

CABINET

29 OCTOBER 2013

GATEWAY 4 PROCUREMENT POST PROJECT COMPLETION REVIEW: YES MEDWAY SERVICE

Portfolio Holder: Councillor Mike O'Brien, Children's Services
(Lead Member)

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Summary

This report provides the Cabinet with a review of the progress of the YES Medway Services contract (formerly Connexions) currently delivered through Medway Youth Trust the supplier as highlighted within 2.1.2 of this report.

The procurement process was initiated in September 2011 and resulted in an award of a contract on 1 September 2012 – 31 October 2017 (with extension option until 31 October 2019).

Report History:

- Gateway 1: Procurement Board 7 September 2011 and Cabinet on 4 October 2011
- Gateway 3: Procurement Board on 30 November 2011 and 16 May 2012 and Cabinet on 12 June 2012

This Procurement Gateway 4 report has been approved for submission to the Cabinet following review and discussion at Children and Adults Directorate Management Team meeting on 1 October 2013 and Procurement Board on 15 October 2013.

1. Budget and Policy Framework

1.1 Post Project Appraisal / Contract Management

This procurement post project appraisal and its subsequent review is within the Council's policy and budget framework and ties in with all the identified Core Values, Strategic Priorities, Strategic Council Obligations and Departmental/Directorate service plans as highlighted within the

1.2 Statutory Requirements

Medway Council became responsible for the commissioning of the Connexions Service from April 2008. . Local authorities are under a statutory duty to secure that enough suitable education and training is provided to meet the reasonable needs of persons in their area who are over compulsory school age but under 19, and persons in their area who are aged 19 or over but under 25 and are subject to a learning difficulty assessment.

Learning disability assessments are a statutory requirement by virtue of Section 139 A of the Learning and Skills Act 2000. Assessments are carried out when a statement of special educational needs is maintained and the local authority believe that the young person will leave school, at the end of the last year of compulsory schooling, to receive post – 16 education or training or higher education or a pupil with a statement of special educational needs over compulsory school age is due to leave school to receive post 16 education or training or higher education.

The Children and Families Bill includes provisions to replace Learning Difficulty Assessments and Statements of Special Educational Needs with Education, Health and Care Plans. The current SEN Code of Practice is likely to be replaced by a new 0 – 25 Code of Practice. Until the new system is introduced Learning Difficulty Assessments will remain in place.

Local authorities are under a duty to make available to young persons and relevant young adults such services as they consider appropriate to encourage, enable or assist the effective participation in education or training.

This includes:

- Not in Education, Employment and Training (NEET) prevention and reduction
- SEN: Transition reviews, statutory section 139a assessments and identifying suitable post 16 learning provision
- Careers Guidance up until September 2012. The duty is now on schools to provide careers advice.
- The tracking, monitoring and reporting to monthly DfE of young people's engagement in learning and employment via CCIS (client Caseload Information system)
- A September Guarantee of an offer of education or training for all young people, including the new requirements under the Raising Participation Age.
- Maintaining close working links with Job Centre Plus.

The above duties are required by Section 68(4) of the Education and Skills Act 2008, sections 15ZA and 18A of the Education Act 1996 (as inserted by the ASCL Act 2009), Section 42A of the Education Act 1997, (inserted by the Education Act 2011), the Children Act 1989 (as

amended by the Children Act 2004 (“the 2004 Act”)) places a duty on local authorities to promote the educational achievement of looked after children, Sections 10 & 12 of the Education and Skills Act 2008 and Section 139 A of the Learning and Skills Act 2000.

1.3 Funding/Engagement From External Sources

Currently this project is entirely funded from the 'Start-Up Funding Assessment'.

2. Background

2.1 Contract Details

The previous contract ended on 31 March 2012 and it was agreed to re-tender the service for a further five years with a two-year extension option. This was considered necessary to encourage good competition and bring optimum market value. The new contract was subsequently awarded in principle to the incumbent on 30 November 2011, pending decision on the full Council budget in February 2012. A five-month interim contract was subsequently awarded to the incumbent from 1 April 2012; this was confirmed from September 2012 onwards.

