

Report of Adults and Health Commissioning



Report author: Veena Kumar
Tel: 0113 3787849

Report to Director of Resources and Housing

Date: 8th June 2018

Subject: Approval to waive Contracts Procedure Rules 9.1 and 9.2 in order to establish new contracts with Housing Related Support services affected by the Young Persons Commissioning Review. In addition, approval is sought to award new contracts for the delivery of specialist Housing Related Support Services for Young Persons using the Negotiated Procedure without prior publication of a notice under Regulation 32 (2) (b) (ii) of the Publics Contracts Regulation 2015. The contracts will be for a period of 18 months with an option to extend up to 6 months.

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. Leeds City Council commission a programme of services that deliver a combination of visiting and accommodation based Housing Related Support (HRS) to vulnerable young people in Leeds. The primary aim of these services is to enable young people to achieve and maintain independent living. The programme is managed by the commissioning team in Adults and Health on behalf of Resources and Housing.
2. A detailed and joint review of Housing Related Support Services for Young People is currently being undertaken by officers within the Commissioning Team in Adults and Health and Children's Services. The purpose of this review is to assess future need and demand and to inform the commissioning of an improved and integrated model of provision that will meet the needs of young people at risk, homelessness, teenage parents, young offenders, care leavers and looked after children. The timetable for completion of the review and implementation of the outcomes is by July 2020.

3. This report seeks approval to establish new contracts for an initial period of 18 months with the option to extend for a further period of up to 6 months from the 1st July 2018. Current contracts expire on the 30th June 2018 with no available extensions. Due to the tight timescales of the review new contract arrangements will provide continuity of service and provision whilst the review and subsequent re-commissioning of the service is completed.
4. Approval is being sought to put in place new contracts with the existing service providers to enable continuity of service whilst the review is completed. Full details of these services can be found in Appendix 1 (1A). The combined maximum cost of these services is £608,379.00 per annum. In the event that the review is completed sooner than scheduled, six months' notice will be served on the contracts in line with contract terms and conditions.
5. In addition approval is sought to award new contracts for the services detailed in Appendix 1 (1B) for specialist accommodation and support for young people during the review. The combined maximum cost of these services is £1,880,748.00 per annum.

Recommendations

1. The Director of Resources and Housing is recommended to:
 - Approve the waiver of Contracts Procedure Rules 9.1 and 9.2 to establish new contracts with those services detailed in Appendix 1 (1A) pending the outcome of the review. The maximum value of new contracts will not exceed the amounts as set out in Appendix 1A. New contracts will run from the 1st July 2018 until the 31st December 2019 with the option to extend up to a further 6 months should this be needed.
 - Approve the award for the delivery of specialist Housing Related Support Services, with those services detailed in Appendix 1 (1B) using the (Negotiated Procedure without prior publication of a notice under Regulation 32 (2) (b) (ii) where services can only be provided by a single provider due to competition being absent for technical reasons. Full details are contained in this report and within the 'Main Issues' section. The services will run from the 1st July 2018 until the 31st December 2019 with the option to extend for a further period of up to 6 months. The maximum value of the new contracts will not exceed the amounts set out in Appendix 1B.

1 Purpose of this Report

- 1.1 The purpose of this report is to seek approval to put in place new arrangements to ensure service continuity until newly procured services are in place, or further review work has been completed in line with outcomes of the Young Persons Housing Related Support strategic review.
- 1.2 This includes putting in place new contracts for specialist services.

2 Background Information

- 2.1 Housing Related Support is commissioned by the Council to provide support to help vulnerable people manage independent living through a range of services, delivered in supported accommodation by support staff or by support being delivered by support workers visiting people in their own home.
- 2.2 A strategic review of the majority of adult housing related support services was completed in 2017. This resulted in the implementation of a new single visiting support service delivered by Engage Leeds and intensive and dispersed accommodation service provided by Beacon.
- 2.3 One of the key outcomes highlighted by the review of the adult services was that services commissioned for young people should be reviewed jointly with Children's Services but separate from the adult provision in a phased approach to match available resources and avoid disruption to clients.
- 2.4 A report presented to the Council's Executive Board in 2017 set out the intention to review services which support young people and recommended that these services continue until June 2018 to ensure stability for vulnerable young people until the new service is implemented.
- 2.5 Recommendations in this report for new contracts have been based on the remaining review and procurement work that is still required. This assessment has been based on the available resources and capacity of officers to complete the review work and procurement exercise.
- 2.6 Recent findings from consultation undertaken with service users and key providers highlights the increased demand for young people with high support needs accessing housing related support, including looked after children. Recommendations in this report for retaining specialist services have been based on data and key findings.

