

Division(s): N/A

## **CABINET MEMBER FOR PUBLIC HEALTH AND EDUCATION - 14 JUNE 2017**

### **REQUEST TO BE GRANTED AN EXEMPTION FROM TENDERING REQUIREMENTS UNDER THE CONTRACT PROCEDURE RULES**

**Report by the Strategic Director for People & Director of Public Health**

#### **Background**

1. The Drug and Alcohol Education Service is provided by the Training Effect and the contract has run from January 2014 to December 2016 when it was extended for a further year. The contract end date is the 31<sup>st</sup> December 2017. The cost of the contract is £123,310 p.a.
2. The service provides direct delivery of substance misuse / risky behaviours education to young people in secondary schools in years eight and nine but also other year groups as schools require. The service includes an anonymous survey carried out before the provider delivers the sessions. There are two programmes, one a universal skills development and one more targeted for children who may be already identified as needing further support. Schools are not obliged to use the service, but all but 3 universal schools do and 2 special schools.
3. The request is to extend the contract beyond the end date of 31<sup>st</sup> December 2017, for a further 15 months until 31<sup>st</sup> March 2019. The cost would be £154,137.50.

#### **Reason for requesting exemption from Contract Procedure Rules**

4. There are a number of reasons why we are seeking an exemption from contract procedure rules at this time as follows:
  - There are significant changes happening at national level and both the timing and the substance of these will impact on the approach we take to re-commissioning a service. Relationship education is to become compulsory for all primary age children and Sex and Relationships Education will be mandatory for all secondary schools pupils. It is expected that a new curriculum will be in place from September 2019. The policy aims to address the risks to children that are growing in prevalence including cyberbullying, sexting and staying safe online and exploitation in all its forms (CSE, drug

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related etc.). This fits nicely with the skills-based, risk taking approach that research has shown works best for young people in relation to drugs, alcohol and other risks. We want to investigate the need, the age-range, the research and the synergies with other services as well as the impact of the statutory change before re-commissioning a service.

- There is a strong move towards commissioning services in the council using a co-production approach, and this service or a new combined service to schools, is a very good candidate for this. However, co-production is a time-consuming process if it is done adequately.
- The current service delivered by The Training Effect is well embedded into schools and a recent review found a high level of satisfaction from teachers:

*e.g. 'Excellent; really well suited to the year groups/well differentiated';*

*'The survey gave us valuable information with regards to the PSHE needs of individual year groups. It also reassured us and parents that the vast majority of our students were aware of risky behaviour and made decisions based on this accordingly. We also used the data to emphasise social norms with our students'*

*'The current form suits us as a school, but they have also been very flexible about coming in as and when we need them to'.*

*'It helps us fill areas that are lacking (both proactively and reactively) in a different manner to just a drama, workshop or teacher lead session'.*

Students have responded positively as well:

*'This changes your way of thinking. Never met an adult who understands teenagers so much'*

*'Now I understand what peer influence is and I know that my friends won't label me if I don't want to do something'.*

*'It was honest and real. Not the stereotypical anti-drugs talk that no-one listens to. I enjoyed it.'*

- Performance monitoring of the service has shown that the provider has exceeded expectations in most areas, specifically around flexibility, provision outside of the requirements of the contract (e.g. for the National Citizenship Scheme), development of the programmes and working closely with schools to ensure they are receiving a suitable service for their needs. The provider is beginning

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to work in the special schools around the county which are often overlooked in these education programmes.

- The current provider also provides good value for money. In the original tender it won both on price and quality, in competition with three other provider bids. Further research has shown that market rates for training/education sessions in schools to be similar. An exemption would keep a good value for money, high performing service in place until strategic decisions can be made on a future model that has been fully explored with all stakeholders.
  - An exemption would also offer value for money as it would save on the costs of procuring a short term contract for 15 months. It is unlikely that the extension would be challenged as it is a relatively low amount and the opportunity for other suppliers to bid for the contract is only being delayed for a short period of time, rather than being removed completely.
5. If the proposed action is not approved the time taken to procure a new service for 15 months will be take officers off the strategic and partnership work needed to achieve a more statutorily compliant and possibly more integrated service from April 2019. There is also a risk that few, if any, new providers may bid for a contract of only 15 months.

### **Legal and Financial Appraisal**

6. The Legal and Financial appraisals below support the exemption.

### **Financial Appraisal**

7. Ring fencing of the Public Health Grant has been confirmed to continue until 2018/19, but no grant allocations are yet available for that year so there is a risk that the funding could be less than we have assumed in the council's existing Medium Term Financial Plan. That assumes a one – off saving of £0.5m in 2017/18 and a £1.0m base budget saving in 2018/19 on the assumption that the ring-fence would have ended. Options for meeting up to a £1.0m saving in 2018/19 by funding eligible public health expenditure in the Communities and People directorates or the capital programme are being considered and will need to be assessed as part of the 2018/19 Service & Resource Planning process.
8. Despite the risk around the future funding the service have confirmed that the financial cost of the extension has been built into future commitments against the funding for Public Health in 2017/18 and 2018/19 so the expectation is that the extension can be managed within the funding available. In the event that funding was less than expected to fund all known commitments this would continue to be funded as a local authority must, in using the grant have regard to the need to

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improve the take up of, and outcomes from, its drug and alcohol misuse treatment services.

