

SURREY COUNTY COUNCIL

CABINET

DATE: 14 DECEMBER 2017

REPORT OF: MRS MARY LEWIS, CABINET MEMBER FOR EDUCATION

LEAD OFFICER: ROSS DUGUID – ASSISTANT DIRECTOR, ORBIS PROCUREMENT
ROSE DURBAN – STRATEGIC DIRECTOR, CHILDREN SCHOOLS AND FAMILIES

SUBJECT: APPROVAL TO AWARD A CONTRACT FOR THE PROVISION OF ONLINE LESSONS VIA SURREY ONLINE SCHOOL FOR SURREYS ALTERNATIVE LEARNING SERVICES.



SUMMARY OF ISSUE:

The Surrey Online School (SOS) has been providing live online lessons to a range of pupils who require alternative education provision across the county since 2015. The service provides an alternative to more expensive face to face tutoring and is enabling the local authority to cope with increasing demands without incurring additional cost.

The Surrey Online School replaced a previous system that Surrey had used (Lift Off) as it was more cost effective and more secure. This is a unique system that no other local authorities have in place, thus there was no off the shelf provision that could be purchased.

Many schools buy into this service (currently 78 schools are using SOS, but over the year over 130 schools will use this facility) for pupils from Key Stage 2 to Key Stage 4 (10-16 year olds). It is generally used as provision for fixed term and permanently excluded pupils, pupils who cannot attend school due to medical conditions, school refusers and catch up. It is also used for children not on roll or awaiting placement.

The curriculum is based on three core subjects (Mathematics, English and Science) plus spiritual, moral, social and cultural development lessons. Each pupil can participate in up to 14 lessons a week and, on average there are 60-70 pupils participating per half term.

All lessons are monitored for quality assurance and attendance alerts for pupil involvement are created for the schools and other agencies. User feedback is collated from schools, pupils and parents/carers and this is significantly positive towards the provision. If there are any negative responses, these are further investigated.

There is a greater demand for places, due to mental and emotional wellbeing of pupils and 12 pupils is the desired number for skypeing at any one time with a tutor to maintain high standards and quality of interaction and engagement. Schools and other internal agencies have a service level agreement, which substantiates the safeguarding and governance arrangements.

Schools find it more cost effective to buy back from Surrey Online School and due to number of places purchased a slight profit is made.

To date the services have been contracted via 'ad hoc' spot purchases but the continued growth in demand means it now makes sense to implement a longer term contract that will ensure continuity of service and legal compliance, as well as delivering additional savings and supporting the opportunity to generate income.

This Cabinet report, therefore, seeks approval to award a two year contract with an option to extend for up to two additional one year periods to Tute Education Ltd, to commence on 1 January 2018. The total value of this contract is approximately £1.5 m. The report provides details of the procurement process, including the results of the evaluation, and, in conjunction with the Part 2 report demonstrates why the recommended award delivers value for money and meets the needs of individuals in Surrey.

Due to the commercial sensitivity involved in the contract award process, the Value for Money details have been included as a Part 2 report.

RECOMMENDATIONS:

It is recommended that a contract for the provision of online lesson packages to Surrey Online School is awarded to Tute Education Ltd. starting from 1 January 2018 for a period of two years with an option to extend on an annual basis for two more years.

REASONS FOR RECOMMENDATION:

Surrey Online School currently spot purchases places on online courses, in advance from an existing supplier, and then recoups the money directly from the schools or services. In order to continue current levels of provision and cope with increasing demand we are seeking a longer term solution to procurement of courses and places for students.

This new provision provides a more cost effective means of commissioning these services.

Due to the rapid growth of demand for the services offered by Surrey Online School we are now seeking to formalise a contract with a supplier to maintain continuity for the schools and services that purchase online education for students in alternative provision.

DETAILS:

Business Case

1. In line with the Council's corporate strategy to improve outcomes for children in need of support and protection, support young people to participate in education, training or employment and to make better use of digital technology to improve services for residents, Surrey Online School (SOS) is a new initiative that provides live online lessons to a range of pupils across the county. It started in September 2015 and has grown much more rapidly than first anticipated. Surrey Online School had been developed in partnership with

a company called Tute who are working with SOS to build a bespoke provision that SCC can offer to internal services and schools.

