

Report of Head of Commissioning and Market Management

Report to Director of Children's Services

Date: 22nd February 2017

Subject: Permission to award a number of Children's Services contracts without subjecting the matter to competition, for the continued delivery of commissioned services in 2017/18. This will involve the waiving of Contract Procedure Rules

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 report seeks the approval of the Director of Children's services in waiving the requirements of the Council's Contracts Procedure Rules (CPRs) in respect of a range of existing contractual arrangements.
2. A range of services are externally commissioned by Children's Services. All current contracts have been reviewed with Heads of Service in terms of continuing value for money and strategic fit.
3. Current contractual arrangements are due to expire on 31st March or 30th June 2017 and there are no options to extend. It has been agreed with Heads of Service that the best option at this time is to award further contracts to the current providers from 1st April or 1st July 2017.
4. Each contract will be subject to individual decision making as the service provider will either:
 - Submit a service delivery model, in line with the service specification, which will be evaluated by the relevant project team before contract award is confirmed,
 - Commit to provide their existing service provision, under the existing terms and conditions of their current contract.

Recommendations

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

Contracts Procedure Rule No 8 – Between £10k and £100k Intermediate Value Procurements and award contracts to:

- Basis Yorkshire in the sum of £28k. The contract shall commence on the 1st April 2017 and expire on the 31st March 2018.
- The Market Place in the sum of £92,385. The contract shall commence on the 1st April 2017 and expire on the 31st March 2018.

Contracts Procedure Rule No 9 – Over £100k High Value Procurements for the following contracts:

- Barnardo's in the sum of £265,725 per annum (Children Services contribution of £161,473, Adult Social Care contribution of £104,252). The contract shall commence on the 1st July 2017 and expire on the 31st March 2018 [with the option to extend for a period of 12 months].

1 Purpose of this report

- 1.1 The report seeks a waiver to CPRs 8 and 9 in respect of three services for children and young people. Two individual contracts are valued between £10k and £100k (intermediate value procurements) and one over £100k (high value procurement). The total value of this report is just under £282k (per annum) and so is a key decision and has been published on the forward plan.

2 Background information

- 2.1 The council is facing continued financial pressures through a combination of reduced funding, rising costs and growing demand. In order to help meet the significant financial pressures within Children's Services and the Council more widely, a target savings of 15% has been set for Children's Services commissioned services in 17/18. A total of £7m of contracts are considered to be in scope for this programme of savings.
- 2.2 There is a recognition that not all commissioned services offer equal value in delivering the aims of the Children and Young Peoples' Plan. So rather than simply cutting 15% from each contract to find the savings, a process of evaluating services as part of a wider theme of similar activity has been undertaken to ensure that budget savings proposals are identified which limit the impact on service outcomes. Each area of commissioning has required an individual approach to making savings depending on a number of issues including strategic fit, contract end date and service performance.
- 2.3 Providers have been informed of the proposals in relation to their contracts, including where the intention is to award them a further contract at the same value. Any proposed reductions have been agreed with providers and the impact on service users, the organisation and other stakeholders have been assessed in partnership with individual providers.
- 2.4 CLST has been kept regularly updated on commissioning plans, including proposed savings. On 31st January 2017, CSLT approved a number of savings proposals where impact assessments have been undertaken jointly with providers. For a number of contracts, these proposals involve waiving contract procedure rules as set as below:
- 2.5 The Market Place (TMP) – This contract provides city centre based services focused on young people's social, emotional and mental health (SEMH), including drop in, one to one intensive support and group work. TMP also delivers crisis counselling, funded by Leeds CCGs. A joint specification has been drafted for 2017/18 and it is the intention to develop a single contract monitoring tool. A joint commissioning arrangement with pooled budgets should be achieved in 2018/19, which will give the provider increased flexibility on use of the core funding to meet the EMH outcomes required.
- 2.6 It is proposed that TMP is awarded a 12 month contract for 2017/18, with a 15% reduction in funding. This will allow for joint commissioning in 2018/19. A detailed impact assessment has been coproduced with the provider, which demonstrates the funding reduction is manageable, with reduced capacity. While we are reducing the LCC funding, the combined budget with CCG funding is £177,500, equating to an overall reduction of 5.7% of their core funding.
- 2.7 Basis Yorkshire Ltd – This contract provides early intervention and support services to help meet the needs of girls and young women at risk of or experiencing child sexual exploitation. This service has been subject to a series of short-term contracts over a period of many years due to uncertainty over budgets and more recently, the development of the internally delivered multi-agency Safe Project. Together with the Safe Project the service plays an important role in supporting girls and women at medium to high risk of CSE in Leeds.

