnering option provides. The initial options appraisal commenced some 18 months ago and it should be recognised that the market has moved on and a variety of different delivery models have emerged for these services during that time.

- 1.38 Cambridge Education has expressed a willingness to work under either model and both models are available for Members to consider.
- 1.39 The Children, Education, Libraries and Safeguarding Committee had previously discounted a straight outsourcing for these services, as that option was not considered likely to meet the Council's need. Whilst acknowledging that any arrangement that results in staff transferring out of the Council's direct employment (including into a social enterprise or joint venture company) and the Council entering into a services contract constitutes outsourcing of services, the key feature of a straight outsourcing is that it would be based purely on entering into a services contract with a third party provider, with no opportunity to formally influence strategic direction. There would be no provision for involvement in the governance of the arrangement, beyond the application of normal contract management arrangements. Initial consultation with schools showed a considerable lack of support for this option. The particular concerns were in respect of its ability to enable the Council and schools to influence the quality and strategic direction of services and also the ability of the Council and schools to share in the financial benefits of the venture. These concerns are fully addressed through the strategic partnering option, in particular through the role of schools on the strategic partnering board and in other proposed forums that provide a voice for schools, as well as through the proposed gain share arrangements.
- 1.40 The third option that is available at this point is to not award the contract and to re-visit the in-house and social enterprise options that were previously considered by Members. Whilst this option would ensure that the full control of these services is retained by the Council, it carries significant risks, in that:
 - i. It does not meet the Council's stated objectives for this project;
 - ii. It would require a significant reduction in services and consequent risk of redundancies in order to meet the MTFS savings target; and
 - iii. There is a significant risk that Cambridge Education would seek compensation for its bid costs in the event of non-award.
- 1.41 It should be noted that this option could include consideration of going back to the market for all or some of the services concerned. Given the extensive engagement that has already taken place with the market and the significant cost that would be involved in carrying out a further procurement exercise, this is not considered to be a viable option.
- 1.42 A detailed evaluation of each of the three options is set out in the full business cased. The following table provides a rating for each option's overall

likelihood of meeting each of the criteria. Those criteria that were rated as most important in the schools and public surveys are identified in bold.

	Joint Venture	Strategic Partnering	Do not award
Helps to maintain a strong partnership between the Council and Barnet schools	✓✓	✓✓✓	✓✓
Enables schools to take a stronger leadership role in the education system	✓✓✓	✓✓✓	✓✓
Is able to attract new investment/funding and access commercial expertise to preserve and grow services	✓✓✓	✓✓✓	✓✓
Has the freedom to be creative and the flexibility to develop new services quickly during times of change	✓✓✓	✓✓✓	✓
Is able to engage with and build trust with all key stakeholders, including parents and the public	✓✓	✓✓	✓✓✓
Preserves or improves service delivery in key service areas	✓✓✓	✓✓✓	✓
Is able to customise services to meet the needs of different types of school	✓✓✓	✓✓✓	✓✓
Is able to achieve budget savings without reducing current service levels	✓✓	✓✓✓	✓

Key:

✓	Low
✓✓	Medium
✓✓✓	High

Contracting out of functions

1.43 The majority of statutory functions in relation to education matters are not capable of being contracted out to a third party and it is appropriate for the Council to retain responsibility for ensuring compliance with these functions, even when a third party assists in delivery of the services. The Council retains a number of important overarching duties and the Director of Children's Services in his statutory and commissioning role will be responsible for ensuring that these duties continue to be met. Key duties include:

- Duty to determine admission arrangements for maintained schools where the local authority is the admission authority – School Standards and Framework Act 1998;
- Duty to secure efficient primary, secondary and further education is available to meet the needs of local population and duty to secure sufficient primary and secondary schools – Education Act 1996;
- Duty to identify children not receiving suitable education – Education Act 1996;

- Duty in relation to promoting effective participation in education or training for young people – Education and Skills Act 2008;
- Duty to exercise education functions with a view to promoting high standards, ensuring fair access and promoting fulfilment of learning potential – Education Act 1996;
- Duty to support and involve children, parents and young people in decisions relating to SEN functions – Children and Families Act 2014;
- Duties to identify children and young people with SEN and disabilities and to promote integration – Children and Families Act 2014;
- Duty to work with statutory partners to make joint commissioning arrangements for education, health and care provision for children and young people with SEN and disabilities;
- Duty to promote use of sustainable modes of travel – Education Act 1996; and
- Duty to promote educational achievement of looked after children – Children Act 1989.

