

**Report of: The Office of the Director of Public Health**

**Report to: Director of Public Health**

**Date: January 2016**

**Subject: To seek approval from the Director of Public Health to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 to enter into contracts for a Community Pharmacy Needle Exchange Service with nominated pharmacies and to obtain approval to use the NHS Supply Chain framework contract for the purchase of medical equipment.**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	tbc	
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

**Summary of main issues**

1. The Community Pharmacy Needle Exchange Service is comprised of the following elements:
  - Needle exchange and harm reduction advice service
  - Supply of equipment – needles, syringes etc
  - Collection and disposal of sharps bins
  - Service administration by Community Pharmacy West Yorkshire (CPWY)
  
2. This report asks the Director of Public Health:
  - (i) to approve the waiver of CPRs 9.1 and 9.2 to enter into a contract with nominated pharmacies to deliver a community pharmacy needle exchange service at an overall cost of £225,000 (£45,000 per annum).
  - (ii) to authorise the NHS Supply Chain framework as an Approved Framework Agreement under the Contracts Procedure Rules.
  - (iii) to approve the use of the NHS Supply Chain framework for the purchase of the medical equipment needed for the needle exchange service in accordance with CPR 3.1.7 at an overall cost of £750,000 (£150,000 per annum)
  - (iv) to note the entering into an agreement with Community Pharmacy West Yorkshire (CPWY) to administer the community pharmacy needle exchange service at an annual cost of no more than £1,000.
  - (v) to note the entering into a service level agreement with Internal Service Provider Waste Management for the collection of sharps bins from the contracted pharmacies at an annual cost of £12,000
  
3. The timescales for each element are:
  - (i) The contract with pharmacies will be for 5 years from 1<sup>st</sup> April 2016 – 31<sup>st</sup> March 2021.

- (ii) the NHS Supply Chain framework was established in June 2014 and runs for 4 years until May 2018. If the framework does not continue after this date a procurement exercise will be undertaken.
  - (iii) the agreement with CPWY will be reviewed and renewed annually.
  - (iv) the service level agreement with Waste Management will be for 5 years from 1st April 2016 – 31st March 2021.
4. 15 pharmacies across the city currently participate in the needle exchange service. The final extension for the contract ends 31st March 2016. A review has been undertaken to determine the locations from which the service should be delivered from in the future.
  5. Frontier Medical Supplies currently have the contract for the supply of the medical equipment needed for the needle exchange service. The contract ends on 31<sup>st</sup> March 2016. The NHS Supply Chain is an established framework supplying medical products to the NHS and other providers. Using this framework will provide a greater choice of both supplier and products, helping ensure that best value for money is achieved. Frontier Medical Suppliers are one of the suppliers on the NHS Supply Chain.
  6. The current agreement with CPWY to administer the community pharmacy needle exchange service ends on 31<sup>st</sup> March 2016. A new 12 month agreement will be put in place from 1<sup>st</sup> April 2016.

## **Recommendations**

7. The Director of Public Health is recommended to:
  - (i) waive CPRs 9.1 and 9.2 to enter into a contract with nominated pharmacies to deliver a community pharmacy needle exchange service at an overall cost of £225,000 (£45,000 per annum).
  - (ii) confirm the NHS Supply Chain framework as an Approved Framework Agreement under the CPRs.
  - (iii) approve the use of the NHS Supply Chain framework for the purchase of the medical equipment needed for the service in accordance with CPR 3.1.7 at an overall cost of £750,000 (£150,000 per annum).
  - (iv) note that an agreement will be entered into with Community Pharmacy West Yorkshire (CPWY) to administer the community pharmacy needle exchange service at an annual cost of no more than £1,000.
  - (v) note that a service level agreement will be entered into with the Internal Service Provider Waste Management for the collection and disposal of sharps bins from the contracted pharmacies at an annual cost of £12,000.

## **1 Purpose of this report**

- 1.1 To inform the Director of Public Health of the need for a community pharmacy needle exchange and related services.
- 1.2 To inform the Director of Public Health of work that has been undertaken to review the community pharmacy needle exchange service, the supply of medical equipment service and the needle waste collection and disposal service.
- 1.3 To recommend that the Director of Public Health approve future provision for these services.

