



**Haringey Council**

<b>Report for:</b>	<b>Cabinet Member Signing 31<sup>st</sup> March 2015</b>	<b>Item Number:</b>	
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<b>Title:</b>	<b>Catering School Meals Service</b>
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<b>Report Authorised by:</b>	<b>Tracie Evans - Chief Operating Officer</b>
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<b>Lead Officer:</b>	<b>Andy Briggs - Head of Direct Services</b>
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<b>Ward(s) affected:</b>  <b>ALL</b>	<b>Report for Key Decisions:</b>
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## **1. Describe the issue under consideration**

1.1 The aim of this report is to present to the Cabinet Member on the current operational and financial viability of the in-house catering/school meals service and set out options with recommendations on the way forward, which include :

- Ceasing of the in-house service from April 2016
- Procure an external provider from an existing supplier framework
- Schools directly deliver
- Service delivered via a neighbouring authority

Ultimately the report seeks to ensure children receive a quality, value for money school meal every day.

## **2. Cabinet Member introduction**

Priority 1 of the Council Corporate Plan 2015-18 states, “Together we will give every child the best start in life”.



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It is a fact that providing nutritional School Meals plays a significant role in a child's attainment and health. Studies show that primary school pupils are three times more likely to work 'on-task' with their teacher after a quality lunch. Schools recognise the value school meals play in improving educational attainment and have sought to ensure the best possible meal is delivered to their pupils.

It is notable, that in recent years there has been a clear trend of schools opting out of using the Council's catering service provision, reducing the number of school meals produced, which in turn has negatively impacted on the overall cost of the service year on-year. In the last 12 months we have seen the largest departure of schools from the service, (17 schools) as the external market has developed and schools have rightly demanded the best possible school meal for their pupils.

It is clear that, if this trend continues (which is highly likely) the service will cost more to operate than it generates, thereby adversely impacting the Council's budget, but more importantly impacting on the quality of meals that are served.

Therefore is it vital we plan to ensure our children continue to receive the best possible school meal now and into the future.

### **3. Recommendations**

3.1 The Cabinet Member for Children and Families to agree in principle to:-

3.1.1 The in-house Catering School Meals Service ceasing by April 2016; and

3.1.2 Direct Services to consult with school governing bodies, trade unions and staff on alternative options, being 4.2 of this report described as "To procure an external provider from an established framework to provide a quality school meal service to all remaining schools, 4.3 described as "Schools directly deliver" and 4.4 described as "Service delivered via a neighbouring authority"

3.2 The Cabinet Member for Children and Families to agree to the Chief Operating Officer being authorised, in consultation with the Director of Children's Services and the Cabinet Member for Children and Families, to reach a final decision on these proposals having regard to the outcome of the consultation.

3.3 The Cabinet Member for Children and Families to agree to the projected budget overspends arising from the Service of £129k in 2014/15 and £397k in 15/16 being treated as agreed overspends for the purposes of in-year monitoring, and to permanent budget adjustments being incorporated in the 16/17 MTFP process.

### **4. Alternative options considered**



**4.1 Continue with the In-House provision (not considered viable in the long term)**

The current in-house offer has been in decline since 2006, the trend of schools leaving the service continues and is primarily led by cost, customer service and quality and an ever growing competitive market for schools catering.

The Catering Service is projecting a £397k overspend against budget in 2015/16. The service could achieve budget and lower the cost of a school meal from £2.62 to £2.47 by extracting the corporate overhead (£329k) and removing the £131k expected surplus. However, this would still place the cost of a meal at the high end compared to the market and present a 17p per meal gap to schools against central government funding of Universal Infant Free School Meals (UIFSM) of £2.30 per meal. Therefore it is not considered a sufficient enough reduction to mitigate the ongoing uncertainty and ongoing loss of schools. Furthermore extracting the corporate overhead would still require its reapportionment across the Council and result in financial performance data that no longer reflect the true cost of the service.

To reverse the trend of schools leaving the Council will need to invest time and resource in rebuilding confidence in the schools to return to the Council operation, but this will always be in a climate of an increasingly competitive market place which the Council is not equipped to contend in.

Furthermore should the Council wish to continue as now and ensure the Catering Service performs on budget it would need to increase the cost of a meal, based on projected meal numbers from £2.62 to £3.20 and still retain all existing schools. Clearly this is not sustainable.

It should be noted all the above financial assumptions are based on no more schools leaving the in-house service and procuring alternative providers.

