

Report of Head of Service – Learning for Life

Report to Deputy Director, Children & Families Social Work

Date: October 2019



Subject: Request to waive Contract Procedure Rules 8.1 and 8.2 to award contracts to Rodillian Academy and St Mary’s Menston Catholic Voluntary Academy for provision of the services of School Games Organisers

Are specific electoral Wards affected? If relevant, 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
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

1. Main issues

- This report is seeking permission to waive contract procedures rules 8.1 and 8.2 to award contracts, without competition, to Rodillian Academy and St Mary’s Menston Catholic Voluntary Academy.
- The contracts will be for the provision of the services of the School Games Organiser (SGO) for two days per week to work on city wide projects as part of the Active Schools Programme - Leeds PE and Sport Offer.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- These services support the ambitions of the Best Council Plan and the ambitions of a Child Friendly City.
- The services directly support the following priorities of the Children and Young People’s plan:
 - Encourage physical activity and healthy eating
 - Improve social, emotional and mental health and well-being

3. Resource Implications

- The contracts will be for 12 months, commencing 1st September 2019.
- The contract values will be £18,000 per annum each. The maximum spend will therefore be £36,000 over the life of the two contracts.

Recommendations

- 1 In respect of provision of the services of School Games Organisers, the Deputy Director, Children & Families Social Work is recommended to approve the waiver of the following Contract Procedure Rules:

Contract Procedure Rules 8.1 and 8.2 - intermediate value procurement and award contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary Academy in the sum of £18,000 each. The contracts will be for 12 months, commencing 1st September 2019.

Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contract Procedure Rules 8.1 and 8.2 to award contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary Academy for provision of the services of the SGO. The contracts will commence on 1st September 2019 and expire on 31st August 2020 for the sum of £18,000 each.

2 Background information

School Games Organisers (SGOs)

- 2.1 SGOs support the Youth Sport Trust in delivering the School Games. The School Games started in 2006 as a single annual multi-sport competition - what is today known as the School Games National Finals. In 2010, the School Games was expanded to include more localised competitions, from major county level events to smaller competitions within the same school. As part of this work, the Youth Sport Trust were funded by Sport England to work alongside the National Governing Bodies of Sport, assisting in the creation of a series of sport formats to help guide the future of school sport competitions. Over the years, the list of NGBs involved with the School Games has grown to over 40, with everything from American Football to Wheelchair Basketball events currently taking place around the country.
- 2.2 There are more than 450 SGOs who work across the country to support schools in their local area. SGOs have several key roles: to coordinate appropriate competitive opportunities for all young people from Key Stage 2-4, to recruit, train and deploy a suitable workforce, and to support the development of club opportunities for all young people. SGOs are employed by schools and funded three days a week by Sport England.
- 2.3 For a number of years, Leeds Children and Families has paid schools in Leeds to release their SGOs for two days a week to support the Active Schools + Programme PE and Sport Offer by developing opportunities relating to PE, sport and physical activity. Currently, these schools are Rodillian Academy, St Mary's Menston Catholic Voluntary Academy and Carr Manor Community School. This is a traded service and is working towards being full cost recovery.

Active Schools service and Active Schools +

- 2.4 The Active Schools service promotes a sustainable system through developing a team of people and partnership models with schools and organisations that support the delivery of high quality Physical Activity, PE and Sport that enriches the lives of all children and young people. The service has become the central point of contact for schools providing up to date advice, guidance and support around Physical Activity, PE and Sport enabling schools to:
- ensure high quality PE
 - provide 30 minutes a day of Physical Activity
 - develop an ethos and culture around Physical Activity
 - ensure accountability for the PE and Sport Premium

- increase participation and engagement

- 2.5 The service currently works with a large range of local, regional and national partners to provide no cost, nationally funded opportunities for all schools and all pupils. The service also trades with schools for an enhanced package known as Active Schools +.
- 2.6 Through Active Schools +, schools can receive specialist advisory support, increase participation of pupils in physical activity through attendance at local and city level events and festivals, access high quality professional development opportunities for all staff, engage in innovation projects at the cutting edge of best practice at no additional cost to the Service Level Agreement or at a reduced rate, receive regular bulletins sharing the latest information and relevant, useful resources. Networking and Briefing opportunities for Head Teachers, Senior Leaders and Subject Leaders are also provided.
- 2.7 These services help support the Council and Children and Families traded priorities to:
- Ensure Leeds is a child friendly city, a city where children and young people are happy, safe, healthy and do well in learning
 - Make a difference to the achievement, attainment, attendance and life opportunities of children and young people in Leeds
 - Improve economy, efficiency and effectiveness in service delivery
 - Increase income to maintain services and mitigate against the risk of a reduction in delivery
 - Increase school and setting satisfaction with the quality and impact of service provision
 - Continue to provide the LA with city wide intelligence that contributes to the quality of care and statutory provision

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 Approval is being sought to waive Contract Procedure Rules 8.1 and 8.2 to award 12 month contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary Academy for the provision of the services of the SGO.
- 3.2 These arrangements are long-standing and in 2018/19, approval was obtained to award formal contracts to ensure robust performance management processes are in place. This is essential given that these schools are now academies and so external to the Council. A service level agreement was put in place with Carr Manor Community School, which is maintained by the local authority. A review to determine the ongoing need for enhanced SGO services as part of the Active Schools + offer was to be undertaken, with an options appraisal to determine whether they should be delivered in-house or commissioned externally by way of competitive tender.
- 3.3 Since this decision was taken, however, there has been increasing uncertainty about whether the PE and Sports Premium funding for schools will continue. This

puts the Active Schools + Programme PE and Sport Offer at risk and makes it impossible to determine longer-term arrangements at this time.