- 2.8 CSE is a priority for Leeds City Council, being one of the 'Equality Improvement Priorities 2016-20'. To protect children from child sexual exploitation is seen as essential to being a compassionate city. The key indicator of, 'Number of domestic violence and abuse incidents with repeat victims' is reflected in the Best Council Plan. CSE is also a priority for LCSB. The LCSB is committed to working in partnership with the third sector, including Basis Yorkshire and, 'to further develop and embed the partnership response to children and young people who are suffering / at risk of sexual exploitation and / or 'go missing' (Annual Report 2014/15, challenges for 2015/16.
- 2.9 The service was reviewed in 2016 and found to be delivering good value for money. Children's Services Social Work service is committed to maintaining the current funding level and continuing to commission this service with an external partner. There is a healthy market for CSE related support in Leeds and given the number of short-term contracts awarded to this provider, which is not helpful to the provider or the market, the preferred option is to competitively tender the service in 2017 to award a new longer-term contract from April 2018. This new contract will ensure the service is effectively aligned with the Safe Project and future priorities.
- 2.10 It is therefore proposed that Basis Yorkshire be awarded a further 12 month contract from 1st April 2017 to 31st March 2018 while this tender exercise is undertaken.
- 2.11 Barnardo's Support for young carers (Willows) – This joint contract with Adult Social care provides a networking and advocacy role to ensure that this vulnerable group of children and young people are able to access and benefit from their entitlement to a wide range of universal and targeted support. The service also provides tailored support for a small number of young carers, where the impact of parental mental health problems or substance misuse on their lives is profound.
- 2.12 This service is within scope for a review of carers support services being undertaken jointly with Adults and Health. This review is at an early stage and the outcome will not be known in time to commission this service before it is due to expire on 30th June 2017.
- 2.13 It is therefore proposed that the provider be awarded a further contract for continued delivery of this service from 1st July 2017 to 31st March 2018, with an option to extend by a further 12 months. This will align the contract with the Carers Leeds contract, also in scope for the carers support services review.
- 2.14 See appendix 1 for full details of these contracts.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 LCC, Directorate of Children Services wishes to enter into new individual contracts with the providers listed in Appendix 1 in order to meet the delivery planning set out in section 2 (above) of this report. This will ensure continuity of service and allow for appropriate planning of service delivery to take place following a reasonable timescale.
- 3.2 This waiver will ensure continuity in service delivery where it has been shown that services continue to meet strategic objectives, represent value for money and are meeting their performance objectives. Some of these contracts are subject to savings as part of an overall savings target across commissioned services.

- 3.3 There are no internal HR implications but a failure to act promptly will affect the capacity of contracted organisations to deliver against our priorities.
- 3.4 Some of these services have been reviewed or are subject to reviews, which will determine how these services should be commissioned in future. Another is moving to joint commissioning arrangements and is subject to refocusing of provision to maximise value for money and impact. These waivers will ensure contracts are in place to deliver services which will meet identified needs of children and young people until the outcome of reviews are known or competitive tenders/joint arrangements have been completed.
- 3.5 Each provider will either: be asked to submit a delivery plan and financial profile, which will be reviewed and negotiated with the provider to ensure both value for money in service delivery and that appropriate performance measures are in place to evaluate delivery; or will be required to commit to maintain their existing service provision, and existing terms and conditions of contract.
- 3.6 The preferred option is to continue to commission these services externally because either there is insufficient capacity or willingness to deliver them by an internal service at this time.

Consequences if the proposed action is not approved

- 3.7 If this recommendation is not approved, there is a high risk that provision of these key services will be disrupted, resulting in a gap in provision for families and a loss of confidence throughout the sector.
- 3.8 Delays or difficulties in continuing these services would impact on the ability to implement chosen options for delivery, which best meet current strategic objectives.

Advertising

- 3.3 The maximum contract values over the life of each contract are below the current EU threshold of £589k, so there is no requirement for the contracts to be advertised through the OJEU open market process. There is a requirement to comply with the Council's Contract Procedure Rules but this decision is to waive these Rules for the reasons outlined in sections 3.1 to 3.4.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 It has been essential to undertake consultation to inform this decision. This has been undertaken with both external and internal partners.
- 4.1.2 Current service providers have been informed of the intention to award a future contract including where savings have been proposed. Joint funders such as Leeds CCGs have also been consulted.
- 4.1.3 Discussions have taken place with all Heads of Service and Service Leads to confirm proposed contract arrangements for service delivery Equality and diversity / cohesion and integration

- 4.1.4 Children's Services Leadership Team (CSLT) has reviewed updated proposals for expenditure on contracted services on several occasions for 2017/18.
- 4.1.5 The Lead Member for Children's Services was consulted on the proposals on the 6th February 2017.
- 4.1.6 Consultation with service users has not been undertaken as part of this decision as it concerns continuing current arrangements. However, full service user consultation will be undertaken as part of reviews or as part of competitive tendering.

