



**Report of:** Commissioning Manager, Children & Families

**Report to:** Director of Children & Families

**Date:** 13/09/19

**Subject:** Request to waive contract procedures rules 9.1 and 9.2 to award a contract, without competition, to Scope for delivery of an inclusion support service

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open 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

### 1. Main issues

- This report seeks approval to waive contract procedures rules 9.1 and 9.2 to award a contract, without competition, to Scope for delivery of an inclusion support and Play Partners Service. This would be a continuation of two existing services (DN334016 & DN402478) under one, new contract.
- The current contract with Scope expires on 31<sup>st</sup> March 2020 and the provider has been the recipient of an inclusion support contract since May 2013. In April 2019, Scope was awarded a twelve month contract to undertake a Play Partners Service when the provider Leeds Play Network ceased to exist. Both contracts end on 31<sup>st</sup> March 2020.
- The Children & Families commissioning team led a Short Breaks Review which highlighted the value of universal inclusion as well as targeted short breaks for children and young people (C&YP) with special education needs and/or disabilities (SEND).
- The review has led to a change in how targeted short breaks are being commissioned from April 2020 and work will now focus on examining the commissioning options for universal inclusion support and subsequent full and competitive procurement exercise.

- Whilst an options appraisal and procurement process takes place, it is important for us to ensure continuity of support for mainstream activities and families around inclusion. Any drop or in inclusive provision may increase pressure on targeted or specialist services.
- The main reason for seeking to waive Contract Procedure rules 9.1 and 9.2 is summarised at Appendix 1 of this report.

## **2. Best Council Plan implications**

- This contract will assist with Leeds City Council's ambition to be a Child Friendly City by improving access to inclusive activities across the city for C&YP with SEND.

## **3. Resource implications**

- There will be no increase in the amount paid for the service under the new contract. The existing inclusion support contract (DN334016) has an annual value of £ 234,889 and the Play Partners Service (DN402478) has an annual value of £50,612. The total cost of the new contract will be £285,501 per annum and this will be met by revenue funding from the Children and Families Directorate.

## **Recommendations**

- The Director of Children & Families is recommended to approve the waiver of contract procedures rules 9.1 and 9.2 (high value procurements) to award a contract to the current provider of the Inclusion Support Service and the Play Partners service, Scope. The contract will commence on 1st April 2020 and will expire on 31<sup>st</sup> March 2021 with 1 option to extend for 12 months. The overall contract value will be £571,002.00 (£285,501 per annum).

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek approval from the Director of Children and Families to waive Contract Procedure Rules (CPRs) 9.1 and 9.2 to directly award a contract to the existing provider of the Inclusion Support Service & Play Partners service, Scope. This will allow sufficient time to review the commissioning options for universal advice and inclusion services, ensuring the council meets its' legal obligation to offer a range of short break services for C&YP with SEND.
- 1.2 The contract will commence on 1st April 2020 and will expire on 31st March 2021 with 1 option to extend for 12 months. The overall contract value will be £571,002.00 (£285,501 per annum).

## **2 Background information**

- 2.1 Leeds City Council's continuum of short breaks ranges from universal provision to intensive specialist services catering to children and young people with the most complex needs. Increasing accessibility for disabled children in universal provision is a vital component in the duty to provide short breaks, which came into force in April 2011. The focus in Leeds is on increasing access to universal settings so that children and young people with SEND can take part in activities with their non-disabled peers and be active members of their local communities. This should also help ensure that targeted and specialist resources are prioritised for those with the highest needs. This is important if families are to be empowered to live normal lives and not become dependent on intensive services, as many children and young people experience a sharp drop in provision when entering adulthood.