## **2 Background information**

### **2.1 Community Pharmacy Needle Exchange Service**

2.1.1 The main functions of the community pharmacy needle exchange service are to:

- assist service users to maintain, and where possible improve, their level of health until they are ready to address their injecting and/or substance misuse
- reduce the rate of sharing and other high risk injecting behaviours by providing sterile injecting equipment, paraphernalia and other support
- reduce the rate of blood borne infections among drug users
- promote safer injecting practices
- provide and reinforce harm reduction advice and initiatives, including advice on overdose prevention (e.g. risks of poly-drug use and alcohol use)
- ensure safe disposal of used injecting equipment
- improve the health of local communities by preventing the spread of blood-borne viruses and by reducing the rate of discarded used injecting equipment
- collect routine performance management information

2.1.2 The Community Drug and Alcohol Prevention, Treatment and Recovery Service delivered by a DISC-led consortium of local providers (Forward Leeds) also provides a needle exchange service from 12:30-4:30 Monday to Friday from the 3 main recovery hubs (Kirkgate, Ilford House and Armley Park Court) and an outreach needle exchange service across the city.

### **2.2 Administration of the Community Pharmacy Needle Exchange Service**

2.2.1 Since April 2014 CPWY has administered the community pharmacy needle exchange service on behalf of Leeds City Council. This involves acting as an agent between the Council and each community pharmacy provider. Each pharmacy submits a monthly claim to CPWY detailing the number of transactions which they have delivered. CPWY then processes the claims on behalf of the Council.

### **2.3 Supply of Medical Equipment**

2.3.1 A range of medical equipment is needed in order to deliver the needle exchange service including needles, syringes, and alcohol swabs. Needles bins are also a key product as when service users pick up new equipment they are strongly encouraged to return used needles.

2.3.2 The current contract with Frontier Medical Equipment is valued at £150,000 per annum and expires 31<sup>st</sup> March 2016.

### **2.4 Waste Collection and Disposal**

2.4.1 Ensuring the safe collection and disposal of used injecting equipment is an integral element of the community pharmacy needle exchange service.

2.4.2 SRCL Ltd currently provides the collection and disposal of the needle exchange waste. Historically, this was a PCT arrangement managed by Strategy & Commissioning which was not formalised and as such is non contract spend. The new arrangement will address the outstanding issue and the current arrangement with SRCL Ltd will be terminated in accordance with general contract law in order to avoid any risk of challenge to the council.

2.4.3 The value of this service is £12,000 per annum.

### **3 Main issues**

#### **3.1 Community Pharmacy Needle Exchange Service**

- 3.1.1 In principle it would be possible for other health and social care organisations to deliver this service, however NICE public health guidance 52 specifically recommends the provision of a community pharmacies based needle exchange service. They are an ideal setting, allowing a flexible and discrete drop-in service which is easily accessible for service users, often with extended opening hours. They are an important partner in the provision of clean injecting equipment, in providing harm reduction advice and also directing service users to other appropriate services.
- 3.1.2 Needle exchange provision from pharmacies encourages service users to make use of the service. Pharmacies provide an easy access, anonymous, discrete, neutral and flexible service and therefore service users are more likely to make use of the needle exchange service when it is delivered from these sites. The pharmacies also have private consultation rooms where professional advice around reducing harm and sign posting can be given to service users.
- 3.1.3 The service is deemed below the current Public Contracts Regulations 2015 'Light Touch Regime' for services that fall under schedule 3 and therefore is not affected by the full force of the regulations. For these reasons the waiver of CPRs 9.1 and 9.2 is considered justified.
- 3.1.4 The service is part of a wider harm reduction provision in the city. For the service to operate effectively it is essential that good working relationships are developed and maintained with other complementary service providers in Leeds, particularly Forward Leeds. Forward Leeds has identified 2 staff members who will work closely with the pharmacies. The LCC Contract Officer will monitor this during performance management meetings.
- 3.1.5 A review of the community pharmacy needle exchange service has been undertaken in order to ensure that:
- the service is being provided in the most appropriate geographical areas
  - service users are receiving appropriate advice and support
  - the service is providing value for money

The review has determined the areas in which the needle exchange provision is most needed. During January 2016 pharmacies which operate within the identified areas will be invited to apply to provide the service. This can be done through a simple application process rather than a full procurement exercise. New contracts will be effective from 1<sup>st</sup> April 2016 until 31<sup>st</sup> March 2021.