**4.2 To procure an external provider from an established framework to provide a quality school meal service to all remaining schools (Recommended option to explore)**

To ensure schools secure the best possible arrangements going forward, it is proposed to consult with all remaining schools and seek approval for them to come together as one collective, which will ensure the best possible offer is secured in terms of quality of school meal, price and future, investment needs. This approach will also enable the transfer of staff to be managed under one TUPE transfer from the Council to the selected external partner.

The Council has the ability to procure from an established framework such as Eastern Shires Purchasing Organisation (ESPO) which has a range of key catering suppliers on the Framework. The ESPO Catering Services Framework does not expire until December 2016 and provides for an extension to 2018. Therefore the



framework will be available to schools, should the Council wish to move in this direction.

**4.3 Schools directly deliver (is a recommended option to explore), however thus far, many schools have declined this option)**

Kitchen staff could, with the agreement of schools; transfer directly to the school's governing body's management. Where the school is a community, voluntary controlled, community special or maintained nursery school effectively this would be an internal transfer, given that the Council would remain the staff's employer. Exceptions to this would be Voluntary Aided Schools, Foundation and Foundation Special Schools. These schools employ the staff they manage. Haringey Catering Services currently services three Voluntary Aided schools and therefore the direct delivery of catering staff at these schools is likely to involve a TUPE transfer.

Thus far the majority of schools have not taken this approach, because fundamentally the priority for schools is to focus on delivering high quality education.

**4.4 Service delivered via a neighbouring authority (Recommended option to explore)**

The three neighbouring boroughs (Enfield, Barnet and Waltham) run in-house services. Barnet have advised they are reviewing their current business model, with the general direction being to expand and grow the business. This decision is based on Barnet having a high percentage of all catering offered in schools, including a kosher provision, as well as providing a trading offer for events, staff canteen etc. The Council does not have this depth of delivery and is not currently resourced or sufficiently viable to establish such a model.

It is likely those Local Authorities that are seeking to grow their direct delivery or expand their traded services offers may well approach the Council during the consultation period. The Council will consider and explore any approaches it receives and consult with Staff, Trade Unions and Governing Bodies on such approaches as a possible option.

**4.5 Support schools to commission their own service. (This is already a viable option, as schools have the power to do so any time with two terms' notice.)**

Schools are already doing this and choosing when this happens. There is a view that not all schools would want to move from the in-house offer and the Council will be left with those schools that produce the least number of meals at high cost, hence the need for the Council to take the decision to stop providing and support the establishment of alternative delivery as per options 4.2, 4.3 and 4.4.

It is highly likely on learning of the proposal to cease the in-house service from April 2016 that some schools will go their own way and commission their own catering



services directly. Which is likely to increase the Council's 2015/16 budget overspend beyond the already projected £397k.

## **5. Background information**

- 5.1 Priority 1 of the Council Corporate Plan 2015-18 states, "Together we will give every child the best start in life".
- 5.2 School meals play a significant role in a child's attainment and health. Studies show that primary schools pupils are three times more likely to work 'on-task' with their teacher after a quality lunch.
- 5.3 As part of the government's School Food Plan in September 2014 free meals were introduced for all infant school children following the success of pilot study/review which introduced free school meals into a number of schools in Durham and London Borough of Newham in 2009-10. It found that children from less affluent backgrounds or with prior low attainment, experienced significant improvements in learning and achieving better grades. It's proven that good quality school meals improve educational attainment and health, both of which the Council is committed to achieving for our young people and giving them the best start in life. It is no accident that academically successful schools tend to provide a good quality catering service.
- 5.4 As part of the Government's School Food Plan, a new set of standards for all food served in schools was launched by the Department for Education. They became mandatory in all maintained schools, academies and free schools in January 2015. The new standards are designed to make it easier for schools to create imaginative, flexible and nutritious menus. OFSTED will inspect the quality of meals against the new standards.
- 5.5 In 2012/13 a Commissioning Review of the Catering Service was undertaken in consultation with schools. The review indicated that schools were choosing to leave the service due to cost and quality. However, just weeks after the completion of the review the Coalition Government announced a pledge to introduce Universal Infant Free School Meals (UIFSM) from September 14. In view of the significance of this announcement and the potential logistical impact on schools a decision was taken to focus on ensuring schools met this new requirement and to review the catering service position in late 2014/ early 2015.
- 5.6 Since the Commissioning Review in 2012/13, the Catering Service has contained budgetary pressures. However over the last 9 months, 17 schools have left the service and 2014/15 is the first year in which an overspend will be reported of £129k. Furthermore, the service is forecasting a £397k overspend for 2015/16.
- 5.7 The table below lists the delivery models used in all London Boroughs. Over recent years, the schools catering market has grown and become highly competitive.



Schools have used this to their advantage to ensure they procure high quality meals at the lowest possible price and have done so by looking to alternative providers.

