

Investigation Report

Complaint against Education Bureau for delay in provision of hearing aid fitting services

The Complaint

On 10 December 2018, the complainant lodged a complaint with this Office against the Education Bureau (“EDB”) for its alleged delay in providing her son with hearing aid fitting services.

Information Provided by the Complainant

2. In early September 2018, the complainant’s son (being 17 months old at the time) was assessed as having moderate hearing impairment by the Tuen Mun Child Assessment Centre (“CAC”) under the Department of Health (“DH”). DH referred him to EDB for the hearing aid fitting and related services (“fitting services”), so that a hearing aid would be fitted for him.

3. The complainant learned from the CAC and EDB that the Bureau usually took one month to fit a hearing aid for a child. Nevertheless, when she took her son to EDB for the fitting services in early October 2018, a staff told her that EDB was in the process of changing the service supplier and the relevant services could not be provided for the time being. In December 2018, the complainant made an enquiry with EDB again, but was told that EDB had yet to reach an agreement with a supplier, and the fitting services could not be provided for the time being.

Investigation Process

4. After assessing the information provided by the complainant, The Ombudsman decided to conduct a full investigation into this case. Pursuant to section 12(1) of The Ombudsman Ordinance, we wrote to the Secretary for Education on 21 December 2018 to inform him of the decision and request the Bureau to provide information. On 25 February 2019, EDB provided us with information. On 7 March, we asked EDB for further information, which was subsequently provided to us by EDB on 3 May. On 31 May, we issued our draft investigation report to EDB for comments, and received its written response on 26 June 2019. This investigation report was completed after

Careful consideration of the Bureau's response.

Response from EDB

Hearing Aid Fitting Services

5. EDB has all along offered fitting services for children (including young children, pre-school children and students) assessed by doctors or audiologists as having hearing impairment, so that they can be fitted with hearing aids. They include cases referred by the Hospital Authority ("HA") and DH.

6. Prior to 2005, the fitting services were provided to the children concerned directly by EDB. From 2005, EDB started outsourcing the services to a supplier, which would provide the children with a range of free fitting services for a period of three years, covering audiological assessment (including an annual hearing test), fitting/maintenance/fine-tuning of hearing aids, and maintenance/replacing of ear moulds. EDB held a new round of tender exercise biannually to select the supplier, and would begin preparation for the tender exercise six months before expiry of the relevant contract.

7. Upon receipt of a case referral, EDB will make an appointment with the parents to meet them and learn more about the child's condition, and will issue a service voucher for the child in need of hearing aid fitting. After obtaining the service voucher, the parents should contact the external supplier within two months to arrange the fitting services. In general, the hearing aid fitting process for the child concerned can be completed in one to two months.

Tender Exercise to Award New Contract for Fitting Services

8. As the previous contract awarded by EDB for the fitting services was due to expire at the end of August 2018, EDB began preparation for the next round of tender exercise in January 2018, which would include conducting a pre-tender questionnaire survey, and requesting its Supplies Section and the Department of Justice to vet the tender documents. Since the time required for vetting of tender documents in this exercise was longer than before, EDB only received the vetted tender documents in late July.

9. In early August, EDB opened the tender for a new contract to provide the fitting

services, and extended the tender period from previously three weeks to nearly six weeks in order to attract more qualified suppliers to submit their bids. When the tender closed in mid-September, EDB found that the only bidding supplier did not fully meet the tender requirements, and so its submission was not accepted. Subsequently, EDB prepared a tender evaluation report and, after vetted by its Supplies Section, submitted it to the Government Logistics Department (“GLD”) for approval in late October. In mid-November, EDB received approval from GLD to cancel the above tender.

10. To raise the appeal of the fitting services contract to suppliers, EDB adjusted the contract terms and switched to the mode of inviting quotations for offering the contract. EDB issued its invitation to quotation in December, but no quotation was received from any suppliers. In late December, EDB issued the invitation to quotation again after further adjustments to the contract terms. The invitation was closed in early January 2019. Only one quotation was received from a supplier but it far exceeded EDB’s budget and the Government’s cap on procurement value. After vain attempts to negotiate with that supplier for adjusting the quotation, EDB decided not to accept that quotation.

Measures Adopted after Suspension of Fitting Services

11. As the previous fitting services contract expired at the end of August 2018 and a new supplier was yet to be appointed, EDB adopted a number of measures between late August and December 2018 to meet the short-term demand, such as requesting the supplier under the previous fitting services contract to provide services with the residual contract value for new cases received by EDB in September 2018, purchasing ear mould modelling and hearing aid fitting services from a non-governmental organisation (“NGO”) on an urgent and small procurement basis, adjusting the contract terms for the fitting services to attract more suppliers to submit their bids, and switching to the mode of inviting quotations for offering the contract (see **para. 10**). EDB also discussed a collaboration arrangement with HA to provide the fitting services.

