
Meeting	Cabinet Resources Committee
Date	24 June, 2013
Subject	Children’s Service Contract Regularisation and Permission to Spend on Catering Goods and Services and on Workforce Development Programmes
Report of	Cabinet Member for Education, Children and Families
Summary	<p>This report seeks:</p> <ul style="list-style-type: none">(i) to extend contracts for catering goods and services identified in categories A and B;(ii) waivers of the Contract Procedure Rules to enable this;(iii) permission to undertake competitive tender exercises for the provision of specialist coffee supplies and soups and smoothies as set out in category C;(ii) permission to be a part of a new Eastern Shires Purchasing Organisation (ESPO) Framework Contract for the supply of Kosher and Halal provisions as set out in category C;(iv) authorisation to spend through a call-off contract from: (i) the London Contract Supplies Group (LCSG) Framework Contract for specialist frozen foods and (ii) the ESPO framework contracts, as set out in category D;(v) authorise expenditure and regularise existing arrangements on the purchase of a range of miscellaneous catering equipment and specialist supplies as set out in category E;(iv) approval to appoint single-source, benchmarked suppliers for expired catering contracts; and(v) permission to spend on learning and development programme

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Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	None
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1. RECOMMENDATIONS

1.1 That the Committee:

- 1.1.1 authorise the extension of separate contracts with suppliers in categories A and B (identified in the table at 6.1.1) to allow sufficient time for procurement activity to be completed
- 1.1.2 authorise waivers of Contract Procedure Rules to enable regularisation of contracts and extension of contracts for a second time, referred to at paragraph 1.1.1 above
- 1.1.3 authorise two competitive tender exercises in 2013/14 for the provision of specialist coffee supplies and soups and smoothies to the values of £60,000 and £37,500 respectively over three years, from 1 December 2013, as outlined in category C and paragraphs 9.5 and 9.6;
- 1.1.4 authorise expenditure on a call-off contract from a Framework Agreement procured via ESPO for the provision of Kosher and Halal provisions for a period of two years from 1 October 2013 – 30 September 2015 with a further possible two year extension, as outlined in category C;
- 1.1.5 regularise and extend the use of call-off contracts from: (i) a Framework Agreement let by the LCSG for specialist frozen foods from 1 January 2013 – 31 December 2016, (ii) the ESPO Catering Disposables Framework Agreement from 1 October 2011 – 30 October 2015; and (iii) the ESPO Framework Agreement for catering equipment and cleaning materials from 1 April 2013 – 30 March 2015, as outlined in category D;
- 1.1.6 authorise expenditure and regularise existing arrangements on the purchase of a range of miscellaneous catering equipment for a period of up to two years from 1 April 2013 – 30 March 2015 as set out in category E;
- 1.1.7 authorise expenditure on and accept single source suppliers for a period up to two years from 1 April 2013 – 30 March 2015 as set out in category F;
- 1.1.8 authorise expenditure on learning and development from approved core budget allocation and central government grant funding streams as set out in table 6.1.2;

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet Resources Committee on 7 November 2012 'Contract Procurement Plan' approved the detail of planned contract procurement activity for 2013/14, including frozen and specialist frozen supplies for catering services, cleaning materials and light equipment for catering service, Kedassion Kosher supervision for various suppliers, recycled food package service, and groceries for catering services.
- 2.2 Cabinet Resources Committee Report, 28 February, 2012, Children's Service – Contract Regularisation, authorised regularisation of contracts with Kedassia and Ecksteins.

- 2.3 Delegated Powers Report (1367), 5 August, 2011, Award of Grocery Provisions Contract (Public and Exempt)
- 2.4 Delegated Powers Report (1366), 5 August, 2011, Award of Frozen Foods Contract (Public and Exempt)
- 2.5 Delegated Powers Report (1887), 17 December 2012, Children's Service social care workforce learning and development initiatives delivered by Middlesex University and Royal Holloway University

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Children and Young People's Plan (CYPP) 2013-16 prioritises the adoption of healthy lifestyles and choices to combat obesity in Barnet's children and young people which is above the national average by Year 6. With the provision of over 18,000 school meals daily to schools, Catering Services play an important role in helping to promote healthy and positive dietary habits early and encouraging children and young people to stay healthy into adulthood.
- 3.2 The use of framework contracts which accounts for 90% of the current spend on goods within Catering Services allows for maximum flexibility in the sourcing of cost effective catering supplies and services, and directly supports the objective in the Corporate Plan 2013-16 that 90% of savings are expected to be derived from efficient planning and delivery.
- 3.3 An effective learning and development programme supports the strategic priority of delivering better services with less money through an empowered, knowledgeable and skilful frontline staff who can manage the challenges and opportunities through the current change environment. It also supports the Council's Social Care Workforce Strategy, the Barnet Multi-Agency Children's Workforce Strategy and the CYPP which aim to provide appropriate learning and development support for care workers, supervisors and managers in order to improve the life chances of children and young people.

