

Report of: Public Health Business Manager

Report to: Ian Cameron - Director of Public Health

Date: 6th February 2015

Subject: To seek approval to waive Contracts Procedure Rules 9.1 and 9.2 in order to award new interim contracts to Leeds Community Healthcare NHS Trust and GPs to enable key public health services to be maintained.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. In April 2013, local authorities took the lead from the NHS for improving the health of their local communities. As part of this process, public health budgets are protected under the ring-fenced grant until 2015/16 in order to drive local efforts to improve health and wellbeing by tackling the wider determinants of poor health.
2. The final part of the handover is the transfer of funding and contract responsibility for 0-5 Public Health services (Health Visiting and Family Nurse Partnership) from NHS England to Local Authorities, which is due to take place on the 1st October 2015. Leeds City Council (LCC) is planning to enter into new 18 month long contracts (with extension provision) with existing provider (Leeds Community Healthcare NHS Trust (LCH)) for the provision of these services from the 1st October 2015.
3. This report proposes awarding new contracts without seeking competition to the existing providers (LCH and the GPs) to ensure stability and continuity of key public health services whilst providing a sufficient period to undertake strategic reviews and competitive procurements of key public health priorities including Healthy Lifestyles (including smoking cessation), Healthy Child Pathway, NHS Health checks and Infection Control. The new contracts will also align with the contract end dates for the Health Visiting and Family Nurse Partnership services to enable a full service review of the Healthy Child Pathway (0 to 19 years) to be undertaken if required.

4. The required new contracts provide key public health services including Healthy Lifestyle (weight management, healthy lifestyle, smoking cessation, Watch It children's weight management service), Healthy Child Pathway (Specialist Community Public Health Nursing 5-19, oral health programme and dental epidemiology), Health Protection (infection control). A new contract is also required with GPs for NHS Health Checks. The total annual value of these contracts is £5,175,900.
5. These new contracts will start on the 1st April 2015, and will be awarded in accordance with the existing procurement regulations and the Council's contract procedure rules. The proposed length of the new contracts is 2 years with the option to extend for a maximum of a further 1+1 years should the service be demonstrating value for money, high performance and high quality outcomes. It is envisaged that the review will take up to 2 years to complete, allowing time for analysis, consultation, service design and the tender process. A mobilisation period for the new services will also be within the maximum permitted contract period (including extensions).
6. The new interim contracts will be based on the Department of Health / Local Authority contract templates. Some minor contract variations will be made to the LCH healthy lifestyle interim contracts to help maintain performance and deliver value for money. The interim contracts will be routinely monitored against the performance measures detailed within the contracts. This performance monitoring will continue throughout the new contract period.
7. The new contracts will enable the Public Health Directorate to continue to work with the Public Private Partnerships and Procurement Unit (PPP & PU) to develop their strategic commissioning priorities and undertake a structured staged approach to recommissioning which can be resourced effectively in order to obtain the best quality and value for money solution for the Council and the citizens of Leeds.

Recommendations

1. It is recommended that the Director of Public Health approves the request to waive CPR 9.1 and 9.2 in order to award new interim 2 year contracts (with extension provision) without competition to the following existing providers:

Leeds Community Healthcare NHS Trust

- Healthy Lifestyle
 - Healthy lifestyle service
 - Watch it (Children's weight management service)
 - Weight Management
 - Smoking Cessation Service
- Healthy child pathway
 - Oral Health provision & Brushing for life
 - Dental epidemiology service
 - Specialist Community Public Health Nursing Service (5-19)
- Health Protection
 - Infection control service

GPs

- NHS Health checks.

1 Purpose of this report

1.1 The purpose of this report is to seek approval from the Director of Public Health to waive Contract Procedure Rules (CPRs) 9.1 and 9.2 to enter into new contracts (with extension provision) without competition with Leeds Community Healthcare NHS Trust (LCH) for following services:

- Healthy Lifestyle
 - Healthy lifestyle service (YORE-9C2PZR) (£213,740 per annum)
 - Watch it (children's weight management service) (YORE-99EHRT) (£125,000 per annum)
 - Weight management (YORE-99EFSG) (£446,000 per annum)
 - Smoking cessation service (YORE-99EFDL) (£728,000 per annum)
- Healthy child pathway
 - Oral health provision & brushing for life (YORE-993JR2) (£56,180 per annum)
 - Dental epidemiology (YORE-99BJR2) (£14,480 per annum)
 - Specialist Community Public Health Nursing Service (5-19) (YORE-99EHRT) (£2,328,000 per annum)
- Health Protection
 - Infection control service (YORE-99BLQP) (£588,000 per annum)

1.2 In addition, to waive the same CPRs to enter into a new interim contract without competition with GPs for NHS Health checks (£679,500 per annum) (YORE-9D9H8L).