9. In the original tender the provider won both on price and quality, in competition with three other provider bids. Further research has shown that market rates for training/education sessions in schools to be similar and performance is good so it is not expected that significant reductions to spend or improvements to performance would be achieved through running procurement on the existing specification.
10. I support the proposed extension (at a cost of £154,137.50 for 15 months until 31 March 2019) on the basis that aligning this with other contracts and exploring wider synergies with other partners will enable more savings and efficiencies to be made by the service in the long run. The exemption would keep a good value for money, high performing service in place and avoid additional procurement costs until strategic decisions can be made on a future model that has been fully explored with all stakeholders.

### **RECOMMENDATION**

11. **The Cabinet Member for Public Health & Education is RECOMMENDED to approve this exemption from the Council's Contract Procedure Rules.**

### **JONATHAN MCWILLIAM**

Strategic Director for People

### **VAL MESSENGER**

Director for Public Health

Background Papers: Nil

Contact Officer: Kate Holburn, Head of Commissioning, Drug and Alcohol Tel: (07825 0527678)

May 2017

## **LEGAL APPRAISAL BY DIRECTOR OF LAW & GOVERNANCE**

### **Request for exemption from tendering under Contract Procedure Rule (“CPR”) 20.7 in respect of a contract for the appointment of The Training Effect Ltd for delivery of Drug & Alcohol Education Services within Schools**

#### **A. Background**

1. Public Health Directorate is seeking an exemption under CPR 20.7 from the tendering requirements under CPR 5 in relation to the direct award of a further contract to The Training Effect Ltd for the provision of a delivery of substance misuse / risky behaviours educational services to young people in secondary schools.
2. OCC originally entered into a 2 year contract with the Training Effect Ltd for a delivery of the above educational services in January 2014. The Contract had an option to extend for 12 months, which option has been exercised, and the Contract will expire December 2017. The original Contract had an annual value of £123,310.
3. The request for exemption is for OCC to enter into a contract with The Training Effect Ltd to deliver a further 15 months of educational training. The value of the further contract award to be made to is £154,137.50.
4. Public Health requires that an exemption be approved for the grant of a further 15 month contract in relation to these services as this would bring the expiry of this Contract in line with several other related significant public health contracts and enable OCC to consider commissioning a comprehensive service to promote young people’s health and wellbeing.

#### **B. Grounds for Exemption**

1. Special factors relevant to the direct award of the contract given by Public Health are as follows:
  - The Contract for the delivery of the above Services has synergies with a number of other Public Health Contracts, as well as services provided by Directorates and Organisations outside OCC;
  - OCC has been undertaking a scoping exercise and discussions with schools, partners with a view to developing a more integrated and cost effective approach to promoting young people’s health and well-being, to tackle emerging problems early on, before the problem develops and requires costs interventions from Social Care, NHS, and other treatment services.
  - Relationship education is to become a compulsory for all primary age children and Sex and Relationship Education will be mandatory for all

secondary school children. Introduction of the new curriculum will impact on the provision of the Services.

- If the exemption request is approved, the future procurement strategy is that, the contract for the delivery of substance misuse / risky behaviour educational services provided by the Training Effect Ltd will be co-terminus with other related public health services contracts and enable OCC (if it elects to do so after consultation with relevant partners / schools) to commission a combined comprehensive service to promote young people's health and wellbeing in March 2019, which will coincide with the changes made to the national curriculum in April 2019.

### **C. Appraisal**

1. In making its contract arrangements, the Council is required to demonstrate that it has acted in accordance with the EU Treaty-based principles of transparency, equal treatment, non-discrimination and proportionality ("the EU Principles"). Aside from the application of the Council's own Contract Procedure Rules, public bodies are also required to comply with the Public Contracts Regulations 2015 ("the Regulations"), which impose further procedural requirements in relation to contracts for services over a prescribed pecuniary threshold.
2. Both the Contract Procedure Rules and the Regulations are drafted with the EU Principles in mind. The Regulations impose two levels of procedural requirement depending on the nature of services being procured. The award of the Contract in relation to delivery of substance misuse / risky behaviours educational services falls under the less rigorous "light touch" regime of Schedule 3 of the Regulations and is therefore subject to limited procedural requirements.
3. The Director of Law & Governance accepts the arguments put forward by Public Health Directorate. The Contract is well below the Schedule 3 financial threshold (£589,148) and it is considered unlikely that there would be a cross-border interest in the contract because of the relatively low value.

### **D. Recommendations**

1. The Director of Law & Governance considers that the requested exemption is justified in these special circumstances and recommends that the request for exemption is approved.

**NICK GRAHAM**

Director Law & Governance