

Report of: Head Teacher Virtual School LA Children

Report to: Director, Children and Families

Date: 11 December 2019

Subject: Authority to vary the Personalised Tuition Service for Children Looked After contract (DN367848)

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: Ref 10.4.3 Appendix number: Appendix 1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary

1. Main issues

- As their “Corporate Parent”, Leeds City Council has promised the young people in its care to have the highest aspirations for them, to encourage them to reach their full potential, to support them throughout their education and to plan for the future.
- The Virtual School carries out the statutory function of promoting the education of children in care on behalf of the local authority working in close partnership with Designated Teachers, social workers, Independent Reviewing Officers, foster carers, children’s homes and services for children with complex needs
- The Virtual School has a responsibility to support all Leeds children and young people in care. There are two cohorts of children in care that were not initially included in the scope of the current contract but require the same support and service, these are
 - Post 16 pupils resitting exams
 - Out of Area children moving into Leeds and require access to tuition urgently. These children are in care for a 28 day ‘holding period’ whilst work is ongoing with the family, with the aim for the children to return home

- It is proposed that EU regulation 72 (1) (b) is invoked to vary the existing contract to include these additional cohorts
- Appendix 1 is confidential in line with Access to Information Procedure Rule 9.1 and 10.4 – Category 3, in that it relates to the financial affairs of the provider

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

- Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcomes
- Supporting families to give children the best start in life

3. Resource Implications

- The current contract value is £150,000 per annum of a 3 +1+1 basis. Total maximum potential value of £750,000
- This contract variation report covers the potential maximum value of £217,800, which is the remaining two years of the initial term and 2 x 12 month available extension periods. This equates to an increased value of 29%
- The Virtual School finance officer has confirmed there are no anticipated changes to the yearly Pupil Premium Plus grant which is utilised to fund this provision

Recommendations

- That the Director, Children and Families approves the variation of the Personalised Tuition Service for Children Looked After contract (DN367848) with Randstad Public Services Ltd to include the following cohorts, at a potential maximum value of £217,800 if all extensions are taken up
 - Out of Area pupils
 - Post 16 pupils

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to vary contract DN367848 'Personalised Tuition Service for Children Looked After (call off from framework - DN193572)' to include two new cohorts of pupils
- 1.2 The variation is in compliance with EU Regulation 72 (1) (b), which relates to the modification of framework contracts

2 Background information

- 2.1 As their "Corporate Parent", Leeds City Council has promised the young people in its care to have the highest aspirations for them, to encourage them to reach their full potential, to support them throughout their education and to plan for the future.
- 2.2 The experiences that bring children and young people into care can often have a lasting impact on their ability to make the same progress in learning as their non-looked after peers.
- 2.3 The Virtual School carries out the statutory function of promoting the education of children in care on behalf of the local authority working in close partnership with Designated Teachers, social workers, Independent Reviewing Officers, foster carers, children's homes and services for children with complex needs.
- 2.4 Every child in care from the age of 3 to 18 must have a Personal Education Plan (PEP) that ensures that the child's learning needs are being met, that they have achievable, ambitious and aspirational targets set and they are making expected or better than expected progress towards those targets to reach their full potential.
- 2.5 Since 2014, to support learning objectives in the PEP, the council has invested a budget of up to £150,000 per year in an out of school one to one tuition service for children and young people in care.

3 Main issues

- 3.1 A contract was awarded to Randstad Education in February 2019 following a competitive tender process. The contract was awarded on a 3 +1+1 basis to support children and young people up to the age of 16.
- 3.2 Tuition is delivered usually in the child's home in blocks of twelve weeks based on a single subject area, with a tuition plan completed by the Designated Teacher at their school. However, there is flexibility built into the programme to respond to individual's circumstances and requirements.
- 3.3 The service is valued by stakeholders and the vast majority of young people report more confidence in their tuition subject. It also supports the council's strategic objective to improve educational attainment and close achievement gaps for children and young people vulnerable to poor learning outcomes.
- 3.4 The Virtual School has a responsibility to support all Leeds children and young people in care. There are two cohorts of children in care that were not initially

included in the scope of the current contract but require the same support and service, these are

- Post 16 pupils resitting exams
- Out of Area children moving into Leeds and require access to tuition urgently. These children are in care for a 28 day 'holding period' whilst work is ongoing with the family, with the aim for the children to return home

3.5 The current Personalised Tuition Service for Children Looked After contract was called off from the main teacher supply framework and set up in compliance with EU regulations.

