

LEARNER SUPPORT SERVICES – NEGOTIATION TO EXTEND EXISTING CONTRACT

Report of the Head of Service Education & Learning

Please note that the following recommendations are subject to consideration and determination by the Cabinet (and confirmation under the provisions of the Council's Constitution) before taking effect.

Recommendation: That Cabinet agree the negotiation of an extension of the Service Contract for Learner Services with Babcock Learning and Development Partnership LLP (LLP) on the same terms for up to a maximum of 12 months. That authority to agree the exact period (not exceeding 12 months) be delegated to the Chief officer in consultation with the portfolio holder.

1. Background/Introduction

Devon County Council's ("DCC") 10-year learner services contract ends on the 31/3/2022. DCC has been undertaking work on the future delivery options for these services since September 2019 in accordance with a commissioning timetable, which allows for any tender process or transfer of service required and mobilisation period. The Learner Services Commissioning Project Board including school and governor representation has been set up to oversee this work.

The commissioning process for these services involves staff from across various teams within DCC. The Covid-19 pandemic and the emergency work that needs to be undertaken by DCC in response has had a direct impact on the work being undertaken by these teams. Consequently, their capacity to deliver the work required under the original commissioning timetable has been severely restricted since March 2020.

Before the interruption caused by Covid-19, work was underway on defining the requirements for the new contract and evaluating the options for the service specification and delivery model, including consultation with schools and other stakeholders.

In order to ensure that sufficient time is allowed for completing that work to the required quality, the Learner Services Commissioning Project Board recommend that the existing contract is extended on a like for like basis for a maximum of 12 months.

2. Main Text/Proposal

The Learner Services Commissioning Project Board has considered the impact of the Covid-19 emergency on the project tasks and timeline (full details and rationale in Appendix A). The Board is therefore proposing that a short period of extension to the existing Learner Services contract (up to a maximum of 12 months) be negotiated in order to build in the extra time that will be required in order to complete the commissioning process.

Options/Alternatives

The alternative to extending the current contract to allow the time required would be to leave the contract period as it stands and reduce the time available to complete the commissioning workstreams needed. Due to the importance and complexity of the services and the time required to implement any new service delivery model it would not be beneficial to remove or restrict any of the workstreams as this would have a direct impact on the future service delivered.

Financial Considerations

If the contract is extended on the same terms for the full 12 months this would equate to a normal year's budget for the service. This is not an additional cost as the services would have to be purchased through some form from the 1st April 2022.

Legal Considerations

A legal assessment of the proposed contract extension has taken place and been taken into account in the preparation of the recommendation set out above.

Modifications to existing Service Contracts will generally require a procurement process to take place unless they fall within the scope of Regulation 72 (Permitted Modifications) of The Public Contracts Regulations 2015.

In the current circumstances, the proposed extension is likely to be permitted under Regulation 72 on the grounds that the need for the modification has been brought about by circumstances which a diligent local authority could not have foreseen and/or that the modification is non-substantial within the conditions set out in the Regulations. In order to fall within the scope of these Regulation 72 grounds, DCC will

need to be assured that any decision to extend was a direct result of the Covid-19 pandemic.

Once the extension has been entered into, DCC will be required to publish a modification notice setting out its justification for the extensions in the Official Journal of European Union.

Environmental Impact Considerations (Including Climate Change)

The recommendation would not have any measurable environmental impacts and will not significantly affect greenhouse gas emission.

Equality Considerations

As an extension to the existing service contract there were no further equality considerations for the service over those considered in the original impact assessment.

Risk Management Considerations

No specific risks have been identified in extending the contract. The proposal itself is intended to mitigate the significant risk to continuity of the service if a re-commissioned service is not in place when the current contract expires.

Any extension would require the agreement of Babcock LDP and formalised with them. Current indications are that the LLP are receptive to an extension of the Service Contract on the same terms.

Summary/Conclusions/Reasons for Recommendations

In summary the extension of the Learner Services contract for a maximum of 12 months would ensure continuity of service whilst also allowing the time for the recommissioning process to be fully completed correctly. This would also ensure that all of the correct consultations and engagements can be carried out.

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Electoral Divisions: All

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LOCAL GOVERNMENT ACT 1972: LIST OF BACKGROUND PAPERS

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