

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Chief Officer for Legal, Performance and Democratic Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer for Legal, Performance and Democratic Services has confirmed the decision has not been called in.

1. Description of decision

To agree to negotiated terms, meal price and extension proposed by the incumbent school meal service provider (Caterlink) to ensure continuation of service for 2023/24 academic year with a 1 year extension option.

Background

- Bedford Borough Council offers a buyback school meal service (food service and equipment maintenance, replacement and annual servicing) for those schools choosing to join our contract. The service is funded through the buyback payments.
- The contract for school catering was tendered in May on a 1+1 year basis, with the intention that we would devolve responsibility for procurement back to schools after this period as per the previous administration's preferred approach.
- Meal prices were capped as per Member direction at £2.30 for Nursery, £2.40 for Primary and £2.60 for Secondary
- In addition, there is a 10p cost per meal levied by the Council on schools & paying parents as part of the buy-back which funds equipment, maintenance & contract management
- There were no bids for this tender, with providers citing the contract length, capped meal price, meal transport & waste costs as barriers to bidding. Due to the short timescales before the current contract expired, we entered negotiations with the incumbent supplier (Caterlink) to continue delivering for a 1-2 year period while the devolved arrangement could be put in place.
- 25 schools (over 27 sites) have requested to be part of the service for 2023/24
- Schools have a statutory duty to provide a meal service and there is now insufficient lead-time for schools to undertake their own re-tender.

Negotiated position

- Caterlink advised that the lowest sustainable meal price they could offer was £2.74 and £2.84 per meal for primary and secondary schools respectively. We were able to negotiate a 2p per meal discount by proposing 10-day payment terms (the Council's usual terms are 30 days), to £2.72 per meal for primary schools and £2.82 for secondary schools.
- Caterlink proposed that costs could be lowered further by removing the meal transport (9p per meal) and waste disposal (3p per meal) elements of the specification. Work was undertaken to identify whether Council Fleet/existing contracts could be utilised, although this would have passed costs to other budgets. However, this has not been possible, so these will need to remain within the scope of the spec.

TUPE liability

- As a stipulation of continuing in contract, Caterlink have asked that T&Cs be varied so that the Council under-writes liability for any costs of redundancies should staff not TUPE into new arrangements when the contract term is ended.
- The total costs of redundancy liability for all current staff is £161,760. This is subject to variance as staff may leave, and eligibility of existing staff may change, over the contract period
- It has been confirmed by the provider, HR Business Partner and Bedfordshire Pensions Scheme that there are no additional pension strain costs associated with 2nd-generation LGPS transfers or private pension schemes, nor any other additional costs
- HR BP believes risk is minimal as most, if not all, staff would be eligible for TUPE and would not be made redundant under new contractual arrangements – this has been confirmed by external legal advice
- Under the SLAs between the Council & schools, it is schools' responsibility to liaise with the provider to ensure adherence to TUPE; however the Council is responsible for any costs and other liabilities incurred as a result of the procurement process which affect any of the contracting parties.

Procurement approach

- With a negotiated meal price of £2.72 for primary and £2.82 for secondary schools, the total contract would be valued at £1,506,208 p/a (based on annual demand of 551,756 meals projected by Finance). This is higher than the £1,115,811 tendered; however is net NIL to Council budgets due to buy-back.
- A 1+1 contract, including the redundancy liability of £161,760 identified, would therefore be valued at £3,194,288. As no bids were received for the initial tender, feedback was requested from the providers invited to the mini competition which has informed the approach outlined above. The incumbent supplier would need to submit a bid through the 'Correspondence' function on In-Tend, as well as their proposed changes to the ESPO framework contract.
- Following successful evaluation of Caterlink's bid including Selection Questionnaire, financial standing, pricing submission and quality responses and if they pass all checks, the contract could then be awarded.

Additional considerations (please refer to attached spreadsheet for full modelling)

- Universal Infant Free school meals (UIFSM) will be funded by Government at £2.53 next academic year. There is no direct funding for income-related free school meals, as these are funded by the wider Pupil Premium grant, but applying the UIFSM rate, a shortfall arises of 19p per meal for primary and 29p per meal for secondary school meals. The total shortfall is £245,696 p/a, which would need to be funded by schools through applying their pupil premium.
- With the 10p levy this is £2.82 and £2.92 for paying parents/schools for primary schools and secondary school respectively, a shortfall of 29p and 39p per meal. The total shortfall which would be funded by schools through applying their pupil premium is £231,677 p/a. This would raise £14,019 and would cover most of the contract management costs.
- As at the end of 22/23 financial year, there is £115,360 in reserves with the description "to fund the cost of purchasing new equipment for Schools and Academies who are in the School Meals contract". It could therefore be used to fund the 10p levy rather than passing these costs onto schools & parents. This would reduce the impact of the increased meal price on schools/parents and mitigate risk of lower take-up, which might render the contract not financially viable.
- The spend on equipment/maintenance in 2022/23 was £67,000.

2. Date of decision

11 August 2023

3. Reasons for decision

There is a statutory duty to provide a meal service and there is now insufficient lead-time afforded to make it viable for schools to undertake individual re-tender.