4. RISK MANAGEMENT ISSUES

- 4.1 Framework Contracts enable the purchase of catering provisions and goods without financial risk or commitment as there are no specific requirements for levels or frequency of use. In addition, payment terms enable settlement in arrears for all goods purchased.
- 4.2 Any interruption of supplies would constitute a risk to Catering Services' ability to discharge the Council's contractual obligations however, as the framework contract is let on behalf of the partner authorities of ESPO and LCSG the continuity of supply is protected. The Business Continuity Plan for the framework contract includes provision for access to alternative suppliers within the framework should there be a risk of interruption of service.
- 4.3 For Workforce Development, there is a risk that the development initiatives highlighted in the Ofsted inspection in 2012, and identified as part of the Munro Review recommendations, will not be implemented if permission is withheld or delayed.
- 4.4 Children's Service will be unable to fulfil Department for Education grant funding conditions for expenditure relating to the Assessed and Supported

Year in Employment programme (ASYE) and the Early Professional Development Programme (EPD) if permission to spend is withheld or delayed.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 All contracts let by Barnet Council include explicit requirements of the service provider which fully cover the Council's duties under Equalities legislation.
- 5.2 Under current Equalities legislation, Barnet Council and provider organisations which exercise public functions on the Council's behalf are required by the Public Sector Equality Duty when doing so to have due regard to the need to:
- 5.2.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- 5.2.2 advance equality of opportunity between those with a protected characteristic and those without; and
- 5.2.3 promote good relations between those with a protected characteristic and those without.
- 5.3 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. It also covers marriage and civil partnership with regard to eliminating discrimination.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Finance

- 6.1.1 The funding for the contract extensions and authorisations which are being sought in table 6.1.1 will be met from the trading account of Catering Services and contained within existing budgets in Children's Services.

Catering Table 6.1.1

Permission	Description of Service	Current Provider	Spend to date	Value of Extension	Whole Life Value including Extension
Category A – extensions for the first time and regularisation					
To extend from 21 October 2013 up to 30 September 2014 under the current Framework Contract terms	ESPO Fruit and Vegetable Framework Contract	Cream of the Crop	£1,271,201	£650,000	£1,921,201
Permission to authorise expenditure for eight months 1 April 2013 – 30	Specialist coffee supplies	Euro Foods Ltd	£54,595	£17,000	£71,595
	Soups and	JD's	£34,412	£8,500	£42,912

Permission	Description of Service	Current Provider	Spend to date	Value of Extension	Whole Life Value including Extension
November 2013 until a competitive tender is undertaken	smoothies				

Permission	Description of Service	Current Provider	Spend to date	Value of Extension	Whole Life Value including Extension
Category B – extensions for the second time and regularisation					
To extend from 1 Apr 2013 to 30 Sept 2013	Kosher meat	Ecksteins	£142,046	Up to £40,000	£182,046
To extend from 1 Apr 2013 to 30 Sept 2013	Kosher groceries	Hatov	£25,000 (pa) ¹	Up to £22,000	£47,670
To extend from 1 Apr 2013 to 30 Sept 2013	Kosher vegetarian frozen food	Osem	£13,000 (pa) ¹	Up to £16,000,	£29,000
To extend from 1 Apr 2013 to 30 Sept 2013	Kosher frozen foods	Snowcrest	£10,000 (pa) ¹	Up to £10,000	£20,000
To extend from 1 Apr 2013 to 30 Sept 2013	Kosher groceries	Rumplers	£9,000 (pa) ¹	Up to £6,000	£15,000
To extend from 1 Jul 2013 to 30 Sept 2013 under the current Framework terms	ESPO Halal Frozen Food Framework Contract	Punjab Kitchen	£113,636	Up to £36,000	£149,636

Permission	Description of Service	Current Provider(s)	Proposed Spend (pa)	Proposed whole life spend
Category C – new frameworks and new procurements				

¹ Where only an annual amount is given, no formal contract has existed between the Council and Supplier as the previous discretionary spending threshold was set at £25,000