3. Main issues

- 3.1 The Adults and Health Commissioning Team are jointly leading the work of this strategic review with colleagues from Children's Commissioning Team. Key findings from the review will be used to shape a series of proposals for a new city wide fully integrated model. Options for procuring the new service have yet to be considered and agreed.
- 3.2 A project team and project board has been established to oversee the work of the review and any re-commissioning of housing related support for young people. The project team is attended by colleagues in Adults and Health Commissioning Team, Children's Service commissioning, Placements Service and Leaving Care Teams, Procurement, Housing Management and Housing Support.
- 3.3 The review is being undertaken in the context of changing needs and demands, changes to wider policy (particularly welfare reform) and interdependencies with other service provision for this client group to ensure the best outcomes for our customers and best use of commissioned services.
- 3.4 There are a number of key Young Person Services which form part of an overall young person's service model with regard to housing related support and remain

strategically important during the review. The model covers emergency accommodation, trainer flats and move on support, a resource centre and specialist support and accommodation for young people leaving care and support for people in their own tenancies.

- 3.5 Feedback from stakeholders and providers demonstrates that client needs are becoming more complex and that needs have changed. Similarly, other organisations delivering key services to this client group are also changing, therefore it is important to ensure that services commissioned add value and make best use of resources in the city.
- 3.6 Sufficient time is required to complete the review in a considered way and to ensure a fully informed decision regarding the required service specification and pricing model that will deliver best value for the longer term commissioning of the service.
- 3.7 It is envisaged that the review and consequent procurement exercise may take 2 years to complete, allowing time to complete the analysis, service design and re-modelling, financial mapping and subsequent tender process. A mobilisation period for a new service(s) of up to 6 months is included within this timescale.
- 3.8 An initial contract period of 18 months with the option to extend for a further period of up to 6 months is recommended for services detailed in Appendix 1 (1A). This will ensure both service continuity of provision whilst the review is undertaken and subsequent outcomes implemented. These services are;
 - Seacole
 - Leaving Care Service
 - Archway Resource Centre
- 3.9 It is important that these services continue under the current contract terms so that support is provided to vulnerable young people whilst the review work is completed. Allowing these contracts to terminate on the 30th June 2018 would jeopardise established support pathways for young people leaving care and the associated case management plans overseen by Children's Services.
- 3.10 In addition, to the above waiver of Contracts Procedure Rules, it is proposed that use of the negotiated procedure without prior publication of a notice under Regulation 32 (2) (b) (ii) of the Public Contracts Regulations 2015 be agreed for the award of the two contracts with providers listed in table 1B of Appendix 1 (and referred to below) for the provision of specialist accommodation and support for young people.
- 3.11 The ongoing work of the review has identified services which provide a more specialised service through the accommodation and support delivered to vulnerable young people with complex and high support needs. These services are;
 - Flagship
 - Floating Support Service
- 3.12 Due to the nature of these services, demand and the needs of the client groups including risk management issues, established pathways and joint working. It is recommended that these services are retained with new contracts and not subjected to re-procurement at this stage. This will help to maintain stability, successful and

established integrated referral pathways with the placements team in Children's Service and successful move on options and multi-agency approach to dealing with complex cases during the review period.

