

Leicester  
City Council

**CHILDREN & YOUNG PEOPLE SCRUTINY COMMITTEE  
CABINET**

**18<sup>th</sup> August 2009  
1<sup>st</sup> September 2009**

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## **14-19 EDUCATION PROCUREMENT UPDATE**

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### **Report of the Strategic Director, Children**

#### **1 PURPOSE OF THE REPORT**

- 1.1 This report seeks to inform Cabinet of urgent 14-19 education procurement issues and to secure Cabinet approval to enter into funding agreements for the provision of Cohort 6 of the Young Apprenticeships Scheme and to enter into a contract covering the City and County for the provision of Education Business Partnership Services.
- 1.2 In addition, the report seeks Cabinet agreement to additions to the 2009/10 Procurement Plan. The Plan serves two purposes:
- (a) To inform the market of future procurement and to enable potential suppliers to prepare for a future procurement process.
  - (b) To provide members with greater overview of procurement activity, as recommended by the District Auditor in his report on housing contracts.
- 1.3 The original 2009/10 Procurement Plan was approved by Cabinet on 30<sup>th</sup> March 2009, and listed probable procurement exercises above EU thresholds (currently, £139,893 for supplies and services and £3,497,313 for works).

#### **2 BACKGROUND**

- 2.1 The Apprenticeships, Skills, Children and Learning Bill is currently progressing through Parliament and is expected to receive Royal Assent in Autumn 2009. Once enacted this will result in the abolition of the Learning and Skills Council (LSC) in April 2010. At this point, responsibility for post-school education will transfer to (i) local education authorities (LEA's) for those aged 14 to 19 (or 25 with a learning difficulty or disability - LDD) and (ii) a newly created Skills Funding Agency (SFA) for those aged over 19 (or 25 with a LDD).
- 2.2 The DCSF and the LSC have made clear that they expect local authorities to plan and actively commission services during 2009 in anticipation of the

enactment of the legislation and the dissolution of the LSC from April 2010. This engagement is expected to take a number of forms, including the creation of a Sub-Regional Partnership, the development of a 14-19 Plan; shadowing of LSC staff and activity, including the planning and commissioning process for the 2010/11 academic year; and taking on the contracting arrangements for Education Business Partnerships and the Young Apprenticeships Cohort 6. This report focuses on these proposed contracting arrangements.

- 2.3 Following transfer from the LSC in April 2010, the full responsibility for commissioning post-school education provision for 14-19s (14 - 25 for students with a LDD) will pass from the LSC to Local Authorities. This is expected to result in additional commissioning valued at some £40m - £45m per annum in Leicester, principally for the post-school / further education of 16-19 year olds, which will be conducted in a Sub-Regional Partnership with Leicestershire County Council.
- 2.4 It should be noted that the transition requirements continue to evolve, with on-going discussions and exchange of information with the LSC. An expectation of continuity of service provision via current providers and subsequent procurement via the market place in subsequent years should also be noted.

### **3. REPORT**

#### Summary of Contracting Proposals

- 3.1 One of the first expected actions is for the City Council to make arrangements for Young Apprenticeship and Education Business Partnership (EBP) services from August 2009. This is because the current contracting round will extend beyond March 2010 and the national expectation is that successor local authorities will enter into the contracts / agreements with service providers, with funding to be provided by the LSC. The LSC, DCSF and local authorities are seeking to ensure uninterrupted, "business as usual" for young people, employers and service providers.
- 3.2 The alternative would be for the LSC to issue new contracts, which would subsequently be novated (transferred) to successor councils in April 2010. It is felt nationally that such an approach might not ensure continuity of service and would not realise the benefits outlined above.
- 3.3 The LSC would enter into contracts with the City Council, and the Council would in turn enter into funding agreements or contracts with external providers of these services.

3.4 The benefits of this approach are that it:

- Is in line with Government expectations pending the dissolution of the LSC;
- Supports the Council becoming the commissioner of such services;
- Enables the arrangements to move towards the City Council's expectations around the form and content of contracts / agreements; and it
- Provides greater certainty and "business as usual" for the service providers, the young people who will access the training in the coming autumn and for the local skills agenda generally.

