

Appendix 1a

We wish to call in the decision made by the Mayor on 14/08/2014 - Mayor's Executive Decision Making (Item 1.).

There are a number of important questions which are not addressed by the report accompanying the decision which we believe warrant further scrutiny. In particular, we believe that important pieces of information were omitted from the paper that, had the Mayor have been aware of them, would have influenced his decision-making processes. This call in document makes reference to information provided by Real (the user led organisation of disabled people in Tower Hamlets), which includes information provided to Real by officers following a Freedom of Information Act request submitted by Real.

Information missing from the paper

- The paper omits to declare that the existing contract holder, Real (a leading local third sector organisation run and controlled by, and supporting, disabled people), was a bidder and will be losing out. This is relevant because of the national policy guidance relating to Local Authorities supporting user led organisations, detailed later.
- It is common practice in Tower Hamlets Council for such papers presented to the Mayor to contain a Part 2 paper providing the information on the other bidders and their scoring. This paper states, after paragraph 11.1, that there were no linked reports, appendices or background documents and so critical information was missing pertinent to the Mayor's decision-making.
- In paragraph 3.9 it says that the annual value of the contract to be let is £199,206. It does not say that the expected contract value, set out in the invitation to tender documentation, was £354,000. The paper therefore omits to declare that the proposed selected bidder bid at £154,794 below this figure (only 56% of the estimated contract value).

Potentially misleading information from the paper

- In paragraph 2.1 the paper says "quality and value for money considerations have been fully addressed". Yet it doesn't say that the winning tender submitted a bid at only 56% of the contract value, and that it was investigated as a potentially abnormally low tender. This should have been highlighted, as there should have been question marks over quality given this investigation.
- Also in paragraph 2.1, the third bullet says "any delay in awarding the contract while a new competitive tender exercise was undertaken would inevitably be significant and would necessitate interim contract arrangements that would create uncertainty for both service users and interim service providers. In fact:
 - the existing contract has been rolled over several times over the last eight years
 - in March 2013 the contract was extended on an interim basis up until November 2013 and has subsequently been extended, on 3 month extensions, a further 3 times. A fourth extension commencing 1 September 2014 is about to be issued.

- the existing provider is not reported as having any difficulty in continuing to provide a good service during the current extension periods.
- Paragraph 3.3 says that “services for adults and disabled children were previously contracted for separately, and are now combined into a single contract”. In fact, as early as March 2013 the historical services had been aligned into a single contract with the existing provider, which was successfully implemented by them during 2013/14.
- Also in paragraph 3.3, it says “the service specification has also been extensively updated and is now more focused on achieving desired outcomes for individuals as opposed to stipulating activities to be undertaken”. Whilst this is technically true, it implies that this was not the case in the previously commissioned services. Commissioning and monitoring officers have confirmed to Real that they have had no concerns about previous delivery. In addition, the latest client feedback obtained by Real gives high levels of satisfaction with outcomes.
- Paragraph 3.5 sets out a three stage process for shortlisted bidders, including a final presentation. It doesn’t state that only 2 of the 8 organisations responding to the ITT were invited in for the presentation.
- Paragraph 3.11 states that there was “service user involvement in the design of the specification against which the quality frameworks were framed”. However, the letter sent to Real in response to a Freedom of Information Act states there was only internal consultation (see “Other issues arising from the commissioning process” below). These statements appear to be inconsistent.

Local policy not adequately taken into account in the commissioning process

There now follows some key extracts from LBTH policy documents which may not have been fully adopted in the recent commissioning and procurement process.

Tower Hamlets Compact 2011

- “to be clear and consistent, and give fair access to funding opportunities”
- “to make sure that the cost of providing a service, under a contract or service agreement, reflect an understanding of the full cost of delivery, including any relevant part of the overhead costs”
- “to keep to the standards in the code of practice for consultation and involvement, including making clear the purpose of each consultation, giving reasonable timescales for responses and providing feedback on the outcomes”

Policy Procurement Imperatives (2012-2015)

- “it is vital that we seize on this opportunity to establish this Council as a leader in the field of ethical, sustainable and fair procurement, whilst securing value for money, and using our processes to stimulate the local economy and workforce”
- “to support local businesses, especially SME and alternative providers including the third sector: making our processes more transparent and accessible”

- “to support third sector organisations”
- “to create local employment and training opportunities: incorporating provisions in our contracts for local workforce”
- “to promote diversity and equality of opportunity, including provisions around our ‘Workforce to reflect the Community’ policy in contracts”
- “where legally appropriate, we will include Community Benefit clauses to encourage a more innovative approach to procurement across the organisation”
- “we will increase local spend by specifying the inclusion of local business content in our direct contracts and as part of the supply chain of major contractors”
- “transparency - contract procedures must be transparent...”