2 Background information

2.1 On 1st April 2013, the Leeds Primary Care Trust (PCT) ceased to exist and the Public Health function transferred to Leeds City Council as set out in the Health and Social Care Act 2012. Through a Statutory Instrument under the Act functions, resources, ring-fenced budget and assets and liabilities, including contracts, transferred to the Council via two Transfer Schemes.

2.2 In order to ensure service continuity, Public Health worked with PPP & PU to ensure all contracts including LCH and GPs were reviewed and providers formally awarded contracts in accordance with the Council's Contracts Procedure Rules.

2.3 The LCH contracts which deliver Healthy Lifestyle (weight management, healthy lifestyle, smoking cessation, Watch It - children's weight management), Healthy Child Pathway (Specialist Community Public Health Nursing 5-19, oral health programme and dental epidemiology), Health Protection (infection control), were put onto new Department of Health/Local Authority terms and conditions from April 2013 with the option to extend for a maximum of a further 1+1 years. The final extension period of these contracts ends in March 2016.

2.4 Commissioning and monitoring of the NHS Health Check is one of the mandatory public health functions for Local Authorities. Leeds has been offering NHS Health Checks to eligible citizens since 2009 delivered in GP practices. The GP contracts including for NHS Health Checks, were put onto new Department of Health/Local Authority terms and conditions from April 2014 with the option to extend for a maximum of a further 1+1 years. The final extension period of these contracts ends in March 2017.

2.5 New contracts are now required as there is insufficient extension provision within the existing contracts to maintain existing services while reviews and competitive procurements for key public health priorities including Healthy Lifestyles, Healthy Child Pathway, NHS Health checks and Infection Control are undertaken. Further information is provided within Section 3.

3 Main issues

3.1 New interim contracts are required at this point of time for the following reasons.

Transfer of commissioning responsibility from NHS England to Leeds City Council of health visitors

3.2 The transfer of funding and contract responsibility of 0-5 children's public health services from NHS England (NHSE) to Local Authorities is due to take place on the 1st October 2015. This is the final part of the full transfer of public health responsibility to Local Government.

3.3 These services comprise the Health Visiting service (which works alongside Children's Centres to comprise the Leeds Early Start Service) and the Family Nurse Partnership programme, which together deliver the national 0-5 Healthy Child programme in Leeds.

3.4 LCC is planning to enter into new contracts with LCH for the provision of these services and these will start on 1st October 2015 on the formal transfer of commissioning responsibility from NHS England to LCC. The contract value is approximately £9 million per annum. The proposed length of the new contract is 18 months with the option to extend for a maximum of a further 1+1 years should the service be demonstrating value for money, high performance and high quality outcomes.

3.5 This means that the contract end date for the Family Nurse Partnership and Health Visiting service is March 2017. This report recommends that LCH is awarded a new contract for the Healthy Child Pathway (including the Specialist Community Public Health Nursing 5 to 19 contract) to enable both contract dates to align so that full service review of the Healthy Child Pathway (0 to 19 years) can be undertaken if required.

Procurement of new integrated public health contracts/services

3.6 Public Health has developed strategic commissioning priorities in order to have a robust programme of recommissioning and procurement. Officer resources are being targeted at these projects to achieve efficiencies and savings in the longer term.

3.7 Following on from the completion of the procurements for the drugs and alcohol and integrated sexual health services, the next priority is healthy lifestyles pathway, which may potentially include healthy weight, smoking, and healthy living support and advice services. All of these aspects currently form part of the LCH contracts. An initial scoping review has already started on the pathway and the current draft project plan estimates that a new service or services could be in place in April 2017. The scoping review is part of a breakthrough project looking at the development of a whole systems

approach to healthy lifestyles and reducing health inequalities. Approvals to initiate a formal project for the healthy lifestyle review will be obtained in due course.

3.8 The healthy child pathway, health protection (infection control) and long term conditions (NHS Health checks) priorities, which include the other services covered in this report, are longer term Public Health commissioning priorities. The new contracts detailed in this report are required to ensure that there is no disruption to services while plans are developed to undertake strategic reviews of these services, which will inform future remodelling and recommissioning.

3.9 There is also an ongoing pilot project taking place of an alternative delivery mechanism for NHS Health checks in Leeds. This involves NHS Health Checks being delivered through pharmacies within Asda supermarkets in Leeds in addition to the current GP providers. Awarding a new interim contract to GPs will enable a full evaluation of this pilot project to be undertaken and this will include a market sounding exercise with other pharmacy providers. These will help to inform any further service reviews and recommissioning of this service.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Consultation about the contract extensions has been undertaken with Public Health staff and the Executive Member for Health and Wellbeing.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An equality impact assessment screening tool (EIA) will be completed. The EIA screening tool will indicate if a full EIA is required, and where necessary will be conducted as per the Council's requirements.