3.5 However, this proposed course of action is not without its risks, which include:

- The legislation is not yet enacted and its enactment is not necessarily assured;
- Future funding generally is a concern given the outlook for public finances. The Government has stated its intention to mainstream Young Apprenticeship funding in 2010/11, although it remains unclear how this will be implemented and what the local impact could be;
- The contractual and provider arrangements in the short term at least will need to largely replicate the LSC's existing arrangements, which will require the Council to place reliance on the LSC's selection of provider and service specifications. To reduce this risk, the Council will seek formal performance and quality assurances from the LSC in this regard, particularly insofar as the Council's ability to meet its obligations to the LSC and users of the services are concerned;
- The Council may be required to consider exceptions or waivers to the Council's Contract Procedure Rules;
- The Council will be expected to enter into formal arrangements with the LSC which will place the Council under an obligation to ensure delivery of the services, with a potential clawback of funding by the LSC in the event of difficulties; and
- The management of the contracts and performance monitoring will place a further requirement upon the Council's staff and financial resources. Although there may be some shadowing by LSC staff from September, there will be no formal transfer of staff to the Council until April 2010.

3.6 Further details of the proposed Young Apprenticeship and Education Business Partnership providers and arrangements are given in the following paragraphs.

- 3.7 It should be noted that work on the detail of the proposed contracts is still underway, with the procuring officers receiving advice from Legal Services and Corporate Procurement.

#### Young Apprenticeships – Cohort 6

- 3.8 The Young Apprenticeships scheme is a Level 2 programme for 14-16 year olds, offering those that meet set academic requirements the opportunity to gain work-based learning with certain vetted employers. It enables students to have extended experience of work whilst pursuing vocational qualifications and core curriculum studies. It is aimed at motivated and mid-to-high ability young people who wish their learning to include a focus on a particular industry sector.
- 3.9 The Council is expected to enter into 2-year funding agreements with service providers for the new Cohort 6, which runs from September 2009 to July 2011. The LSC's current providers for Young Apprenticeships include the Leicester Education Business Company (LEBC) and Leicester and Loughborough Colleges. The LSC wrote to the current providers in February, advising that the City and County Councils would enter into the formal arrangements for Cohort 6. It is proposed that each Council would enter into separate agreements with the providers, with the form of the agreements to be co-ordinated to maintain a common approach across the sub-region.
- 3.10 The 2009/10 funding earmarked by the DCSF and LSC is £77,200, based on an assumed number of young apprentices. If the actual number of apprentices is lower, then funding would be reduced accordingly; it is not clear what would happen if the actual number is higher, although this appears unlikely based on the take-up to date.
- 3.11 Funding for this initiative will be provided to councils through a DCSF grant via the LSC; DCSF however intend the activity to be absorbed into mainstream funding over the next year. How this mainstreaming will take effect is unclear, although it could come within the scope of the Dedicated Schools Grant. The existing LSC contracts for cohorts 4 and 5 will continue until their conclusion, although it is unclear how the final term from April 2010 to July 2010 will be administered and funded; further guidance is awaited.
- 3.12 Assuming that the arrangements will cover the full two years, the Young Apprenticeships scheme would ordinarily be entered onto the Procurement Plan. However, an entry will not be needed on this occasion, as the arrangements would be made with the existing service providers by way of a funding agreement.
- 3.13 The DCSF has issued a guidance document on the Young Apprenticeship Programme. The LSC has recently advised that the Council will be required to enter into a Conditions of Funding agreement, to enable the LSC to recover funding where activity does not take place.

- 3.14 The Council will monitor the delivery of Young Apprenticeships by reviewing the uptake in each cohort year, together with the participation and completion rates and the outcomes for each provider. The Council will be required to provide activity and performance information to the LSC.