4. Alternatives considered and rejected

Cessation of buyback offer; rejected as this is likely to result in schools struggling to meet statutory duty to provide a service.

5. How decision is to be funded

Through buyback from schools joining the contract and existing reserves to cover maintenance and equipment service and replacement. The shortfall on school meals of 29p and 39p for primary and secondary schools will be funded directly by schools.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

Yes – consultation with Portfolio holder

TW

Signed 

Date ...11.08.23....

Name of Decision TakerCllr Jane Walker.....

This is a public document. A copy of it must be given to the Chief Officer for Legal, Performance and Democratic Services as soon as it is completed.

Date decision published:11 August 2023.....

Date decision can be implemented if not called in:23 August 2023.....

(Decision to be made exempt from call in.....NO.....)

Bedford Borough Council – Report on Schools Meals Service

Date of Report: 11 August 2023

Report by: Chris Morris, Acting Chief Officer for Education, SEND and Schools Infrastructure

Subject: School Meals Service

1. EXECUTIVE SUMMARY

- 1.1 Bedford Borough Council offers a buyback school meal service (food service and equipment maintenance, replacement and annual servicing) for those schools choosing to join our contract. The service is funded through the buyback payments
- 1.2 The Council's current food service contract will naturally cease at the end of the 2022/23 academic year requiring us to retender or cease service.
- 1.3 The contract for school catering was tendered in May on a 1+1 year basis, with the intention that we would devolve responsibility for procurement back to schools after this period as per the previous administration's preferred approach.
- 1.4 Meal prices were capped as per Member direction at £2.30 for Nursery, £2.40 for Primary and £2.60 for Secondary
- 1.5 In addition, there is a 10p cost per meal levied by the Council on schools & paying parents as part of the buy-back which funds equipment, maintenance & contract management
- 1.6 There were no bids for this tender, with providers citing the contract length, capped meal price, meal transport & waste costs as barriers to bidding. Due to the short timescales before the current contract expired, we entered negotiations with the incumbent supplier (Caterlink) to continue delivering for a 1-2 year period while the devolved arrangement could be put in place.

- 1.7 25 schools (over 27 sites) have requested to be part of the service for 2023/24. All 25 schools are Primary schools, however some schools choose to buy in 'Secondary' sized portions for their year 5 and 6 children, which is why there is a quoted price for Secondary Meals in this report.
- 1.8 Schools have a statutory duty to provide a meal service and there is now insufficient lead-time for schools to undertake their own re-tender
- 1.9 Bedford Borough Council have agreed a negotiated position with the incumbent provider, Caterlink, to provide a meals service to the schools at a cost of £2.72 per meal for primary schools and £2.82 for secondary schools (see 1.7 regarding 'Secondary School' implications)
- 1.10 This is higher than the Universal Infant Free School Meal (UIFSM) grant allocation from the Government of £2.53 for the next academic year, leaving any cost gap to be funded by the Pupil Premium allocations.
- 1.11 As part of negotiating this deal with Caterlink, Bedford Borough Council also agreed to under-write liability for any costs of redundancies should staff not TUPE into new arrangements when the contract term is ended.
- 1.12 This contract is a 1 + 1 term with the council looking to use the academic year 23/24 to support schools with exiting this arrangement and procuring their own catering contract for the academic year 24/25.

2. RECOMMENDATION(S)

- 2.1 For members to agree to negotiated terms, meal price and extension proposed by the incumbent school meal service provider (Caterlink) to ensure continuation of service for 2023/24 academic year with a 1 year extension option.

3. REASONS FOR RECOMMENDATION(S)

- 3.1 There is a statutory duty to provide a meal service and there is now insufficient lead-time afforded to make it viable for schools to undertake individual re-tender.

4. IMPLICATIONS

Legal Issues

- 4.1 A waiver has been agreed to direct award to the incumbent provider following no previous bids for the previous tender.

Policy Issues

- 4.2 This report does not propose any changes to existing policy.

Resource Implications

- 4.3 The higher cost of the school meals will not have any resource implications for the council, but this will have resource implications for the schools who are part of this catering contract as they will need to fund this from their existing budget.

Risk Implications

- 4.4 Reputational risk to the Local Authority of not being able to support 25 schools in providing school meals for their children

Environmental Implications and contribution to achieving a net zero carbon Council by 2030

- 4.5 Production kitchens have been created with minimal journey times in mind, to reduce carbon emissions.
- 4.6 The existing tender specification requires 3 menus a year and a specific variety of meat and vegetarian options.

Equalities Impact

- 4.6 The provision of income related free school meals supports equality by ensuring that all students have access to nutritious meals, enhancing their educational experiences, promoting health and well-being, reducing stigma, and contributing to the broader goal of equal opportunities and social inclusion

Impact of decision on Families

- 4.7 The intention throughout this tendering process has been to keep the cost of school meals for families as low as possible, that is why the decision was taken to implement a price cap as part of the specification. Unfortunately, we have been unsuccessful in keeping costs as low as we would have liked, and so families looking to pay for school meals at the 25 school involved in this contract will have to pay a higher cost than previous years.
- 4.8 As part of the specification, the quality of the food, the nutritional value of the meals and the variety of the menu were key components. This will enable those children accessing school meals (either through the UIFSM programme, income related free school meals or through purchased school meals) to have access to the best quality food and nutrition.

