



Report of: Commissioning Manager, Children & Families

Report to: Deputy Director, Children & Families Services

Date: 01/12/2019

Subject: Request to waive contract procedures rules 9.1 and 9.2 to award a contract, without competition, to Leeds Weekend Care Association for delivery of a weekend, targeted short breaks 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 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 seeks approval to waive contract procedures rules 9.1 and 9.2 to award a contract, without competition, to Leeds Weekend Care Association (LWCA) for delivery of a weekend activity scheme for children and young people (C&YP) with special educational needs and/or disabilities (SEND). This would be a continuation of an existing service however it is currently delivered under a grant arrangement (DN369442) and not a contract.
- The contract would start on 01/04/2020 and would end on 31/03/2021 with one option to extend for twelve months to 31/03/2022. The value would be £140,000 per annum, or £280,000 over the life of the contract should the extension be utilised.
- The current grant arrangement with LWCA expires on 31st March 2020 and the provider has been the recipient of funding (in either contractual or more latterly grant form) from Leeds City Council for several years.
- Following a review of short breaks led by the Children & Families Commissioning Team, the approved recommendation was to commission part of the targeted short breaks offer via a competitive tender. The tender opportunity was advertised in August 2019 and was split into two lots, the first delivering weekend short breaks and the second delivering residential short breaks. Both lots would deliver services to children and young people with more significant/complex needs from April 2020 onwards.

- Whilst Lot 2 has been successfully issued to Aireborough Supported Activities scheme, no bids were received for the weekend service (Lot 1). Whilst commissioning options are reconsidered it is important for us to ensure continuity of a weekend activity scheme for C&YP with significant additional needs. Any drop in this provision may increase pressure on specialist services such as direct payments.
- The main reason for seeking to waive Contract Procedure rules 9.1 and 9.2 is summarised in Section 3 and Appendix 1 of this report.
- Payment in advance is crucial to this small, third sector organisation so that they can effectively manage budgets and cash flow to deliver the LCC commissioned service. This has been the payment method used over the last five or so years whilst LWCA has been commissioned via a competitive grants process. Payments will be made on a half yearly basis in April and October. LWCA will be subject to a financial checking process using the CreditSafe facility.

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

- Leeds City Council has a vision for Leeds to be the best city in the UK, a vital component of which is becoming a child friendly city. A robust offer of short breaks for C&YP with SEND is key to achieving the vision to being a child friendly city and ensures compliance with the Children Act 1989, the Breaks for Carers of Disabled Children Regulations 2011 and the Children and Families Act 2014. Leeds has a varied offer of short breaks that has developed and strengthened over a number of years.

3. Resource Implications

- There is a budget of £140,000 per annum in place to cover the value of this decision.
- This option represents best value for money because it secures vital services to enable disabled children and their families to access targeted short breaks with the aim of preventing family breakdown or increased referrals to specialist services.

Recommendations

- a) The Deputy 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 a targeted weekend activity scheme, Leeds Weekend Care Association (LWCA). 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 £280,000 (£140,000 per annum).
- b) The Deputy Director of Children & Families is recommended to approve payment in advance for this contract.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Deputy 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 a weekend targeted short breaks service, Leeds Weekend Care Association. This will allow sufficient time to reconsider the commissioning options for a weekend service for C&YP with significant additional needs, 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 £280,000 (£140,000 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. Targeted services are a vital component in the duty to provide short breaks, which came into force in April 2011 as they support C&YP who are usually unable to access universal services.
- 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 Since April 2015, the allocation process for targeted short breaks funding has been administered by Children's Commissioning and Market Management in partnership with parents and carers (via EPIC), children and young people, the voluntary sector, and Social Care & Early Help colleagues. A short breaks commissioning review concluded with findings leading to a change in how the Council's targeted short breaks are commissioned from April 2020. This includes a move from grants to a contract in two lots (weekend and residential) for services for children with higher level needs and a move from one year to two years grants for other targeted provision.
- 2.4 From April 2020 it was envisaged targeted weekend provision for C&YP with significant additional needs would be delivered via a contractual arrangement however no bids were received following this tender opportunity. Initial feedback indicates potential providers foresaw difficulties delivering a Saturday and Sunday service, concerns around the budget level, venue size difficulties and potential issues with staff recruitment.