1.44 This is not a comprehensive list of statutory functions in this area. As part of the procurement, detailed tables were prepared setting out the relevant functions and the role of the Council and contractor in relation to these. Cambridge Education has accepted its responsibility, should the contract be awarded, in detailed method statements for each area.

1.45 There are a limited number of functions that can be contracted out by virtue of the Contracting Out (Local Authority Education Functions) (England) Order 2002. Where it is considered more effective for the function to be contracted out, it is recommended that the Council takes this decision. The following functions are recommended for contracting out:

- i. Issue of school attendance orders under s.437 Education Act 1996. Under this section, if it appears to the contractor that a child is not receiving suitable education, it shall serve a notice, and if the parent fails to comply with the notice, it shall serve a school attendance order. Failure to comply with a school attendance order is a criminal offence, however the decision on whether to prosecute for such an offence will remain a decision of the Council;
- ii. Duty to make arrangements to enable parent of child to express a preference for a school when making an admission application and duty to provide advice and assistance to parents – s. 86 School Standards and Framework Act 1998. Under this section, the contractor would have responsibility for the system for school admissions, although the responsibility for determining admission arrangements for maintained schools where the local authority is the admission authority will remain with the Council;
- iii. Duty to publish prescribed information in relation to admission arrangements under s.92 School Standards and Framework Act 1998. This will ensure that the contractor is responsible for publication of prescribed information; and
- iv. Procedure in relation to making a direction for a child to attend a maintained school under s.97 School Standards and Framework Act

1998. Whilst the decision on making a direction can also be contracted out, this is not recommended, as it is desirable for the Director of Children's Services or another senior council officer to make this decision. The procedure includes consulting with the relevant school.

- 1.46 In addition to contracting out functions, it is proposed that a number of employees will be employed under a joint employment contract, meaning that they will have an employment contract with the Council and the contractor. These employees will have delegated authority from the Council to exercise a number of statutory functions, including making decision to prosecute for education welfare offences, making decisions in relation to child performance licences and making decisions in relation to Education, Health and Care plans. The Director of Children's Services will be responsible for ensuring that these staff are properly supervised and supported by the Council when exercising statutory functions. The post of virtual head will remain a council employee, as a statutory role. This officer will work closely with the contractor's staff, in order to ensure the effective working of the virtual school.

Conclusion and recommendations

- 1.47 Based on the evaluation of the final tender and the assessment of how each option meets the Council's criteria, it is concluded that:
- i. Both options put forward by Cambridge Education meet the Council's stated objectives and key criteria;
 - ii. Whilst the joint venture option scored slightly more overall at the point of moderation, this was purely as a result of the legal documentation for a strategic partnering arrangement not being as advanced as for the joint venture option. Subsequent clarification meetings have confirmed that there are no fundamental matters of principle on which there is disagreement and it is considered to be highly likely that the outstanding matters will be resolved during contract finalisation;
 - iii. The strategic partnering option provides the most financially advantageous solution, meeting the Council's MTFs savings requirement on both an annual basis and a cumulative basis; and
 - iv. The strategic partnering option provides a better fit overall to the Council's requirement and gained more support from headteacher representatives as providing schools with a voice and the opportunity to influence the direction of services, without the additional cost and complexity of establishing a joint venture company.
- 1.48 It is therefore recommended that the Council appoints Cambridge Education as preferred bidder on the basis of a strategic partnering arrangement, subject to resolution of the outstanding contractual matters mentioned above.

2. REASONS FOR RECOMMENDATIONS

- 2.17 The Council's commissioning approach requires consideration of the best model for delivering services to meet its priorities and outcomes. Based on

the evaluation set out above, it is considered that a strategic partnering arrangement with Cambridge Education is the option that best meets the Council's needs, in that it will:

- Maintain Barnet's excellent education offer;
- Maintain an excellent relationship between the Council and schools; and
- Achieve the budget savings target for the service up to 2020.