Authorise expenditure and use of the ESPO Framework Agreement Contract for Kosher and Halal provisions for two years from 1 October 2013 – 30 September 2015, with a further possible extension of up to two years	Kosher and Halal Provisions	Ecksteins Hatov Osem Rumplers, Snowcrest, Punjab Kitchen	£160,000	£320,000
Authorise two competitive tender exercises in 2013/14 for the provision of specialist coffee supplies and soups and smoothies to the values of £60,000 and £37,500 respectively over three years, contract start date 1 December 2013	Specialist coffee supplies	Euro Foods Ltd (current provider), new provider to be procured	£20,000	£60,000
	Soups and smoothies	JD's (current provider), new provider to be procured	£12,500	£37,500
Category D – framework regularisation				
To authorise expenditure on and extend the use of (LCSG) Framework Agreement Contract from 1 Jan 2013 up to 31 Dec 2016	Specialist frozen foods	Brake Brothers	£35,000	£140,000
To authorise expenditure on and extend the use of the ESPO Catering Disposables Framework Agreement Contract from 1 October 2011 up to 30 October 2015	Catering Disposables	Bunzle	£32,000	£128,000

Approval to authorise expenditure, regularise existing arrangements and extend use for the purchase of a range of catering goods and equipment for a period of two years spread over a number of suppliers from 1 April 2013 up to 30 March 2015	Misc catering equipment	ESPO	£10,000	£20,000
	Cleaning materials	ESPO	£45,000	£90,000

Category E – expenditure authorisation and spend regularisation
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Approval to authorise expenditure, regularise existing arrangements and extend use for the purchase of a range of catering goods and equipment for a period of two years spread over a number of suppliers from 1 April 2013 up to 30 March 2015	To include the provision of miscellaneous catering equipment and protective clothing	Camel Harfields; Melmaster; Nicholls; Nisbetts; Norseman; Raynards; Remerco W H Howe; Alexander; Simon Jersey	£60,000	£120,000
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Category F – Single source suppliers

Permission to authorise expenditure on and accept single source suppliers for up to two years from 1 April 2013 up to 30 March 2015	Jewish Supervision	Kashrus Committee of the Union of Orthodox Hebrew Congregations	£35,000	£70,000
	Kosher bread and patisserie	Family Bread	£10,000	£20,000

6.1.2 Workforce development authorisations set out in table 6.1.2 will be met within the existing budgetary provision of the Family Services Delivery Unit and additional grant funding from central government. In particular, additional funding is expected in respect of the ASYE programme and any new Department for Education workforce development initiatives.

Learning and development – Table 6.1.2

Permission	Proposed spend 2013/14	Proposed spend 2014/15	Comments
Authority to authorise expenditure on and acceptance of ADAM's provider as single source supplier	£25,000	£25,000	Over two years
Authority to authorise expenditure on learning and development programmes	£131,720	£131,720	Specialist learning and development for social workers and foster carers
	Up to £500,000	Up to £500,000	Social care training and development programmes including Assessed and Supported Year of Employment (ASYE) and Early Professional Development (EPD)
	£40,150	£40,150	Partnership learning and development programmes
	£100,000	£100,000	Early years PVI sector
	£34,000	£34,000	Children's Service recruitment
Authority to authorise additional expenditure on Social Work Post Qualifying courses tuition fees	£45,000 (includes £25,000 already authorised)	£45,000 (includes £25,000 already authorised)	Additional expenditure on Social Work Post Qualifying courses on Middlesex University and Royal Holloway University contracts

6.2 Procurement, Performance and value for Money

- 6.2.1 Extensions are sought for the current arrangements with Cream of the Crop and for providers of Kosher and Halal provisions and services as set out in the table 6.1.1 above to allow sufficient time for those services to be commissioned and procured.
- 6.2.2 Permission is sought to be part of the framework agreement, as a contracting authority which ESPO is procuring for specialist providers for the provision of Kosher and Halal provisions.
- 6.2.3 This report also seeks permission to undertake competitive tender exercises for the provision of specialist coffee supplies and soups and smoothies, as set out in paragraphs 9.5 and 9.6 below.
- 6.2.4 As well as being OJEU-compliant, the framework agreements have brought benefits that would otherwise not been accessible to a single purchasing authority. Catering Services are able to access a broad

range of goods and services at competitive prices made possible by the economy of scale offered by the frameworks.

6.2.5 It is also the intention of Workforce Development & Learning to establish and manage their body of contracts through a framework agreement in the longer term.

6.3 Staffing, IT and Property

6.3.1 There are no staffing, IT or property implications for the Council whether in relation to the catering contracts for which extensions and/or reprocurement are sought, or for the learning and development programmes.