3.6 It is proposed that EU regulation 72 (1) (b) 'Modification of contracts during their term' is relied upon to modify the existing contract to include these additional cohorts without a new procurement, however it does need to meet the following conditions:

(b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor—

(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and

(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority,

Provided that any increase in price does not exceed 50% of the value of the original contract;

3.7 The proposal to include the additional cohorts of pupils meets this conditions in that

1. The service delivered to the additional cohorts will be the same in nature but adapted to reflect the need of the cohort. It is important that this element of the service is integrated into the existing service to provide consistency to children, parents and support staff.
2. The price increase is only 29% of the value of the original contract
3. Having two providers would cause significant inconvenience: the pool of teachers available to be signed up by providers is essentially the same so we would be splitting tutors to sign up through different agencies and it may well be the same tutor registers with two agencies, dependent on who they perceive to be more likely to get them work. Having two providers would inevitably cause confusion amongst those settings using the different services and so could mean children miss out as appropriate contracts to the requirements of the child are assigned e.g. social workers could request the wrong service. Children placed out of the area already have a disadvantage by this very fact – delay would be unacceptable. For children accessing a school 6th form, the school would need to then work with another provider and this would also break the established relationship with a tutor made in year 11, which is something we would want to try to preserve wherever possible.
4. These additional cohorts were not included in the original tender for the Personalised Tuition Service for Children Looked After for the following reasons

- Post 16 – the Department for Education (DfE) has only recently given approval for schools to allocate Pupil Premium Plus to services for Post 16 pupils. This was not possible at the point the contract started
- Out of area – there is an increasing number of pupils coming into Leeds local authority that require placement, but admissions processes mean they have a period of time where they are not accessing any learning. This was not anticipated when the service was being tendered.

4 Corporate considerations

4.1 Consultation and engagement

4.1.1 The following have contributed to this report and are supportive of the proposal

- Head Teacher, Virtual School LA Children
- Procurement Officers
- Legal officers

4.2 Equality and diversity / cohesion and integration

4.2.1 An Equality Impact Screening was completed for the original procurement. The proposed variation does not change the original EI Screening

4.2.2 The service will benefit vulnerable young people, including those with special educational needs, by ensuring that more emphasis is given to quality and supporting the Leeds Promise to children and young people in care.

4.3 Council policies and the Best Council Plan

4.3.1 The service will contribute to the following strategic priorities:

Best Council Plan: 'Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcomes' and 'supporting families to give children the best start in life'

Vision for Leeds – Best City For Children: "Children do well at learning and have skills for life"

Children and Young People Plan – Obsession 3: "Improve achievement, attainment and attendance at school"

Climate Emergency

4.3.2 The provider will consider the environmental impact of their approach to service delivery. They will be asked to demonstrate how they will reduce their carbon footprint, including making best use of technology and sustainable transport in delivering the outcomes required for this provision.

4.4 Resources, procurement and value for money

4.4.1 The current contract value is £150,000 per annum on a 3 +1+1 basis. Total maximum potential value of £750,000.

- 4.4.2 This contract variation report covers the potential maximum value of £217,800, which is the remaining two years of the initial term and 2 x 12 month available extension periods. This equates to an increased value of 29%. Please see confidential Appendix 1 for further details.
- 4.4.3 The level indicated under the variation is an estimation for information only and may or may not be required. Service levels and volumes will be managed through contract management with the contractor
- 4.4.4 The Virtual School finance officer has confirmed there are no anticipated changes to the yearly Pupil Premium Plus grant which is utilised to fund this provision
- 4.4.5 Performance will be overseen by the Head Teacher Virtual School and contract management will be provided by the Leeds City Council Commissioning and Market Management team as required
- 4.4.6 This variation represents value for money in that there is already an existing framework in place. The current contract underwent a competitive tender process form the main framework.
- 4.4.7 A new competitive tender is not required for the additional cohorts as the current contract meets the conditions of EU Regulation 72 (1) (b), which allows modifications to existing contracts.

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

- 4.5.1 The value of the variation is £217,800 and so approval to vary the contract is a significant operational decision. This decision is not subject to call in.
- 4.5.2 There is a risk that another supplier of these services could claim that the Council is not entitled to vary the contract in this way. As described at section 3 of this report, the Council is confident that the variation is lawful. As a further compliance and mitigation a modification notice will be published in OJEU. A 30 day voluntary standstill period will be observed prior to contract variation.
- 4.5.3 Appendix 1 is confidential in line with Access to Information Procedure Rule 10.4.3, in that it relates to the financial affairs of the provider

4.6 Risk management

- 4.6.1 As the number of pupils requiring this service cannot be predicted in advance for the full term of the contract the volume and costs for this variation are based on 19/20 predictions, which are within the capacity of the incumbent provider.
- 4.6.2 If there is an increase in the predicted demand at a later stage and the incumbent provider does not have the capacity to deliver the additional hours they will be supported through the contract management process to mitigate the risks and manage and develop the service appropriately.

5 Conclusions

- 5.1 The one to one tuition service for children and young people in care is an important part of the Council's commitment to the Leeds Promise.

5.2 Varying the contract to include Post 16 and Out of Area cohorts will ensure all Leeds children and young people have fair and equal access to a quality, consistent and streamlined provision

6 Recommendations

6.1 That the Director, Children and Families approves the variation of the Personalised Tuition Service for Children Looked After contract (DN367848) with Randstad Public Services Ltd to include the following cohorts, at a potential maximum value of £217,800 if all extensions are taken up

- Out of Area pupils
- Post 16 pupils

7 Background documents¹

7.1 None

8 Appendices

8.1 Confidential – Appendix 1

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.