2. SOS had been purchasing education provision from Tute for approximately two years. Due to the success of the provision expenditure has reached the Surrey CC procurement standing orders threshold of £100,000 for undertaking a tender. A waiver of £300,000 had been secured to allow SOS to continue to purchase from Tute whilst a longer term solution to procurement is found. This allowed SOS to continue to provide statutory provision across a range of services and ensure continuity of provision for the LA's most vulnerable pupils.
3. The service provides a range of online education solutions to the authority's most vulnerable students and the provision links directly with aspects of the SCC corporate strategy in wellbeing, economic prosperity and resident experience. This includes those pupils who are out of school due to medical needs, those within Surrey's existing alternative provision services including Access to Education (A2E), Special Educational Needs (SEN), Looked after Children (LAC), school refusers and increasingly those at risk of permanent exclusion.
4. The ongoing development of the service allows SCC to make significant savings in alternative education provision. There are also additional income generating opportunities that can also be achieved.
5. The Surrey Online School service will offer a programme of engagement (via a range of packages) for individuals or groups of students focused on supporting them to function better in and outside of school and to achieve the outcomes set out below.
 - Students are safe and feel safe
 - Improved attendance
 - Improved engagement in learning
 - Improved emotional health and well-being including resilience
 - Progress in learning
 - Attainment of academic and/or vocational qualifications
 - Successful pathway back to mainstream school or onto post-16 opportunities
 - Improved social skills and life-skills
 - Improved employability
6. The above outcomes will help vulnerable students to continue to access educational provision regardless of their background and location. By continuing to provide this service the ability for students to achieve the best educational results will be maximised.
7. This contract will ensure the rights of Surrey's most vulnerable students are protected and promoted and that children and young people in Surrey with a need for alternative educational provision will have access to good quality flexible education and ensure that the best educational results will be achieved.

Background and options considered

8. The options considered for a longer term solution were:

- Option 1 - Tender under the Open Procedure of the Public Contracts Regulations 2015.
- Option 2 - Direct negotiation with Tute under the Public Procurement Regulations 2015
- Option 3 - Setting up an SCC owned company to trade directly with schools for SOS.
- Option 4 - Do nothing.

It was recommended that 'Option 1' be pursued.

9. Option 1 – Tender under the open procedure of the public contracts regulations 2015.

This procedure would allow SCC to establish if there were any other suppliers that could supply all of the education services that are currently provided.

The tender would be for a single supplier framework with direct call off contract awards without further competition, as and when services are needed.

This is good way of testing the market and making sure that by using transparent, competitive procedure SCC could not be challenged.

10. Option 2 – Direct negotiation with existing supplier under procurement regulation 32 (2) (b) (iii)

Under this option SCC would not need to publish an OJEU notice but SCC would enter into direct negotiation with Tute on the basis that the some specific conditions outlined in the regulations are met.

This option wasn't suitable as there are other providers in the market that could potentially deliver those services. There could be potential challenge from other market competitors.

11. Option 3 – Set up an SCC owned company to trade directly with schools for SOS

SCC currently does not have the capacity, i.e. a bank of teaching experts, and the IT platform needed to make this a viable option. SCC would need to partner with a business that has these components to add to SCC's ability to market the services to schools and other LAs.

Public Contracts Regulations 2015 would not apply in this circumstance as an SCC owned company has a separate legal identity to the Council. The Council is subject to the Regulations when doing procurement but an SCC owned company would not be. This option was not viable.

12. Option 4 – Do nothing

SCC would discontinue buying packaging for internal use and selling packages into schools. Alternative provision in Surrey would move back to other methods of delivery including face to face and existing 'non-live' IT based provision. This option was not viable.