- 3.4 The preferred option, therefore, is to award further short-term contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary Academy.
- 3.5 The staff member at Carr Manor Community School has chosen to cease performing SGO duties for Active Schools + so it is not possible to continue this particular arrangement. In order to continue supporting their Active Schools + Programme PE and Sport Offer, Learning for Life has decided to recruit a temporary post internally to deliver this function.
- 3.6 The internal delivery of part of the SGO function offers the opportunity to test whether delivering the SGO element of the Active Schools + Programme PE and Sport Offer internally represents best value. This will help inform the appraisal of longer-term commissioning options when we are in a position to undertake this.

Consequences if the proposed action is not approved

- 3.7 If approval is not granted to award these contracts delivery will continue by way of non-legally binding agreements or will cease. This would impact detrimentally on the Active Schools + traded offer to schools, which promotes the wellbeing of children and young people and generates income for the Council.

Advertising

- 3.8 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 proposal has been through a consultation process involving: Head of Service Learning for Life, schools through Head Teacher Ambassador meetings, Steering Group meetings and subject leader days.
- 4.1.2 Ongoing consultation to evaluate and inform service development will be undertaken with schools during the life of the contracts.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An equalities impact screening has been completed and is attached to this report. This shows no impact on equality, diversity, cohesion and integration.

4.3 Council policies and City Priorities

- 4.3.1 These services support the ambitions of the Best Council Plan and the ambitions of a Child Friendly City.
- 4.3.2 The services directly support the following priorities of the Children and Young People's plan:
- Encourage physical activity and healthy eating
 - Improve social, emotional and mental health and well-being.

4.4 Resources and value for money

- 4.4.1 The contract values will be £18,000 per annum. The total combined value will be £36,000 over the life of both contracts.
- 4.4.2 Contract values consist of two days a week term-time staffing costs for SGOs (salaries and travel expenses). These are based on the national standard rates for SGO services, funded three days a week by Sport England. Costs are subsidised by traded income from schools which purchase service level agreements from the Active Schools + service.
- 4.4.3 The quality and value for money of the services will be monitored by the Active Schools + service, with termly performance reports and meetings, offering high support and high challenge to drive continual improvement. The SGO contribution to the Active Schools+ service has ensured a continued buy in from schools into the Service Level Agreement.

4.5 Legal Implications, Access to Information and Call In

- 4.5.4 This report seeks permission to waive contract procedure rules 8.1 and 8.2 to award contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary Academy without competition.
- 4.5.5 The combined value of both contracts is £36,000 and is therefore a significant operational decision and as such is not subject to call in. There are no grounds for treating the contents of this report as confidential under the Council's Access to Information Rules.
- 4.5.6 Awarding this contract direct to the providers in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency it should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors on other EU member states and, if it could, the opportunity should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising would be appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.) and the geographical location of the place of performance. In giving the work to this provider without competition

there is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity.

- 4.5.7 The Deputy Director, Children & Families Social Work has considered the above and, due to the nature of the services being delivered and the relatively low contract values is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.
- 4.5.8 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.

4.6 Risk Management

- 4.6.1 There is a potential risk of challenge from other providers who have not been given the chance to tender for this opportunity. The Deputy Director – Social Care is asked to accept this request for the reasons stated in paragraphs 3.1 to 3.4.
- 4.6.2 There is the risk of service disruption and poor value for money in relation to staffing, given that the contracts are for members of staff being released by the schools for two days a week. The contracts state that there will be no reduction in the monies paid for leave or sickness absence but in cases where the SGO has sickness absence for over five days, the School will consider a substitute, depending on the length and nature of the absence. The Active Schools + service has established positive relationships with the schools and will continue to work closely with them to manage any staffing issues to ensure minimal disruption to delivery of the intended outcomes.

5 Conclusions

- 5.1 These contracts formalise existing arrangements for provision of valuable services, which help support the LCC and Children and Families traded priorities, including to ensure that Leeds is a child friendly city, a city where children and young people are happy, safe, healthy and do well in learning. There is a risk of challenge from awarding these contracts without competition from other organisations which may want to deliver SGO services. However, these risks are mitigated by the short-term nature of the contracts, until longer-term arrangements can be determined.

6 Recommendations

- 6.1 In respect of provision of the services of School Games Organisers, the Deputy Director, Children & Families social work is recommended to approve the waiver of the following Contract Procedure Rules:

Contract Procedure Rules 8.1 and 8.2 - intermediate value procurement and award contracts to Rodillian Academy and St Mary's Menston Catholic Voluntary

Academy in the sum of £18,000 each. The contracts will be for 12 months, commencing 1st September 2019.

7 Background documents¹

7.1 None.

Appendix

What is your reason for waiving 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"/>	<input checked="" type="checkbox"/>
	Yes	No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Yes	No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Yes	No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Yes	No
Other (please provide summary here)	<input type="checkbox"/>	<input type="checkbox"/>
.....	Yes	No
.....		
.....		

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.