

**Report of:** Governor Support Services Manager

**Date:** 4<sup>th</sup> June 2019

**Subject:** Waiver of Contract Procedure Rule 8.1 and 8.2 to award a contract to The Key Support Service Ltd to provide access to governors to the 'The Key for School Governors' information platform

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

**What is your reason for seeking to waive CPRs?**

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process (e.g. to deal with the consequences of extreme weather).	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other (please provide summary here) Governing Bodies have paid for access to The Key for Governors platform through their SLA with Leeds City Council. The contract had a twelve month extension clause but it was not evoked before the deadline and a new contract must be issued.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

## **Summary of main issues**

1. As a fully traded service, Governor Support Service (GSS) needs to retain/increase custom within a changing education landscape and changing demands from governing boards including the need to attract more multi academy trusts to buy into the service.
2. In April 2018, the Council contracted with Key Support Service Ltd to purchase licenses for their 'The Key for School Governors' (The Key) online platform that provides a range of information and advice for governors that all governing bodies with a service level agreement with GSS have access to.
3. The platform has proved a very useful tool for governing bodies, and feedback on ease of use and the information provided has been very positive. The initial contract had provision for a one year extension but it was not evoked in time, resulting in the need to issue a new contract and again waive CPR 8.1 and 8.2.

## **Recommendations**

4. In respect of the contract to provide access for governing bodies to 'The Key for School Governors' platform and services, the Deputy Director, Learning is recommended to approve the waiver of Contracts Procedure Rules 8.1 and 8.2 - intermediate value procurement, and award a contract to Key Support Services Ltd in the sum of £47,500. The contract shall commence on the 1<sup>st</sup> April 2019 and expire on the 31<sup>st</sup> March 2020.

## **1 Purpose of this report**

- 1.1 The report seeks the authority of the Deputy Director, Learning to enter into a new contract with Key Support Services Ltd to maintain access to their 'The Key for School Governors' online platform for the 200 governing bodies signed up to GSS service level agreements.

## **2 Background information**

- 2.1 Due to decreasing staffing capacity, the decision to use 'The Key' was a proactive strategy for the GSS team to spend less time on basic enquiries from governors and to focus capacity on those critical areas of School Improvement support and challenge for vulnerable schools including strengthening governance and intervening under statutory powers as appropriate.
- 2.2 In April 2018 the Director, Children's Services approved the waiver of CPR 8.1 and 8.2 to award a twelve month contract to Key Support Services Ltd to enable school governing bodies with an service level agreement (SLA) to access their 'The Key for School Governors' online platform with an option to extend for a further twelve months.
- 2.3 Use of the Key enables the GSS to discharge some statutory responsibilities more effectively through sign posting governors to appropriate regulations, guidance and model policies. The platform provides extensive information to school governors on their role, current legislation, and how best to support the performance and development of their school. By including access to the platform in the SLA, GSS officers were freed from having to answer a range of basic queries from school governors, and in turn governors had access to information 24 hours a day.
- 2.4 Evaluation of Year 1 of The Key contract has demonstrated value for money for GSS as the key selling point of a high quality traded service has been retained though better use of technology. Also it delivered value for money to the school community from the discounted licence that has been achieved on their behalf within the context of increasing financial constraints in schools. It should be noted that Year 2 of the contract is slightly cheaper than the original quote of £50k per annum. It also demonstrated value for money as it was offered at no extra cost to governing bodies (funded through a reduction in meetings supported in the SLA) and GSS officers were able to focus more attention on income generating consultancy and training.
- 2.5 Consultation with schools demonstrates high levels of satisfaction with the platform due to its ease of use and the quality of information on the site enabling governors to fulfil their role effectively.

## **3 Main issues**

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

- 3.1 The original contract was awarded with a waiver of CPRs as this platform offered the most comprehensive information and advice at a price that resulted in no additional charge to governing bodies. The reasons put forward in the original waiver report stand as there are no comparative services on the market.
- 3.2 The contract had an option for a twelve month extension, but an administrative error meant that it was not approved in time. The SLAs signed by the governing bodies include access to 'The Key' and a new contract is required to continue this provision until 31<sup>st</sup> March 2020.