- 3.13 The Floating Support Service delivered by GIPSIL supports up to 200 vulnerable young people who are referred to the service through a variety of key partners including Leeds Housing Options, Children's Services and the Flagship Service to allow follow on support to be maintained on leaving accommodation.
- 3.14 The Service supports young people who are very vulnerable and have complex needs with intensive support including out of hours access to support workers to enable them to live stable and independent lives.
- 3.15 This Service is a key part of the overall wider model of support available for young people and integrates with other services. These interfaces are underpinned by well-developed pathways, shared information and infrastructures. The Service is well connected with appropriate agencies both with regards to referrals, wider support and operational issues.
- 3.16 The Service performance is positive with outcomes being achieved for young people in line with the service specification. Intensive support is provided where required ensuring not only is stable independent living achieved but that young people have the skills and options available to maintain full independence. This is delivered through support around health, parenting, education and training, employment, benefits and maximising income.
- 3.17 One of the key functions of this service is that it delivers visiting support to young people (16-25 years old) in Leeds. The Service provides intensive support with the option for out of hours access to support workers. The Service is well developed and has a direct route for young people leaving accommodation services. Without this service there would be no follow on support provided in a timely manner to enable young people to access support and assistance to live independently through a seamless transition. A decision to de-commission and subject this service to re-procurement would cause substantial disruption to young people in the service.
- 3.18 The Flagship Service is provided by a consortia led by GIPSIL. The Service is one of a kind in Leeds providing area based accommodation through the provision of 150 trainer flats in shared and self-contained accommodation with support and 225 units of follow on support. A single point of entry, directly taking referrals from Children's Services for the placements of young people leaving care or custody. The Service is able to support up to 400 young people at any one time.
- 3.19 Re-procurement of these services would create challenges in identifying suitable alternative premises for these services in particular regarding timescales and level of consultation needed to ensure alternative premises in the right locations would be suitable for the client needs.
- 3.20 The Flagship services provide a unique offer which would be difficult to re-produce in similar premises considering the number of properties required, quality and standards, location and the level of expert support to deal with complex and high

needs. The Service responds to the needs of young people including crisis management during evenings and weekends and support is available seven days a week up to 10pm at night.

- 3.20 In cases where a landlord has requested a young person aged between 16-17 years old to find a guarantor (someone to hold a tenancy in trust until they reach 18 years old.) the service assists young people in identifying an appropriate adult in order to allow them to live independently with support in place.
- 3.21 The recommendation for new contracts to be put in place from 1st July 2018 with the providers listed in 1B of Appendix 1 will enable specialist support and accommodation services to be maintained for young people with high and complex needs. Re-procurement would create challenges at this time in identifying suitable premises on a like for like basis for these services in particular regarding the timescales and the level of consultation needed to ensure alternative premises would be suitable for the client needs.
- 3.22 The Government proposals for the reform of future funding of supported accommodation has created some uncertainty in the current market with developers and support providers withdrawing or reluctant to deliver supported accommodation for short term contracts and until the full details and changes are known. Therefore, due to the technicalities and in accordance with the Public Contracts Regulations 2015 (Regulation 32 (2) (b) (ii)) surrounding the delivery, timescales and interdependencies of this service, we consider, that only GIPSIL and The Flagship consortia can meet the Council's requirements at this time in delivering the specialist floating support and accommodation contracts. In addition, these contracts will allow the review to be undertaken and specialist support and accommodation features to be considered and aligned in a new wider young person's model.
- 3.23 Consultation has been a key element of this review and extensive consultation has taken place with current providers, service users, key partners, stakeholders and members regarding the purpose and timescale. In addition, an Outcomes Accountability Session (OBA) was also held on the 10th May 2017 inviting all key partners and stakeholders. The session discussed key trends/issues affecting young people including homelessness, tenancy sustainment and independent living; the strengths / weaknesses of the current city response, key gaps or challenges and what a new model for delivery should look like. Current providers of all Housing Related Support Services are aware of the on-going review and timescales and will continue to be consulted and updated through a number of means including the third sector provider forum, contract management meetings and individual meetings.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The request to enter into new contracts and maintain provision with existing specialist providers does not involve a change to current service provision and therefore has not involved specific consultation on this proposal with service users.

- 4.1.2 New contracts will enable continuity of provision and ensure stability for young people who need support to achieve and sustain independent living. Any potential changes to the current services will be fully considered and managed in consultation with existing providers, service users and wider stakeholders as part of the on-going review and re-commissioning process.
- 4.1.3 Extensive consultation has been undertaken with appropriate stakeholders including providers, service users, Children's Services and elected members, as part of the review to inform the longer term re-commissioning of services for young people.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An equality impact assessment screening tool (EIA) has been completed in relation to the recommendation to put in place new contracting arrangements with services in scope of the review, and is attached as a background document for information. The EIA screening tool indicates that a full EIA does not need to be completed as the recommendation to put in place new contracts does not necessitate any changes which would impact negatively on service users, staff and stakeholders.