Market Position Statement - Adults Health and Well-Being (2013)

- “the Council aims to continue to encourage local people to help influence local commissioning decisions and will always consult with its residents to shape the services they want and to do what is right for Tower Hamlets”
- “we will seek to work with our providers to achieve a balance of value for money and risk that is sustainable for the provider as well as the Council”
- “we intend to increase the range of services available, encouraging local, smaller providers”

National policy not adequately taken into account in the commissioning process

There now follows some key extracts from national policy documents which may not have been fully adopted in the recent commissioning and procurement process.

Commissioning to develop and sustain user-led organisations (ULOs) - Social Care Institute for Excellence (2010)

- “Commissioners can create and sustain ULOs by making their contracting processes more accessible and easier to understand; by developing the tender specification with local service user involvement, and by considering limiting tenders to supported businesses¹”
- “ULOs are uniquely placed to help Commissioners fulfil policy requirements, including personalisation and the transformation of adult social care. Their knowledge and skills can also help to make commissioning more effective. This is because ULOs are founded on shared core values which have arisen from the lived experience of service users.”
- “The Department of Health has produced 21 design criteria to describe what ULO looks like and the sort of services it provides. The criteria are detailed because of the need to be clear about what a ULO is and what it is not.
- “Commissioning policies can be developed that:
 - work in partnership with ULOs to develop and deliver services

¹ a "supported business" is where over 50% of the workforce are disabled people. Further information is given in this publication on how to achieve this in procurement.

- foster a level playing field for ULOs to compete in the tendering process, including giving adequate time and making the process accessible
- consider how the contract specification could be drawn up to encourage ULOs
- recognise the added value that ULOs bring, including credibility with service users and working to independent living outcomes
- take account of article 19 of the EU Procurement Directive 2004/18/EC to reserve contracts for ULOs”

Joint Protocol between National Centre for Independent Living, Association of Directors of Adult Social Services and the Local Government Association for the provision of User Led Organisations (including Centres for Independent Living) and User Led Support Services (March 2009)

- “there is a clear correlation between Direct Payment Support Services controlled and run by disabled people and successful implementation of Direct Payments”
- “ADASS, LGA and NCIL continue to recommend to local authorities that they support the development and expansion of local, user-led support services. We strongly recommend the local authorities develop policies that foster a level playing field for disabled people’s and carer’s organisations to compete in any tendering process”
- “local authorities should seek to ensure and demonstrate that their contracting procedures do not discriminate against small user and carer-led organisations”
- “this protocol recognises that... Support should be commissioned locally toward enabling independent living and should embody the ethos of choice, control and to being able to participate as equal citizens in society”
- “In principle NCIL, ADASS, and LGA believe that support services are often best provided by local user and carer led organisations”
- “when setting up CILs and support services, we urge local authorities to ensure that value for money considerations take account of the added value often contributed by local organisations representing potentially eligible users ... [and] consider using a restricted/selective tender list to target organisations controlled by users”

Independent Living Strategy - Support Planning and Brokerage: Final report from the support planning and brokerage demonstration project (Office for Disability Issues, May 2011)

- “ULO’s can deliver positive advantages in reaching local people and supporting them to negotiate LA systems. ULOs need investment in capacity building and involvement in strategic partnerships with LAs to achieve this. “
- “Existing procurement systems present a significant barrier to the involvement of ULOs. LAs need to explore strategies to address this in order to optimise the contribution of ULOs. “
- “The involvement of ULOs in delivering services and support to disabled people can bring a number of benefits, at a time when LAs are considering how best to externalise certain functions. “

Putting People First: Working together with user-led organisations (Department of Health, 2009)

- “Delivering the personalisation agenda - ULOs provide person-centred services, such as information, advice and advocacy support. Research shows that the take-up of direct payments is higher in areas with ULOs”
- “Tackling worklessness - ULOs help tackle employment issues by providing employment training and support to move socially excluded people into more meaningful activity. By working with ULOs local authorities are also assisting the local economy.”
- “Reducing health inequalities - ULOs help local authorities tackle health inequalities and inaccessibility, and help local people navigate health and social care systems better.”
- “Recognition - ULOs can help local authorities and their partners to improve delivery of results for local people, e.g. by improving people’s sense of involvement in the community, and this will be reflected in the relevant national indicators”