The Cabinet approved the commencement and delivery of this procurement requirement at Gateway 1 on 4 October 2011. . The Cabinet approved the contract award on 12 June 2012 following initial consideration by the Procurement Board on 30 November 2011 and 16 May 2012. An exemption to the contract procedure rules was approved by the Monitoring Officer in January 2012 to approve the interim contract.

2.1.1 Supplier Details

This Gateway 4 Report relates to the YES Medway Service contract currently awarded to Medway Youth Trust (MYT).

2.1.2 Contract Description

The contract is for 5 years (2 year extension option) to deliver the YES Medway Service which offers support to enable young people to participate in education and training opportunities for young people in Medway.

2.2 Permissions Required

2.2.1 This report provides the Cabinet with a 9-month post project appraisal and seeks permission to continue this termed contract for remainder of the contract duration of 4 years subject to further Gateway 4 and/or Gateway 5 reporting requirements.

This request is on the basis that this contract has:

- fulfilled requirements in accordance with the service specification in the first year.

- fulfilled associated contract terms and conditions in the first year.

2.3 Other Information

The Strategic Procurement Team (as was), due to the specialist nature of the current market, approved an open tender procedure.

3. Options

In arriving at the preferred option as identified within Section 4.1 'Preferred Option', the following options have been considered with their respective advantages and disadvantages.

3.1 Conclude Current Contract and Provide Action Plan

The option of (i) concluding the current contract at the end of the contract term on the basis that it is a one-off procurement requirement and providing an action plan for future projects / (ii) concluding the contract with immediate effect on the basis that the contract is a termed contract with provisions within the terms and conditions to cancel contractual arrangements for supplier non-performance and providing an action plan for future projects is not a viable option because the service delivered is a statutory requirement for all local authorities. The contract has four more years to run not including extensions.

3.2 Continue With Current Contract and Negate Any Further Gateway 4 or Gateway 5 Reporting Requirements

The option of continuing with the current contract for the remainder of the contract term and negating any further Gateway 4 or Gateway 5 requirements has been considered but is not a viable option. This is a high-risk contract in terms of value and sensitivity. The outcomes achieved by the provider are a key concern as is the ongoing cost of the contract.

3.3 Continue With Current Contract and Subject Contract to Further Gateway 4 and/or Gateway 5 Reporting Requirements

The option of continuing with the current contract for the remainder of the contract term and subjecting the contract to further Gateway 4 and/or Gateway 5 requirements has been considered and below are the advantages and disadvantages of this option.

Advantages – The service is a statutory requirement and the performance of the service provider is crucial to achieving outcomes.

Robust quarterly monitoring is in place consisting of:

- reports on all performance indicators, themed monitoring visits including interviews with staff and board members;
- performance targets being annually reviewed and stretch targets being agreed
- assessment of stakeholder feedback;
- monitoring in tandem with head of service.

The above monitoring information along with budget data should be made available to members each year bearing in mind the length of the contract.

Disadvantages – There are no disadvantages that would justify a decision not to continue with the current contract.

4. Advice and analysis

4.1 Preferred Option

Further to an extensive review of procurement options as highlighted within Section 3 'Options' above, the following preferred option is recommended to the Cabinet including justification for this recommendation.

Option 3.3: Continue With Current Contract and Subject Contract to Further Gateway 4 and/or Gateway 5 Reporting Requirements. The service is a statutory one and a provider has been secured for 5+2 years following a competitive tender process.

Within 7 months of this first year of this contract MYT funding was reduced by 20% in accordance with budget cuts. This required the organisation's second restructure within 12 months and revised outcomes to be agreed. The provider has performed well against the specification as shown in the following areas. This requires a regular review by members however due to the importance of this service.

Performance indicators were set at the outset of this contract based on assessment of previous data. These have since been revised to take account of the reduced and targeted nature of the current funding which may see an increase in NEET.