2.18 Considerable effort was put into the competitive dialogue process to ensure that the resulting tender met the needs of all stakeholders. The proposal addresses many of the concerns that were expressed by stakeholders through the consultation process. In particular:

- i. It provides an appropriate voice and level of influence for schools, whilst addressing concerns about the time commitment and financial risk to schools involved in the ownership models;
- ii. The main contractor is a well-established provider of education services, with a strong track record, which should overcome concerns regarding the potential lack of expertise of a third party provider, particularly in respect of SEN services. The use of a specialist sub-contractor, ISS, provides the appropriate level of expertise in respect of catering services;
- iii. Concerns about potential conflicts of interest are overcome by the strategic partnering model; and
- iv. Residents' concerns regarding the profit motives of a third party provider are mitigated by the fact that Cambridge Education is part of an employee-owned company. As such, they are not subject to the demands of the stock exchange or institutional investors regarding short-term gains and can take a longer-term approach.

2.19 For staff, the proposal provides clarity and a degree of security in respect of employment and terms and conditions of service that the Council simply cannot provide at this time. Whilst the share-ownership benefit of working in an employee-owned company would only be available to a small number of senior staff, it is considered that all staff will benefit from the progression and development opportunities that come from being employed in large specialist organisations, both of whom are providing similar services to other public bodies. In addition, many staff will be eligible to participate in bonus schemes.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.17 Six options were evaluated as part of the draft outline business case that was considered by the Children, Education, Libraries and Safeguarding Committee on 15th September 2014. As a result of that initial evaluation, four options were taken forward for formal consultation and further evaluation. The outcomes of that work were set out in a final outline business case, which concluded that the joint venture option was considered to be most likely to

meet the Council's needs and which was considered by the Children, Education, Libraries and Safeguarding Committee on 12th January 2015.

- 3.18 Having concluded the procurement exercise, the option of appointing Cambridge Education and establishing a joint venture company is considered viable, but is not recommended. Whilst it would meet the Council's needs in overall terms, the additional costs associated with servicing a separate entity means that it falls slightly short of the MTFS savings targets, with no discernible benefits over the strategic partnering option.
- 3.19 The option of not awarding the contract and re-visiting the in-house and social enterprise models is not recommended, because this option would not meet the Council's needs.

4. POST DECISION IMPLEMENTATION

- 4.17 Within the Council's Constitution, paragraph 1.6 of the Responsibility for Functions section confirms that the decisions on policy matters and new proposals relating to significant partnerships with external agencies are reserved to full Council. This report therefore proposes recommendations from the Children, Education, Libraries and Safeguarding Committee to full Council on 8th December 2015.
- 4.18 Work will continue on resolving the outstanding contractual issues prior to the signing of any contract. Subject to completing the signing of the contract, it is intended that the new arrangements should go live on 1st April 2016. It should be noted that, in the event of any of these issues not being satisfactorily resolved, a further report may be brought back to the Children, Education, Libraries and Safeguarding Committee.
- 4.19 Following consideration of the recommendations by full Council, it is proposed that the staff transfer process commences with initial joint presentations to staff prior to Christmas and the commencement of formal TUPE consultation early in the New Year. The responsibility for conducting TUPE consultation sits with the Council as the current employer. However, it is intended that this will be done jointly with Cambridge Education and ISS as far as possible. With a single bidder, it is not necessary to have a standstill period following appointment of preferred bidder, as there is no other bidder to challenge the decision.
- 4.20 As part of their final tender, Cambridge Education submitted a detailed mobilisation plan, which is designed to ensure a smooth transfer of the service for both staff and service users. This covers the following key areas:

- TUPE consultation and staff induction
- Due diligence in respect of staff numbers, contracts, assets etc
- Early engagement with key stakeholders
- Establishment of interface arrangements with the Customer and Support Group

4.21 In addition, the Council will need to establish the necessary contract management and client side arrangements. These arrangements will utilise existing resources within the Commissioning Group.

5. IMPLICATIONS OF DECISION

Corporate Priorities and Performance

5.17 Barnet is a place of growth. The quality of the education offer is at the heart of Barnet's continuing success as a place where people want to live, work and study. It plays a crucial part in making Barnet a popular and desirable place with many families attracted to the area by the good reputation of Barnet's schools. Excellent educational outcomes and ensuring children and young people are equipped to meet the needs of employers are key to deliver the Council's strategic objectives set out in its Corporate Plan 2013-16 to:

- Promote responsible growth, development and success across the Borough
- Support families and individuals that need it – promoting independence, learning and well-being
- Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.