#### Education Business Partnership

- 3.15 The Education Business Partnership (EBP) provider acts as a single point of contact between organisations in the education and business sectors in each area. The responsibilities locally include:
- Arranging, brokering and managing work related learning activities in the curriculum and the work place;
  - Supporting employers who want to be involved in a variety of work related learning activities;
  - Monitoring and evaluating work related learning activities to assess impact and outcome;
  - Providing guidance and advice to employers, schools and colleges on Health and Safety, Child Protection, insurance requirements and other legal duties and responsibilities;
  - Developing the Leicester Shire Employer Engagement Strategy; and
  - Disseminating information on good practice amongst all partners.
- 3.15 The specific objective relating to the LSC funding, as set out in the recently-received proposed draft contract between the LSC and the Council, is “to secure suitable and sufficient provision which facilitates the gaining of work experience and work related learning by young people receiving education.” Minimum standards are set around work-related learning placements, teacher development placements, a wider contribution from employers and a strong contribution to making the employer experience productive and enjoyable for all parties.
- 3.16 The LSC currently commissions the Leicester Education Business Partnership (LEBC) to provide EBP services across the City and the County. The current contract finished at the end of July 2009 and it is proposed that the City Council should enter into a contract with the LEBC from 1<sup>st</sup> August 2009, covering both the City and the County. This would continue the LSC’s national approach of funding an Education Business Partnership in each area / sub-regional partnership to meet the needs of local learners. It would also link with existing arrangements in the Council for managing work experience placements and for promoting the skills agenda more generally.
- 3.17 It is envisaged that the LEBC would be contracted for a period of one year in the first instance, with an option to extend for a further year. This would allow the future national intentions and arrangements around EBP to be clarified and locally for the councils to review their needs around education, skills and regeneration as the new responsibilities take effect. There would also be an opportunity to evaluate the LEBC’s performance. This would lead to a fresh procurement exercise in 2010/11 that reflects the national approach, meets

the councils' requirements locally and which complies with all applicable procurement regulations.

- 3.18 A contract between the City and County Councils, setting out the City's lead contracting arrangement, is proposed. This reflects a sharing of lead roles and means that the LEBC would have a single contract rather than separate (but identical or very similar) City and County contracts. However, there are risks for the City Council, in that the City would be responsible to the County for the performance of the LEBC; in essence, the County would contract with the City and the City would in turn contract with the LEBC. The County could seek to recover monies from the City Council if the contractual requirements are not achieved; this risk will be mitigated as far as possible by establishing appropriate performance measures within the contract with the LEBC.
- 3.19 The EBP funding in 2009/10 will come via the LSC. The full year funding in the current 2009/10 financial year would be £153,644 for the City and £327,180 for the County, a total of £480,824. The actual proposed funding from the LSC for the period August 2009 to March 2010 is £313,000.
- 3.20 The funding arrangements beyond 2009/10 are subject to clarification as part of the overall transfer from the LSC to local authorities. It is possible that the new Young People's Learning Agency will essentially grant-fund local authorities for this activity. This is a similar financial risk to the Young Apprenticeships as noted above.
- 3.21 It should also be noted that schools and colleges make a direct contribution to the LEBC for work experience placements, in addition to the above core funding within the contract.
- 3.22 The draft service specification with the LEBC goes into some detail about the services to be provided. It sets out a range of performance monitoring information to be provided by the LEBC, including bi-monthly reports detailing performance against specified standards and outcomes; ensuring that such reports are held on file; producing statistics in line with DCSF requirements, to be submitted in the Autumn, covering areas such as employer participation, volume of work experience and volume of other work related learning delivered.
- 3.23 Members have asked for information about the LEBC. It is a registered charity, which supports partnerships between schools, business and the wider community. It links schools and colleges with businesses, and volunteers from business, to help inform pupils about the world of work and career opportunities. It also works to engage employers with schools and colleges, including recruiting employers to offer work placements, and arranging work experience and work placements for young people. LEBC carries out key work placement checks including health and safety, safeguarding and data protection, as well as monitoring the learning outcomes from work placements. In the most recent two-month reporting period, LEBC visited 174 employers on behalf of City schools. It also supports the Young Apprenticeships programme in Leicester and Leicestershire. It should be noted that two senior staff from Leicester City Council sit on its Board; this

representation will need to be reviewed as the Council enters into a direct contractual relationship with the LEBC, to avoid any potential conflicts of interest. Neither member of staff will be involved in formally authorising any procurement or contract documentation.

