

CABINET

4 OCTOBER 2011

GATEWAY 1 PROCUREMENT COMMENCEMENT: CONNEXIONS SERVICES

Portfolio Holder: Councillor Les Wicks, Children's Services

Report from: Rose Collinson, Director of Children and Adult Services

Author: Donna Mills, Commissioning Manager

Summary

This report seeks permission to commence the procurement of the Connexions Services contract in Medway, to begin April 2012 for a 5-year term with an option to extend for a further two years. The current contract for the services ceases in March 2012.

All local authorities are under a duty under section 68(4) of the Education and Skills Act 2008 to make available to young persons and relevant young adults for whom it is responsible such services as it considers appropriate to encourage, enable or assist the effective participation of those persons in education or training. This is currently being undertaken by way of procurement of the Connexions Service.

This Gateway 1 report has been approved for submission to the Cabinet after review and discussion at Children's and Adult's Directorate Management Team meeting on 4 August 2011 and Strategic Procurement Board on 7 September 2011.

The Children's and Adult's Directorate Management Team recommended that this procurement project be approved as a Category B High Risk procurement project at Gateway 1. This is due to the total contract value being sizeable and above £250,000.00 together with political implications and/or service sensitivities that Cabinet should be aware of.

Political and/or service sensitivities

Medway Council became responsible for the commissioning of the Connexions Service within its Children's Trust arrangements from April 2008 as part of the statutory obligation on all local authorities, working under Children's Trust arrangements, to plan and commission integrated youth support services.

In 2008 Medway Council co-operated with the then newly created Medway Youth Trust in securing its establishment as the appropriate vehicle to deliver services to young people including the Connexions Service. Between 2005 to 2008 the service was delivered across Kent and Medway by Connexions Kent & Medway.

...cont/

Connexions Services in Medway have been delivered by the Medway Youth Trust since 2008. The current contract expires on 31 March 2012. There have been no significant changes to the delivery of the Connexions Service since 2008 although transitional arrangements affected the quality of the service for the first two years while temporary seconded management was in place.

1. Budget and Policy Framework

1.1 Service Background Information

1.1.1 Medway Council became responsible for the commissioning of the Connexions Service within its Children's Trust arrangements from April 2008. Commissioning the delivery of Connexions forms part of the contractual obligation on all local authorities, working under Children's Trust arrangements, to plan and commission integrated youth support services. Between 2005 to 2008 the service was delivered across Kent and Medway by Connexions Kent & Medway.

1.1.2 In 2008 Medway Council co-operated with the then newly created Medway Youth Trust in securing the establishment of the Trust as the appropriate vehicle to deliver services to young people including the Connexions Service. An extension to the contract was granted for one year when the first contract came to an end in March 2010. At the end of the extended period, an exemption to contract rules was then granted until March 2012 due to uncertainties about funding and national policy. The current contract expires on 31 March 2012.

1.2 Council's Strategic Priorities And Core Values

1.2.1 The procurement of this requirement directly links into the following Council Strategic Priorities and Core Values:

Core Values

- Putting our customers at the centre of everything we do.

This procurement requirement will deliver against this Core Value through developing services in response to the needs of young people in Medway.

- Giving value for money

This procurement requirement will deliver against this Core Value through effective and appropriate commissioning of Integrated Youth Support services reducing duplication and making the best use of existing resources to ensure the most appropriate fit for young people in Medway.

Strategic Priorities

- Children and young people having the best start in life in Medway.

This procurement requirement will deliver against this Strategic Priority by providing targeted and tailored one to one support to vulnerable

young people in a timely and appropriate manner and by the provision of advice and information at universal level for all other young people in Medway.

1.3 Strategic Council Obligations

1.3.1 The procurement of this requirement directly links into the following Strategic Council Obligations:

- Medway Council Plan

This procurement requirement links into the Medway Council Plan through the delivery of a project that supports the core values of putting our customers at the centre of everything that we do, and value for money.

