

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	12 April 2016
Report of:	Kath O'Dwyer – Deputy Chief Executive/Director of Children's Services
Subject/Title:	Commissioning Children's Nurseries in Crewe
Portfolio Holder:	Cllr Liz Durham

1. Report Summary

- 1.1. The Council is the commissioner of three day care settings in Crewe. Notice has been served on the current provider with the contract ending on the 18/07/2016.
- 1.2. The recommended approach is to re-procure the nursery provision in Crewe following the Public Contracts Regulations 2015.
- 1.3. The purpose of the paper is to seek Cabinet approval to proceed with the procurement and award of contracts for 9 years at a value of circa £8 million. (This is per capita funding from DfE)
- 1.4. The council needs to procure these nurseries as it is not likely that the market will make this provision in the least affluent areas. We have a statutory duty to ensure sufficiency of child care and without this provision we would be in breach of this. The purpose of this procurement is to ensure that children in our most deprived wards have access to high quality child care which contributes to narrowing the attainment gap

2. Recommendations

- 2.1 That members agree the re-procurement of these three child care settings with a particular emphasis on achieving social value.
- 2.2 That Cabinet delegates authority to the Executive Director of Children's Services in consultation with the Portfolio Holder for Children's Services to undertake the procurement and award of contracts to the new provider and to take all necessary steps to implement the new contract.

3. Reasons for Recommendations

- 3.1 The key reason for this recommendation is to ensure that the quality of Early Years learning in Crewe is maximised. The economics of running high quality child care in less affluent areas are challenging. This is magnified when there is a need to make a return on investment. In order to ensure a return it is necessary to minimise the staffing costs. High quality staff are a prerequisite of running high quality provision but attracting and retaining high calibre staff means that there would be little room to make a profit in the context that these three settings operate.
- 3.2 The current provider is financially sustainable however a proportion of their turnover goes out of Crewe in profit. A not-for-profit option would seek to reinvest this money in the settings in a staffing model that would allow for better qualified and experienced staff and better resourcing of the buildings leading to better outcomes for children in Crewe.

4. Background/Chronology

- 4.1 In 2007 when Children's Centres were established in Crewe there was a requirement that Children's Centres in the bottom 30% Index of Multiple Deprivation areas provided Child Care on site. This resulted in the setting up of three day care provisions at Oak Tree/Underwood West, The Brooks and Monks Coppenhall. All three are on joint school and Children's Centre sites.
- 4.2 Excellence in Crewe Limited (EIC) was appointed via tender in 2007, to operate these three Children's Centre nurseries. This was a company established by a consortium of Crewe primary schools. The nurseries provide a total of 171 places for children aged 0 to 5 years in the most deprived wards in Crewe.
- 4.3 It would appear that this company did not operate in a financially sustainable way and received considerable subsidy from the local authority both in monetary terms and officer time. There doesn't appear to have been consistent financial information from EIC or any evidence of an understanding of their financial situation. By November 2010 administrators had been called in to wind up the company after the council ceased to underwrite the company's losses.
- 4.4 The EIC nurseries ceased trading on 24th December 2010. In order to address this and to meet the Local Authority duty to provide sufficient child care the nurseries were subsequently run directly by Local Authority staff and the existing nursery staff was transferred to the Local Authority under TUPE regulations until a retendering process was completed and the contract awarded in June 2011 to the Safehands Ltd, the current provider.