1. Young people effectively participate in Education, Employment or Training.

As 30 June 2013 (one of the agreed measurement dates) percentage age NEET (not in Education Employment Training) levels for academic age in Medway were:

Percentage of 16 year olds NEET.	2013			2012		
	Medway	South East	England	Medway	South East	England
	5.4	3.5	4	7.4	3.9	4.4
	ahead of 6.5% 2013 target					

Percentage of 17 year olds NEET.	2013			2012		
	Medway	South East	England	Medway	South East	England
	5.6	5	5.6	8.1	5.3	5.9
	ahead of 8% 2013 target					

Percentage of 18 year olds NEET.	2013			2012		
	Medway	South East	England	Medway	South East	England
	7.1	7.2	8.3	5.2	6.5	7.5
	ahead of 8% 2013 target					

2. Identified vulnerable young people are learning and work ready.

The recent restructure of staff has created a bespoke SEND/LAC team. Staff were recruited between July - September 2013 to work directly with new staff within the Council's children's care team, its virtual head-teacher and SEN team. Meetings have taken place with these teams throughout the summer to agree delivery and ensure that outcomes are met.

Pathfinder work is an evolving process. Service and Commissioner work together with the provider to enable flexibility in the contract to ensure appropriate response to legislative changes that become law in 2014.

Proportion of young offenders in to EET at the end of their court order:

June 2013 67% (target 70%)

Low risk going forward as extract from the Head of YOT's report to the YOT Board today states:

- Quarter 1 target missed by just 1 young person and that these targets are cumulative and possible to meet the end of year target

June 2012 90.91% (target 70%)

3. All stakeholders have accurate information to enable support to young people

As 30 June 2013 % age academic age not knowns in Medway were

Percentage of 16 year old "not known"	2013			2012		
	Medway	South East	England	Medway	South East	England
	2.3	2.6	2.5	5.3	3.1	3.6

Percentage of 17 year old "not known"	2013			2012		
	Medway	South East	England	Medway	South East	England
	7.4	6.7	5.4	6.2	8.8	7

Percentage of 18 year old "not known"	2013			2012		
	Medway	South East	England	Medway	South East	England
	6.9	11.7	13.3	6.3	20.7	15.7

4. The YES contract is informed by young people, is high quality and respected.

Young people fully informed the renaming of the service from Connexions to YES (Youth Employment Service) Medway.

Young people were involved in the restructure with interviews including at least one young person who was given equal interview scoring status.

Young people have been fully engaged in the development of the new website

The annual survey of stakeholders will report early in 2014 as was agreed in view of the changing service (twice restructured) in the first year.

4.1.1 Procurement Project Outputs / Outcomes

The following procurement outcomes/outputs identified as important at Gateway 1 to the delivery of this procurement requirement and identified as justification for awarding the contract at Gateway 3, have been appraised in the table below to demonstrate how the procurement contract and corresponding supplier has delivered said outcomes/outputs.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?	How has procurement contract delivered outputs/outcomes?
1. Successful handover from current incumbent to future provider	CCIS database and TUPE negotiations undertaken successfully	Inclusion service manager, commissioning for Integrated Youth Support and affected service areas	Monitored fortnightly through procurement timetable and close working relationship with current incumbent and future provider	The successful contractor was the incumbent and has a proven track record of delivering the specification within the pricing structure
2. Successful appointment of provider to deliver service based on specification and business requirements identified	Successful procurement of provider that delivers identified outputs and outcomes	Inclusion service manager, Commissioner for Integrated Youth Support and affected service areas	Monitored fortnightly through procurement timetable and close working relationship with supplier	The procurement timetable allowed sufficient time for a mobilisation period. The contract included clauses to ensure timely handover of essential information

4.1.2 Procurement Project Management

This procurement project will be taken through the remainder of the Gateway Procurement Process by commissioning and category management.

4.1.3 Post Contract Award Contract Management

The contract management of this procurement contract will continue to be resourced for the remainder of the contract through the following contract management strategy: Commissioning staff will continue quarterly contract monitoring of the provider to ensure outcomes are being met. Category management will liaise and advise as required.

