

**Report of Procurement Category Manager**

**Report to Deputy Director Childrens Services – Safeguarding, Targeted and Specialist Services**

**Date: 1 June 2016**



**Subject: Waiver of Contracts Procedure Rule (CPR) 8.1 and 8.2 to award a contract to Phonak Ltd for the supply of assistive listening devices.**

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 type="checkbox"/> Yes	<input checked="" 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. This Waiver Report requests approval to award a 12 month contract to Phonak UK for the supply of assistive listening devices.
2. This contract is required to ensure continuity of provision, and to obtain additional discount from the provider.
3. There is a risk of challenge by not going out to competition but this risk is mitigated by the contract only being for 12 months and the total value of the contract being £40,000.

**Recommendations**

4. The Deputy Director of Children’s Services – safeguarding, Targeted and Specialist is recommended to approve the waiver of CPR No 8.1 and 8.2 – Intermediate Value Procurements, and award a contract to Phonak UK in the sum of £40,000, for a period of 12 months.

## **1 Purpose of this report**

- 1.1 To seek the waiver of CPR 8.1 and 8.2 for the establishment of a contract with Phonak UK for a period of 12 months to a maximum value of £40,000.

## **2 Background information**

- 2.1 Phonak UK is the principal supplier of assistive listening devices in the UK.
- 2.2 Childrens Services have used this supplier for a period of years and continue to identify the products as being of a suitable standard for the young people who require the use of the transmitters.
- 2.3 As the provider, they are responsible for providing the warranties on the equipment installed i .
- 2.4 They are also the only supplier who is able to provide spare parts for the equipment purchased to date.
- 2.5 The commissioning team have engaged with the supplier and have agreed a 13% discount on the prices currently paid in lieu of the signing of a 12 month contract.
- 2.6 There is an ongoing requirement for the supply of new equipment and the continuing supply of spare parts.

## **3 Main issues**

### **Reason for Contracts Procedure Rules Waiver**

- 3.1 There is a requirement under contracts procedure rules to seek competition for purchases totaling greater than £10,000 in value
- 3.2 There is still an ongoing requirement for the purchase of both new and parts for existing equipment.
- 3.3 The value of the contract is £40,000 and as such would normally be the subject of a competitive tendering process

### **Consequences if the proposed action is not approved**

- 3.4 The purchases from Phonak would continue to be classified as off contract
- 3.5 The purchases from the organisation would be 13% higher than under the arrangement to be signed.

### **Advertising**

- 3.5 The opportunity has not been the subject of any advertising.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The service heads have been consulted within the establishment of the detail as the background to this waiver

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no equality and diversity issues as the waiver will not change the supply process, it will only subject this to a formal contractual relationship..

## **4.3 Council Policies and Best Council Plan**

4.3.1 This waiver will support the establishment of a child friendly city as it will support the inclusion of all children within the learning process.

## **4.4 Resources and Value for Money**

4.4.1 There is an ongoing requirement for these goods and the additional 13% discount would provide greater value for money.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The value of the contract detailed within this report is below the level for key decisions as prescribed within the council's constitution and therefore this decision is not 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 8.1 and 8.2, 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 The risks of not going ahead are outlined in 3.4.

## **5 Conclusions**

5.1 The waiver of contracts procedure rules will establish the supply chain on a formal contract process and will deliver 13% efficiency savings.

## **6 Recommendations**

6.1 The Deputy Director of Children's Services – safeguarding, Targeted and Specialist is recommended to approve the waiver of CPR No 8.1 and 8.2 – Intermediate Value Procurements, and award a contract to Phonak UK in the sum of £40,000 to commence on 13 November 2016.

## **7 Background documents<sup>1</sup>**

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless Waiver Report PUBLISH V1.0

7.1 None

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they contain confidential or exempt information. The list of background documents does not include published works.