4.3 Council policies and City Priorities

4.3.1 Continuity of the services provided by the LCH and GP contracts supports the delivery of the Council's Public Health responsibilities and the outcomes of the Leeds Health and Wellbeing Strategy (for example people will live longer and have healthier lives), Leeds Children and Young Peoples Plan 2014 and the Best Council Plan.

4.4 Resources and value for money

4.4.1 The Public Health directorate recently undertook an annual review of all existing contracts including those held with LCH and GPs, to determine whether contracts should be extended based on continuing need, performance and providing value for money. Some changes and variations to the LCH healthy lifestyle contracts are proposed as an outcome of this review and these changes will be incorporated into the new interim contracts.

4.4.2 These new contracts are required to provide continuity of the services while the Public Health directorate continues to work with PPP & PU to undertake a staged approach to re-commissioning for key public health services. This ensures work can be resourced effectively in order to obtain the best quality services and value for money solution for the Council and the people of Leeds. This approach is also supportive of the Public Health strategic commissioning priority plan

4.4.3 The cost of these services will be met from the Public Health ring fenced grant.

4.4.4 There will be no increase in price for these services. These historic contracts have limited ability to enable efficiency savings however the service reviews will provide an opportunity to identify potential efficiency savings that may stem from the new procurement exercises. Officer resources will continue to be targeted at the procurements for new integrated services, which will generate savings and efficiencies in the longer term.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This is a key decision and is subject to Call In, there are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.

4.5.2 Awarding contracts directly to the contractor in this way could leave the Council open to a potential claim from other contractors to whom this contract could be of interest. In terms of transparency, it should be noted that it is a requirement of European case law that contracts of this value are subjected to a degree of advertising. It is up to the Council to decide what degree of advertising is appropriate. In particular, consideration should be given to the subject-matter of the contract, its estimated value, the specifics of the sector concerned (size and structure of the market, commercial practices, etc) and the geographical location of the place of performance.

4.5.3 Due to the potential total value of these four (4) contracts each of which exceeds the EU threshold and which in aggregate total approx. £21.3 million over a potential 4 years, awarding these contracts direct to LCH and the GPs without competition could incur a risk of challenge from other potential contractors who have not been given the chance to tender for this opportunity.

4.5.4 As these are Part B Services for the purposes of the Public Contracts Regulations 2006 ("Regulations"), and therefore not subject to the full procurement regime, the risk of challenge identified at paragraph 4.6.2 can be diminished somewhat by the publication of a voluntary transparency notice in OJEU immediately after the decision to award the contract has been taken and then waiting 10 days to see if any challenges are made. If no challenges are made a claim for ineffectiveness cannot be brought. Further, publishing such a notice will also start time running for any other potential claim for breach of the Regulations, which must be brought within 30 days of the date that an aggrieved party knew or ought to have known that a breach had occurred.

4.5.5 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making his final decision, the Director of Public Health should be satisfied that the course of action chosen represents best value for money for the Council.

4.6 Risk Management

4.6.1 Risks associated with the approach outlined within this report relate to the award of new contracts to the existing providers without a competitive procurement. The main driver to award the new contracts to the existing providers (LCH and the GPs) is to ensure stability and continuity of services whilst providing a sufficient period to undertake strategic reviews and competitive procurements. These new contracts will prevent significant disruption to patients and help achieve the delivery of the Council's Public Health responsibilities and the outcomes of the Leeds Health and Wellbeing Strategy.

5 Conclusions

5.1 Awarding the new contracts described in this report to the existing providers (LCH and the GPs) will ensure stability and continuity of services whilst providing a sufficient period to undertake strategic reviews and competitive procurements of key public health priorities including Healthy Lifestyles, Healthy Child Pathway, NHS Health checks and Infection Control.

5.2 A structured approach to recommissioning and procurement will ensure these key public health service reviews are resourced effectively in order to develop and deliver the best quality service models and value for money for the Council and the people of Leeds in the longer term.

5.3 The proposed length of the new contracts is 2 years with the option to extend for a maximum of a further 1+1 years should the service be demonstrating value for money, high performance and high quality outcomes.

5.4 The new interim contracts will be based on the Department of Health / Local Authority contract template, and will be routinely monitored against the performance measures detailed within all the contracts. This performance monitoring will continue throughout the new contract period.

6 Recommendations

6.1 It is recommended that the Director of Public Health approves the request to waive CPR 9.1 and 9.2 in order to award new interim 2 year contracts (with extension provision) without competition to the following existing providers:

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- Healthy Lifestyle
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 - Specialist Community Public Health Nursing 5-19
- Health Protection
 - Infection control service

GPs

- NHS Health checks.

7 Background documents¹

EIA

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.