

COUNCIL CABINET

12 June 2019



Report sponsor: Don McLure, Strategic Director
of Corporate Resources
Report author: Linda Spiby, Head of
Procurement & Contracting

ITEM 15

Addendum A

Compliance with Contract and Financial Procedure Rules

Purpose

- 1.1 To consider the procurement process and to enter into a Partnership Agreement to establish a compliant framework of Counsels' Chambers for childcare litigation for up to five years.
- 1.2 To approve delegation of final decision making and contract awards in relation to the Counsels' Chambers framework, to the Strategic Director of People Services, in consultation with the Cabinet Member for Children and Young People and in conjunction with the partnership authorities, for up to a maximum period of five years.

Recommendations

- 2.1 To approve being party to a procurement process with Derbyshire County Council (lead), Nottingham City Council and Nottinghamshire County Council that will provide a compliant framework of Counsels' Chambers who will be able to undertake a broad spectrum of childcare litigation on behalf of those authorities, as outlined in paragraphs 4.1 – 4.4, for a period of up to five years.
- 2.2 To approve entering into a partnership agreement with Derbyshire County Council (lead), Nottingham City Council and Nottinghamshire County Council to finalise this procurement process and delegate the final decision making and contract awards in relation to the framework, to the Strategic Director of People Services in consultation with the Cabinet Member for Children and Young People and in conjunction with the Partnership Authorities, as outlined in 4.1 – 4.4, for a period of up to five years.

Reason

- 3.1 To comply with the Council's Contract and Financial Procedure rules.

Supporting information

4.1 Provision of advice and advocacy services by Counsel in respect of Child Care Matters

The Council has a statutory duty to safeguard and promote the interests of children who live within its area. Care and adoption proceedings are heard in the Family Court sitting in all tiers of the Single Court but effectively cases can be heard by Lay Justices plus all levels of judge including High Court judiciary and above. We do not employ any barristers or advocates with rights of audience in the higher courts.

- 4.2 The year on year increase in the number of care cases being issued in the city has resulted in there being insufficient in-house lawyers to cover all court hearings in the lower courts. In addition, cases of greater complexity and which have time estimates of more than one day require the instruction of a barrister with specialist knowledge, experience and expertise. These issues are not unique to Derby, with the D2N2 partners identified within the recommendations also seeing similar spikes, and no troughs, in demand for legal representation.
- 4.3 The tender process has been entered into in collaboration with Derbyshire and Nottinghamshire County Councils, and Nottingham City Council. This is an opportunity for us to participate in a process to secure compliant services where the economies of scale (via the four authorities tendering together) will enable savings and efficiencies to be made. Chambers will be expected to facilitate the services of barristers who are capable of providing a high quality of advocacy and advice in respect of all aspects of child protection and adoption proceedings. Barristers will also need to be able to demonstrate that they are capable of working effectively with children's services.
- 4.4 The tender process has set the rate for specific services to be provided by barristers from the selected Chambers. The rates take into account the type of court hearing, the experience of the instructed barrister and the complexity of the case (based on the allocation of the case to the appropriate level of court). Fixed rates will provide a clear framework for the agreement of fees
- 4.5 On 12 December 2018 Cabinet approved the Council being a party to the process and agreement set out in 2.1 and 2.2 for a period of up to four years.
- 4.6 Shortly after this approval the Partnership Authorities agreed to increase the period of the framework to up to five years. This is allowable under the Light Touch Regime of The Public Contracts Regulations 2015.

- 4.7 This addendum seeks approval to award contracts on the Framework for a revised period of up to five years, with a revised value of up to £1 million.
- 4.8 In addition, the Partnership Agreement will now reflect this revised period of up to five years.

Public/stakeholder engagement

- 5.1 Not applicable

Other options

- 6.1 Not applicable

Financial and value for money issues

- 7.1 As detailed in the main body of the report.

Legal implications

- 8.1 None directly arising other than as set out within the report.

Other significant implications

- 9.1 **Personnel**
None directly arising.
- 9.2 **IT**
None directly arising.
- 9.3 **Equalities Impact**
None directly arising
- 9.4 **Health and Safety**
None directly arising.
- 9.5 **Environmental Sustainability**
None directly arising.
- 9.6 **Property and Asset Management**
None directly arising.
- 9.7 **Risk Management**
None directly arising.
- 9.8 **Corporate objectives and priorities for change**
None directly arising.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal Officer:	Olu Idowu – Head of Legal Services	06/06/2019
Financial Officer:	Toni Nash – Head of Finance	05/06/2019
Report sponsor:	Don McLure – Interim Strategic Director of Resources	06/06/2019