

Report of the Commissioning Manager, Children and Families

Report to Director of Children and Families

Date: 18th June 2020

Subject: Request to waive contract procedures rules 9.1 and 9.2 (high value procurements) to award a contract, without competition, to The Appropriate Adult Service (TAAS) for delivery of a West Yorkshire Appropriate Adult 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

1. Children and Families currently has a contract in place with The Appropriate Adult Service (TAAS) for the provision of a West Yorkshire Appropriate Adult Service. The contract was awarded following a full competitive tender process. The current contract expires on 31st March 2021.
2. A steering group was established in 2016 to plan for the commission of the service. The steering group is still in place and maintains oversight of the contract in collaboration with the Commissioning Manager, LCC who has contract management responsibility for the contract.
3. There are a number of initiatives currently taking place with regards to Appropriate Adults provision (detailed within section 2 of this report) and the steering group feel that it is not timely to go out to competition for this area of work until these initiatives have been bedded in and the implications completely understood so we can fully specify the service we wish to commission in the future.
4. The steering group would therefore like to award a further contract to TAAS for a period of 2 years with the option to extend for a period of 12 months. The contract will

commence on 1st April 2021 and will expire on 31st March 2023. The value of the contract is £207,769. If the extension was taken up the total contract value would be £623,307.

5. The contract is on behalf of the West Yorkshire Local Authorities and the Leeds financial contribution is £55,659 p.a.

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

- The contract supports the Best Council Plan of:
 - Keeping people safe from harm, protecting the most vulnerable
 - Reduce crime and anti-social behaviour.
 - Be safe and feel safe

3. Resource Implications

- The value of the contract is £207,769 p.a. and the contribution from Leeds is £55,659 p.a.
- Leeds City Council hold and manage this contract on behalf of the West Yorkshire Local Authorities

Recommendations

- a) The Director of Children & Families is requested to waive contract procedure rules 9.1 and 9.2 (high value procurements) to award a contract to The Appropriate Adult Service (TAAS) Ltd without competition for the provision of a West Yorkshire Appropriate Adult Service. The contract will commence on 1st April 2021 and will expire on 31st March 2023 with the option to extend for 12 months. The value of the contract is £207,769. If the extension was taken up the total contract value would be £623,307. The contract is on behalf of the West Yorkshire Local Authorities and the Leeds financial contribution is £55,659 p.a.

1. Purpose of this report

- 1.1 To seek approval from the Director of Children & Families to waive contract procedure rules 9.1 and 9.2 (high value procurements) to award a contract to The Appropriate Adult Service (TAAS) without competition for the provision of a West Yorkshire Appropriate Adult Service. The contract will commence on 1st April 2021 and will expire on 31st March 2023 with the option to extend for 12 months.

2. Background information

- 2.1 An Appropriate Adult (AA) is an individual person responsible for protecting (or 'safeguarding') the rights and welfare of a child or 'mentally vulnerable' adult who is either detained by police or is interviewed under caution voluntarily. The role was created alongside the Police and Criminal Evidence Act (1984). The police custody sergeant is responsible for identifying people who require an AA. Local Authorities have a legal duty under the Crime and Disorder Act 1998 (s.38) to ensure provision of an AA for children via their Youth Offending Team (YOT). There is no legal duty on any agency to provide an AA for mentally vulnerable adults. However, it is part of the PACE code of practice.
- 2.2 A steering group was established in 2016 to plan for the commission of a regional Appropriate Adult service. The steering group is still in place and maintains oversight of the contract in collaboration with the Commissioning Manager, LCC who has contract management responsibility for the contract. The steering group has representatives from a range of partners including Youth Offending, Adult Social Care, West Yorkshire Police, The Office of Police and Crime Commissioner and Commissioning. All of the Local Authorities are represented either in person as part of membership of the group or virtually via the Chair.
- 2.3 In August 2017 a full competitive tender exercise commenced to procure a West Yorkshire Appropriate Adult Service for young people and vulnerable adults. Following the competitive process the contract was awarded to The Appropriate Adult Service (TAAS) Ltd in December 2017 and the contract commenced on 1st April 2018.
- 2.4 Due to an overwhelming increase in demand for Appropriate Adults when the contract commenced the contract was varied in October 2018. When the contract was varied it included the provision for an insitu service at Leeds and Bradford; the two busiest custody suites. TAAS have been working hard to get this established in collaboration with West Yorkshire Police (WYP). However, the requirement for police vetting for individuals undertaking the insitu role has had an impact as the vetting deters lots of interested applicants largely due to the need to vet all that live in the household with the applicant as many applicants feel this is too intrusive. TAAS are responding to this and undertaking targeted recruitment to appeal to volunteers who may be more likely to consent to police vetting.
- 2.5 In response to the demand pressures during the initial months of the contract The Office of Police & Crime Commissioner (OPCC) was asked to undertake a review of the use of Appropriate Adults (AA). The main purpose of the review is to:
- Gain a clear understanding on the demand profile and deployment of AA's

- Consider data recording and compliance with the Home Office Guidance.
- Improve identification of Looked After status of detainees.
- Gain an insight in to timescales associated with AA attendance.