<b>In-House Delivery and schools Procured</b>	<b>External or Other Delivery Models</b>	<b>Company</b>
Haringey 27%	Camden	<i>Caterlink</i>
Barnet	Islington	<i>Caterlink</i>
Barking & Dagenham	Croydon	<i>Caterlink</i>
Enfield	Greenwich	<i>ALMO</i>
Havering	Lewisham	<i>Chartwells</i>
Newham	Hounslow	<i>Chartwells</i>
Sutton	Westminster	<i>Chartwells</i>
Tower Hamlets	Merton	<i>ISS</i>
Waltham Forest	Richmond	<i>ISS</i>
	Redbridge	<i>ISS</i>
	Bexley	<i>Harrisons</i>
	Lambeth	<i>Harrisons</i>
	Merton	<i>Harrisons</i>
	Ealing	<i>Harrisons</i>
	Southwark	<i>Harrisons/ISS</i>
	Harrow	<i>Harrisons</i>
	Wandsworth	<i>Harrisons</i>
	Kingston Upon Thames	<i>Surrey CC</i>
	Hammersmith & Fulham	<i>Eden Food Service</i>
	Hackney	<i>Schools Procure</i>
	Hillingdon	<i>Schools Procure</i>
	Brent	<i>School Procure</i>
	Bromley	<i>Schools Procure</i>
	City of London	<i>Holroyd Howe</i>

- 5.8 Although the table above demonstrates 9 Boroughs providing in-house school meals provision, in some cases it is the same as the Council, in that individual schools have chosen to leave the service and source alternative provision, thus leaving a reduced number of schools being delivered by the in-house services, with the risk of further withdrawals as school governing bodies are the decision makers.
- 5.9 **Consultation and information sharing prior to decision:** On 22<sup>nd</sup> & 23<sup>rd</sup> December 2014 and during the consultation on the Council's Corporate Plan, Medium Term Financial Strategy (MTFS) and Workforce Plan, Catering Staff and trade unions were informed that although there were not specific savings proposals identified in the MTFS, there existed a real financial pressure from 2015/16 which would need to be reviewed. Trade Unions and staff were informed that more detailed proposals would be presented to them for input prior to seeking Lead Member and or Cabinet endorsement.
- 5.10 On 15<sup>th</sup> January 2015 Trade Unions were briefed on proposals that were going to be made to Senior Leadership Team and then Cabinet at a later date



5.11 On 17<sup>th</sup> February 2015 a detailed briefing and presentation was made to Catering staff and Trade Unions on the current position and challenges the Catering service is facing and proposals that were being taken forward for Cabinet Member to consider. Staff were asked to provide comments back to their line managers before 4<sup>th</sup> March 2015.

5.12 **Consultation post in principle decision:** It is the intention to consult further with staff on the agreed proposals following Cabinet Member signing of this agreement in principle.

## **6 Comments of the Chief Finance Officer and financial implications**

6.1 The catering service is budgeted to generate a surplus of £131k for 2014/15 but in-year projections have consistently been close to break even and therefore an overspend of approximately £130k is expected in 2014/15. The budget position is expected to worsen with the additional planned withdrawals, and an overspend of £397k is expected in 2015/16.

6.2 The in-house service will inevitably become increasingly unprofitable as further schools depart a trend which is likely to continue given the increasingly competitive market and the Council's inability to compete with such contractors for whom school catering is core business. Continuation of the in-house service will ultimately require an increasing Council subsidy and budget uncertainty. The proposed option negates both these adverse consequences.

6.3 Discontinuation of the service all together would require a base budget adjustment in 16/17, excluding the re-distribution of corporate overheads, of £131k.

6.4 The Transformation Reserve would be required to pick up any resulting redundancies and pension strain costs.

## **7 Comments of the Assistant Director of Corporate Governance and legal implications**

7.1 The proposal at alternative option 4.2, is likely to involve a transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) of school catering staff from the Council to the selected external provider, and to require a contract for the provision of the school catering service to be entered into by the external provider, participating school governing bodies and the Council. If TUPE applies, then the Council will have legal obligations to inform, and in certain circumstances, to consult recognised trade unions about the transfer. Under TUPE the Council will also need to notify the external provider at least 28 days before the transfer of "employee liability information" in respect of those employees it intends to transfer, such as information concerning their terms and conditions of employment.

7.2 The contract referred to in paragraph 7.1 may be subject to the Best Value Authorities Staff Transfers (Pensions) Direction 2007. If so, then the Council will be under a statutory duty to secure pension protection for TUPE transferring employees i.e. to require the external provider to ensure that these employees have rights to acquire pension benefits which are the





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same as, broadly comparable to or better than these rights under the Local Government Pension Scheme.