The proposed contractor is not a User Led Organisation (ULO)

- POHWER is not a User Led Organisation in accordance with Department of Health policy set out in September 2007 which states (amongst other criteria) a ULO should have the following organisational characteristics:
 - has a minimum of 75% of the voting members on the management board drawn from the organisation’s constituency
 - identifies the diverse needs of the local population and contributes to meeting those needs
 - is accountable to the organisation’s constituents and represents their views at a local level.
- That same guidance goes on to say:
 - “the added-value provided by ULOs is seen to derive from their local knowledge and networks and their ability to present the authentic voice of service users who know what works for them”; and
 - “in the mapping exercise, the researchers did not regard networks set up by major national charitable organisations, and a Centre for Independent Living established by a local authority, as constituting a user-led organisation”
- From information available on POHWER’s own website:
 - their mission and values state they say they are “user-focused” - this is not the same as user-led
 - their latest published annual report states that “our articles say that the majority of POHWER’s board must have a disability or experienced exclusion and that Trustees must be drawn from our membership”. However, a majority does not fulfil the DoH requirements for a ULO (should be 75%), and it’s not clear what “experienced exclusion” means, which appears to be much wider than the constituency supported by this service.

Other issues arising from the commissioning process

- Paragraph 5.3 of the Executive Decision paper reinforces the requirement to act in a transparent way. The commissioning process made it clear that 45% of the marks would be allocated to quality, 10% to the presentation, and 45% to the price. However, the published tender material gave no indication to tenderers on how the price would be assessed, and the formula for doing this was only released in the subsequent FOI request. This was not transparent.
- In the above-mentioned FOI request, in response to the question “Please explain why the methodology for assessing price was not made available during the procurement process” officers said “The Council has followed a widely accepted and standard method of evaluating the submitted prices ... and is under no obligation during the procurement process to provide additional detail as to the methodology to be used.” It’s not clear, especially if this was a “standard method” why this information was not made available to bidders, as it may have affected what price they bid at, and it would certainly have been more transparent to do so.
- Paragraph 3.3 states that “the service specification has been extensively updated...”. Paragraph 5.5 states “if services have been significantly redesigned then consultation prior to implementation must occur with the service users, their families and any other relevant stakeholders”.
- However, no such consultation occurred, and instead the FOI response to Real stated “The development of the Service Specification against which tenders were evaluated took account of a range of relevant material, including the evaluation of the Independent Living Support Service carried out by Real and the Council in 2013. The draft Specification was consulted on with a range of internal stakeholders.” It should be noted that the above-mentioned review of the Independent Living Support Service focused primarily on the review of the pilot of independent support planning, which did not form part of this tender exercise.
- It’s not clear why officers chose to set weighting for price in this procurement exercise as high as 45% of the overall weighting, especially when this would disadvantage smaller, local organisations. By way of comparison here are some alternative weightings for other services recently procured that benefit disabled people and are similar:

Description	Contracting authority	Quality	Price	Presentation
Direct Payments Support Service (this contract)	LBTH	45	45	10
Information, advice and advocacy	LBTH	50	40	10
Hearing the voice of disabled people (Local Voices)	LBTH	80	20	
Direct Payments Support Service	Corporation of London	70	30	

Issues arising from the potential abnormally low tender submitted by the recommended provider

- The ITT letter stated “Tenderers should be aware that the Council has a duty to investigate submitted tenders where the price appears to be abnormally low. If the Tenderer cannot provide substantial reasons for the low prices then the Council may disqualify the tender”.
- There is compelling evidence that indicates that the bid from POHWER (at £199,206, compared with the estimated contract value of £354,000) should have been deemed to be an abnormally low tender, and consequently removed from the bidding process. In summary:
 - The bid provided by POHWER was:
 - i. only 56% of the contract value
 - ii. nearly £81,000 less than the next lowest bid, which itself was only 79% of the contract value.
 - The top five bids are all over £322,000, and all over 90% of the contract value.
 - POHWER bid £139,832 (£339,038 - £199,206) less than they needed to in order to be ranked first amongst the other bidders.
 - the average bid of all other final stage contractors was £326,500, so POHWER’s bid was only 61% of the average of all the other bids.
- There are no binding rules on how to interpret abnormally low tenders in the UK in the context of Part B contracts under The Public Contracts Regulations 2006, but research shows they would normally be considered to be so if they were 30% or more lower than the authority’s original estimate of costs, or 10-15% lower than the average of other bids.
- By way of comparison, the following table might be useful:

