

Report of White Rose Strategic Commissioning Group

Report to the Deputy Director, Safeguarding, Specialist & Targeted Services

Date: 06/12/2016



Subject: Request to enter into a short-term Framework Contract for Special Educational Needs (SEN) School and College Placements a period of 3 months by waiving Contract Procedure Rule (CPR) 9.

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: 10.4(3) Appendix number: 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. The report seeks approval to enter into a short-term framework agreement contract to the providers listed at appendix 1 to this report for the provision of Special Educational Needs (SEN) School and College Placements for children by waiving CPR 9.
2. The contract is for a period from 1st January 2017 – 31st March 2017.

Recommendations

The Deputy Director, Safeguarding, Specialist & Targeted Services is recommended to approve the short-term framework agreement contract for the provision of Special Educational Needs (SEN) School and College Placements for children to the providers identified at appendix 1 to this report for a period of 3 months.

1 Purpose of this report

- 1.1 The report seeks approval to enter into a short-term framework agreement contract to the providers listed at appendix 1 to this report for the provision of Special Educational Needs (SEN) School and College Placements for children by waiving CPR 9.
- 1.2 Strategic commissioners across the region have been engaged in a robust procurement process to establish a framework contract for independent education or education and care placements for children with special educational needs and disability.
- 1.3 It was anticipated that this contract would be awarded and available for use by the participating authorities by 1st January 2017, but due to the high number of returned bids and the fact that the project team need to be able to scrutinise the returns and prices in significant detail, it is necessary to put in place an interim contract for a period of 3 months to allow this due diligence to complete. The 3 month contract will also facilitate a longer mobilisation period which will allow a launch event to take place so all participants to the contract are fully aware of their obligations under the contract.
- 1.4 It is proposed to enter into the 3 month interim contract with those providers that were on the existing White Rose SEN framework which was subjected to a full procurement process that identified a list of tried and tested providers. This contract however does not have the facility to be extended, therefore the necessity to enter into the 3 month interim contract.
- 1.5 This new framework contract does not guarantee the providers any placements. The same practices around identifying the most suitable match in terms of quality and price will continue and will be subject to the current governance processes that are in place.

2 Background information

- 2.1 The Framework Agreement contract is established for the purposes of of Special Educational Needs (SEN) School and College Placements for children and is between the named placing Authority and the named Organisation.
- 2.2 The contract commences on 1st January 2017 for a period of three months to 31st March 2017.
- 2.3 The contract is established ensuring that all relevant and current law is embedded into the framework agreement. It is entered into with the same providers that are on the current White Rose Fostering Framework, on the same specification and terms and conditions.
- 2.4 The contract is established as a regional framework contract.

- 2.5 The participating authorities share resources across the region to ensure that the contract continues to meet need and that providers are managed in a transparent and consistent manner to help deliver quality outcomes for the children and young people placed with the providers on the framework. Strategic issues are also managed through the White Rose Strategic Commissioning Group that has representation from the participating authorities.
- 2.6 The contract is established with the support of the region's Chief executives and the region's Directors of Childrens Services.
- 2.7 The current participating authorities are:
- Leeds
 - Bradford
 - Kirklees
 - Calderdale
 - Wakefield
 - Sheffield
 - Doncaster
 - Barnsley
 - Rotherham
 - North East Lincs
 - York
 - North Lincolnshire
 - East Riding of Yorkshire
- 2.8 The decision to enter into a new contract is taken by Leeds after due discussion with other authorities it should be noted however that the individual contract established within the framework will continue to be the responsibility of the individual authority at the time of the placement

3 Main issues

Reason for the new contract

- 3.1 As a collective of Local Authorities, it is necessary to purchase Special Educational Needs (SEN) School and College Placements through a contract, in order to meet our legal obligations. Although this new

short-term framework agreement has not been tendered, it is closely based on the existing White Rose SEN Framework that did have a full and robust tender process in 2013 and will be delivered by providers who previously met the quality criteria.

- 3.2 The current contract expires on 31st December 2016 and this new short-term framework contract will allow for the completion of the tendering process that has commenced with bids being received from 21 organisations on 9th November 2016
- 3.3 The contract will be awarded to the organisations who are current providers on the current White Rose Fostering Framework.
- 3.4 The White Rose Strategic Commissioning Group have broadly identified that the contract continues to meet need to enable any placements made to continue to be made in the best interests of the young people placed and to reflect any changes priorities of the participating authorities.

Consequences if the proposed action is not approved

- 3.5 Purchases of Special Educational Needs (SEN) School and College Placements would continue across the region in an uncoordinated fashion with the market place seen to lead on the nature and quality of the provision as future requirements would be outside of the scope of the contract.
- 3.6 Any ongoing efficiency savings that are anticipated would not be realised
- 3.7 The qualitative benefits as currently established within the framework would not be realised.
- 3.8 The contract may not be fit for purpose and reflect the desire to improve and consolidate best practice.
- 3.9 Contracting authorities may potentially be in breach of the Public Contracts Regulations 2015 in the absence of an agreed framework contract.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Chief Executives and DCSs have been updated during the progress of the placements programme since its commencement in 2012.
- 4.1.2 The strategic commissioners across the region have been involved in the contract to date and any changes to future direction

- 4.1.3 The provider market were consulted and engaged with during the development of the project and continue to be engaged in respect of the proposed changes.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Equality Impact Assessment (EIA) screening exercise has been undertaken and indicated no adverse equality impact to the service users, staff and the wider community as the contract will be extended on the same terms and conditions as currently enjoyed. Any amendments to the specification and future provision will need to be subjected to a further EIA assessment.

4.3 Council policies and Best Council Plan

- 4.3.1 The council policies and priorities will continue to be reflected in the contract as they will be on the same terms as currently enjoyed in the existing framework contract.

4.4 Resources and value for money

- 4.4.1 The existing framework was established with providers providing fully detailed costing models through the submission of a provider information pricing schedule. This will be replicated within the interim contract which will ensure that purchasers are aware of the all components of cost and can therefore consider this as a key factor when making the placement.
- 4.4.2 The existing framework permits the use of a secondary call to competition when making a referral to more than one provider and this will be replicated within the interim contract to allow a commercial consideration on price to take place when making placements against the framework.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The opportunity is being offered to the existing providers on the current White Rose SEN Framework by waiving Contract Procedure Rule 9.
- 4.5.2 The decision to enter into a new short-term contract is classified as a Significant Operational Decision.
- 4.5.3 To comply with the obligations of the Public Contracts Regulations a Voluntary Transparency Notice will be published prior to the contracts being awarded.

4.6 Risk Management

- 4.6.1 The interim contract will be established on the same terms and conditions as the existing framework contract which gives a robust

framework in which providers must be compliant with both legislative and qualitative conditions as enshrined within these terms of contract

5 Recommendations

- 5.1 The Deputy Director, Safeguarding, Specialist & Targeted Services is recommended to approve the short-term framework agreement contract for the provision of Special Educational Needs (SEN) School and College Placements for children to the providers identified at appendix 1 to this report for a period of 3 months.

6 Background documents¹

- 6.1 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.