
Contract for Preventative Services known as Link Up, Growing for All and Friendship Skills

Committee considering report:	Executive on 26 July 2018
Portfolio Member:	Councillor Graham Bridgman
Date Portfolio Member agreed report:	31 May 2018
Report Author:	Karen Felgate
Forward Plan Ref:	EX3575

1. Purpose of the Report

- 1.1 To seek approval to award a contract to West Berkshire Mencap for preventative day services known as Link Up, Growing for All and Friendship Skills.

2. Recommendation

- 2.1 The Executive resolves to award contract for preventative day services known as Link Up, Growing for All and Friendship Skills to West Berkshire Mencap as set out in this report.

3. Implications

- 3.1 **Financial:** ASC have factored cost into their budgets.
- 3.2 **Policy:**
- 3.3 **Personnel:** None
- 3.4 **Legal:** The services being awarded under this contract are niche with no other bidders. There is a risk of a challenge under the procurement rules where the Council is under a duty to adhere to the principles of transparency. The description of services and the change to block award was not contained in the advert that was published in May 2017. However it is suggested that the locality of such niche services mean that there is no competition and thus pose a minimal risk of challenge by the bidders.
- The services commenced from the 1st April without Executive approval however there is a budget provision to fund it. There is a risk that award without specific authority is ultra vires but we understand that there is budgetary provision in place.
- The Contract Rules of Procedure under 11.11 and in particular 11.11.7 (d) require Executive approval for all awards under exception over the value of £500k.
- 3.5 **Risk Management:** Risk of challenge under procurement rules. The services

were to form part of the day services framework and tender process took place in summer/autumn 2017. However ASC have been in negotiations with Mencap since then over price. There were no other suppliers who came forward who were able to deliver these services. Therefore this is not circumnavigating procurement rules but has been part of a process which had not concluded due to negotiation over price.

3.6 **Property:** N/A

3.7 **Other:** None

4. **Other options considered**

4.1 Terminate services – Adult Social Care rely on these essential services to deliver on their Care Act prevention agenda.

Executive Summary

5. Introduction / Background

- 5.1 This report is for information only to seek approval to award a contract to West Berkshire Mencap for the provision of specific day services for service users/clients with a learning disability known as Link Up, Growing for all and Friendship Skills.
- 5.2 The additional information report (Part B) with this paper has been approved by Commercial Board as required under Part 11.11.7 (d) and Part 11.11.8. The report recommended award of this contract to West Berkshire Mencap from 1st April 2018 for three years plus two year extension
- 5.3 Councillor Rick Jones, Portfolio Holder for Adult Social Care, was present at Commercial Board and spoke in support of the retrospective contract award.

6. Proposal

- 6.1 Adult Social Care require a range of learning disability (LD) services to cater for a broad LD client base. This ranges from residential and high support forensic care settings, domiciliary care, supported living and day services options.
- 6.2 West Berkshire Mencap have for a number of years been delivering day services and supported employment opportunities for LD clients. These services have grown organically over the years and were delivered in an unofficial block and spot arrangement and waiting lists were historically managed by the old Learning Disabilities team within ASC. Before 1st April ASC bought 121 sessions per week in a block contract arrangement at £43 per session. There were additional sessions bought as a spot purchase which fluctuated depending upon demand. These were purchased at £45 per session.
- 6.3 The service is made up of three distinct elements which are as follows:
 - Link Up - work skills in a sheltered employment workshop in Central Newbury. Clients carry out a number of basic tasks such as sticking on labels, making Christmas cards, stuffing envelopes
 - Growing4All - a therapeutic gardening project at Cottismore Park, near Kingsclere.
 - Friendship skills – assisting clients to develop basic social skills
- 6.4 The services provide social support, work skills and an educational underpinning to assist individuals to develop their work skills, personal skills and develop their motor skills - the structured approach. It enables individuals with an LD to develop their skills and independence in a safe and supported environment and at their pace.
- 6.5 In 2014 Commissioning on behalf of ASC launched the Voluntary Sector Prospectus (VSP) process. The aim of the prospectus was to deliver a range of preventative services for clients with all needs across the district, which included

supported employment and day services. It was at that time envisaged that Link Up, and G4A services would be incorporated into the VSP.