5. DETAILS

5.1 Negotiated position

- 5.1.1 Caterlink advised that the lowest sustainable meal price they could offer was £2.74 and £2.84 per meal for primary and secondary schools respectively. We were able to negotiate a 2p per meal discount by proposing 10-day payment terms (the Council's usual terms are 30 days), to £2.72 per meal for primary schools and £2.82 for secondary schools.
- 5.1.2 Caterlink proposed that costs could be lowered further by removing the meal transport (9p per meal) and waste disposal (3p per meal) elements of the specification. Work was undertaken to identify whether Council Fleet/existing contracts could be utilised, although this would have passed costs to other budgets. However, this has not been possible, so these will need to remain within the scope of the spec.

5.2 TUPE liability

- 5.2.1 As a stipulation of continuing in contract, Caterlink have asked that T&Cs be varied so that the Council under-writes liability for any costs of redundancies should staff not TUPE into new arrangements when the contract term is ended.
- 5.2.2 The total costs of redundancy liability for all current staff is £161,760. This is subject to variance as staff may leave, and eligibility of existing staff may change, over the contract period
- 5.2.3 It has been confirmed by the provider, HR Business Partner and Bedfordshire Pensions Scheme that there are no additional pension strain costs associated with 2nd-generation LGPS transfers or private pension schemes, nor any other additional costs

- 5.2.4 HR BP believes risk is minimal as most, if not all, staff would be eligible for TUPE and would not be made redundant under new contractual arrangements – this has been confirmed by external legal advice
- 5.2.5 Under the SLAs between the Council & schools, it is schools' responsibility to liaise with the provider to ensure adherence to TUPE; however the Council is responsible for any costs and other liabilities incurred as a result of the procurement process which affect any of the contracting parties.

5.3 Procurement approach

- 5.3.1 With a negotiated meal price of £2.72 for primary and £2.82 for secondary schools, the total contract would be valued at £1,506,208 p/a (based on annual demand of 551,756 meals projected by Finance). This is higher than the £1,115,811 tendered; however is net NIL to Council budgets due to buy-back.
- 5.3.2 A 1+1 contract, including the redundancy liability of £161,760 identified, would therefore be valued at £3,194,288. As no bids were received for the initial tender, feedback was requested from the providers invited to the mini competition which has informed the approach outlined above. The incumbent supplier would need to submit a bid through the 'Correspondence' function on In-Tend, as well as their proposed changes to the ESPO framework contract.
- 5.3.3 Following successful evaluation of Caterlink's bid including Selection Questionnaire, financial standing, pricing submission and quality responses and if they pass all checks, the contract could then be awarded.

5.4 Additional considerations

- 5.4.1 Universal Infant Free school meals (UIFSM) will be funded by Government at £2.53 next academic year. There is no direct funding for income-related free school meals, as these are funded by the wider Pupil Premium grant, but applying the UIFSM rate, a shortfall arises of 19p per meal for primary and 29p per meal for secondary school meals. The total shortfall is £245,696 p/a, which would need to be funded by schools through applying their pupil premium.
- 5.4.2 With the 10p levy this is £2.82 and £2.92 for paying parents/schools for primary schools and secondary school respectively, a shortfall of 29p and 39p per meal. The total shortfall which would be funded by schools through applying their pupil premium is £231,677 p/a. This would raise £14,019 and would cover most of the contract management costs.
- 5.4.3 As at the end of 22/23 financial year, there is £115,360 in reserves with the description "to fund the cost of purchasing new equipment for Schools and Academies who are in the School Meals contract". It could therefore be used to fund the 10p levy

rather than passing these costs onto schools & parents. This would reduce the impact of the increased meal price on schools/parents and mitigate risk of lower take-up, which might render the contract not financially viable.

5.4.4 The spend on equipment/maintenance in 2022/23 was £67,000.

6. ALTERNATIVES CONSIDERED AND REJECTED

6.1 Do nothing; A decision not to agree a provider at this point in the year is likely to be met with negativity; Schools will struggle to commission a good value service when procuring on individual basis resulting in inflated costs to parents that pay, reputational damage may occur should we choose to exit a service providing meals to children

7. SUMMARY OF CONSULTATIONS AND OUTCOME

7.1 The following Council units or Officers and/or other organisations have been consulted in preparing this report:

Cllr Coombes, Cabinet member for Finance

Cllr Walker, Cabinet member for Families, Education and Children's services

8. WARD COUNCILLOR VIEWS

8.1 Not applicable to this report.

Report Contact Officer: Chris Morris, Chief Officer for Education, SEND and Schools Infrastructure
Chris.morris@bedford.gov.uk

File Reference: School Meals

Previous Relevant Minutes: None

Background Papers: *None*

Appendices: *None*