#### Funding Agreements with the LSC

- 3.24 As noted above, the DCSF expects and the LSC requires the Council to enter into contracts to secure the funding for the EBP services and the Young Apprenticeships Programme.
- 3.25 The proposed agreements with the LSC present various risks to the Council about which officers are receiving ongoing advice from Legal Services. These will be mitigated by balancing and where necessary by reproducing the performance outcomes and obligations into the proposed agreements with LEBC, colleges and other providers. Assurances will also be sought from the LSC, for example with regards to the suitability of the LSC's current service providers.

#### Brokering of off-site Training Provision for Schools

- 3.26 The Council's Learning Services Division currently acts on behalf of schools to arrange off-site training provision for specific pupils, bringing together the needs of schools with the provision available from various training providers. Examples include provision for hair and beauty, construction, horse care and foundation programmes for years 10 and 11.
- 3.27 The arrangements are made on an annual basis and amount to between £600,000 and £800,000, with the actual value each year depending upon schools' requirements. The procurement and contracting processes are being reviewed and it is now appropriate to make a programme provision of up to £800,000 within the Procurement Plan for the 2009/10 academic year.
- 3.28 It should be noted that this is not a result of the proposed LSC transfer, and is essentially "business as usual" for the Council and schools. However, the programme should be included in the Procurement Plan and it is appropriate to add it as part of this report.

## **4. RECOMMENDATIONS**

### **4.1 Cabinet is recommended to:**

- a) **Note the new responsibilities and expectations being placed upon the Council in respect of 14-19 Education, and early contracting arrangements in particular;**
- b) **Approve the proposals to enter into Funding Agreements with providers for the provision of Cohort 6 of the Young Apprenticeships Scheme within the City;**

- c) **Approve the proposals to enter into contracts with Leicestershire County Council and with a provider covering the City and County for the provision of Education Business Partnership Services;**
- d) **Agree that contracts may be entered into with the LSC, setting out the Council's responsibilities in respect of Education Business Partnership Services and Young Apprenticeships and the funding to be made available by the LSC;**
- e) **Approve the additions to the Corporate Procurement Plan as set out in the appendix to this report; and**
- f) **Confirm delegated authority to the Divisional Director for Learning Services, in consultation with the Cabinet Lead Member for Children and Schools, to instruct the Director of Legal Services to enter into the necessary contracts, once detailed issues have been resolved.**

## **5. CONSULTATION**

- 5.1 The proposals have been discussed with the Learning and Skills Council and Leicestershire County Council. The Children and Young People Scrutiny Committee considered an earlier draft of the report on 18<sup>th</sup> August 2009 and the issues raised have been incorporated into this revised report.

## **6. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **6.1 Financial Implications**

Funding to commission the services proposed in this report is being secured from the DCSF via the LSC, schools or other existing funding streams in the current financial year. The flow of funding into the future will change as the LSC is dissolved and the Government seeks to mainstream currently separate funding streams or to transfer funding to successor agencies.

There are a number of risks to the Council in entering into contracts for Young Apprenticeships and the Education Business Partnership at this time and in advance of the transfer of statutory responsibility. The report presents these risks in more detail and sets out proposed mitigating measures.

The wider impact of these changes will be considered further once the new arrangements for 14-19 commissioning, procurement and funding become clearer at national level.

Colin Sharpe, Head of Finance and Efficiency, CYPS, ext. 29 7750.