6.4 Sustainability

6.4.1 The Public Services (Social Value) Act 2012 requires the Council to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes. In Staff and Civic Catering, and School Catering, Catering Services directly support the Council's priorities set out in the Corporate Plan, the Children and Young People's Plan and the Health and Wellbeing Strategy.

6.4.2 ESPO's tender qualification criteria incorporate rigorous standards with regard to the sustainable and ethical sourcing of supplies and assessment of compliance in this regard forms part of the tender analysis.

7. LEGAL ISSUES

7.1 The basic premise applying to the letting of contracts for works, supplies or services by contracting authorities is that the provisions of Directive 2004/18/EC, as implemented by the Public Contracts Regulations 2006 (as amended), should be adhered to. For the most part this set of rules (the "Procurement Rules") requires there to be fair and open competition across the European Community for government contracts.

7.2 The Procurement Rules as apply to services differentiate between Part A services and Part B services. Part A services are subject to the full tendering regime. Part B services have a comparatively relaxed regime applying to them, covering only matters such as ensuring that specifications for services are not discriminatory and that reporting and notifying obligations are met. The goods and services referred to in the report are Part B services.

7.3 It should be noted that the Commission takes the view that the Treaty obligations of transparency and non-discrimination apply to Part B services, which means that the contracting authority is expected to ask itself whether there is a market for these services in other member states and if so what form of appropriate notification and advertisement should apply before an award of contract. Therefore, provided that an inter-state element cannot be shown, the contract need not be advertised. For high value contracts, it is easier to show an inter-state element. However, if an inter-state element cannot be shown, it is expected that the Council's own standing Orders and financial regulations would expect some form of tendering to apply to such

contracts or at least an exemption to be sought to standing Orders if not followed.

- 7.4 As stated in the report, some of the goods and services are being procured through a call-off under a Framework Agreement. A framework is an agreement between a client and contractor or contractors or consultant or consultants (depending upon the nature of the framework), the purpose of which is to establish the terms governing particular call-off contracts that may be awarded during the terms of the framework, in particular with regard to price and quantity. The advantage of establishing framework agreements is that as long as the original framework agreement has been advertised and let in accordance with the EU procurement rules, there is no requirement to advertise any subsequent call-off contracts let under the framework agreement even where those call-off contracts exceed the stipulated financial threshold. A framework agreement shall not exceed a period of 4 years except in exceptional circumstances.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Extensions are sought for contracts detailed at paragraph 6.1.1 which are coming/have come to an end.
- 8.2 Contract Procedure Rules direct that Contracts may only be extended or varied if all of the following conditions have been met (paragraph 14: Extensions and Variations):
- 8.2.1 the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
 - 8.2.2 the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A, Contract Procedure Rules;
 - 8.2.3 the extension or variation has an approved budget allocation;
 - 8.2.4 the extension or variation is in accordance with the terms and conditions of the existing contract;
 - 8.2.5 if the initial contract was subject to EU tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/Cabinet Resources Committee Report) ; and
 - 8.2.6 the contract has not been extended before.
- 8.3 The above notwithstanding, Contract Procedure Rules nevertheless allow Directors, Assistant Directors, Lead Commissioners and Heads of Service to apply for a waiver in the event that the application of these rules prevents or inhibits the delivery or continuity of service. All applications for a waiver must be submitted to the Cabinet Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk (paragraph 15.1: Waivers).
- 8.4 The Council's Constitution (paragraph 4.5: Responsibility for Functions) permits Cabinet Committees to discharge the Executive functions that fall

within their terms of reference, whether or not they are also delegated to officers, except for matter specifically reserved to Cabinet.

- 8.5 In recognition of the importance attached to dietary observance by the Jewish and Muslim communities, the Director is applying to Cabinet Resources Committee to waive the relevant directives in Contract Procedure Rules (section 14: Extensions and Variations).

8.5.1 The justification for using Single-Source Suppliers has been discussed with, and agreed by, the Commercial Lead of Corporate Procurement.

- 8.6 In consideration of the financial values involved in commissioning both the Catering contracts and the Workforce Development programmes, the respective Directors also apply to Cabinet Resources Committee to waive the relevant directives in Contract Procedure Rules (section 14: Extensions and Variations), as set out in paragraphs 8.2.1, 8.2.2, 8.2.4 and 8.2.6 above.