- 6.6 However after two rounds of the VSP, it became clear that these services did not neatly fit into this process.
- 6.7 It was then decided that the services would be procured via the day services framework. This procurement process took place in summer/autumn of 2017. WBMencap inflated their prices through this process. ASC have been at stalemate with Mencap since August last year with no agreement in place.
- 6.8 There have been no other LD providers come forward and demonstrate the ability to deliver or replicate the service during the three tender exercises that have been carried out in the past 4 years.
- 6.9 The service as it is currently delivered is invaluable to ASC as it delivers on the preventative Care Act requirements for clients with a learning disability. Unfortunately this means that our negotiating position with Mencap to reduce the price closer to the current level of £43 per session has been limited.
- 6.10 It has taken the last 9 months and a number of meetings including Tandra Forster and Councillor Rick Jones as ASC portfolio holder to get to a position whereby we could come to an agreement on price.
- 6.11 The last meeting agreed the process and that the service changes would be backdated to 1st April 2018. Unfortunately this has not allowed for the decision making process to take place beforehand.

7. Conclusion

- 7.1 The Executive resolves to grant an exception to the Contract Rules of Procedure and to award the contract West Berkshire Mencap a retrospective three plus two year contract starting on 1st April 2018.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Supporting Information

Appendix A

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Commissioning
Team:	Commissioning
Lead Officer:	Karen Felgate
Title of Project/System:	Contract for Preventative Day Services known as Link Up, Growing for All and Friendship Skills
Date of Assessment:	2/5/18

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
Will you be processing SENSITIVE or “special category” personal data? Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will you be processing data on a large scale? Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will your project or system have a “social media” dimension? Note – will it have an interactive element which allows users to communicate directly with one another?	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will any decisions be automated? Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will your project/system involve CCTV or monitoring of an area accessible to the public?	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will you be using the data you collect to match or cross-reference against another existing set of data?	<input type="checkbox"/>	<input checked="" type="checkbox"/> X
Will you be using any novel, or technologically advanced systems or processes? Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised	<input type="checkbox"/>	<input checked="" type="checkbox"/> X

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Appendix B

Equality Impact Assessment – Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; this includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	Contract award to West Berkshire Mencap for services known as Link Up, Growing for All and Friendship Skills.
Summary of relevant legislation:	Care Act 2014 Public Contract Regulations 2015
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Karen Felgate
Date of assessment:	2/5/18

Is this a:		Is this:	
Policy	/No	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	Yes
Service	Yes		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	Deliver preventative day service provision to West Berkshire Clients with a learning disability
Objectives:	Allow clients to undertake meaningful activity and play an active part in the community.
Outcomes:	This service will contribute to West Berks ASC preventative agenda under Care Act 2014
Benefits:	Enable clients with a learning disability to undertake meaningful activity

2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.		
(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age	None	

Disability	Yes – positive outcome. Clients with a learning disability will be actively supported to carry out meaningful activity in the community	Contract monitoring information KPIs Care managers feedback from clients Parents and relatives feedback
Gender Reassignment	None	
Marriage and Civil Partnership	None	
Pregnancy and Maternity	None	
Race	None	
Religion or Belief	None	
Sex	None	
Sexual Orientation	None	
Further Comments relating to the item:		

3 Result

Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?

No

Please provide an explanation for your answer:

This is a service specifically aimed at clients with a learning disability. Clients will need to be assessed by West Berkshire Council care management and referred via ASC resource panel. ASC will hold a waiting list of clients

Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?

/No

Please provide an explanation for your answer:

Service will have a positive impact upon the clients it is aimed at by enabling them to undertake meaningful activity and play an active part in the community

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:

Stage Two required	No
Owner of Stage Two assessment:	Karen Felgate
Timescale for Stage Two assessment:	

Name: Karen Felgate

Date: 2/5/18

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.