- 2.2 Paragraph 6(1) (c) of the Children Act 1989 requires Local Authorities to provide services designed to assist carers of disabled children by giving them breaks from caring. This Duty came into force on 1st April 2011 and requires each Local Authority to:
- Offer short breaks as a preventative early intervention strategy;
  - Offer a range of short breaks services to parents/carers;
  - Publish a statement of those services to parents/carers and to regularly review the statement.
- 2.3 Consultation with families has shown that, for many families with disabled children, being able to access universal settings is the main way they'd like to obtain a 'short break', whilst some also want targeted group-based activities designed specifically for children and young people with SEND. Families have told us they want to access universal facilities just like their non-disabled peers but that their experience in accessing settings varies significantly. Scopes' remit is to break down barriers to inclusion and the provider plays a vital role in supporting disabled children and their families to live happy and fulfilling lives as equal members of their communities.
- 2.4 Scope offers advice, support and challenge to settings to ensure settings are fully inclusive and able to offer equality of access to all children. This is a highly sustainable model, building capacity in universal settings to include disabled children, reducing the likelihood of crisis and family breakdown and thereby reducing the need for more expensive specialist provision or Social Work intervention.
- 2.5 In April 2019, Scope was awarded £50,612 to undertake a Play Partners Service. The purpose of this provision is to introduce children and young people to a universal setting, providing one to one support to both the child/young and the setting for a time-limited period. This enables universal settings to work with more C&YP with SEND in the future. The previous provider (Leeds Play Network) ceased to exist at the end of March 2019 and the Deputy Director of Children & Families Services approved the decision to award the service to Scope.
- 2.6 As part of the options appraisal, the Commissioning Team will fully explore the capacity of the market in inclusion advice and support. Scope nationally appears to be one of the prominent market leaders in disability equality and supporting inclusion in society.

### **3 Main issues**

#### **Reason for contracts procedure rules waiver**

- 3.1 This service helps ensure Leeds City Council meets a statutory duty to provide short breaks to C&YP with SEND. A short breaks commissioning review has recently concluded with the remit of reviewing all short breaks services, from universal provision, targeted support and specialist short breaks. The Project Team included representation from parent/carer group EPIC and undertook a significant amount of consultation with all stakeholders including families, providers and professionals.
- 3.2 Review findings have led to a significant change in how the Council's targeted short breaks are commissioned from April 2020 including a move from grants to a contract for services for children with higher level needs and a move from one year to two years grants for other provision. Attention now needs to turn to reviewing commissioning options for universal services as any reduction in 'inclusivity' amongst service providers will inevitably lead to an increased pressure on targeted short breaks.
- 3.3 Feedback from parents, carers and families as part of the short breaks review identified that many universal settings are not accessible for C&YP with SEND. Families gave a number

of examples of services that were not inclusive including inappropriate facilities and training/awareness of staff. Some parents said that once children exhibit 'challenging behaviour' they are refused access to services and often attention turns to parents who feel 'on trial'. Feedback indicates that a lack of inclusion in universal settings is placing greater pressure on targeted and specialist resources.

- 3.4 The service delivery model of the inclusion support service has changed significantly since the contract was first awarded in 2013 and in this current year of delivery we are working with Senior Leaders within the national organisation Scope around replicating the Leeds 'restorative practice' model nationally and how Scope can support the Child Friendly Leeds agenda.
- 3.5 Scope has historically been funded to deliver a playscheme and hold an equipment budget, both of which ceased several years ago under the direction of the former Complex Needs Management Team. Until last year, Scope offered direct support to individual families which potentially duplicated support offered elsewhere and without delivering sustainable outcomes. Over recent months Commissioning Officers have worked closely with new managers at Scope to change the model of their support to ensure settings are inclusive for all children rather than supporting an individual child to access a setting.
- 3.6 Through the implementation of their revised Scope Inclusion Quality Mark ("SIQM"), Scope has increased the awareness of their support for universal settings to become more inclusive. From April – June 2019, 57 settings have shown an interest in the SIQM, 40 settings have started this process (70%), 15 have completed (38%) and this has resulted with an increase of 28 C&YP with SEND accessing universal settings which now totals 129 C&YP (22% increase). Scope's performance is closely monitored by the Commissioning Team and performance indicators have been developed to monitor continuous improvement.
- 3.7 The proposed waiver of contract procedure rules will enable time to complete the options appraisal for universal provision following the implementation of changes to the commissioning of targeted short break services and a significant remodelling of the work undertaken by Scope around inclusion support and the Play Partners service. Given the original contract with the service provider was issued in 2013 we are keen to go out to the market in a competitive exercise to ensure we continue to deliver value for money as well as a high quality service. This exercise is likely to take more than twelve months in total hence the request for an additional twelve month extension which will be utilized if needed.