- Children and Young People's Plan (CYPP)

This procurement will support the strategic priorities set out in the revised Children and Young People's Plan, which is presented elsewhere on this agenda. This is the strategic partnership plan for the area seeking to ensure that all children and young people in Medway are:

- safe and cared for
- succeed in learning
- thrive

In particular the procurement of this service will support the CYPP priorities:

- Celebrate the achievement of children and young people and the contribution that they make to Medway. Encourage more of them to give their time and energy to making Medway a good place to live and learn.
- Increase the range and number of Apprenticeships available to young people
- Increase the number of young people who are in education, training or work after they leave school
- Ensure the needs of Looked After Children (LAC), Black Minority Ethnic (BME) and other socially excluded groups are addressed across the activities of the Children's Trust partnership

- Other Strategic Council Obligations

This procurement requirement also links into Strategic Council Obligations through meeting the priorities set out in the Medway Children's Trust Framework and related partnership groups.

1.4 Departmental and Directorate Service Plans

This procurement requirement links into the key Service Plans of Children and Adult Services: Commissioning and Strategy and Inclusion Divisions both of which have a direct bearing on the effective commissioning of services for young people.

2. Background

2.1 Project Details

2.1.1 This procurement is a Services procurement requirement.

2.1.2 This report seeks permission to commence the retendering of a current procurement contract with a proposed contract duration of 5 years with provisions to extend for a contract duration of 2 years subject to continuing funding. The contract is proposed to commence on 1 April 2012 and conclude on 31 March 2017.

2.1.3 This procurement requirement is a standalone project with no linkage to any other procurement projects or procurement programmes.

2.1.4 This procurement is required to fulfil Medway's statutory obligations under section 68(4) of the Education and Skills Act 2008. These statutory obligations place a duty on local authorities to make available to young people below the age of 19 and relevant young adults (i.e. those aged 20 and over but under 25 with learning difficulties) support that will encourage, enable or assist them to participate in education and 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 until September 2012
- The tracking, monitoring and reporting to monthly DfE of young peoples 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 increasing duty as the school leaving age rises
- Maintaining close working links with Job Centre Plus

2.2 Business Case

2.2.1 Procurement Project Outputs / Outcomes

As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Outputs / Outcomes	How will success be measured?	Who will measure success of outputs/ outcomes	When will success be measured?
1.Successful selection of providers to invite to tender for the service	Between 5 and 10 potential providers at PQQ stage	Inclusion service manager, Commissioner for Integrated Youth Support and affected Service Areas	Monitored fortnightly through procurement timetable and close working relationship with suppliers

2. Successful selection of tenders submitted to consider for service delivery	Between 3 and 5 potential providers at ITT stage	Inclusion service manager, Commissioner for Integrated Youth Support and affected Service Areas	Monitored fortnightly through procurement timetable and close working relationship with suppliers
3. Successful handover from current incumbent to future provider	CCIS database and TUPE negotiations undertaken successfully	Inclusion service manager, Commissioner for Integrated Youth Support and affected Service Areas	Monitored fortnightly through procurement timetable and close working relationship with current incumbent and future provider
4. 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.

This procurement project will be resourced through the following project resources and skills:

- Children and Adult's DMT
- Inclusion Service Manager
- Commissioning manager Integrated Youth Support

2.2.2 Post Procurement Contract Management

The contract management of this procurement project post award will be resourced through the following contract management strategy:

An agreement between Commissioning & Strategy Division and the Inclusion Division of Children and Adult Services will underwrite the contract management strategy. The Inclusion Service Manager is the commissioning officer and will be supported by the Integrated Youth Support commissioning manager in undertaking this role. Quarterly monitoring inspections and meetings will be undertaken with the management and any governing body plus key staff and will include written reports providing evidence of meeting identified outcomes, data and financial spend to ensure both softer and harder outcomes are monitored. Meetings will be themed to ensure the coverage of all main areas during each year. The service level agreement will include all key performance indicators and measurements of success.

The monitoring will be undertaken by:

- Inclusion manager
- Finance Manager
- Commissioning manager Integrated Youth Support

2.2.3 Other Issues

The following issues have been identified that could potentially impact both the procurement process and overall strategic aims as identified within Section 1 Budgetary and Policy Framework.

The new provider will need to access the Connexions Client Caseload Information System (CCIS) database held currently by the current provider in order to fulfil the new contractual obligations. The existing contract with the current provider provides for the transfer of the database to another provider either at the termination or the end of the contract.

2.2.4 TUPE Issues

Further to guidance from Legal Services, Human Resources and the Strategic Procurement Team, it has been identified that TUPE does apply to this procurement process.

It has been identified that potentially a significant number (unable to clarify) employees could be affected by TUPE in the event that the incumbent provider is not successful as part of the procurement tender process.