4.3 Council Policies and City Priorities

- 4.3.1 The review presents an opportunity to re-shape the provision of services available for vulnerable young people and deliver the priorities set out in the Best Council Plan, Leeds Housing Strategy, the Children's and Young Peoples Plan and the Health and Wellbeing Strategy.
- 4.3.2 The HRS programme directly contributes to the delivery of the Best Council Plan 2017/18, specifically to improve the quality of life for our residents by tackling poverty and reducing inequalities through the delivery of the 'Better Lives' objectives.
- 4.3.3 Housing Related Support services for Young People contribute to all of the City Priority Plans, but particularly the Children and Young People Plan 2015-2019 which focuses on the needs of young people including care leavers, with the most significant and complex barriers to progression. The primary focus of the services is housing needs, but also provides support around the other issues highlighted in the plan such as finance and mental health.
- 4.3.4 The Young Persons services within the HRS programme also contribute to the joint Health and Wellbeing Strategy 2016-2021 this is achieved through supporting vulnerable people to be healthy and have strong social connections, live safely in their own homes, minimise debt, achieve their potential through education and lifelong learning and move into employment.
- 4.3.5 The Leeds Homelessness Strategy 2016-2018 vision is to create opportunities and choice to enable people to stay in their own homes or to find alternative quality housing solutions. The overarching aim of the review is to deliver a complete package of support to the most vulnerable young people to remove barriers to living successfully and independently by working closely with Children's Service.

4.4 Resources and Value for Money

- 4.4.1 There is provision within the Resources and Housing budget for these contracts.
- 4.4.2 Two services in scope for the review are jointly funded with Children's Services, who have confirmed funding is available for the lifetime of the proposed new contracts.
- 4.4.3 Maintaining provision through new contracts with existing providers is considered value for money in that it ensures continuity of provision for Leeds young people requiring housing related support to live independently.
- 4.4.4 The total value of the new contracts will not exceed the values of the current contract as detailed in Appendix 1. A breakdown of the costs for each service is also included at Appendix 1.
- 4.4.5 The overall performance for all services detailed in Appendix 1 is good with positive outcomes being achieved for young people in line with the specification. The support delivered by these services ensures that not only is stable independent living achieved but also young people have the skills and options available to achieve full independence through support around health, parenting, education, training, employment, benefits and maximising income.
- 4.4.6 During the review and the next 2 years it will be important to evaluate the current young person's model and ensure that the new model continues to be the most effective model at meeting the needs of young people in the city with regards to housing support. In addition it will be important to take into consideration the needs of Care Leavers and the potential impact on services commissioned by Children's Services.
- 4.4.7 The review and any subsequent re-design and re-modelling of services will focus on delivering value for money and ensuring efficiency within service delivery.
- 4.4.8 All services are contract managed by the Commissioning team in Adults and Health Directorate. Robust contract management processes allow for the on-going monitoring of performance.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a Key Decision as the maximum combined cost of services within this review is more than £250k. A notice was published on the List of Forthcoming Key Decisions on the 27th April 2018 and the report will be subject to call in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.2 Advice has been sought from the Procurement and Commercial Service about the process required for the review and new contracting arrangements for services.