Procurement Strategy

13. After a full and detailed options analysis, it was decided to go out to open tender (Option 1).
14. Preparations for the retendering of the Surrey Online School provision– i.e. consultation on a draft service specification and procurement approach commenced in September 2016. Procurement delivered an early engagement day that was held in February 2016 that invited potential suppliers to contribute to the specification and ask questions about the draft specification that was sent out in advance. A full competitive tender process, compliant with the European Public Procurement Regulations and Procurement Standing Orders, has been carried out following the receipt of authority from Procurement Governance Board (SGB). The final Tender documents were published on the e-tendering portal with a closing date of 17 July 2017.
15. It was decided that the open procedure was appropriate and bidders were given 30 days to complete and submit their tender.
16. Tender received was evaluated against a number of quality questions. This aspect made up 50% of the overall score with the evaluation of price and other financial opportunities making up 45% of the balance. A final 5% was evaluated against social value that could be offered by suppliers.
17. Bidders were asked to respond to quality questions which included information about:
 - The proposed delivery model.
 - The approach to relationship building.
 - Customer feedback processes.
 - Quality assurance systems.
 - IT platform and systems functionality.
 - The Scope of IT solutions.
 - Data protection policies and control mechanisms.
 - Safeguarding of pupils.
 - Workforce planning.
 - Future opportunities and innovation.

Key Implications

18. The Council will meet its statutory duties by awarding a contract to the recommended supplier for the provision of online lesson packages to Surrey Online School to commence on 1 January 2018.
19. The Council can terminate the contract with three months' notice should priorities change or funding no longer be available or if the provider commits a breach of the terms of the agreement. The specification also facilitates flexibility in service levels commissioned, in case of greater or less demand than anticipated.
20. The Terms & Conditions of the contract include standard provision for:
 - Default
 - Dispute resolution.
21. Business Continuity Plans were evaluated as part of the Tender. The Provider successfully completed satisfactory financial and competency checks.

22. Performance will be judged using a range of measures:

Outcome	Indicator	Method of Recording/Reporting
Improved attendance (GCSE Students)	Average attendance amongst cohort compared with school attendance	SCC data
Improved engagement in learning (all students)	Attendance data and feedback from school, parent and students	SCC data and reports Provider engagement scores
Achievement of qualifications (where applicable)	GCSE's and Entry Level Certificates obtained. Comparison of supplier forecasted and working at grades and school data with actual grades obtained.	Numbers of students gaining qualifications
Successful re-engagement in home school (where applicable)	Measured annually and ongoing via pupil voice, feedback from schools and services, lesson observation, parent feedback, self-evaluation, service emotional wellbeing questionnaires.	
Improved health and wellbeing		
Learners feel safe and secure		
Improved employability, social and life skills		
Quality of lessons		
Repeat purchase from schools	Number of repeat places purchased by schools	SCC data
Availability of lessons	Number of cancelled lessons due to staff absence or technical difficulties	Provider data
Successful and timely capture of safeguarding incidents	Speed of response of incident	SCC incident log

23. The supplier will be required to provide the following to Surrey County Council:
- Report if the class size goes over maximum limit of 12 in any session.
 - Inform of any technical issues that affect the provisioning of lessons and the number of lessons affected.
 - All student reports should be quality assured to ensure accuracy and consistency.
 - Evidence of lesson quality assurance.
24. The management responsibility for the contract lies with the Surrey Online School service. The contract will be managed in line with the Contract Management Strategy and plan as laid out in the contract documentation, which also provides for review of performance and costs in line with identified continuous improvements in performance.
25. A detailed summary of the evaluation process is provided in the Part 2 report.
26. The tender evaluation panel for the service included representatives from IMT, Education Welfare, Schools and Learning senior management and Service Users.

CONSULTATION:

27. The consultation process for the tendering of the contract has been ongoing since 2015 and multiple conversations have taken place with stakeholders from schools and services who use the Surrey Online School, as well as the Surrey Online School governance group.
28. In February 2017 an early engagement event was held to, share the vision and strategy with current and prospective providers, and give them a chance to ask questions and contribute to the shaping of the specification.
29. The draft specification was shared with suppliers before the engagement event.