Estimated contract value	354,000
POHWER's bid	199,206
% lower than estimated contract value	43.73%
Average price of all other original tenders	305,391
% lower than average price	34.77%

- If the bid had been ruled out as an abnormally low tender the outcome of the whole process would have been very different, with many more organisations being invited to the final presentation stage.
- POHWER has a turnover of £10 million a year and reserves of £850,000 (March 2013). These are unrestricted reserves and so it would be easy for this organisation to use them to cross-subsidy any low bid.
- In pure procurement terms the Council could decide it is only interested in ensuring that the recommended bidder has the capacity to deliver the proposed specification for that price. However this does not take into consideration the requirements in national guidance to ensure that local ULOs are able to compete on a level playing field, which is clearly not the case in this situation - Real’s bid is based on full cost recovery, in accordance with the Tower Hamlets Compact, and they have significantly smaller reserves at only £174,000 (March 2014).

Issues relating to the potential provider's ability to meet the needs of the local community in their service delivery model

- POhWER is a national organisation, delivering services to 60 local authorities around the country. Its primary focus is delivering advocacy services (predominantly for learning disabled and people with mental health conditions) and it has recently been breaking into the market in the area of direct payments.
- It is known from POhWER's service delivery model in different areas around the country that the majority of service delivery model is online (through webpages, email and online Skype conferencing), supported by telephone calls and, at times, a visit from a roaming employee.
- Real estimates that between 80 and 90% of the current client base do not have access to the Internet - disabled people are significantly less likely to be connected online compared with the rest of the population, and this is exacerbated for people from minority ethnic groups and those living in poverty; all common factors in Tower Hamlets.
- From the latest available figures 8.45% of the clients require a Somali-speaking worker and 23.7% require a Bengali/Sylhetti-speaking worker. Real currently employs four different staff with these language skills.
- It is not known whether POhWER employs people with these language skills.
- The elements of the service specification relating to have a local base in Tower Hamlets have been set out in an appendix. POhWER's service delivery model has not promised a local base. In other areas of the country POhWER's staff are asked to work from home or remotely, without a local drop-in service (as Real currently provides at Jack Dash House).
- This may directly limit the disability-types that are able to work for POhWER, due to the requirement to travel around the Borough significantly and/or only see people in their own homes rather than in a local office space. Real is able to provide a wide variety of reasonable adjustments for such staff, enabling them to retain their employment and still deliver a high quality service.
- Although they work in 60 local authorities nationwide, POhWER only deliver direct payments support in 3 councils (Buckinghamshire, Sandwell and Shropshire), with one set up in 2012, one set up 9 months ago and one only just set up in February this year. This relative lack of experience could raise questions about their ability to deliver the contract.

Damage to a leading local third sector organisation, including loss of jobs for local people

Real is a user-led organisation of disabled people based in Tower Hamlets, in Jack Dash House. They've been around in one form or another for 20 years, and deliver a range of services that support local disabled people, including in a range of community languages. They are the only organisation in the Borough that supports disabled people of all impairments, ages, ethnicities (and other protected characteristics). In the past year they have worked with around 1,000 disabled and older people in the Borough.

They have delivered the Direct Payment Support Service in one form or another for the last eight or so years, with the contract being extended often.

Real is also the lead organisation for the Information, Advice and Advocacy consortium, referred to as Local Link, leading eight other local organisations to deliver high quality support that helps local disabled and older people get the support they need to lead equal lives. The Council recently won the GO Excellence in Public Procurement Awards in the category “GO Procurement Innovation or Initiative of the Year Award – Health and Health Related Organisations” for the work they had done with Real on this initiative.

Real also delivers Local Voices, the Council’s programme for engagement with disabled people, which they run on behalf of the One Tower Hamlets team.

Real is already delivering high quality services to local residents, often in their own community language (they have several bilingual staff), and are firmly connected in a range of other local community networks. The London Joint Improvement Partnership upheld Real and LBTH as an example of good practice in their report “Best practice in Direct Payments Support - a guide for commissioners”.