- The Key contract was a budgeted commitment within the 2019/20 service budget and the expenditure was incorporated into the traded service modelling and pricing strategy.

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

- 3.2 If the contract is not awarded, the Council will be in breach of our agreements with school governing bodies who pay for this service. The Council would risk loss of income from schools withdrawing from their agreements.

### **Advertising**

- 3.3 There is no proposal to undertake a formal tendering exercise for the service due to the reasons set out in this report.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Consultation took place with governing bodies during the first year of the contract with Key Support Services at governors meetings and through SLA negotiations. The platform has provided very useful for governors and has greatly reduced the number of common enquiries received by the GSS.

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

- 4.2.1 There are no specific equality and diversity considerations relating to this contract. Having information accessible online can be preferable for some people with additional needs. The Governor Support Service will continue to provide accessible information to governors if they prefer for whatever reason.

### **4.3 Council Policies and City Priorities**

- 4.3.1 The procurement of 'The Key' supports making Leeds Child Friendly City by ensuring that governors have access to high quality support and guidance documents 24 hours a day 7 days a week to ensure that they are the best position to hold schools to account for:

- Keeping children safe,
- Supporting families,
- Raising aspirations and educational attainment

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

- 4.4.1 This contract was a budgeted commitment within the 2019/20 service budget and the expenditure was incorporated into the traded service modelling and pricing strategy.

- 4.4.2 The procurement represents value for money as it will provide all governing bodies who buy into an SLA with GSS with good quality advice guidance and support and answers to questions 24 hours a day 7 days a week. This could not be provided internally by GSS. The Key has grown from a pilot project, funded by central government, in 2007 to become an independent company now serving more than 45% of schools in England. The Key has experts who can give accurate, impartial answers, quickly. Over the years they have carefully built up a well-rounded network of expertise, including an independent in-house research

team, specialist associate experts, contacts throughout the sector and close relationships with teaching schools.

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

- 4.5.1 The decision is a significant operational decision and is not subject to call-in. The report does not contain any exempt or confidential information.
- 4.5.2 Awarding contracts directly to the provider in this way could leave the Council open to a potential challenge from other providers to whom this contract could be of interest. The contract falls within social and other specific services under the Public Contracts Regulations 2015 (Regulations). The total value of the contract is below the threshold set down by the Regulations for social and other specific services. However, it should be noted that case law suggests that the Council should always consider whether contracts of this value should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is appropriate.
- 4.5.3 The Deputy Director, Learning has to consider the nature of the 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.
- 4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.5 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the above comments should be noted. In making their final decision, the Director of Children and Families should be satisfied that the course of action chosen represents best value for the Council.

#### **4.6 Risk Management**

- 4.6.1 The main risk of not awarding the contract is the Council being in breach of its agreement with governing bodies to provide access to the platform. Without the platform in place to provide advice to governors, the GSS would not have the capacity to provide the information and continue to deliver consultancy and training at the current level.

### **5 Conclusions**

- 5.1 'The Key' has been a very successful addition to the services offered to governing bodies under their SLA with the Council and has undoubtedly contributed to the retention of contracts in an increasingly competitive market.
- 5.2 The GSS had intended to evoke the option to extend but this was not completed in time and therefore a new contract is required to maintain access to the platform and comply with the SLAs that governing bodies have paid for.
- 5.3 The service is valued by those who use it and presents value for money for the council and governing bodies for reasons outlined in this report.

## **6 Recommendations**

- 6.1 In respect of the contract to continue to provide access for governing bodies to 'The Key for School Governors' platform and services, the Deputy Director, Learning is recommended to approve the waiver of Contracts Procedure Rules 8.1 and 8.2 - intermediate value procurement, and award a contract to Key Support Services Ltd in the sum of £47,500. The contract shall commence on the 1<sup>st</sup> April 2019 and expire on the 31<sup>st</sup> March 2020

## **7 Background documents**

- 7.1 None