5.18 Developing a new approach to delivering education and skills services in partnership with schools, will enable the Council and schools to continue to support these priorities through jointly harnessing efforts and resources at a time of financial constraint and when the educational landscape is leading to a more diverse range of providers. Developing a delivery model that enables the services to be responsive to the needs of this increasingly diverse range of providers offers the opportunity to maintain and improve support services to schools so that Barnet's excellent educational offer can be maintained and improved.

Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.19 These services are currently provided at a total annual gross cost of £20.7m. This is funded by £3.5m from the Dedicated Schools Grant, which is ring-fenced, and generation of income of £9.4m. This leaves a net Council funded budget of £7.8m. The proposed contract covers services funded by the Council and the DSG, giving a baseline annual cost for the contract of £11.3m.

5.20 Within the savings target set by the Policy and Resources Committee, the Education and Skills service is required to deliver savings of £850k between

2016/17 and 2019/20, plus the saving of £695k that has not been achieved in 2015/16, due to the timing constraints of the tender process. The proposed revision to the savings profile will be considered by Policy and Resources Committee in December. In addition, SEN Transport is required to deliver savings of £240k between 2016/17 and 2019/20, together with a further £100k reduction in service costs in relation to temporary funding for the brokerage function. This gives a total savings requirement for the service over the term of the MTFs of £1,885k.

- 5.21 The final tender submitted by Cambridge Education for the strategic partnering option will deliver these savings in accordance with the required profile.
- 5.22 The contract is constructed in such a way that these savings are guaranteed, as they are incorporated within the tendered price for delivering the core services to the Council in the period between 2016/17 to 2022/23. The savings requirements are summarised in the table below.

	Year 1 15/16	Year 2 16/17	Year 3 17/18	Year 4 18/19	Year 5 19/20	Total
	£000					
Original MTFs savings profile	695	85	160	255	350	1,545
Proposed revised MTFs savings profile	0	780	160	255	350	1,545
SEN transport savings profile	0	120	120	0	100	340
Revised savings profile (including SEN transport)	0	900	280	255	450	1,885

- 5.23 Whilst the risk of securing the level of increased income and efficiency that is required to achieve this saving sits entirely with Cambridge Education, the tender included proposals for how this growth and efficiency would be achieved. These proposals have been assessed by suitably qualified officers and commercial advisors and are considered to provide sufficient assurance that this level of growth is achievable and that the potential additional growth that would be subject to gain share arrangements is also reasonable.
- 5.24 In respect of the financial submission, the Council’s commercial advisor (iMPower) have advised that “We believe that overall the risks inherent in achieving the required savings and gain share have been satisfactorily considered and to a reasonable extent addressed. The Council is aware that quite modest amounts of gain share have been targeted and it is possible that even these may not be delivered. However the information provided does give sufficient confidence in new sales and surplus and there appears to be an acceptable residual risk related to Cambridge Education failing to achieve all its targeted financial contribution from this.”
- 5.25 The total cost of delivering the Education and Skills Alternative Delivery Model project, to 31st March 2016, is currently forecast to be within the £1.5m budget that is being funded from the Transformation Reserve. Actual expenditure in

previous financial years totalled £350k. Expenditure for the current financial year is forecast to be £1,150k, which covers the cost of the project team, specialist advisors and transition to the new arrangements, including any one-off costs associated with establishing interface arrangements between Cambridge Education and the Customer and Support Group. A breakdown of the budget is included in the full business case.

- 5.26 The project team and specialist advisors required to carry out this work were procured independently of the existing Customer and Support Group arrangements, to mitigate any potential conflict of interest.
- 5.27 Service budgets do not include corporate support costs, which cover, for example, accommodation, payroll, HR support, ICT and finance support. It is, therefore, necessary to make an appropriate allocation for these support costs to the service and this is currently estimated to be approximately £900k. Cambridge Education has indicated that they intend to continue using the majority of these services, most notably the Council's existing accommodation. Discussions are ongoing between the Council, Cambridge Education and the Customer and Support Group to confirm which services will be required and the appropriate budget and cost apportionment. It is intended that the outcome of these discussions will be cost-neutral to the Council.
- 5.28 As stated above, client-side and contract management arrangements will utilise existing resources within the Commissioning Group and there will be no additional costs associated with these.