- 7.3 Although the Council does not have any statutory obligation to consult as proposed in recommendations, if consultation of this type has been conducted in the past, then school governing bodies, trade unions and staff will probably have a “legitimate expectation” that they will be consulted over current proposals, and failure to consult then could lead to successful judicial review proceedings being brought against the Council in which the council is ordered to carry out such consultation.
- 7.4 The legal implications of alternative option 4.3 are set out in the body of the report.
- 7.5 The proposal at alternative option 4.4 is likely to involve a transfer for the purposes of TUPE of school catering staff from the Council to the other local authority, given the other local authority would be running the school catering service on behalf of the Council. It may be possible to ensure that Council school catering staff remain Council employees by way of their entering into secondment agreements with the Council and the other local authority.

## **8 Equalities and Community Cohesion Comments**

- 8.1 An EQIA has been conducted to assess the potential impact of the recommendation in section 3 of the report, which has established there will be negative impact on staff within the central office hub with some of the protected characteristics, in particular, gender/sex and ethnicity/race. The small size of the team exaggerates the comparison to the wider workforce. There is unlikely to be an impact on the frontline employees as these will transfer under TUPE Regulations 2006 (amended 2013) to the new service provider or be internally transferred.

## **9 Head of Procurement Comments**

- 9.1 Procurement agrees to the proposal to support the tender process for the School Catering Service to replace the Council’s in-house service at 4.2 of this report with an alternative provider. Due to the value of the contract exceeding the threshold, the tender must adhere to the full procurement regime. To save on time and resources as well as offer value for money the service should consider the catering frameworks available.
- 9.2 Again in relation to recommendation at 4.2, the service has sufficient time to perform a robust market research exercise and a transparent tender that could offer a school meal’s catering service as one package, to all or a number of the remaining schools. Resources should be dedicated to maximising the number of schools utilising the contract as well as ensure their various requirements are specified in the tender.
- 9.3 Procurement supports the recommendation at 4.4 to investigate the opportunity for collaborating with neighbouring boroughs.

## **10 Policy Implication**





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10.1 The statutory obligation for the service provision lies with the individual school governing bodies, as the school meals budget is delegated to schools. Schools are able to make their own alternative arrangements should they wish. Therefore there is no change in policy.

### 11 Reasons for Decision

11.1 By September 2015 Haringey Council will only provide a schools meals service to 27% or 16 primary schools through a Service-Level Agreement requiring only two terms' notice to withdraw as a traded service.

11.2 In 2014/15, the service is budgeted to generate a net return to the Council of £131k; however the service is projecting a £129k shortfall. In 2015/16 the overspend is projected to increase to £397k with a number of schools already giving notice to leave.

11.3 Since 2006 there has been a clear trend of schools opting out of using the Council's catering service provision, reducing the number of school meals produced. This has led to an annual income decreasing year on-year. In the last 12 months we have seen the largest departure of schools from the service, (17 schools). If this trend continues (which is highly likely) the service will cost more to operate than it generates in income, thereby adversely impacting the Council's budget.

11.4 The statutory obligation for the service provision lies with the individual school governing bodies, as the school meals budget is delegated to schools. Schools are able to make their own alternative arrangements, which they are doing. The current trend of schools procuring alternative provision to secure lower cost high quality school meals is likely to continue.

11.5 In the past year the in-house service has worked with school Heads to improve the standard of meals and "value for money", such as:

- Farm assured meat has been introduced for both traditional and halal options on school menus.
- Only Marine Stewardship Certified fish is used in school kitchens and the service has recently been granted licence to use the MSC logo on menus and other marketing materials.
- The service has replaced standard yoghurts with Yeo Valley Organic yoghurts.
- The service is working with colleagues in Food for Life, and hopes to achieve the Bronze Food for Life Catering Mark.
- The service has worked with schools to trial bespoke options to improve service delivery.
- Through DFES funding (£500k, the Council has supported schools with only dining centres to become fully functional kitchens, this continues.

11.6 Despite the above efforts, fundamentally the issue is the cost, the service is too expensive and there is a growing competitive market for the business providing quality bespoke offers.

11.7 The in-house service has not increased the fees and charges since September 2013 and despite best endeavours it has not been able to lower the cost of school meals either, even



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with the introduction of (UIFSM) in September 2014. In fact the introduction of UIFSM has created a pressure for the schools as they have to fund the gap in Government funding at £2.30 and the current meal price of £2.62.

**12 Use of Appendices**

Appendix 1 – Catering Services EQIA

**13 Local Government (Access to Information) Act 1985**