

Report of the Business Manager Active Leeds

Report to the Head of Active Leeds

Date: 17/06/19

Subject: The Sport programmes team waiver of contracts procedures 8.1 and 8.2 lack of competition for products, courses and licences.

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. A waiver to procure a variety of sport programme led contracts was signed off in February 2018, but as part of this it was to review the process every year. However things will not change substantially one year to next and in order to reduce officer time it is recommended that the waiver is extended for a further 2 years.
2. The value of sport programme led product, training courses and licences for the service is £148k for the two years.
3. To enable the service to compete in the leisure industry it is essential that we are able to work with unique organisations and governing bodies for sport. Failure to be at the forefront of opportunities is likely to lead to customers using our competitors, which would reduce the services income.
4. To carry out a full tender process is not achievable as either the organisation is a governing body of which there is only the one or the organisation is unique and therefore have no competition.
5. PPPU have requested that in order for the service to maintain good practice it should obtain a waiver from the Chief Officer giving permission for Active Leeds staff to waiver contract rules 8.1 and 8.2 due to lack of competition.
6. In 2019/20 Active Leeds project to spend £148K on procuring these for industry specific products, training courses and licences.

Recommendations

1. The Head of Active Leeds is recommended to approve the waiver to procure the offering sport programme team contracts for a period of 2 years, due to the following contracts procedure rule(s):

Where the relevant Chief Officer or equivalent authorisation considers there is genuinely no competition such that only a particular organisation or provider can meet the Council's specific requirements (e.g. when commissioning a piece of art) a waiver of CPRs 8.1 and 8.2 be obtained.

2. The service will maintain a list of licensed suppliers and add/delete as and when appropriate.

1 Purpose of this report

- 1.1 This report aims to highlight to the Head of Active Leeds why the service is unable to comply with a full tender process each time an industry specific unique product, training course or licence is procured.

2 Background information

- 2.1 A waiver to procure unique product, training course or licence for Active Leeds was signed off in February 2018, but as part of this it was to review the process every year. However things will not change from one year to next and in order to reduce officer time it is recommended that the waiver is extended for a further 2 years.
- 2.2 A waiver is required for the following:

Kirklees Active Leisure: Leeds City Council do not have a pool that is specially designed for the development of synchro training. Neighbouring authority 'Kirklees Active Leisure' are the closest organisation able to offer a specialist pool. The contract is due to commence June 2019 with an estimated contract sum of **£2,000**.

Institute of Swimming (IOS): For the provision of staff training working in and around the swimming pools to Swim England's guidelines. The contract is due to commence on the June 2019 with an estimated contract sum of **£15,000**.

Swimming Teachers Association (STA): For the provision of staff training working in and around the swimming pools. The contract is due to commence in June 2019. The contract will have an estimated contract sum of **£15,000**.

To note that the IOS and STA are the only organisations available for us to purchase aquatics training, neither company are able to provide all aspects that are needed for the service.

Fin2Fit: A specialist swim class where participants wear mermaid style fins. 'Fin2Fit' are a brand, and the only one of their type that has accreditation with Swim England. Therefore no other competitor is available that meets the required industry standards. The contract is due to commence in June 2019 and estimated contract sum of **£3,000**.

External tutors: There is a requirement for Active Leeds to deliver aquatic training courses through an approved training centre status, to enable this to happen external tutors and external verifiers are required. To deliver as an approved training centre means that the service can reduce its expenditure on delivery of training courses significantly. The approved training centre status is required to ensure staff are trained on industry standard qualifications. The contract has an estimated contract sum of **£18,000**.

British Gymnastics: Active Leeds work in partnership with British Gymnastics the governing body for the sport. This partnership results in affiliation fees being paid by Active Leeds to British gymnastics for each participant in Active Leeds gymnastic sessions. For this Active Leeds receive access to new products, staff resource from British Gymnastics, marketing material and discounts on training courses. The contract has an estimated sum of **£20,000**.

British sub aqua: To enable Active Leeds to deliver snorkelling sessions for young people in the swimming pools a licence has to be paid to the governing body. Without this licence Active Leeds are unable to offer this activity for children. The contract has an estimated sum of **£1,000**.

2.3 The leisure industry is constantly evolving. Purchasing unique products, training courses or licences enables the service to deliver a quality, branded, recognised, consistent and competitive service to our customers.

2.4 These products are unique and there is no alternative supplier for these, for example, Fin2Fit is the only accredited mermaid/shark children's activity programme.

2.5 The IOS and STA are the only leisure industry approved training organisation for swimming teacher and swimming coach qualifications. Neither organisation are able to provide the full complement of training courses. To not work with these organisations means that we are unable to provide structured aquatics programmes such as school swimming, swimming lessons, diving schemes.