3. Main issues

Reason for contracts procedure rules waiver

- 3.1 Leeds Weekend Care Association currently delivers a Saturday scheme for C&YP with significant additional needs. The provider did not bid for the contract as they had concerns about being able to deliver a service on a Sunday and other elements of the specification.
- 3.2 The provider currently delivers a Saturday service to over 120 C&YP, over 80 of whom have significant additional needs ie requiring a high level of staff supervision, individual medical or behavioural needs or needing help with personal care. Whilst no bids were received for delivery of a weekend service, there is no alternative (new or current) provider to take over service delivery for this group of C&YP.
- 3.3 By issuing a contract to LWCA for a period of up to twenty four months, Leeds City Council will secure services for this large group of C&YP whose needs could not be met by any alternative commissioned service. LWCA is happy to enter into a contractual agreement with us on the understanding they are not currently able to deliver a service on a Sunday and their groups will be delivered on a Saturday.

- 3.4 Once a service for this group of C&YP with significant needs has been secured, the Commissioning Team will work with the short breaks Service Lead and the budget holder to reconsider commissioning options to support the needs of this specific group. This will include looking at the changing demographic of C&YP with SEND and reviewing the potential impact of the personalisation agenda.
- 3.5 LWCA has indicated they intend to seek alternative funding over the next twelve months or so for delivery of a weekend service to C&YP with moderate additional needs once the contract with Leeds City Council ceases.

Consequences if the proposed action is not approved

- 3.4 Should the waiver not be approved, some of our most vulnerable C&YP will not have access to any targeted short break service. This would inevitably lead to an increase in referrals for a specialist service such as direct payments, Independent Support Workers or overnight short breaks.
- 3.5 Delivery of Short breaks services is a statutory requirement and Leeds City Council would be in danger of not being able to meet this statutory requirement if this group of C&YP could not access a short breaks service. Families would be at an increased risk of breakdown.

Advertising

- 3.6 As described under "Main Issues" the council advertised the opportunity to provide a weekend short breaks service but this resulted in no bids being received. This specific contract has not been advertised as it is an interim contract allowing time for the review described at paragraph 3.4 above. 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 Lead Member for Children & Families, Councillor Venner. The current provider LWCA has been informed of our intention and has indicated they would be willing to enter into a new contract for up to twenty four 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 the Best Council Plan

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, procurement 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 a very small increase in the amount paid for the service under the new contract and this will be met from the targeted short breaks grant funding pot.

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 significant operational decision and will not 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 a contract directly to LWCA in this way could leave the Council open to a potential challenge from other providers to whom this contract could be of interest, albeit this is thought to be highly limited given the tender opportunity was advertised on Yortender with no bidders. 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 Deputy 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 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 Deputy 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 however many C&YP's needs are too high to be supported by our current providers. There will be 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 and we are at risk of not being able to offer a targeted short break for a group of children with significant/complex needs. In order to reassess commissioning options and any potential re-procurement, 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 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 Deputy 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 a weekend targeted activity scheme for C&YP with significant needs, Leeds Weekend Care Association. 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 £280,000 (£140,000 per annum).

7. Background documents¹

7.1 None

Appendix 1

What is your reason for waiving CPRs?

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.

<p>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.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>To purchase supplies or services on particularly advantageous terms due to liquidation/administration.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Requirement to put a contract in place with a current provider whilst a review of the services is completed.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Ran out of time to undertake a new procurement exercise</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Other (please provide summary here)</p> <p>The waiver is needed following a partially unsuccessful procurement exercise where no bids were received for the weekend service (Lot 1). It is important the current scheme continues whilst options for delivery of a weekend targeted short breaks service for C&YP with significant needs are re-evaluated .</p>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No