4.2 Equality and diversity/cohesion and integration

- 4.2.1 The award of new contracts to current service providers for existing services, means that the current service delivery models for the same client groups will continue. The decision to continue the delivery of current service arrangements at current values will not have any adverse impact on any equality group. See equality impact screening form at appendix 2.
- 4.2.2 In some cases the contract value has been reduced and discussions have taken place to assess the impact on service user outcomes. We will work in partnership with providers to agree delivery plans and ensure there is no ongoing detrimental impact on different equality groups as part of contract management. A full impact assessment will be undertaken on individual contracts where necessary.

4.3 Council policies and best council plan

- 4.3.1 These contracts deliver against the priorities set out in the Children and Young People's Plan:
- Ensure that the most vulnerable are protected
 - Increase numbers participating and engaging
 - Improve outcomes for CYP with special educational needs and/or disability
 - Support children to have the best start in life and be ready for learning
 - Encourage physical activity and healthy eating
 - Promote sexual health
 - Minimise the misuse of drugs, alcohol & tobacco
 - Improve social, emotional and mental health and well being
 - Increase participation, voice and influence
- 4.3.2 These contracts also deliver against the Best Council Plan priority to become a Child Friendly city by delivering services which ensure:
- children and young people are treated fairly and feel respected
 - children and young people have the support and information they need to make healthy lifestyle choices
 - children and young people express their views, feel heard and are actively involved in decisions that affect their lives

4.4 Resources and value for money

- 4.1.1 The contracts represent Value for Money by:
- 4.4.2 Reducing disruption to existing services by ensuring continuity of current providers from April 2017.
- 4.4.3 Agreeing performance measures and contract monitoring for current providers to ensure good quality delivery ahead of new service delivery arrangements. Each provider will be: asked to submit a delivery plan and financial profile, which will be

reviewed and negotiated with the provider to ensure value for money in service delivery and appropriate performance measures are in place to evaluate delivery; or commit to maintain their existing service provision, and existing terms and conditions of contract.

- 4.4.4 The financial implication of the waiver report is £386,110 per annum, with the potential for £585,404 if all of the extension with Barnardo's is taken up. Budgets for 2017/18 have been confirmed with relevant Heads of Service and Adult Social Care has confirmed their contribution to the joint contract with Barnardo's.

4.5 Legal implications, access to information and call-in

- 4.5.1 The Chief Officer Public, Private, Partnerships & Procurement, has advised that it would be lawful for the Council to invoke the provisions of Contracts Procedure Rules 8 and 9 in these circumstances, provided that the Director is satisfied that there are compelling reasons to do so, as set out in this report.
- 4.5.2 The value of two contracts detailed within this report are below the level for key decisions as prescribed within the council's constitution and therefore are not subject to call-in. These decisions are significant operational.
- 4.5.3 The value of one contract detailed within this report is above the level for key decisions and therefore is subject to call-in.

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 consultations.
- 4.6.2 Services that are subject to a funding reduction may not be able to deliver all aspects of the current service. To mitigate this risk, minor variations to existing KPIs and performance measures will be implemented where necessary. Robust contract management and monitoring will ensure services continue to meet their contractual requirements.
- 4.6.3 In order to ensure good quality delivery and value for money the selected organisations will either:
- Be required to submit a full service delivery model including pricing schedule. This information will be scrutinised prior to the contract being issued, or
 - Commit to maintain their existing service provision, and existing terms and conditions of contract.
- 4.6.4 In the event the waiver to award these new contracts is not approved, LCC duties will remain and therefore alternative delivery arrangements will need to be put in place for April 2017.

5 Conclusions

5.1 This decision will secure continuation of services which demonstrate value for money and strategic fit.

5.2 Risk of challenge is mitigated by future plans for competitive tendering, joint commissioning or potential for competitive tendering following reviews, all of which should improve value for money.

5.3 This decision follows a detailed process of consultation and collaboration with key partners.

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 Rule No 8 – Between £10k and £100k Intermediate Value Procurements and award contracts to:

- Basis Yorkshire in the sum of £28k. The contract shall commence on the 1st April 2017 and expire on the 31st March 2018.
- The Market Place in the sum of £92,385. The contract shall commence on the 1st April 2017 and expire on the 31st March 2018.

Contracts Procedure Rule No 9 – Over £100k High Value Procurements for the following contracts:

- Barnardo's in the sum of £265,725 per annum (Children Services contribution of £161,473, Adult Social Care contribution of £104,252). The contract shall commence on the 1st July 2017 and expire on the 31st March 2018 [with the option to extend for a period of 12 months].

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.