2.6 As part of the Council's contract procurement rules, staff are required to carry out a tender exercise before they are able to procure a service. It is impossible to do this as the process is not fit for purpose, these are unique products, training courses or licences and as such there is no competition. Therefore it is imperative that the recommendations proposed in this waiver are agreed.

2.7 The procurement team have requested that in order for the service to maintain good practice it should obtain a waiver from the Chief Officer or equivalent giving permission for Active Leeds staff to waive a full tender process each time this type of product is required.

2.8 In 2019/20 Active Leeds team project to spend £148K on procuring unique products, training courses or licences for industry led programmes as specified above over the two years. This spend however will be offset by maintaining and increasing income.

3 Main issues

Reason for contracts procedure rules waiver

3.1 The reason that this waiver request is being made is because of the need for the

service to be quick, efficient and flexible whilst still working in the procurement rules.

- 3.2** To enable Active Leeds to keep up to date with market trends and also try to explore services/products which only have single providers due to their uniqueness or first to market position.

Consequences if the proposed action is not approved

- 3.3** Failure to be able to procure these unique licences would significantly undermine the service offer within a highly competitive operating environment and would have a significantly negative impact on income.
- 3.4** The service wouldn't have enough suitable qualified staff in order to deliver the programmes which would have a detrimental effect on our income and service reputation. It would also mean that it could lead to the closure of some of the pools due to not having qualified staff on the poolside.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Members of the team review programmes 3 times per year and these reviews include viability of programmes to ensure they are fit for purpose
- 4.1.2 The sport programme team regularly search the industry for new products through attending benchmarking forums such as "LFX" (business network for professionals working in the health and fitness industry) or industry specific shows such as Leisure Industry Week.
- 4.1.3 Feedback from customers is monitored regularly via social media, verbal/written communication is considered and annual surveys with customers are completed.
- 4.1.4 Staff are encouraged to speak with customers to gain feedback on activities.
- 4.1.5 Staff from both the management and operational teams also contribute towards regular discussions regarding the programmes delivered by our service through formal meetings.
- 4.1.6 The services finance officer has been consulted and is in agreement with the approach.
- 4.1.7 The portfolio holder for Active Leeds was consulted on the 7th June 2019.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The procuring of any industry specific products, training courses and licences will not have any additional effect on equality and diversity or cohesion and integration within the service.

4.3 Council policies and City Priorities

- 4.3.1 The waiver request is related to the following council policies:

- Best Council Plan
- Vision for Leeds

4.4 Resources and value for money

- 4.4.1 The waiver of this process represents value for money as it enables the Active Leeds staff to make decisions on implementing programmes quicker and more efficiently and to not waste officer time on an inappropriate exercise.
- 4.4.2 The annual costs of the unique products, training courses or licence is in the region of £148k over the two years. Not being able to keep up to date with delivery and partnership working will have massive financial implications on the service. The cost to procure these goods and services are within the service base budget and are already covered.
- 4.4.3 This waiver would ensure that income is protected and most likely increase the levels of income taken. This would ensure that a significant level of value for money will be obtained.
- 4.4.4 The waiver will be for a period of 2 years.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This decision is not subject to a call in.

4.6 Risk Management

- 4.6.4 If the Chief Officer Culture and Sport does not agree to the contents of this waiver then a full tender process would be carried out each time a unique product, training course or licence is required which would prove time consuming, a waste of staff resource and unnecessary. The process being proposed is a pragmatic response to dealing with this that forms the basis of what customers expect to see delivered in any good leisure organisation.
- 4.6.5 If these were not procured then it will lead to a much weaker service offer and loss of income.
- 4.6.6 The partnership which the service has entered into with Alliance is built on Leeds being competitive in the marketplace. Purchasing unique product, training course or licence supports this.

5 Conclusions

- 5.1.1 In conclusion it is recommended that the Active Leeds agrees to waiver contract rules 8.1. and 8.2 due to lack of competition the need to go out to tender on each occasion to procure the offering of unique product, training course or licence.
- 5.1.2 These are unique products, training courses or licences and there is no alternative supplier for these.
- 5.1.3 To enable the service to compete in the leisure market it is essential that we are able to provide new trends and products and work with governing body partners. Failure to be at the forefront is likely to lead to customers using our competitors, which would reduce our income. The market currently is saturated with competitors in Leeds.

6 Recommendations

1. The head of Active Leeds is recommended to approve the waiver to procure the unique product, training course or licence for a period of 2 years, due to the following contracts procedure rule(s):

Where the relevant Chief Officer or equivalent authorisation considers there is genuinely no competition such that only a particular organisation or provider can meet the Council's specific requirements (e.g. when commissioning a piece of art) a waiver of CPRs 8.1 and 8.2 be obtained.

2. The service will maintain a list of licensed suppliers and add/delete as and when appropriate.

7 **Background documents**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.