Latest Development

12. EDB already resumed the fitting services in January 2019. It started purchasing ear mould modelling and hearing aid fitting services from the NGO in early January, and started leasing in mid-January the audiology centre of Queen Elizabeth Hospital under HA, where the fitting services were provided for children by EDB’s audiologists.

13. During the four months of suspension of the fitting services between 1 September and 31 December 2018, EDB received 47 new cases and 18 old cases requiring replacement hearing aids. For these, 10 new cases received in September 2018 were handled by EDB's supplier under the previous fitting services contract with the residual contract value (see **para. 11**). After resumption of the fitting services in January 2019 (see **para. 12**), EDB further referred seven new cases with urgent needs (including the complainant's son) to the NGO in early January, and arranged for 30 new cases and 18 old cases to receive the fitting services at Queen Elizabeth Hospital's audiology centre in mid-January.

14. The complainant's son was offered ear mould modelling services by the NGO on 15 January 2019, and had a hearing aid fitted on 19 February 2019.

15. Meanwhile, EDB found that there are currently few suppliers engaging in hearing aid fitting services, and outsourcing the fitting services is hardly conducive to a steady supply. Therefore, EDB decided to discontinue outsourcing the fitting services. In early April 2019, EDB reopened its audiometric assessment room and reverted to direct provision of the fitting services. EDB also ceased purchasing ear mould modelling and hearing aid fitting services from the NGO, and its lease of Queen Elizabeth Hospital's audiology centre will terminate after late June 2019.

Improvement Measures

16. EDB has adopted the following improvement measures to prevent future disruption to the fitting services:

- formulating a long-term collaboration arrangement with the Food and Health Bureau and HA to provide the fitting services for children, expected to be introduced in early September 2019;
- based on actual operation of the fitting services, exploring the viability of offering a fixed subsidy (such as cash voucher) for parents to obtain hearing aid fitting for their children on the market;
- procuring hearing aids in batches from hearing aid suppliers on an irregular basis to ensure supply; and
- in case of emergency, considering leasing Queen Elizabeth Hospital's audiology centre again for provision of the fitting services.

Our Observation and Comments

17. Hearing impairment would affect children's learning and development. Early fitting of hearing aids for them can minimise the impact. Hence, the fitting services are essential and there should not be any delay.

18. EDB was well aware that the previous contract for the fitting services was due to expire at the end of August 2018. When vetting of the tender documents was not completed in mid-2018 (see **paras. 8-10**), EDB should have realised that the services might be disrupted. In fact, the tender opened by EDB in early August would not be closed until mid-September. Given the interval between the close of tender and award of a new contract, the services could well be suspended for at least a month. However, EDB did not start adopting and studying contingency measures until late August. Since it took time to study and implement such measures, apart from a small number of cases being handled by the supplier under the previous contract with the residual contract value (see **para. 13**), the overall services were only resumed in January 2019, after suspension for four months from 1 September to 31 December 2018.

19. In our view, EDB failed to formulate contingency measures soon enough when it had foreseen the inevitable disruption to the fitting services. Consequently, the fitting of hearing aids for 55 children (i.e. 37 new cases, including the complainant's son, and 18 old cases) had to be deferred, resulting in their learning and development being unnecessarily affected. EDB could hardly escape the blame.

20. Moreover, EDB had extended the tender period but still received only one submission that did not meet the tender requirements, resulting in the tender having to be cancelled (see **para. 9**). When EDB switched to inviting quotations, it had to make adjustments due to lack of response, but the only quotation received thereafter far exceeded its cap on procurement value (see **para. 10**). Such incidents reflected the Bureau's lack of market knowledge and insufficient preparation before the tender exercise. It was not until the services were suspended that EDB realised the number of suppliers engaging in hearing aid fitting services was too small to ensure steady services. Eventually, EDB reverted to direct provision of the services (see **para. 15**). This showed that EDB had not been fully aware of the necessary preparation work required for the tender exercise.

Conclusion

21. In the light of our comments in **paragraphs 17 to 20**, The Ombudsman considers this complaint **substantiated**.

Recommendations

22. We have made the following recommendations to EDB:

- (1) to closely monitor the operation of the new arrangements and, in case any flaws are identified, adopt remedial measures promptly, so as to avoid any further undesirable effect on the children in need; and
- (2) to provide staff responsible for tender exercises with proper training to prevent recurrence of similar incidents.

EDB's Response to Draft Investigation Report

23. EDB has accepted our comments and recommendations. It also undertakes to step up relevant training for staff responsible for tender exercises.

Concluding Remarks

24. The Ombudsman is pleased to note EDB's positive response to our investigation report. We will continue to follow up this case until our recommendations are fully implemented.

Office of The Ombudsman

June 2019