Social Value

- 5.29 The final tender provides a number of proposals that will secure wider social, economic and environmental benefits. Key amongst these is the intention to continue delivering all services from within Barnet and not relocate existing jobs outside the Borough. Within the catering service, there are also commitments regarding apprenticeships, use of electric vehicles for catering transport and continuing payment of the London Living Wage.

Legal and Constitutional References

- 5.30 Paragraph 1.6 of the Responsibility for Functions section of the Council's Constitution confirms that decisions on policy matters and new proposals relating to significant partnerships with external agencies and local authority companies, including the contracting out of functions, are reserved to the full Council.
- 5.31 Annex A to the Responsibility for Functions section confirms the terms of reference for Council committees. The Children, Education, Libraries and Safeguarding Committee has responsibility for education functions, including discussion of transformation schemes within the Council's policy framework.
- 5.32 When making decisions around service delivery, the Council must consider its public law duties. This includes its public sector equality duties and consultation requirements as well as specific duties in relation to education services and services to children and families.

5.33 Due to the potential change to the provision of education services, detailed consultation has been carried out with schools, service users and the general public, as well as current employees. Results from this consultation have been considered throughout this process.

5.34 The Council must comply with the Public Contract Regulations 2006 when proposing to enter into contractual arrangements for certain services. Detailed legal support has been provided to ensure that the Council has met its public procurement obligations.

Contracting out of functions.

5.35 The proposed arrangement would deliver both statutory services for the Council as well as trading services to schools and educational establishments. It involves the Council contracting out delivery of services associated with its statutory functions, but retaining accountability and decision making for the majority of these functions. A small number of functions are recommended to be contracted out, as set out in the main body of this report.

5.36 It is proposed to have a small number of staff on joint employment contracts, to enable key staff to exercise statutory functions on behalf of the Council. Service method statements and specifications provide a good level of clarity on when such staff would be acting as employees of the Council and further clarity and guidance will be provided through the establishment of detailed protocols.

5.37 Under the proposed arrangement, the statutory post of Director of Children's Services will remain with the Council. The Director of Children's Services:

- i. has professional responsibility for the leadership, strategy and effectiveness of local authority children's services;
- ii. is responsible for the performance of local authority functions relating to education and social care of children and young people; and
- iii. is responsible for ensuring that effective systems are in place for discharging local authority functions, including where a local authority has commissioned any services from another provider rather than delivering them itself.

Risk Management

5.38 Project risks have been identified in the full business case, along with mitigation measures. These will continue to be managed through the project governance arrangements, in accordance with the Council's project management standards

5.39 The project itself is designed to mitigate against the risk of a decline in the performance of the educational system as a whole that could arise from making service reductions to meet Medium Term Financial Strategy targets.

5.40 The key risks associated with the completion of the project relate to:

- i. The appropriate resolution of outstanding contractual matters. This will require on-going monitoring;
- ii. The ability to mobilise the contract within the required operational timescales. There is a comprehensive mobilisation plan, but there is a significant amount of work required to implement it and the challenge of achieving this within the timescale should not be under-estimated. Appropriate resources are in place to achieve this and progress will be monitored through the project board; and
- iii. The emergence of any information through the contract finalisation process that significantly undermines the commercial basis of the final tender. Significant effort has been put into ensuring that complete and accurate information has been made available to Cambridge Education throughout the procurement process and all appropriate resources have been deployed to minimise the risk of material error or omission. The contract provides an appropriate mechanism for making final adjustments based on, for example, the actual numbers of staff that transfer.

5.41 The main risk associated with the proposed model is that Barnet schools do not support the arrangement and reduce the level of services that they buy-back through the contract. Not only would this directly reduce the assumed level of income, but it would also undermine the venture's ability to grow through selling services to schools outside the Borough. This could also lead to the Council having less knowledge of schools through its contractor, thus affecting its ability to make timely and effective interventions. This will be managed by ensuring the on-going involvement of schools in the mobilisation process and the governance arrangements for the partnership.

5.42 An initial assessment of Health and Safety Risks associated with the proposals has been carried out. This has identified that there are no additional Health and Safety risks beyond those normally associated with the delivery of these services and which are managed through established Health and Safety policies and procedures.