RISK MANAGEMENT AND IMPLICATIONS:

30. The contract includes a 'Termination Clause' (Clause 33) that will allow the Council to terminate the contract with 3 months' notice should priorities change or if the provider commits a breach of the terms of the agreement. Due regard to early consultation with the provider will be given.

31. The following key risks associated with the contract and contract award have been identified, along with mitigation activities.

Category	Risk Description	Mitigation Activity
Finance	Potential risk that during the life of the agreement the provider will request an inflationary increase against the annual service delivery cost.	The rates are fixed for the duration of the agreement.
Reputational	Quality of service delivered does not meet objectives and needs.	Strong contract management and regular performance review meetings which will enable us to influence, closely monitor and understand performance delivery.

Financial and Value for Money Implications

32. Full details of the contract value and financial implications are set out in the Part 2 report.
33. The new contract will deliver better outcomes for service users and is more cost effective than the current commissioning arrangements..
34. Key Performance Indicators (KPI) reporting will be in place and robust contract monitoring will ensure targets are being met.

Section 151 Officer Commentary

35. The County Council is facing a very serious financial situation, whereby there are still substantial savings to be identified and delivered to achieve a balanced budget in the current year and a sustainable budget plan for future years. By awarding this contract it will reduce the County Council's ability to balance its budget. However, it is recognised that there is a statutory requirement for the service to secure education services for all children and this contract satisfies that requirement for some of the most vulnerable children in Surrey.
36. The section 151 officer confirms that this contract is a more cost effective commissioning arrangement for online education services than currently.

Legal Implications – Monitoring Officer

37. The procurement is compliant with the Public Contracts Regulations 2015. A competition has identified the most economically advantageous tender.
38. Cabinet is asked to approve the award subject to all outstanding legal matters being satisfactorily concluded- Legal Services is advising on this matter.

Equalities and Diversity

39. An Equality Impact Assessment (EIA) has been carried out by the Project Group to analyse any potential negative or positive impacts of the outcomes of the tender on individuals with protected characteristics. This can be found at Annex 1.
40. Key actions have been identified to maximise the positive and mitigate the negatives impacts on people with protected characteristics. The Council will be working with the currently commissioned provider and the potential new provider(s) to ensure there is a seamless transitioning in place from 1 January 2018.

Corporate Parenting/Looked After Children implications

41. The Terms and Conditions of the contract, which the provider will sign, stipulate that the providers will comply with the Council's Safeguarding Adults and Children's Multi-Agency procedures, any legislative requirements, guidelines and good practices. This will be monitored through contractual arrangements.
42. The provider submitted their safeguarding policies as part of the tender process. This service plays a key role in safeguarding adults and children and we are confident that the providers can deliver safe, quality and efficient services.

Safeguarding responsibilities for vulnerable children and adults implications

43. The Terms and Conditions of the contract, which the provider will sign, stipulate that the providers will comply with the Council's Safeguarding Adults and Children's Multi-Agency procedures, any legislative requirements, guidelines and good practices. This will be monitored through contractual arrangements.
44. The provider submitted their safeguarding policies as part of the tender process. This service plays a key role in safeguarding adults and children and we are confident that the providers can deliver safe, quality and efficient services.

WHAT HAPPENS NEXT:

45. The timetable for implementation is as follows:

Action	Date
Cabinet decision to award (including 'call in' period)	8 December 2017
'Alcatel' Standstill Period	14 December 2017
Contract Signature	20 December 2017
Contract Commencement Date	1 January 2018

46. The Council has an obligation to allow unsuccessful suppliers the opportunity to challenge the proposed contract award. This period is referred to as the 'Alcatel' standstill period.

- Next steps – if this decision is part of a wider process or issue, set out the timescales for following steps (e.g. consultation>decision>review)
 - Any future decisions – will a further decision be required at a future point? If so, consider incorporating delegation to an officer/Cabinet Member as part of your recommendations
 - How the issue/outcomes will be communicated.
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Consulted:

Surrey IMT, Schools, Surrey Schools and Learning and other stakeholders

Annexes:

Annex 1: Equality Impact Assessment Summary of Impact and Actions
Part 2: Annex attached as agenda item 15

Sources/background papers:

- None.
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