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 Do nothing

The option of doing nothing is not a viable option because the current contract expires on 31 March 2012 and there is no flexibility to extend the current contract. We would also be paying for services we will no longer be contracted to provide from September 2012 such as Careers Guidance in Schools and our budget for Connexions Services reduces.

3.2 In-house service provision

The option of providing this requirement through in-house service provision has been considered and below are the advantages and disadvantages of this option:

Advantages

Utilising existing youth service premises and management experience within the Integrated Youth Support Services could offer savings in service delivery. It may be possible to bring some elements of the Connexions Service in-house leaving other elements outsourced to external providers.

Disadvantages

The lack of appropriate youth service accommodation could restrict service delivery and its reach to customers owing to lack of high street premises.

It would also mean the loss of the impartiality of Information Advice and Guidance and support for young people and would make Connexions services a small part of a much larger organisation. Bringing the service in house is likely to be a more expensive option due to alignment with Medway's terms and conditions which would potentially create additional costs even when offset against the potential saving of one manager and the long term financial effects of local government pension provision for a large number of staff (cannot be defined at this stage as TUPE information is not currently available). It is likely that a majority of the existing Connexions staff would TUPE to the Council on their existing terms and conditions should this option be pursued.

3.3 Using another local authority to deliver procurement requirements

The option of using another local authority to deliver procurement requirements has been considered but is not a viable option due to the timing of the Connexions contract serviced by Kent County Council, our nearest partner, which does not end until March 2013 and their current contract does not allow other authorities to participate.

3.4 Procurement via an EU compliant framework

No EU compliant frameworks have been identified from which Medway Council's procurement requirements can be satisfactorily delivered. Consideration was given to those on the OJU Government Framework plus those on the South East Local Authority Portal.

3.5 Formal tender process in line with EU Procurement Regulations.

The option of formally tendering this procurement requirement in line with EU Procurement Regulations has been considered because the value of this procurement requirement is above the EU Procurement Threshold for Services of £156,442.00 and below are the advantages and disadvantages of this option:

Advantages

Option a) Open market procurement via one contract with one external provider with appropriate skills and resource. This option is recommended as the best value for both the young people of Medway and Medway Council as this option tests the market and provides the possibilities of greater economies due to competition in the market place. This option provides a one-stop shop for young people together with consistency and clarity of service delivery due to single branding and staffing. Competition for Connexions services is currently strong with between ten and twenty national providers across the UK. A recent Connexions market place event in Medway identified ten different interested local and national providers who could provide the service to meet the needs of Medway's young people.

Option b) Open market procurement via individual contracts breaking the service into smaller lots for tenders from a number of external providers with specialist expertise.

Disadvantages

Option a) Large national companies may be interested which could reduce the focus on Medway due to their other Connexions contracts in other larger areas.

Option b) This option could be considered as a step backwards and going against what was best practice since Connexions services used to be delivered by a number of different providers. Such a move could create inconsistency in service provision for young people, could make services harder to access and could cause confusion due to multiple branding. Such provision could also be limiting competition due to lack of interest by national companies in much smaller tenders and could potentially be more costly.

3.6 Internal Medway Council Collaboration between departments

The option of procuring requirements through internal collaboration between Medway Council departments in order to exploit economies of scale and synergies has been considered but no such opportunities currently exist.

3.7 External public sector collaboration (e.g. other Councils, Fire Service, PCT, Police)

The option of procuring requirements through external collaboration between Medway Council and other external public sector organisations in order to exploit economies of scale and synergies has been considered and is not a viable option due to the lack of available opportunities with near neighbour authorities. There are no current collaborations in place for Connexions Services.

3.8 Private sector collaboration e.g. Private Public Partnering/Private Finance Initiatives

The option of procuring requirements through private sector collaboration between Medway Council and other external private sector organisations has been considered but no such opportunities exist.

3.9 Exemption to contract rules to single source

The option of an exemption to contract rules to single source has been considered and is not required.

3.10 Procurement via a below EU Threshold Select List

No below EU Threshold compliant Select Lists have been identified from which Medway Council's procurement requirements can be satisfactorily delivered.

3.11 Other alternative options

No other alternative options have been identified.

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 Strategic Procurement Board and includes justification for this recommendation.