The review will provide detailed findings to enable the steering group to shape future provision and better plan for the long term future of AA provision in the region.

- 2.6 An area of concern during the initial phase of the contract is the complexities associated with getting the PACE form (the form that records the detail of AA attendance) securely from the custody suites to TAAS. Traditionally the forms have been paper based and have relied on WYP securely emailing the document to TAAS. There have been significant issues with this which have impacted on TAAS's ability to accurately provide contract monitoring data. There is now a new duty on the OPCC to ensure some of this data is collated under new Home Office guidance (July 2018). In response to this TAAS have invested in an online app that AA's will use to record AA attendances which can be directly and securely sent to TAAS. The app has recently being rolled out to all Appropriate Adults. It's hoped that once the app has been fully embedded and up & running that data recording will be much easier and accurate.

3. Main issues

3.1 Reasons for contract procedure rule waiver

- 3.1..1 The steering group feel with the initiatives detailed in section 2 currently taking place it is not timely to subject the provision to a competitive tender process. The steering group feel it's important to allow the initiatives to be fully bedded in, to test the impact and evaluate these new ways of working to inform what our commissioning requirements are for the future. Enabling a new contract with TAAS will also enable us to understand, respond and evaluate the findings of the OPCC review (anticipated to be completed in early 2020) which again will help to inform future commissioning requirements.
- 3.1..2 The steering group feel this is the best course of action for the benefit of young people and vulnerable adults requiring Appropriate Adults and for the benefit of all stakeholders associated with the provision of Appropriate Adults this includes: Youth Offending teams, Social Work Services (Children and Adults), West Yorkshire Police and the Office of the Police & Crime Commissioner.
- 3.1..3 A tentative timeline of the period between this contract commencing and future commissioning is shown below:
- Embedding current appropriate adult initiatives: current and throughout 2020
 - Evaluating current appropriate adult initiatives: January 2021 – Autumn 2021
 - Scoping new commissioning requirements: Autumn 2021 - Summer 2022
 - Competitive tender exercise: Summer 2022 – March 2023
 - Contract start: April 2023

This decision seeks permission for an option to extend for 12 months to provide some flexibility with the above timeline if required.

3.2 Consequences if the proposed action is not approved

- 3.2..1 Local Authorities have a statutory duty to make provision for an Appropriate Adults Service for young people. The PACE code of practice also makes recommendations that Appropriate Adults provision should be provided for vulnerable adults. Therefore there is an ongoing requirement to ensure arrangements are in place for an Appropriate Adult provision.
- 3.2..2 If permission is not granted to waive contract procedure rules and award a contract to TAAS without competition we would be forced to put the contract out to competition for a new contract to commence on 1st April 2021. For all of the reasons detailed in section 3.1; the steering group do not feel this is the best course of action. The steering group feel we would be ill informed to effectively scope future commissioning expectations and do not feel this would be a best value approach or in the best interests of young people or vulnerable adults receiving the service.

3.3 Advertising

- 3.3..1 The value of the contract will not exceed the OJEU threshold of £663,540. However giving the work to this provider without competition 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.
- 3.3..2 In terms of transparency it should be noted that Contracts Procedure Rules suggests that contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. 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. The reason for requesting this contract is to allow sufficient time for the initiatives detailed above to be fully bedded in. Any external commissioning following this contract will be subject to a fair, transparent and competitive process.
- 3.3..3 Whilst there is no legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted when making the final decision. The Director of Children & Family Services should be satisfied that the course of action chosen represents Best Value for the Council.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1..1 The Appropriate Adult steering group have been consulted with regards to this decision. Consultation has also taken place with representatives from Adult Social Care & Children and Families in all of the West Yorkshire Local Authorities.
- 4.1..2 Consultation has also taken place with TAAS who have confirmed they have the appetite & ability to fulfil the contract.
- 4.1..3 As part of contract delivery TAAS are required to evidence their engagement/consultation with young people in improving service delivery. This is reported in their quarterly contract monitoring data and is monitored by the AA steering group.