5.43 The contract sets out requirements in respect of health and safety, including a requirement that Cambridge Education and ISS follow the Council's established health and safety policy and procedures.

5.44 The contract, together with the service method statements and specifications that will form schedules to it, also incorporates the Council's requirements in respect of business continuity and emergency management.

Equalities and Diversity

5.45 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies **to have due regard** to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people from different groups

- foster good relations between people from different groups
- 5.46 The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services
- 5.47 An Equality Impact Assessment has been carried out and is attached as Appendix C. This covers potential impacts on residents and service users and on employees. Tender evaluators considered equalities impacts as part of the evaluation process. For service users, the proposals could potentially have the largest effect on school-age children and those with a disability. However, the impact assessment for residents and service users identifies a neutral impact overall, as services will continue to be provided to the current level and quality. The impact assessment for employees identifies a bigger impact on women than men. This is due to the fact that women make up 93% of the affected workforce. Whilst the impact on transfer is neutral, the long-term overall impact for employees is considered to be positive, due to the commitment to London Living Wage, the proposed arrangements for staff recruitment, retention, motivation and development, and the fact that there are no planned redundancies.
- 5.48 It is recognised that the mobilisation of the arrangement constitutes a significant change that will have an impact on employees and, in accordance with the Council's Managing Organisational Change Policy, it is essential that this change is managed in a way that reduces the disruptive effects of change. This will include ensuring that:
- the employees concerned will be treated in a fair and equitable way
 - advance notice of the impending change is given to the employees concerned as soon as possible
 - change will be brought about following consultation
 - the need for compulsory redundancy will be minimised but balanced against the Authority's need to retain employees with the skills and experience necessary to best meet future service requirements
 - redeployment opportunities will be maximised
- 5.49 Consultation will continue to take place with the recognised trade unions and affected employees, as contract mobilisation proceeds. This will include formal TUPE consultation in respect of transferring to a new employer.
- 5.50 The contract requires compliance with the Council's established equality and diversity policies and procedures, including the provisions of Equality Impact Assessments for any proposed changes in service provision.

Consultation and Engagement

- 5.51 A considerable level of consultation and engagement activity took place to inform the development of the outline business case. The outcomes of that consultation were reported to the Children, Education, Libraries and Safeguarding Committee on 12th January 2015 to inform the decision to proceed with the procurement of a third party partner. That report contained a

table that identified the key themes from consultation, together with initial responses. That table is reproduced below, with further responses included in bold text.

Theme	Response
<p>Model – there were mixed views about the preferred model, with schools and public respondents raising concern about the time commitment and financial risk to schools involved in the ownership models and some respondents requesting further information.</p>	<p>Whilst all models could provide the level of savings required, each carries different levels of risk and a different balance of service reductions and income growth. Bringing in a third party provider enables a provider with commercial expertise to support rapid development of the service, whilst the Council retains a key ownership role in the running of any new company. Whilst the option of school ownership can be kept open in the Competitive Dialogue stage, a number of respondents understand that a school role as commissioner can give them a sufficient role in the strategic direction of the proposed new company.</p> <p>The proposed model provides an appropriate voice for schools, whilst addressing the concerns regarding time commitment and financial risk.</p>
<p>Services included – there were comments by schools and residents about the inclusion of some services, although residents supported SEN and school improvement services being included more than schools. Staff and trade unions also raised concern about conflict of interests between different partners.</p>	<p>The services to be included in the model include both statutory functions of the local authority and traded services. Provision of a unified and integrated approach for the delivery of education services is considered to be important for maintaining a quality education support function. Quality assurance and the need for specialist provision will be key aspects for discussion during the competitive dialogue process for all of the services concerned.</p> <p>The proposed partner is a well-established provider of education services, with a strong track record. The appointment of a specialist sub-contractor will bring the necessary expertise to that service and ensure there is no conflict of interest between different partners.</p>
<p>Third party expertise – there were some comments about the lack of expertise of any third party provider and the need for quality assurance.</p>	<p>The evaluation criteria will be designed to ensure that the right partner is chosen and the option of a joint venture delivery model ensures the Council continues to have a role in delivery of services. However, the Council will also need to ensure that its contract monitoring process is robust and the lead responsibility for quality assurance will sit with the statutory Director of Children’s Services.</p> <p>The proposed partner is a well-established provider that brings the necessary expertise in the provision of these services. The final contract will establish a strong performance and contract management regime, as well as appropriate arrangements for engaging effectively with the Director of Children’s Services.</p>