The preferred option is 3.5.a) Open market procurement via one contract with one external provider with appropriate skills and resource in line with EU Procurement Regulations since this option provides the best option for competitive tendering and potential to enhance service provision for young people in Medway. Savings in the identified budget could be a further benefit. This option is recommended as the best value for both the young people of Medway and Medway Council as this option tests the market and provides the possibilities of greater economies due to competition in the market place. This option provides a one-stop shop for young people together with consistency and clarity of service delivery due to single branding and staffing. Competition for Connexions services is currently strong with between ten and twenty national providers across the UK. A recent Connexions market place event in Medway identified ten different interested local and national providers who could provide the service to meet the needs of Medway's young people.

4.2 Equality Act 2010

The procurement process could have an impact in respect of equalities. All staff would be employees of the contractor, however a risk in terms of equalities could arise from contractor/ young people contact, this could result in a significant risk.

The procurement documentation can reduce the risk of an adverse impact by ensuring the provider is bound contractually to comply with our equalities policies. The contract management will be structured to ensure compliance through monitoring.

In addition there could be an impact on equalities if any changes are to be made to service provision (e.g. if the specification for provision of services under the contract is changing significantly).

When considering making changes to any service provision, the Council must have due regard to its equalities duties set out in s149 of the Equality Act 2010. The general duty on the Council is to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In order to make decisions having regard to these duties it is necessary for the Council to engage with service users about any potential changes to the services and to consider any representations made by service users in reaching a decision. The consultation proposed is set out at section 6.

4.3 Corporate Sustainability Plan

There are no implications for sustainability with the procurement of this service.

5. Risk Management

5.1 Risk Categorisation

The following risk categories have been identified as having a linkage to this procurement project:

Procurement process	<input checked="" 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	<input checked="" type="checkbox"/>

For each of the risks identified above in OPTION B, further information has been provided over:

Risk Categories	Outline Description	Risk Impact I=Catastrophic II=Critical III=Marginal IV=negligible Impact	Risk Likelihood A=Very High B=High C=Significant D=Low E=Very Low F=Almost Impossible	Plans To Mitigate Risk
a) Procurement process	Due to a delay with Government guidance, there is a risk that the timing of the procurement process will inhibit the ability to be ready to commission the new service from April 2012.	II	D	Close cooperation with Strategic Procurement. The contract will be written with flexibility to be able to respond to future requirements.
b) Contractual delivery	Chosen provider fails to meet contractual obligations	I	D	Include specific contractual milestones as part of contract monitoring
c) Service delivery	Chosen provider fails to meet service obligations	I	D	Include specific service milestones as part of contract monitoring process
d) Reputation / political	Reputation will be affected if procurement is not seen as fair or does not deliver perceived benefits	II	D	Close liaison with procurement in terms of approach and close evaluation of potential providers to ensure tenders can deliver specified outcomes
e) Health & Safety	Provider may fail in its health and safety duty either to its staff or its young people users	I	D	Include specific H&S milestones as part of contract monitoring process

f) Equalities	Failing to take equalities into account when procuring these services may discriminate against users from specific groups	I	D	Specification and tender documents to specifically include reference to how equalities will be addressed in recruitment and service delivery
g) Sustainability / Environmental	N/A	N/A	N/A	N/A
h) Legal	N/A	N/A	N/A	N/A
i) Financial	Funding may be further reduced from the EIG from 2013	II	C	Contract to be year on year and to include annual break clauses allowing for readjustment of funding if budgets reduced. Providers will be forewarned during the tender process that there will likely be subsequent changes to the contract.
j) Other	Major procurements are being considered within youth services within the next 12 to 24 months. By going out to tender for Connexions Services now we could be limiting the potential for more attractive	II	C	Close collaboration with IYS Service Manager throughout tender process. A robust tender specification to allow development of service needs in the future.

	packages of services.			
--	-----------------------	--	--	--

6. Consultation

6.1 Internal (Medway) Stakeholder Consultation

6.1.1 Before commencement of the procurement process in order to direct the specification, the following internal stakeholder consultation is required before the commencement of the procurement project in order to direct the specification

- Service Manager Inclusion Division
- Internal providers on the IYS partnership group
- internal providers on the 14-19 partnership group
- Medway Young Commissioners
- Medway Young Inspectors

6.1.2 During the procurement process in order to aid the evaluation process and as part of this procurement project, the following internal stakeholder consultation is required during the procurement process in order to aid the evaluation process:

- Service Manager Inclusion Divison
- Manager 14 – 19 service

6.1.3 Post procurement/tender award in order to aid the contract management process and as part of this procurement project, the following internal stakeholder consultation is required post procurement/tender award in order to aid the contract management process

- Service Manager Inclusion Divison
- Manager 14 – 19 service

6.2 External Stakeholder Consultation

6.2.1 Before commencement of the procurement process in order to direct the specification the following external stakeholder consultation is required before the commencement of the procurement project in order to direct the specification and to identify any issues to be considered in accordance with the duties imposed by the Equalities Act 2010:

- Medway Youth Trust
- Partners on the IYS partnership group
- Partners on the 14-19 partnership group
- Medway Young People

6.2.2 As part of this procurement project no external stakeholder consultation is required during the procurement process.

6.2.3 Post procurement/tender award in order to aid the contract management process and as part of this procurement project, the following external stakeholder consultation is required post procurement/tender award in order to aid the contract management process:

- Partners on the 14-19 partnership group
- Medway Young People
- External providers referring to the contractor

7. Financial and legal implications

Financial Implications

- 7.1 The financial implications of this procurement requirement and its associated delivery as per the preferred option highlighted at Section 4.1 'Preferred Option' and the recommendations at Section 9, are detailed within Section 2.1 Finance and Whole-Life Costing of the Exempt Appendix.
- 7.2 Approval is sought for a five to seven year contract and whilst there are benefits in a contract offering this degree of longevity and certainty, there is a potential conflict with the unpredictability of future funding. The current provision, at £1.8 million, is funded by Early Integration Grant and it has already been announced that this particular grant will actually increase next year. However, the future of this funding stream is uncertain, although it is unlikely that the services that it supports would not be funded in some guise. To mitigate against this, break clauses will be included within the contract document.

Legal Implications

- 7.3 This procurement requirement 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 legal implications which the Cabinet must consider.
- 7.4 All local authorities are under a duty under section 68(4) of the Education and Skills Act 2008 to make available to young persons and relevant young adults (persons between the ages of 20 and 25 who have learning disabilities) for whom it is responsible such services as it considers appropriate to encourage, enable or assist the effective participation of those persons in education or training.
- 7.5 The legal position with regard to the Council's equalities duties is set out in section 4. The preferred option is a competitive tender which would be compliant with the Council's duties under the Public Contracts Regulations 2006

Procurement Implications

- 7.6 This procurement requirement 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 – These services are 'Part B' services under the Public Contracts Regulations 2006 (as amended) and as such are not subject to the full requirements of the Regulations. The procurement of these services will primarily be subject to the Council's Contract Procedure Rules.
- 7.7 Generally speaking these Rules require a competitive tendering process to be undertaken and this process will need to be subject to the general procurement obligations of transparency, equal treatment and non-discrimination that derive directly from the Treaty on the

functioning of the European Union. Such a competitive tender process should also secure a contract providing value for money to the Council.

7.8 The client department is advised to follow Contract Procedure Rules for guidance on tendering and to seek further support from the Strategic Procurement Team via procurement surgeries as part of the Gateway 2 process. Furthermore, the client department is advised to use the appropriate procurement tendering documentation and supporting guidance as available on the Strategic Procurement intranet site in order to deliver the Gateway 2 stage requirements.

8. Strategic Procurement Board

8.1 The Strategic Procurement Board considered this report on 7 September 2011 and recommended to Cabinet to approve this project to proceed to Gateway 2.

9. Recommendations

9.1 The Cabinet is asked to approve the commencement of the procurement project to provide Connexions Services contract service as per the preferred option highlighted at Section 4.1 'Preferred Option' - Option 3.5 a (Open market procurement via one contract with one external provider with appropriate skills and resource in line with EU Procurement Regulations).

10. Suggested reasons for decision(s)

10.1 The recommendations contained within Section 9 'Recommendations' above are provided on the basis that the proposal underpins the Core Values of Medway Council and will meet the business needs of Children and Adults Directorate in line with DfE requirements.

Lead officer contact

Name	Sally Morris	Title	AD Commissioning & Strategy
Department	Commissioning & Strategy	Directorate	Children & Adults
Extension	4049	Email	Sally.morris@medway.gov.uk

Background papers

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

Description of document	Location	Date
Statutory guidance for Local Authorities on Targeted Support Services for Young people	Commissioning and Strategy Division	April 201