

Report of Head of Commissioning and Market Management

Report to Director of Children's Services

Date: 26th February 2015

Subject: Waiver of contract procedure rules to award a contract for delivery of Targeted Information, Advice and Guidance (IAG) to young people.



Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The current contract for delivery of Targeted IAG Service (known as Connexions) was awarded to Igen in December 2012, for delivery from 1st April 2013. The contract was awarded for 2 years with 3 options to extend for a further year. The budget proposals for 2015/16 for Children's Services include a significant decrease in spend on the Youth Offer. This decrease in spend includes a reduction in the value of the contract for Targeted IAG.
2. A review group is currently in place to identify possible future service delivery models for use of Youth Offer funding, this group involves representatives from LCC Youth Service, voluntary sector youth work providers and igen.
3. Statutory duty on the local authority fulfilled by the current contract is to "make available to young people below the age of 19 and relevant young adults (i.e. those aged 20 and over but under 25 with learning difficulties) support that will encourage, enable or assist

them to participate in education and training”. (*Education and Skills Act 2008, Section 68*). The service also fulfils requirements that Statutory Guidance on Raising the Participation Age places on local authorities

4. Delivery against statutory duties means that this service needs to be in place. The changes to funding mean it is not possible to take-up the option to extend the current contract with the current provider. Decision to award to a different provider, or deliver the service in LCC, would require transfer of staff under TUPE. It is not possible to undertake the work required around TUPE, including decisions on pension arrangements for staff with a legacy of employment in LCC, to transfer to another provider in the time available.
5. Continuity of service will be achieved by awarding a new contract to the current provider of this service. Igen will be able to manage the reduction in budget for this service, and consequential reduction in staffing levels.
6. No time is available to competitively tender for this service following the budget decision that has agreed the reduction in funding for this service.
7. There is a risk of challenge from other providers due to the lack of opportunity to tender for this service. In order to mitigate this risk, providers will be made aware of the future plans for tendering services and the opportunities this will present as well as their opportunities to contribute to the shaping of the services during any consultations that may take place.
8. There would be a risk of challenge to Leeds City Council if no service is in place to deliver support that will encourage, enable or assist them to participate in education and training to young people below the age of 19 and relevant young adults (i.e. those aged 20 and over but under 25 with learning difficulties).

Recommendations

9. The Director of Children’s Services is recommended to approve the waiver of the following Contracts Procedure Rule(s):

Contracts Procedure Rules No 9.1 and 9.2 – High Value Procurements

and award a contract to Igen Limited in the sum of **£1,300,000**. The contract shall commence on the 1st April 2015 and expire on the 31st March 2016 with the option to extend for a period of up to 12 months such option not to be taken up more than once.

1 Purpose of this report

- 1.1. To set out the reasons to award a new contract to the current service provider for the delivery of Targeted IAG services for young people without subjecting the matter to competition.