4.2 Equality and diversity / cohesion and integration

4.2..1 An equalities impact screening has been completed and is attached to this report.

4.3 Council policies and the Best Council Plan

4.3..1 This provision of this contract supports the best council plan priorities of keeping people safe from harm and continues to support Children's Services commitment to:

- Ensure that the most vulnerable are protected.
- Reduce crime and anti-social behaviour.

4.3..2 Maintaining the provision of a West Yorkshire wide service supports the recommendations noted in the joint inspections in 2016 by HM Inspectorate of Prisons / HM Inspectorate of Constabulary (in partnership with the Care Quality Commission).

4.3..3 Establishing this contract with TAAS allows time for the OPCC review to be undertaken and findings implemented. The review will help ensure the region is meeting the requirements of the Home Office data collection.

Climate Emergency

4.3..4 A revised service specification will be implemented and will make it clear that TAAS are required to consider the environmental impact of their approach to service delivery. During contract monitoring they will be asked to demonstrate how they are working to reduce their carbon footprint, including making best use of technology and sustainable transport in their day to day operations.

4.3..5 The insitu element of the contract supports the Climate Emergency as it will reduce the number of individual call outs, and therefore separate journey's, AA's have to make to attend custody.

4.4 Resources, procurement and value for money

4.4..1 The annual contract value is £207,769.

4.4..2 The current contract was awarded via a full competitive tender and commenced in April 2018.

4.4..3 Due to an overwhelming increase in demand for Appropriate Adults when the contract commenced the contract was varied in October 2018. The revised contract allows for an unlimited number of callouts (against the fixed number originally scoped). Contract monitoring shows the demand to be at least double the original projections, yet the financial increase was only 57%. The new contract will continue to be on an unlimited basis.

4.4..4 The steering group will use the opportunity of awarding a new contract to refresh the service specification to ensure it is fit for purpose based on the latest intelligence of demand legislative requirements.

4.4..5 The Home Office paper 'Appropriate Adult PCC-Local Authority Partnership Agreement England – Improving provision for vulnerable adults ' paper estimates

that the unit cost of a Social Worker attending a call out is £300- £400: having the contract with TAAS Ltd eliminates or vastly reduces this cost.

4.4.6 TAAS will be required to submit a Service Cost analysis Form (SCAF) as part of this contract award. The SCAF will be used to identify any potential areas for saving as part of this contract.

4.4.7 The quality and value for money of the service will continue to be monitored by the Commissioning and Market Management Service, Children & Family Services in collaboration with the Appropriate Adult Steering Group. Intelligence gained through the contract monitoring will be used to inform future commissioning.

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

4.5.1 This is a Key Decision which is subject to call-in as the maximum combined cost of services within this decision is more than £500k.

4.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules.

4.5.1 As detailed in section 3.3:

- The value of the contract will not exceed the OJEU threshold of £615,278. However giving the work to this provider without competition 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 Contracts Procedure Rules suggests that contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. 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. The reason for requesting this contract is to allow sufficient time for the initiatives detailed above to be fully bedded in. Any external commissioning following this contract will be subject to a fair, transparent and competitive process.
- Whilst there is no legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted when making the final decision. The Director of Children & Family Services should be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk management

4.6.1 The contract will continue to be performance managed by Leeds City Council in partnership the Appropriate Adult Steering Group. This includes regular reviewing of service delivery, performance information including any identified risk via quarterly contract management meetings with the provider.

5 Conclusions

5.1 The Director of Children & Families is asked to note the contents of this report and approve the waiver of contract procedures rules 9.1 and 9.2 (high value

procurements) to award a contract, without competition, to The Appropriate Adult Service (TAAS) for provision of a West Yorkshire Appropriate Adult Service.

6 Recommendations

- 6.1 The Director of Children & Families is requested to waive contract procedure rules 9.1 and 9.2 (high value procurements) to award a contract to The Appropriate Adult Service (TAAS) Ltd without competition for the provision of a West Yorkshire appropriate Adult Service. The contract will commence on 1st April 2021 and will expire on 31st March 2023 with the option to extend for 12 months. The value of the contract is £207,769. If the extension was taken up the total contract value would be £623,307. The contract is on behalf of the West Yorkshire Local Authorities and the Leeds financial contribution is £55,659 p.a.

7 Background documents¹

- 7.1 N/A

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 e.g. to deal with the consequences of extreme weather.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input 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 type="checkbox"/> No
Other (please provide summary here) As detailed in section 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> 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.