

Time commenced - 18:05  
Time finished - 20:00

## CHILDREN AND YOUNG PEOPLE COMMISSION 12 OCTOBER 2011

Present: Councillor Bolton (Chair)  
Councillors Bailey, Campbell, F Khan, Leeming and Whitby

In attendance: Councillors, Redfern, Roberts and Williams

### 31/11 Apologies

Apologies for absence were received from Councillor F Winter, Alison Brown and Ian Jennison.

### 32/11 Late Items to be introduced by the Chair

There were no late items.

### 33/11 Declarations of Interest

There were no declarations of interest.

### 34/11 Call-in

The commission considered a matter referred by Councillors Rawson, Redfern and Roberts.

The call-in related to a decision of the Council Cabinet, which was made on the 27 September 2011, namely:

Minute Number 77/11: Neighbourhood Nursery Childcare Provision

Decision

1. to approve the appointment of the "4 Children" organisation as the preferred provider for nursery services at Austin Sunnyhill, Osmaston Allenton and Rosehill Children's Centres; and
2. to delegate authority to the Strategic Director of Children and Young People to award the contract to "4 Children" for a five-year period after the statutory standstill period.

Councillors Redfern and Roberts, signatories to the call-in notice, addressed the commission. It was reported that the commission had been requested to scrutinise Council Cabinet's decision because the decision was not taken in accordance with

the council's decision making principles, namely, proportionality, clarity of aims, due consultation and a presumption in favour of openness.

The signatories felt that the relationship between performance and technical specification, together with the provision of evidence of compliance was unclear. They considered that the aims and desired outcomes of the decision did not address the council's responsibility as a Corporate Parent. It was alleged that a presumption in favour of openness had been neglected because the Council Cabinet report had indicated an intention to privatise the council's provision of public services. The signatories felt that there was no evidence of cross-party consultation or public consultation. They also highlighted the shortened timeline, which encompassed the invitation to tender through to the decision to award the contract, as a matter of concern.

Janet Holland, Chief Executive of Derwent Stepping Stones, addressed the commission. Ms Holland expressed her concern regarding the shortened tender process timeline, the decision making process and the assessment of evidence against the council's specification and procurement criteria. Ms Holland questioned the lack of provision for the protection of local jobs and services.

In response to questions from the commission, Ms Holland confirmed that the training provided to Derwent Stepping Stones staff was recognised as a City and Guilds qualification. Ofsted had rated their service as 'good' following an inspection in March 2009. The organisation had been established for 20 years.

Councillor Williams, Cabinet Member for Children and Young People, addressed the commission. Councillor Williams confirmed that the council's procurement process, together with guidance from the Contract Procedure Rules (CPR) had been followed. She stated that the process was open and transparent. Councillor Williams referred the commission to section 4.10 of the Neighbourhood Nursery Childcare Provision report, which outlined the assessment criteria. It was reported that the tender bids were assessed by a multi-disciplinary team and had received legal approval.

Councillor Williams stated that, following receipt of 20 expressions of interest, the council had received five bids. As a result of the short listing process, only two bids remained for consideration. Consequently, the timetable was shortened. It was reported that the CPR required the council to ensure that proposed contract terms and conditions were relevant and reasonable. The commission was told that the contract could not stipulate that a local provider would be preferred, though the council had encouraged local providers to respond to the invitation to tender.

Members were informed that 40 of the current staff would transfer to the successful bidder under a Transfer of Undertakings (Protection of Employment) agreement (TUPE). It was explained that specific questions in the scoring matrix had reflected the clarity of aims and desired outcomes. Councillor Williams stated that the nurseries were identified for potential outsourcing during the budget setting process in March 2011 and that members had the opportunity to comment on this during the budget consultation process.

The commission was told that the tender process did not require consultation to include members as the matter related to the outsourcing of an existing service, rather than the establishment of a new service.

Given the commission's intention to ask questions regarding the evaluation of tenders, the Chair proposed a motion to exclude the press and public.

**Resolved that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during discussion of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing this information.**

The commission discussed the application of the assessment criteria on bids submitted as part of the tender process.

The Chair proposed a motion to readmit the press and public as it was unlikely that there would be any further disclosure of exempt information.

**Resolved to readmit the press and public to the meeting.**

The commission received summaries from Councillors Roberts and Williams.

Councillors Bailey, Leeming and F Khan expressed the view that from the information given by officers in the private session, the procurement process had been thorough and robust and consequently, there was no breach of the council decision making principles.

Councillors Campbell, Whitby and Bolton expressed regret that the ward councillors had not been informed of the tender process. Members felt that they should be notified that the tender delivery exercise had been undertaken. However, members recognised that there was a difference between notification and consultation.

**Resolved:**

- 1. that there was no breach of the council decision making principles in relation to Council Cabinet decision 77/11;**
- 2. to recommend to Council Cabinet that ward councillors should be notified when an invitation to tender had been issued with a potential impact on their ward; and**
- 3. to recommend to Council Cabinet that the Audit and Accounts Committee be asked to review the Contract Procedure Rules guidance relating to the recommended timeline for tender evaluations.**

MINUTES END