4.1.4 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it was identified at Gateway 1 that as this is a Services related procurement contract, TUPE did apply. However the contract was awarded to the incumbent and therefore no TUPE transfer was required.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement contract at this Gateway 4 Stage:

Procurement process	<input type="checkbox"/>	Equalities	<input checked="" type="checkbox"/>
Contractual delivery	<input checked="" type="checkbox"/>	Sustainability / Environmental	<input type="checkbox"/>
Service delivery	<input checked="" type="checkbox"/>	Legal	<input type="checkbox"/>
Reputation / political	<input checked="" type="checkbox"/>	Financial	<input checked="" type="checkbox"/>
Health & Safety	<input checked="" type="checkbox"/>	Other/ICT*	<input type="checkbox"/>

Risk Categories	Outline Description	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Plans To Mitigate Risk
a) Contractual delivery	Chosen provider fails to meet contractual obligations	D	I	Specific contractual milestones are being met.
b) Service delivery	Chosen provider fails to meet service obligations	D	I	Specific contractual milestones are being met.
c) Reputation / political	Reputation will be affected if service does not achieve outcomes.	D	II	Regular monitoring is taking place.
d) Health & Safety	Provider may fail in its health and safety duty either to its staff or its young people users	D	I	Specific H&S requirements have been included as part of monitoring process.

e) Equalities	Failing to take equalities into account when providing these services may discriminate against users from specific groups	D	I	Monitoring process includes requirements regarding equalities.
f) Financial	Funding may be reduced from the EIG. The future of this funding stream is uncertain, although it is unlikely that the statutory services that it supports would not be funded in some guise	C	II	To mitigate against this a number of clauses have been included within the contract documents enabling either 'break', 'variation' or 'reduction' in funding In addition we will work with the provider to ensure value for money and realise efficiencies.

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 In order to aid the contract management process the following internal stakeholder consultation will be required and will be undertaken post procurement/tender award in order to aid the contract management process –

- Service Manager Inclusion Division
- Commissioning Manager 14 – 19 service

6.2 External Stakeholder Consultation

6.2.1 As a part of this ongoing procurement contract management, external stakeholder consultation is required with the following groups.

- Medway Youth Trust
- Voluntary sector providers in Medway
- Education providers in Medway

6.3 Other Information

The funding for the procurement of YES Medway Services was provided from the Early Intervention Grant. From 2013-14 this grant was rolled into the 'Start-Up Funding Assessment' and no longer exists as a separate grant. Further information is included within the exemption appendix.

7. Procurement Board

7.1 The Procurement Board considered this report on 15 October 2013 and supported the recommendation set out in paragraph 9 below.

8. Financial and legal implications

8.1 Financial Implications

8.1.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendation at Section 9, has a current budget that reflects the reduced contract price.

8.1.2 Detailed finance and whole-life costing information is contained within Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix.

8.2 Legal Implications

8.2.1 The legal implications and the Council's legal duties in relation to the provision of this service are set out in the body of the report.

8.3 Procurement Implications

8.3.1 This procurement contract and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, has the following procurement implications which the Cabinet must consider.

8.3.2 This is a relatively specialist market and the current provider won the tender process. The length of the contract should encourage the provider to work closely with Medway Council in identifying savings and innovative solutions.

8.4 ICT Implications

8.4.1 This procurement requirement does not have any ICT implications.

9. Recommendation

9.1 Cabinet is requested to continue with the current contract and subject contract to further Gateway 4 and/or Gateway 5 Reporting Requirements as detailed in paragraph 4.1 of the report.

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis of the current performance of the service provider.

Lead officer contact

Name Title
Department Directorate
Extension Email

Background papers

The following documents have been relied upon in the preparation of this report:

Description of document	Location	Date
Gateway 1 Report – Cabinet	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?Ild=6571	4 October 2011
Gateway 3 Report – Procurement Board	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?Ild=11648&PlanId=182	30 November 2011
Exemption Request – Procurement Board	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?Ild=11648&PlanId=182	22 December 2011
Gateway 3 Report – Cabinet	http://democracy.medway.gov.uk/mglssueHistoryHome.aspx?Ild=8863	12 June 2012