- 4.5 The contract was awarded in June 2011 for nine years with a break clause at five years. This break clause was in June 2016 and required nine months' notice therefore for we were required to give notice on 6th September 2015.
- 4.6 Whilst Safehands Ltd received some sustainability funding in the initial set up of the contract they have been making a substantial profit over the last few years. About 70% of all income comes from the DfE grant funding for 15 hours of Free Child Care for 2, 3 and 4 year olds.
- 4.7 The issues with the current model would appear to be the diametrical opposite of the provider they replaced. Whilst the current provider has very strong control over costs and can run the provision at a profit, this can only be done by controlling the single largest cost which is staffing. The current delivery model relies on keeping staffing costs low with the majority of staff being employed at or close to the minimum wage with the subsequent impact on the quality of staff that can be employed.
- 4.8 Whilst all three nurseries currently are judged to be Good by Ofsted both our Early Years Team and the co-located schools continue to be concerned about the consistent quality of the provision.
- 4.9 The setting up of a Community Interest Company has been explored to run these nurseries on a not for profit basis, however having carried out soft market testing we have received sufficient interest from existing not for profit providers which would seem to make this step unnecessary.
- 4.10 The Public Contracts Regulations 2015 allow Contracting Authorities to reserve contracts to 'qualifying organisations'. The object of qualifying organisations must be the pursuit of a public service mission with profits being reinvested with a view to achieving the organisations objectives. Child day care services fall into the light touch regime and the Regulations state that the opportunity should be advertised to qualifying organisations to comply with the general transparency obligations. However letting a contract on these terms would limit the length that the contract could be let for which may not be attractive to a new provider investing in this provision. Therefore the recommended option is to commence a full OJEU procurement with the contract being for 9 years with a break clause at 5 years to provide a longer term commitment to the market.

5. Other Options Considered

5.2 A School based option

- 5.2.1 Two of the on-site schools may be interested in running these settings (Underwood West and Monks Coppenhall) in conjunction with their Academy Trusts. There is no doubt that the schools are well equipped to run high quality early years provision.

- 5.2.2 Any option based on the schools directly running the settings would have to be predicated on the schools being in a position to run the provision on a 52 week basis and as full child care. Any move to a school day and term time only pattern would have the net effect of reducing the volume and availability of child care in Crewe at a time when the onus is on Local Authorities to expand the availability of child care. Such an option would also need to take account of the need to expand not reduce the availability of 2 year old places and be mindful of the government commitment to expand free child care for working parents to 30 hours a week in 2017.
- 5.2.3 These three settings currently offer full child care i.e. 8 am to 6 pm for 52 weeks of the year. They also provide approximately 25% of the 2 year old child care places in Crewe as they serve areas where a significant number of the eligible two year olds live. There are currently 72 two year olds attending across these three settings. The loss of these places would impact severely on the roll out of 2 year old provision that is currently being monitored and reported to DfE.
- 5.2.4 There are two broad policy objectives to the expansion of Early Years places. The first is the provision of high quality early years education and the positive effects that this can have in giving young people the best start in learning. The second is the provision of accessible and affordable child care in order to ensure that parents are able to work or access training. Whilst a school based option would address the first of these any reduction in the hours that these settings operate would fail to address the second.
- 5.2.5 The government's thrust is that schools are being encouraged to offer full child care to address both of these objectives, as evidenced by the Secretary of State's recent announcement that parents were going to be given the right to request the extension of school based child care to full child care.
- 5.2.6 A further option considered was letting these nurseries as separate lots. This option was considered last time these nurseries were tendered however was rejected as the three settings operate at various degrees of stand-alone financial sustainability. Let as one lot there is room for cross subsidy between the settings which would support long-term sustainability of the whole.

6. Wards Affected and Local Ward Members

- 6.1. All Crewe Wards

7. Implications of Recommendation

7.1. Policy Implications

There is a strong council commitment to improve the educational outcomes of children of the most vulnerable children and to improve educational outcomes for children in Crewe.

7.2. Legal Implications

Services of this nature fall under a light touch regime in the Regulations. This affords the Council significant flexibilities in how the procurement process is designed. Subject to the timescales for tenders being proportionate and reasonable for the contracts being tendered, any process or procedure can be adopted as long as it respects the treaty principles of transparency and equal treatment.

7.3. Financial Implications

7.3.1. The commissioning of a sustainable provider will be cost neutral.

7.4. Equality Implications

The expansion of child care is aimed at increasing school readiness and parents employment and training opportunities.

7.5. Rural Community Implications

None

7.6. Human Resources Implications

The transfer of staff between providers will require a TUPE process however this will not directly involve the council.

7.7. Public Health Implications

The recommissioning of the settings will allow for intergrated working between the settings, Health Visitors and Children's Centres on public health outcomes.

7.8. Other Implications (Please Specify)

None

8. Risk Management

- 8.1. That the provision does not remain financially sustainable and requires additional council support. This risk can be mitigated by ensuring that the successful provider is sufficiently capitalised and has strong financial management systems in place.

9. Access to Information/Bibliography

None

10. Contact Information

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