9. BACKGROUND INFORMATION

- 9.1 The Catering Service operates a trading account and currently procures goods and services from a number of suppliers. Some of these contracts now require extension or acceptance which require waivers of the Contract Procedure Rules. Permission is also being sought for a number of contracts to be tendered.; Section 6.1 of this report sets out the projected spend on the various categories and the extensions, acceptances and authorities to procure required.

Kosher and Halal Provisions and Services

- 9.2 Due to the specialist and limited nature of the Kosher and Halal supply market the Council has been working with ESPO to be part of a framework agreement to be established for the provision of Kosher and Halal goods and services. ESPO has benchmarked the single source suppliers able to provide these specialist services to the required quality and is putting in place a framework agreement. This report requests authorisation of expenditure on these goods and services as detailed above and the acceptance of the framework agreement procured via ESPO. As the new ESPO framework agreement for Kosher and Halal provisions commences on 1 October 2013 an extension of existing contracts with the suppliers set out in table 6.1.1, is required until 30 September 2013.

Frozen foods framework

- 9.3 The Council has been working with the LCSG on a framework agreement for specialist frozen food, which came into effect on 1 January 2013 and lasts until 31 December 2016. Authorisation of expenditure on frozen foods and the acceptance of the framework agreement procured via the LCSG is sought as set out in table 6.1.1 to regularise this arrangement.

Cream of the Crop

- 9.4 To allow time for a re-procurement exercise to be undertaken, permission is sought to extend the contract currently held by Cream of the Crop to 30 September 2014.

Euro Foods Limited

- 9.5 The current arrangements with Euro Foods limited were put in place following a benchmarking exercise. To allow time for a re-procurement exercise to be

undertaken, permission is sought to regularise arrangements and extend the contractual arrangement until 30 November 2013. Permission is also sought to go out to tender for this service to the value of £60,000 over a 3 year contract period from 1 December 2013.

JD's

- 9.6 It is requested that the current arrangements with JD's for the provision of soups and smoothies is extended until 30 November 2013, and current arrangements are regularised to allow time to undertake a re-procurement exercise. Permission is also sought to go out to tender for this service to the value of £37,500 over a 3 year contract period from 1 December 2013.

Single source suppliers

- 9.7 In two instances permission to spend on and accept single source suppliers is required. Financial details are set out in section 6.1 of this report.
- The Family Bread provides kosher bread and patisserie under Kedassia licence for Jewish schools and civic functions. It is not possible to procure these via the ESPO framework contract for kosher provisions and services as there is a requirement for local daily deliveries of fresh bread and patisserie. The Family Bread has been benchmarked in terms of price and quality and found to be the best currently available.
 - Kashrus Committee of the Union of Orthodox Hebrew Congregation for Kedassia supervision to be able to operate the council's Kosher Central Production Unit there is a requirement for the council to hold a Kedassia licence. To be awarded the licence there is a requirement for Kedassia supervision to be maintained at all times. There is no alternative source of compliance.

Catering equipment and miscellaneous goods

- 9.8 Approval to tender for light equipment is sought as set out in table 6.1. Spend has been aggregated and is divided across a number of different providers. Permission to tender is sought in line with the new Contract Procedure Rules which specify that spend above £10,000 must now follow a procurement process.

The recommendations put forward in this report seek to regularise the positions of existing services, and to accept the outcomes of ongoing procurement activities in line with the new Contract Procedure Rules.

Workforce development

- 9.9 As set out in table 6.1.2 authorisation is requested to spend on learning and development programmes across a range of areas for 2013/14 and 2014/15. Authorisation is also requested in relation to two specific contracts: the ADAM tool and tuition fees for post qualifying courses at Middlesex and Royal Holloway.
- 9.10 Authority is requested to use a single source provider (a named individual) to provide the ADAM tool and associated training, which underpins an approach to social work assessment in line with the Munro review. Training is provided to social workers, early intervention staff, and others who work with children and young people. Following discussions with other local authorities and other potential providers, this tool found to be the only product of its kind on the market. It is also the model used by Enfield Council which Barnet is jointly

working with on the Family Justice Review initiative to reduce timescales for children going through the court process. The training service is demand-led and it is anticipated that spend over the next two years will total around £50,000.

9.11 There is currently authority to spend £71,480 over three years (2012/13 to 2014/15) on tuition fees for post qualifying courses at Middlesex University and Royal Holloway University (as authorised by DPR 1887). As set out in table 6.1.2, permission is requested to increase expenditure on these by a further £40,000 over 2013/14 and 2014/15 to support learning and development; helping ensure staff keep up-to-date with policy changes.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	MC
Cleared by Legal (Officer's initials)	PJ