- 4.5.3 With regard to the waiver of Contracts Procedure Rules 9.1 and 9.2 awarding contracts directly to the providers in this way could leave the Council open to a potential challenge from other providers to whom this contract could be of interest. These contracts fall within social and other specific services under the Public Contracts Regulations 2015 (Regulations). The value of the contracts detailed at Appendix 1A fall below the threshold set down by Regulations for social and other specific services (currently £615,000.00).
- 4.5.4 However, it should be noted that case law suggests that the Council should always consider whether contracts of these values could be of interest to contactors in other EU member states and, if they could, the opportunities should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate.
- 4.5.5 The Director of Resources and Housing has to consider the nature of services being delivered, the requirement to physically deliver the services in Leeds and relatively low value of the contracts being offered, and is satisfied that it would not be of interest to providers in other EU member states.
- 4.5.6 With regard to those contracts that are above the threshold set out at paragraph 3.11 and Appendix 1 (1B) , and for which we are seeking to use the negotiated procedure without the publication of a notice is considered to be a potential risk of challenge that there are no real technical reasons justifying the use of the negotiated procedure without publication of a notice in accordance with the Public Contracts Regulation 2015, and that the Council is simply seeking to circumvent the application of the procurement rules. However, due to the reasons set out in paragraphs 3.11 to 3.22 of this report this risk is perceived to be low.
- 4.5.7 In addition, these risks can be diminished somewhat by the publication of a voluntary transparency notice in OJEU immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made the chances of a claim for ineffectiveness being brought are significantly reduced, and would only be successful if the Council had used the negotiated procedure without the publication of a notice incorrectly. Further, publishing such a notice will also start time running for any other potential claim of breach of Regulations, which must be brought within 30 days of the date that an aggrieved party knew or ought to have known that a breach had occurred.
- 4.5.8 It should be noted that voluntary transparency notices themselves can be challenged. The recent case of Italian Interior Ministry v Fastweb SpA (Case C-19/13) highlights the limited protection that the voluntary transparency notice route can offer to contracting authorities wishing to make direct awards without following an OJEU process. A grey area remains around whether the protection of a voluntary transparency notice will be available where the contracting authority genuinely, but mistakenly, considers it was entitled to award the contract without notice. It shows that the safe harbour will only be 'safe' to the extent that the justification for the direct award is in itself sound and ready to stand up to the increased scrutiny that the publication of the voluntary transparency notice may well invite.
- 4.5.9 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1, 9.2 or the use of the negotiated procedure without prior publication of a notice, the above

comments should be noted. In making their final decision, the Director of Resources and Housing should be satisfied that the course of action chosen represents best value for money for the Council.

4.6 Risk Management

- 4.6.1 Appropriate governance arrangements will be put in place to identify and mitigate a range of risks associated with this review, including weekly project team meetings and regular feedback to the project board which will have representation from key strategic partners and stakeholders. There will also be a Risk Register, which will be reviewed regularly by the Project Team.
- 4.6.2 The awarding of new contracts from the 1st July 2018 enables continuity of provision whilst the review is completed after which services will be re-modelled, re-tendered and/or decommissioned to achieve best value. Contracts will continue to be performance managed by officers in the Adults and Health Commissioning team during the review period and any safeguarding or performance issues will be addressed.
- 4.6.3 Without these contracts and arrangements, services would fall out of contract causing significant risk to the council and its providers. Should the services not continue to be delivered beyond the expiry of the current contract, this would result in vulnerable young people being without support, including those to whom a statutory housing duty may be owed.

5 Conclusions

- 5.1 A review of service provision for young people within the housing related support programme is currently underway. The purpose of the review is to determine future commissioning needs relating to housing related support services. The review will include consultation with a range of stakeholders including Members, Council directorates, other partners, providers and service users.
- 5.2 A number of contracts for services within the scope of the housing related support review will expire before the outcomes of the review are due to be implemented with no further extensions available. In order to maintain service continuity and complete the review within the timescales, the proposal is to establish new contracts for these services to run to the 31st December 2019 with the option to extend for a further 6 months if required. These services are listed in Appendix 1 (1A).
- 5.3 In addition, two contracts have been identified as providing specialist accommodation and support to young people and therefore new contracts are requested from the 1st July 2018. These services are listed in Appendix 1 (1B).

6 Recommendations

- 6.1 The Director of Resources and Housing is recommended to:
 - Approve the waiver of Contracts Procedure Rules 9.1 and 9.2 to establish new contracts with those services detailed in Appendix 1 (1A) pending the

outcome of the review. The maximum value of the contracts will not exceed the amount set out in Appendix 1A. New contracts will run from the 1st July 2018 until the 31st December 2019 with the option to extend up to a further 6 months should this be needed.

- Approve the award for the delivery of specialist Housing Related Support Services, with those services detailed in Appendix 1 (1B) using the (Negotiated Procedure without prior publication of a notice under Regulation 32 (2) (b) (ii) where services can only be provided by a single provider due to competition being absent for technical reasons. Full details are contained in this report and within the 'Main Issues' section. The services will run from the 1st July 2018 until the 31st December 2019 with the option to extend for a further period of up to 6 months. The maximum value of the contracts will not exceed the amounts set out in Appendix 1B.

7 Background Documents¹

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.