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

- 3.8 The current contract expires on 31<sup>st</sup> March 2020 and if the contract is not awarded the work on increasing universal inclusion will cease and could foreseeably lead to an increased pressure on our commissioned targeted provisions or more costly specialist services. Short breaks are important for the development of C&YP in terms of building confidence, social interaction, preparation for independence and so on. Failure to continue the work of Scope around inclusion could mean we are not meeting outcomes for some of our C&YP with SEND and increased pressure on families with vulnerable children. One of the priorities of the Children and Young People's plan 2018 -2023 is to ensure the most vulnerable children and young people are protected

### **Advertising**

- 3.9 This contract opportunity has not been advertised for the reasons set out in this report. The contract value is below current EU threshold, so there is no requirement for the contract to be tendered in accordance with the Public Contracts Regulations but there is a requirement to comply with the Council's Contract Procedure Rules. It is considered that due to the nature of the requirement, there would be no interest from other EU Member State.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

4.1.1 The relevant Head of Service has been briefed on the proposal, as has the Chief Officer – Financial Services, in accordance with CPR 1.3. Lead Member for Children & Families, Councillor Venner has been briefed. The current provider Scope has been informed of our intention and has indicated they would be willing to enter into a new contract for twelve months.

4.1.2 A thorough stakeholder consultation has taken place as part of the Short Breaks Review. This included consultation with:

- Children and young people
- Families
- Commissioned and other service providers
- Practitioners and Lead Professionals

### **4.2 Equality and diversity / cohesion and integration**

4.2.1 An equalities impact screening has been completed and is attached to this report.

4.2.2 Waiving CPRs means that the current service delivery model will continue. The service will be to the same client group at the same contract value. The decision to continue delivery of the current service arrangement will not have any adverse impact on any equality group.

### **4.3 Council policies and City Priorities**

4.3.1 This fits with the Children and Young People's Plan 2018-2023 priorities to;

- Ensure that the most vulnerable are protected
- Improve at a faster rate educational progress for children and young people vulnerable to poor learning outcomes.
- Help children and parents to live in safe, supportive and loving families

### **Climate Emergency**

4.3.2 The availability of services within local communities reduces the amount of travel that is required to access provision. This helps to reduce carbon emissions and environmental pollution which contributes to city actions to better manage air quality.

4.3.3 The service specification requires the service to meet all Legislation, Guidance and Good Industry Practice in environmental management and the objectives of the Authority's sustainability policies. Officers from Children and Families will work with the service through the established contract management process to ensure the service is proactively seeking to minimise its carbon footprint and thereby support the Council in achieving its ambition to be carbon neutral by 2030.

### **4.4 Resources and value for money**

4.4.1 The cost of the contract will be met by revenue funding from the Children and Families Directorate. There is no increase in the amount paid for the service under the new contract.

4.4.2 The quality and value for money of the service will continue to be monitored by the Commissioning and Market Management Service, Children & Family Services. Intelligence

gained through the contract monitoring of this contract will be used to inform the inclusion and advice options appraisal and a full market exercise will be undertaken to ensure the future service continues to deliver value for money.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The decision is a key decision and will be subject to call-in process under the Constitution. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules
- 4.5.2 Awarding contracts directly to Scope 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 potential value of the contract will not exceed the OJEU threshold of £615,278 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 Director of Children and Families 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 9.1 and 9.2, 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 Should the waiver not be approved, there is the risk of an increased pressure on our commissioned targeted short breaks services and an increase in the demand for more costly specialist services if inclusive services are not supported or encouraged.

### **5. Conclusions**

- 5.1 The Council is required by law to provide a range of short breaks services for C&YP with SEND. In order to complete an options appraisal and potential re-procurement of a universal inclusion service, it is necessary to award a short term contract to the current provider to avoid a gap in delivery.
- 5.2 The new contract will be offered on the Council's standard terms and conditions however a new service specification to merge the two existing services will be developed. A review of performance measures will take place and implemented to ensure robust performance monitoring continues to take place. This will ensure that the Council continues to receive value for money.

### **6. Recommendations**

- 6.1 The Director of Children & Families Directorate is recommended to approve the waiver of contract procedures rules 9.1 and 9.2 (high value procurements) to award a contract to the

current provider of the Inclusion Support Service & Play Partners service, Scope. The contract will commence on 1st April 2020 and will expire on 31<sup>st</sup> March 2021 with 1 option to extend for 12 months. The overall contract value will be £571,002.00 (£285,501 per annum).

## **7. Background documents<sup>1</sup>**

7.1 None

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<sup>1</sup> 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.

**Appendix 1**

**What is your reason for waiving CPRs?**

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process (such as, 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 or 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 checked="" type="checkbox"/> Yes	<input 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) .....not applicable ..... .....	<input type="checkbox"/> Yes	<input type="checkbox"/> No