

Support and Accommodation for young people - Our Way Leeds (OWL) (DN421340) Contract variation

Date: 5/2/24

Report of: Head of Commissioning

Report to: Chief Officer, Service Transformation and Partnership

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report covers a variation for Support and Accommodation for young people - Our Way Leeds (OWL) (DN421340) contract.

Foundation Housing is a consortium partner of Our Way Leeds (OWL). Foundation approached Children's and Families with an additional 4 bed property that could be used to meet 16/18+ sufficiency need.

Conversations have taken place with children social care, placement team, Commissioning, adults, housing and procurement about the potential uses and the appropriate procurement route to agree. It is suggested that this property be used for UASC young people, pre age assessment.

The support offer is benchmarked against existing core and cluster offer and cost and is £38 579 pa and £48 223 until contract end June 2025. Gipsil as lead provider within contract consortium will add 1% to process variation, £428.23.

Foundation as the lead provider will add this property to their Ofsted registration, in order to ensure that this is a registered and regulated provision for young people that could be under 18.

The property is currently being renovated and will be ready 16 February. This would need to be fully utilised by 26 February in order to avoid any void costs.

This would need to be in addition to the existing OWL contract property specification requirement, in order to ensure additional capacity in the system to meet demand.

Procurement have advised that this property should be added as a contract variation. The existing OWL contract runs until July 2025, with the option of a 3 year extension, yet to be agreed.

The additional support costs will be added to the existing contract DN421340 OWL consortium as a contract variation. Rent will be invoiced to the Council direct 4 weekly. Housing benefit cannot be claimed for either pre age assessed young people or 18+ with no recourse to public funds.

Recommendations

The Chief Officer, Service Transformation & Partnership is recommended to approve decision to

- a) Add Additional capacity to the OWL Support and Accommodation for young people (DN421340) contract which will focus on UASC.
- b) Vary the contract for OWL Support and Accommodation for young people (DN421340) to add additional capacity. The contract variation value is £ 48 705 for the period 1st March 2024 to 30th June 2025. If an extension was agreed and taken for the contract this would equate to £124,685 for an additional 36 months.

What is this report about?

- 1 This report sets out the option to add additional capacity to the existing OWL contract focused on UASC young people.

What impact will this proposal have?

- 2 The additional capacity will assist in meeting increased demand from UASC. The provision will be registered with Ofsted, so therefore will enable pre age assessed young people to be placed in regulated provision.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 3 There is an agreement in Leeds to move towards becoming a Marmot city with the aim to reduce health inequalities. The increased regulated provision which supports some of our most vulnerable cohorts of UASC young people will support achieving this vision.

What consultation and engagement has taken place?

Wards affected: All

Have ward members been consulted?

Yes

No

- 4 Executive Member for Children's Social Care and Health Partnerships has been briefed and is in agreement.

What are the resource implications?

- 5 Support costs will be £38,579 pa. £48 223 for the period 1st March 2024 to the end of the contract 30th June 2025.
- 6 Costs for extension period 25/26 £39,901, 26/27 £41,137, 27/28 £42,413
- 7 Gipsil as lead provider for the OWL Consortium and contract will add 1% to process variation cost.
- 8 Support costs need to be added as a variation to the contract and will be paid quarterly.

- 9 Rent will be invoiced direct to the Council 4 weekly at £308 per week. These costs have been benchmarked to a Foundation cluster rate. Service charge where applicable and repairs are included within rental cost. Rental costs are not part of the contract variation.
- 10 Assuming these 4 beds are fully utilised, the annual rental cost would total £64,064 (4 beds x 52 weeks x £308 rent PW) which including the £38,579 support costs being approved in this DDR would cost £102,643 PA to the council. It is envisaged that these 4 places would be filled with UASC, who attract a daily funding rate from the Home Office of a minimum of £114, giving a total annual funding of £166,440 (4 UASC x £114 per day x 365 days). Therefore the income in relation to these young people would fully cover the cost of this accommodation, and would contribute to the councils running costs in relation to supporting these young people (for example the cost of the relevant social work staff supporting these young people).

What are the key risks and how are they being managed?

- 7 There is a risk that if the request is not agreed there will not be additional capacity to meet the demand from UASC young people, in a registered setting.

What are the legal implications?

- 8 There is a statutory duty to provide the appropriate sufficiency provision to meet need for Children Looked after. This would contribute to this sufficiency duty.

The decision highlighted in this report will be taken by the Chief Officer Transformation and Commissioning in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.

This is a Strategic Operational Decision which is not subject to call-in.

The decision will be published to ensure transparency and accountability in relation to decision making within the Council.

There are no grounds for treating the contents of this report as confidential under the Council's Access to Information rules. The variation is being requested in accordance with the provisions of Regulation 72 (1) (b) Modification of contracts during their term - Public Contracts Regulations 2015 which allows a contract to be modified if there is a need for additional services due to unforeseen circumstances (subject to 50% maximum increase in initial contract value).

The provisions of Regulation 72 (1)(b) states –

“where all of the following conditions are fulfilled:

- (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.”

In making this variation, the above conditions of Regulation 72 (1) (b) are deemed to be satisfied for the following reasons:

Please incorporate why we think this is met

When contracts are varied on reliance on Regulation 72(1)(b), it is a requirement to submit a modification notice to Find a Tender (FTS) to alert the market that a modification to the contract has taken place (or is to take place). Once the notice is published on FTS it will start time running

for bringing a claim for a breach of the PCR, which must be brought within 30 days of the date that an aggrieved party knew, or ought to have known, that a breach had occurred. The service will ensure a modification notice to that effect will be published.

However, if Regulation 72(1)(b) is used incorrectly, and it is subsequently determined that the conditions to permit Regulation 72(1)(b) are not met, the council will be open to legal challenge that it has breached the procurement rules by modifying the contract. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity. These risks are considered low for the reasons stated in this report, at paragraph 17 above.

These comments should be noted by *the Director of Children and Families or Chief Officer Transformation and Commissioning* and in making the final decision should be satisfied that doing so represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

- 11 The option of declining the request has been considered, but this is not recommended due to reasons outlined in this report.
- 12 An additional separate contract has been considered, but this is not recommended due to timescales and complexity to the process of putting this in place for one additional property.

How will success be measured?

- 13 Success will be managed utilisation of the provision by the agreed young people. Overall success will be managed through the existing OWL contract management process.

What is the timetable and who will be responsible for implementation?

- 14 Property is available from 19 February, a decision is required with appropriate contractual variation in order to utilise from availability date and avoid any void costs

Appendices

Background papers