Real have reported that this contract taken away from them significantly impacts on the future viability of Real, and subject to further analysis being concluded, risks their ability to deliver on their other contracts and services to the local community. Their board have already acknowledged that a significant downsizing would be required, which would mean that they are no longer able to contribute to:

- Health and Well-being forums and local safeguarding boards
- LBTH’s Third Sector Advisory Board
- Tower Hamlets Community Advice Network
- Advice Providers Forum
- Pan Providers Forum
- the development of the new THCVS Commissioning Consortium
- their CEO’s ongoing work with the Fairness Commission
- the other projects that Real have bid for in parallel with this to bring new money into the Borough to deliver complimentary services that support local residents.

Separate correspondence has been received from Disability Rights UK expressing concern over this decision, and pointing out the number of ULOs that have closed in other parts of the country where they have lost similar services from the local Council.

We anticipate we will receive other correspondence from leading organisations in the sector expressing concerns, which we will table at the committee.

Real has also expressed concern over POhWER’s behaviour when taking over similar contracts from user led organisations of disabled people in the past. In October 2013 they successfully took over the contract in Sandwell (near

Birmingham) from a local ULO, in part driven by their low price. In the subsequent TUPE negotiations they agreed to take all 9 directly employed staff across. However they immediately commenced a redundancy negotiation which resulted in only 3 of those 9 staff keeping their jobs, and the rest being made redundant. This does not bode well for the current locally employed people delivering this service.

Furthermore, given that the geographical base will not be within Tower Hamlets, this presents barriers for existing staff in taking up employment within POhWER if they are to be based elsewhere in the country, or having appropriate local support if they are left working from home.

The key point is that, once this local knowledge and expertise has been lost because the local ULO did not win the contract, it is effectively lost for good. All of the collateral benefit that the Council currently gets from this ULO will be lost. And if the proposed provider fails to deliver on its promises then the only option available to the Council will be to performance manage them on that contract. By this time it will be too late for the locally developed knowledge and skills which will have been lost.

Summary of the main issues

- We believe the Mayor would have come to a different decision had full information being provided to him.
- Paragraph 5.2 reminds us of the council's obligations under the Local Government Act 1999 to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Given the uncertainties raised above in relation to the ability of the proposed provider to deliver the services well to our local community, at the price quoted, there are reservations that should be investigated.
- It is understandable, in times of budgetary constraints, that officers would be tempted to select such a low bid. We consider however there is enough evidence to show that this bid should have been deemed to be an abnormally low tender and discounted accordingly, given both procurement guidance and national guidance around ensuring ULOs are able to compete on a level playing field.
- There are enough concerns over the pre-procurement stages and commissioning stages of this process to question whether the Council has followed all appropriate national and local policies appropriately, including in relation to:
 - being fair to user led organisations in terms of providing a level playing field
 - using all available channels to support local businesses and organisations, and incorporating provisions for the local workforce
 - adequate transparency over how price would be assessed

- recognising the particular value that is added by user led organisations, run and delivered by local people

Alternative action proposed

- 1) That the Mayor does not accept the recommendation of officers to award the contract to POhWER at this stage.
- 2) That instead the commissioning and procurement process is rerun, including:
 - a) appropriate open consultation with service users on the design of the service going forward and what is important to them, and that this feeds into the service design;
 - b) that officers conduct a mapping of all relevant national and local policy statements, and how they have been considered and utilised in the procurement exercise;
 - c) that there is a more specific explanation in the invitation to tender of how the Council will maximise value to the local community through the Social Value Act;
 - d) that a full Equalities Impact Assessment is performed on the design of the service and the outcomes expected of providers, prior to re-commissioning, to ensure that the Council fully meet all our obligations in terms of supporting our whole community, and that this feeds into the service design;
 - e) in particular, that the access needs of all of our community, in terms of disability-related access needs, language, and the ability to access online communication channels, are properly assessed before re-commissioning and then reflected in the service delivery models that will be accepted;
 - f) that the procurement process ensures that local user led organisations are not unfairly disadvantaged, and in particular:
 - i) that the balance between quality and price in the scoring system be modified to reduce the reliance on price;
 - ii) that the additional steps taken to ascertain whether quality can be delivered on low bids are strengthened; and
 - iii) it be made clear what would be considered to be an abnormally low tender.
- 3) That the existing interim contract extension arrangements continue to provide continuity of service for local residents in the meantime.

