

**Report of:** Governor Support Services Manager

**Date:** 24<sup>th</sup> January 2020

**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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

## **Summary of main issues**

1. The Governor Support Service (GSS) is a fully traded service which schools and other education providers pay for to access advice, training and clerking services.
2. Since 2018, the service has contracted with Key Support Service Ltd to purchase licenses for their online platform 'The Key for School Governors' (The Key) which provides a range of information and advice for governors. All governors attached to schools with a service level agreement with the GSS can access this platform.
3. The contract for The Key ends on 31<sup>st</sup> March 2020. An attempt was made to jointly commission the governor database and online information portal in one contract but this has not been possible within the timescale available. It is therefore necessary to seek a waiver to extend the contract for 11 months respectively and complete the full procurement over the coming year.

### **4. Best Council Plan implications**

The Governor Support Service and the provision of an online portal for governors helps schools deliver the Best Council Plan priority of 'Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcome'.

### **5. Resource implications**

The value of the contract to 28<sup>th</sup> February 2021 is £43,541 which is fully covered by income from schools who are signed up to an SLA with the Local Authority.

### **7. Recommendations**

In respect of the contract to provide access for governing bodies to 'The Key for School Governors' platform, 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 £43,541 for 11 months from 1<sup>st</sup> April 2020.

## **1 Purpose of this report**

- 1.1 The report seeks the authority of the Deputy Director, Learning to enter into an interim contract with Key Support Services Ltd in the sum of £43,541 for 11 months from 1st April to maintain access to the governor information portal for the 200 governing bodies signed up to a service level agreement.

## **2 Background information**

- 2.1 In April 2018 the Deputy Director, Learning approved a twelve month contract to Key Support Services Ltd to enable school governing bodies with an service level agreement (SLA) to access the 'The Key for School Governors' online platform with an option to extend for a further twelve months. The extension was taken up and the current contract ends on 31<sup>st</sup> March 2020.
- 2.2 'The Key' 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.
- 2.3 Frontline Data has held a contract to host the Leeds governor database since 2015, along with other separate contracts for the Governor Support Services traded offer.
- 2.4 During 2019, a review was undertaken of the services and a market sounding exercise was carried out to establish whether there were providers who could deliver a joint information portal and database service.
- 2.5 The responses to the market sounding exercise indicated there was only one company that could meet the requirement for a joint database / information portal, and more time is needed to explore the viability of a joint procurement.
- 2.6 A waiver to extend the database for one year was approved in February 2020.

## **3 Main issues**

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

- 3.1 Following the decision to commence a procurement process, ICT advised that a Solutions Architect would be allocated to the project, in line with corporate procedures.
- 3.2 Due to other projects taking precedence, a Solutions Architect has not been available to support the procurement to date. The current contract ends on 31<sup>st</sup> March 2020 and a waiver of CPRs is enter into an interim contract to maintain the service in order for GSS to conduct its business and provide high quality support to schools.
- 3.3 It would be beneficial for the Council to have a single provider for both the database and online portal. Extending the contract with Key Support Services for 11 months would align both contacts and allow for more time to work with the Solutions Architect and the wider market to further explore whether a joint procurement for a portal and database within 12 months would be possible.

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

- 3.4 If the contract is not awarded, the Council will be in breach of its agreement with school governing bodies who pay for access to the portal. Ultimately the Council risks loss of income from schools withdrawing from their agreements if we cannot provide a high quality service.

## **Advertising**

- 3.5 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 the ICT procurement lead and the service recommended that a Solutions Architect be appointed to support the re-tender process for the portal and database.
- 4.1.2 Governors have been consulted on their use of The Key and they are very satisfied with the website.

### **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 Best Council Plan**

- 4.3.1 The Governor Support Service and the provision of an online portal for governors helps schools deliver the Best Council Plan priority of 'Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcome'.

## **Climate Emergency**

- 4.3.2 There is no expected impact on the climate for this contract as the services are fully online.

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

- 4.4.1 The procurement represents value for money as the online portal 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, and costs are in line with the market average.

### **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 a contract 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 the supply and service under the Public Contracts Regulations 2015 (Regulations). The total value of the contract is below the threshold set down by the Regulations. 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, 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 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 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 online 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 aim to complete a joint procurement for the online portal and database was not possible as the timescale the current contracts allowed. In order to complete a competitive procurement process that meets the future needs of the service, the continuation of the current contract is the best option to maintain a high quality service in the short term.

#### **6 Recommendations**

- 6.1 In respect of the contract to provide access for governing bodies to 'The Key for School Governors' platform, 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 £43,541 for 11 months from 1<sup>st</sup> April 2020.

#### **6.2 Background documents**

- 7.1 None

## Appendix 1

### What is your reason for waiving CPRs?

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