2 Background information

- 2.1. The current contract for delivery of Targeted IAG Service (known as Connexions) was awarded to Igen in December 2012, for delivery from 1st April 2013. The contract was awarded for 2 years with 3 options to extend for a further year.
- 2.2. The budget proposals for 2015/16 for Children's Services include a significant decrease in spend on the Youth Offer. This decrease in spend includes a significant reduction in the value of the contract for Targeted IAG. The reduction in the annual value of spend from Children's Services is from £2,653,000 to £1,300,000.
- 2.3. The current contract, which expires in March 2015, also includes delivery against 2 external funding streams, as 2 separate lots within the contract. The Youth Contract and Families First are ring-fenced funding streams, some of which is spent on services delivered as part of this contract.
- 2.4. The Youth Contract funding stream is ending, delivery will continue after April 2015 to fulfill the requirements of the current contract. This element of delivery is funded on a payment by results basis, so igen will continue to deliver to young people who have already been accepted on to the programme in order to achieve the outcomes required and receive payment for those outcomes. The outcomes will be paid from the Youth Contract budget which carries forward from 2014/15 to 2015/16. Advice from procurement is that there is no need to extend this element of the contract as all placements made within Youth Contract delivery that commenced before the end of the current contract i.e. 31st March 2015 are able to continue after this date and will be covered within the auspices of the current contract.
- 2.5. The Families First delivery will continue but this will be dealt with through a separate contract arrangement, to ensure it is delivered and managed in line with other providers of Families First services.
- 2.6. A review group is currently in place to identify possible future service delivery models for use of Youth Offer funding, this group involves representatives from LCC Youth Service, voluntary sector youth work providers and igen. The group will inform commissioning decisions that are made by Children's Services to move to new delivery arrangements in the coming years.
- 2.7. Change to service delivery made from April 2015 are being planned on the basis of moving to a move localized planning model for the future, whilst ensuring that there is appropriate provision in place to meet the statutory duties of the local authorities.
- 2.8. Statutory duty fulfilled by the current Connexions contract include is to "make available to young people below the age of 19 and relevant young adults (i.e. those aged 20 and over but under 25 with learning difficulties) support that will encourage, enable or assist them to participate in education and training". (*Education and Skills Act 2008, Section 68*).
- 2.9. The service also fulfils requirements that Statutory Guidance on Raising the Participation Age places on local authorities, including:
 - Local authorities must promote the effective participation in education and training of 16 and 17 year olds. Local authorities are expected to act on any information they receive

about a young person age 16/17 who has dropped out of learning; contacting them at the earliest opportunity and supporting them to find an alternative place in education, training or employment with accredited training.

- Local authorities must make arrangements - i.e. maintain a tracking system - to identify 16 and 17 year olds who are not participating in education or training. Local authorities must collect information about young people in their area in order to identify those who are not participating, or who are at risk of not doing so, and to target their resources on those who need them most. To meet this requirement, local authorities need to have arrangements in place to confirm all young people's current activity at regular intervals.
- In certain circumstances, 16 and 17 year olds are eligible to claim Jobseeker's Allowance (JSA), Income Support (IS), Employment Support Allowance (ESA) or Universal Credit. Whilst decisions about the payment of benefits will be made by Jobcentre Plus, any young person aged under 18 wishing to make a claim must first register with the local authority as a condition of entitlement. Local authorities must follow the processes issued by DWP.
- Local authorities are expected to continue to work with schools to identify those who are in need of targeted support or who are at risk of not participating post-16. They will need to agree how these young people can be referred for intensive support, drawn from the range of education and training support services available locally. Local authorities should pay particular attention to young people not in mainstream education, such as those not on school rolls, those attending alternative provision, and those in youth custody. Local authorities should support these young people to ensure they are not disadvantaged when applying for a suitable place in post-16 education or training.
- Every young person who reaches the age of 16 or 17 in any given academic year is entitled to an offer of a suitable place, by the end of September, to continue in education or training the following year. Local authorities are required to lead the September Guarantee process.

- 2.10. Delivery against statutory duties means that this service needs to be in place. The changes to funding mean it is not possible to take-up the option to extend the current contract with the current provider.
- 2.11. Decision to award to a different provider, or deliver the service in LCC, would require transfer of staff under TUPE. It is not possible to undertake the work required around TUPE, including decisions on pension arrangements for staff with a legacy of employment in LCC, to transfer to another provider in the time available.
- 2.12. The current provider, Igen, has delivered effectively against contract requirements over the length of the current contract. They have met performance targets for contract delivery and are viewed as a good service provider.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1. Continuity of service will be achieved by awarding a new contract to the current provider of this service. Igen will be able to manage the reduction in budget for this service, and consequential reduction in staffing levels.
- 3.2. Advice from legal team in procurement is that the level of reduction in contract value, and the changes to service delivery, would be viewed as a significant change to the current contract. This means it is not possible to take-up the option to extend the current contract, and make variations to the content of the contract.