Appendix - Extracts from service specification on having a local base and being embedded in the local community

Service spec page 9

D. Choice

..... Where the service is being provided on a face to face basis it will be easy to access in terms of location, opening times, and accessibility and will allow choice in how it is accessed.....

Service spec 3.9 page 15

..... It is also expected that the service will be delivered from venues that are accessible to, and convenient for, service users, including their own homes.....

Service spec page 21

5.1 Where the service provider proposes to deliver some face to face elements of the service from the office accommodation in which the staff providing the service are based then that office accommodation will be located in the London Borough of Tower Hamlets unless the service provider can provide compelling evidence that accessibility by residents of Tower Hamlets will not be adversely impacted by operating from a location outside of the Borough.

5.2 Where the model of service proposed involves all elements of face to face service being provided remotely from the office base, and only telephone / video conferencing, web based services and other non-face to face services being delivered from the office base then it will be acceptable for this office base to be located outside of the Borough, provided that the following holds true:

- All aspects of the service can be delivered in a timely, responsive and efficient manner at all times, and that the service provider can demonstrate how the timescales set out in section 4 above, and other requirements relating to service quality can be complied with;
- The service provider is able to demonstrate that locating the office base outside of the borough does not detract from their ability to add value to the borough and its residents as required by the Council in the context of the Social Value Act and the Council's strategic priorities including supporting local employment and training, and utilising local suppliers in supply chains whenever possible.
- The service provider is able to demonstrate that locating the office base outside of the borough does not prevent the delivery of a flexible service whereby staff are able to meet with service users in community buildings or the service user's home within the borough as requested by the service user.

Service Spec page 8

B. Community presence and participation

Service users live within and are part of the community and all services should maintain and promote a continuing integration. The service itself should be integrated into communities and neighbourhoods to foster a sense of belonging by means of access and use of a range of community facilities, for example to meet with service users or provide drop-in advice sessions or similar. The service will build

in service user involvement in design, development and delivery of services as well as in the monitoring and evaluation of those services.

Service spec page 27

8.2 The Council is committed to employing a workforce that reflects the community of the Borough with regard to ethnicity, languages and culture, and expects contracted providers to demonstrate the same commitment. This is particularly important in delivering a sensitive and appropriate service in 'customer-facing' services such as the service to which this specification relates. The service provider is therefore required to ensure that it takes all necessary steps to achieve a workforce that reflects the community as closely as possible, while complying with its wider legal obligations with regards to equality.

Appendix X - Prices and scoring of bidders

The following bid prices were submitted by the different tenderers:

Bidder	Bid price	Notes
Bidder A	£178,734	Bid withdrawn following clarification
PohWER	£199,206	
Bidder C	£280,000	
Bidder D	£322,000	
Bidder E	£330,000	
Bidder F	£335,000	
Bidder G	£339,000	
Real DPO	£353,000	

The following table shows the scores provided by officers for the different bids.

Bidder	Quality / 45	Price / 45	Presentation / 10	Total / 100	Total before presentation	Difference
PohWER	31.38	45.00	8.00	84.38	76.38	
Real DPO	35.18	25.39	6.33	66.90	60.57	15.81
Bidder D	30.73	27.84	0.00	58.56	58.56	2.01
Bidder C	24.43	32.02	0.00	56.44	56.44	2.12
Bidder F	24.80	26.76	0.00	51.56	51.56	4.88
Bidder G	24.60	26.44	0.00	51.04	51.04	0.52
Bidder E	12.15	27.16	0.00	39.31	39.31	11.73

It may be noted that Real scored the highest points in terms of quality. POhWER became the recommended bidder because their price was so low.

Officers have confirmed that two bids (POhWER and Bidder A) were considered to be potentially abnormally low tenders. Officers have advised Real that:

“a series of clarification questions were asked of those bidders. These clarification questions sought to substantiate the following matters:

- Whether and how the projected increases in demand over the life of the contract had been accounted for in the tendered price;
- That the payment of London Living Wage as a minimum to all employees wholly or substantially employed in delivering the service had been accounted for in the tendered price; and
- That any obligations arising from the applicability of the TUPE Regulations had been accounted for in the tendered price.

In response to these questions of clarification one bidder withdrew their tendered price, and as a result their tender was deemed by the Council to be incomplete and disqualified accordingly. The second bidder provided responses that were deemed to provide sufficient clarification of their ability to deliver the service at the tendered price.”