Theme	Response
<p>Length of contract – there were comments from schools and the market about the length of contract, with the market expressing a desire for a longer contract term to enable certainty in return for investment and the schools commenting on the level of commitment.</p>	<p>If schools are in a commissioning role, it is anticipated that they will be able to buy services on an annual basis and will not be tied into the entirety of the contract, although discounts may be offered for longer contractual arrangements. It will therefore be imperative for the owners of the company to meet the needs of their school customers to ensure continued purchase of services, as well as exploring new markets. Based on legal and commercial advice, the contract term is recommended to be seven years, with options to extend up to a further three years.</p>
<p>Conflict of interest/priority of different parties – employees raised concerns about conflict of interest between different parties. Residents also raised concern about the profit motives of a third party provider.</p>	<p>Potential conflicts of interest will be an important aspect to consider during the procurement process to ensure that any conflict of interest can be managed appropriately. Whilst a third party provider may be a profit making company, it may also be a not for profit organisation. It is important to ensure that the procurement process focuses on quality of provision and value for money, rather than the status of the provider. Profit making companies have been successfully involved in the delivering of statutory functions and public services for some time and can provide a level of expertise to ensure that resources are focused on service delivery.</p> <p>The proposal to establish a strategic partnering arrangement overcomes concerns regarding potential conflicts of interest. Residents' concerns regarding the profit motives of a third party provider are mitigated by the fact that, as part of an employee-owned company, Cambridge Education are not subject to the demands of the stock exchange or institutional investors regarding short-term gains and can take a longer-term approach.</p>

- 5.52 There has been ongoing engagement with schools through the procurement process. Various headteacher representatives have participated in both the dialogue process and the evaluation of submissions. There has been ongoing consultation with the Headteacher Reference Group on issues emerging from dialogue.
- 5.53 During the dialogue process, Cambridge Education and ISS presented an overview of their history, experience and approach to groups of staff, headteachers, chairs of governors and Elected Members. They also met with local trades union representatives and a regional officer of Unison participated in the dialogue process. Following submission of their final tender, both organisations presented an overview of the submission to Elected Members and chairs of governors.
- 5.54 Updates on progress have been provided to staff, headteachers and chairs of governors throughout the process, using both written communication and presentations. There has also been ongoing consultation with the recognised trades unions.

6. BACKGROUND PAPERS

- 6.17 Cambridge Education's final tender, submitted 12th October 2015. This document is commercially confidential and exempt from publication by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972. Elected Members who wish to inspect all or part of the final tender should contact the officers named at the front of this report.
- 6.18 Children, Education, Libraries and Safeguarding Committee, 12th January 2015 – agreed the development of a full business case on the establishment of a joint venture company with a third party for the future delivery of the Education and Skills service and authorised the commencement of the procurement exercise to identify a third party partner to inform the development of the full business case.
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=697&MId=7926&Ver=4>
- 6.19 OPM's report providing detailed analysis of the consultation results.
<http://engage.barnet.gov.uk/>
- 6.20 Council, 16th December 2014 – agreed that the Children, Education, Libraries and Safeguarding Committee should complete the detailed consideration of alternative delivery options, including agreeing to the commencement of procurement where relevant.
<http://barnet.moderngov.co.uk/documents/s19543/Business%20Planning%20201516-1920.pdf>
- 6.21 Children, Education, Libraries and Safeguarding Committee, 15th September 2014 – approved further consultation and engagement on four options for the future delivery of the Education and Skills service.
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=697&MId=7925&Ver=4>
- 6.22 Policy and Resources Committee, 10th June 2014 (Decision Item 6) – noted the updated Medium Term Financial Strategy up to 2020 and the Priorities and Spending Review report. The Committee agreed the Education and Skills project approach to consultation.
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=692&MId=7856&Ver=4>
- 6.23 Cabinet, 25th February 2014 (Decision Item 7) – approved the Medium Term Financial Strategy.
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=120&MId=7518&Ver=4>