- 3.3. No time is available to competitively tender for this service following the budget decision that has agreed the reduction in funding for this service.
- 3.4. No alternative supplier is able to be identified who would be able to take the managements of this service, and the resulting transfer of staff under TUPE, in order to run a new contract from the 1st April 2015. Previous commissioning for this service has required a period of 3 months between contract award and contract commencement in order to allow for planning of new delivery arrangements including staff transfer.

Consequences if the proposed action is not approved

- 3.5. There would be a gap in service delivery to support young people who are NEET if this contract is not awarded.
- 3.6. Leeds City Council would not have service delivery arrangements in place to meet its statutory duties under the Education and Skills Act 2008, or the requirements of the Statutory Guidance on Raising the Participation Age.

Advertising

- 3.7. This contract opportunity has not been advertised

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1. Consultation took place with the current service provider following the publication of the budget proposals.
- 4.1.2. A review group is in place to identify possible future service delivery models for use of Youth Offer funding, this group involves representatives from LCC Youth Service, voluntary sector youth work providers and igen. The group will inform commissioning decisions that are made by Children's Services to move to new delivery arrangements in the coming years.
- 4.1.3. Decisions on the changes to this service were contained within the Council budget decisions. Feedback from stakeholders was received as part of the Council consultation on the budget proposals for 2015/16.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1. An Equality Impact Screening has been carried out. This screening is attached as Appendix 1

4.3 Council Policies and City Priorities

- 4.3.1. The Targeted IAG contract delivers services in line with the priorities in the Children and Young People's Plan. It has a significant impact in delivery against the following priorities:
- Improve behaviour, attendance and achievement
 - Support children to be ready for learning
 - Promote sexual health
 - Minimise the misuse of drugs, alcohol & tobacco
 - Reduce crime and anti-social behaviour
 - Increase participation, voice and influence

4.4 Resources and Value for Money

- 4.4.1. The new contract for this work is at a reduced value from previous delivery in this area. Work has taken place to ensure that the impact of available funding is maximised, through a joint approach to managing the reduction in funding across Connexions and youth work delivery. The contract will deliver value for money in services to young people, through ensuring a multi-agency approach to service delivery to young people co-ordinated at a local level through clusters.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1. Statutory duties for LCC are delivered by the service, see 2.8 and 2.9.
- 4.5.1 The value of the contract detailed within this report is above the level for key decisions as prescribed within the council's constitution and therefore this decision is subject to call-in.
- 4.5.2 Giving the work to this provider without competition could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that Contracts Procedure Rules suggests that contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In giving the work to this provider without competition there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity.
- 4.5.3 Whilst there is no legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted when making the final decision, the Deputy Director of Children's Services should be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk Management

- 4.6.1. There is a risk of challenge from other providers due to the lack of opportunity to tender for this service. In order to mitigate this risk, providers will be made aware of the future plans for tendering services and the opportunities this will present as well as their opportunities to contribute to the shaping of the services during any consultations that may take place.
- 4.6.2. There would be a risk of challenge to Leeds City Council if no service is in place to deliver support that will encourage, enable or assist them to participate in education and training to young people below the age of 19 and relevant young adults (i.e. those aged 20 and over but under 25 with learning difficulties).

5 Conclusions

- 5.1. A waiver of Contracts' Procedure Rules in order to enter into a contract with Igen Ltd for the delivery of Targeted IAG service to young people to a value of £1,300,000 will allow for effective delivery of service to young people, fulfilling statutory requirements on Leeds City Council.

6 Recommendations

- 6.1. The Director of Children's Services is recommended to approve the waiver of the following Contracts Procedure Rule(s):

Contracts Procedure Rules No 9.1 and 9.2 – High Value Procurements

and award a contract to Igen Limited in the sum of £1,300,000. The contract shall commence on the 1st April 2015 and expire on the 31st March 2016 with the option to extend for a period of up to 12 months such option not to be taken up more than once.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.