## 6.2 Legal Implications

Those activities set out in this report that are procurement activities (rather than funding) are above the EU Public Procurement threshold. Therefore, as well as compliance with the Contract Procedure Rules, each procurement must be undertaken in compliance with the Public Contracts Regulations 2006 and the basic standards of the European Court of Justice, which have been clarified in the European Commission's Interpretative Communication (2006/C 179/02) More detailed advice has been provided to procuring officers by the Corporate Procurement Team and Legal Services.

In relation to the EBC and Young Apprentices, client officers are receiving ongoing legal advice in connection with these matters in relation to the contractual and public procurement issues.

Until the Apprenticeships, Skills, Children and Learning Bill (ASCL Bill) is enacted, the Council is relying on its Well Being power to enter these contracts. This power permits the Council to do anything which it considers likely to promote or improve the economic, environmental or social well-being of its area (s. 2 Local Government Act 2000), consistent with its community strategy (prepared in compliance with s.4 Local Government Act 2000 (as amended)).

Presently, the ASCL Bill is at the Committee Stage and significant work remains to complete discussion of proposed amendments. The Committee will re-convene again in mid-October to continue this work. It is understood that the current session of Parliament should end in mid-November, and so it is expected that the Bill is to become an Act around that time.

Once enacted, the ASCL Act will continue the reform of 14 to 19 education and training, building on the Education and Skills Act 2008, which raised the age of participation in education or training to 18 for all young people from 2015. Responsibility for funding education and training for young people over compulsory school age but under 19 will transfer from the LSC to the Council and the Council will also take on responsibility for the education of young people in custodial establishments, and for the education and training of certain learners with learning difficulties or disabilities up to the age of 25.

Greg Surtees, Senior Solicitor, Commercial, Contracts and General Team,  
Legal Services ext. 29 6453

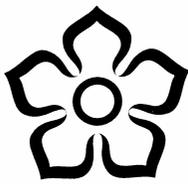
### 6.3 Other Implications

Other Implications	Yes/No	Paragraph References within this Report
Equal Opportunities	Yes	The 14-19 skills agenda is aimed at ensuring that all young people have access to high quality learning opportunities.
Policy	Yes	
Sustainable and Environmental	No	The report is concerned with the Council's policy towards taking on contracting and funding responsibility from the LSC in advance of the statutory transfer.  The individual procurement exercises are following the corporate standards.
Crime and Disorder	No	
Human Rights Act	No	
Elderly Persons/People on Low Incomes	No	

### 7. REPORT AUTHOR

Colin Sharpe, Head of Finance and Efficiency, CYPS, ext. 29 7750.

<b>Key Decision</b>	Yes
<b>Reason</b>	Is significant in terms of its effect on communities living or working in an area comprising more than one ward
<b>Appeared in Forward Plan</b>	Yes
<b>Executive or Council Decision</b>	Executive (Cabinet)



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Appendix

**LEICESTER CITY COUNCIL PROCUREMENT PLAN 2009/2010  
FINANCIAL YEAR APRIL 2009 TO MARCH 2010**

**PORTFOLIO – CHILDREN AND SCHOOLS**

**1**

Division: Learning Services  
Section: N/A  
Name of Contract: **Education Business Partnership**  
Description of Contract: To secure suitable and sufficient provision which facilitates the gaining of work experience and work related learning by young people receiving education in Leicester and Leicestershire.  
Expiry Date of existing Contract: N/A (the LSC currently lets the contract)  
Anticipated start of new Contract: 01/08/2009  
Duration of new Contract: 1 + 1 years  
Value of new Contract: £481,000 p.a, City and County Councils  
Lead Officer: Margaret Libreri

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**2**

Division: Learning Services  
Section: VESA – Vocational and Educational Support Agency  
Name of Contract: **Brokering of off-site Training Provision**  
Description of Contract: Arranging off-site provision for schools, bringing together schools and training providers  
Expiry Date of existing Contract: July / August 2009 (various contracts)  
Anticipated start of new Contract: September 2009 (various contracts / providers)  
Duration of new Contract: 1 year  
Value of new Contract: Up to £800,000  
Lead Officer: Alex McManus

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