#### **3.2 Administration of the Community Pharmacy Needle Exchange Service**

- 3.2.1 Significant Council officer time is saved due to the arrangement with CPWY to administer the service.
- 3.2.2 The Service Administration Scheme is underpinned by PharmOutcomes – an IT platform which allows the secure recording of service delivery and the management of pharmacy payments. This has improved the quality of data received and resulted in more meaningful management information being available.
- 3.2.3 CPWY is able to post key messages to pharmacies on the PharmOutcomes database. Examples include the launch of Forward Leeds, early alert warnings about certain drugs, and details of the plans to review and commission the service.

3.2.4 CPWY is the local voice for all community pharmacies in West Yorkshire. They are in a unique position to be able to act as a link between the Council and the contracted pharmacies.

3.2.5 The new agreement will be effective for 12 months from 1<sup>st</sup> April 2016 and will be renewed annually if both parties remain satisfied with the arrangement.

### 3.3 Supply of Medical Equipment

3.3.1 An options appraisal and benchmarking exercise was undertaken by the procurement unit which identified the NHS Supply Chain framework as a viable alternative to a full procurement exercise. All of the main suppliers in this market are part of the NHS Supply Chain and it has been identified that all the products currently purchased are available through this framework.

3.3.2 NHS Supply Chain is an established national framework. It has a wide range of product lines, including all of the equipment that is required for the needle exchange service. Nationally it manages more than four million orders per year, across 120,000 order points and 10,000 locations. Its systems consolidate orders from over 600 suppliers, meaning that buyers can buy different products from different suppliers, but there will only be one delivery. As well as expertise in procurement and supply chain, they also offer a named customer service advisor, clinical nurse advisors and a full account management service.

3.3.3 Using the NHS Supply Chain will ensure best prices are obtained by allowing providers to compare prices for similar products across a range of suppliers. Equipment will be purchased directly by the providers and NHS Supply Chain will manage the call-off process on the Council's behalf. NHS Supply Chain will invoice the Council on a monthly basis and provide management information to ensure effective monitoring can be undertaken.

3.3.4 Colleagues in PPPU Commercial team have confirmed that there are no legal restrictions to LCC joining the NHS Supply Chain. The documentation has been checked and deemed satisfactory for use on behalf of the Directorate of Public Health.

3.3.5 Work has been undertaken to make sure the equipment budget is being used as effectively as possible. This includes ensuring sterile water is only distributed to people who have no other access to it and undertaking a stock-check to make sure that pharmacies are not over-ordering.

3.3.6 The Council will start using the NHS Supply Chain Framework for the provision of medical equipment for the needle exchange service from April 1<sup>st</sup> 2016. The NHS Supply Chain framework came into operation June 2014 and is currently in place until May 2018. There is every expectation that the framework will be renewed after this date but, if not, a procurement exercise will need to be undertaken prior to the expiry date of the NHS Supply Chain Framework to put a new contract in place for the provision of needle exchange equipment.

### 3.4 Waste Collection and Disposal

3.4.5 The Council's Waste Management Service has agreed that it can provide the needle waste collection and disposal service. Further information regarding size and frequency of pick-ups needed for the waste collection is being collated and the intention is that this service will be managed in-house from 1<sup>st</sup> April 2016, keeping the overall £12,000 budget for this service within the Council.

3.4.6 The Council's Waste Management Service has a separate contract with SRCL Ltd to dispose of the clinical waste which they pick up from private residences located around the city. The waste is collated at the depot and taken to SRCL base to be disposed of via autoclave which recycles as much as possible. The contract with SRCL will include the additional waste collected from the pharmacies.

3.4.7 The intention is to link into the current collection routes wherever possible thereby reducing vehicle mileage and carbon emissions.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

#### **4.1.1 Community Pharmacy Needle Exchange Service**

As part of the pharmacy review meetings have taken place with:

- a representative from Community Pharmacies West Yorkshire
- providers of the citywide harm reduction service

Service users - during 1 week in July 2015 all service users who accessed the pharmacies were asked to complete a short questionnaire. There were 132 responses which have been used to inform the pharmacy provision. For example a high majority of respondents said that they wanted to be able to access a pharmacy near where they live, so provision will be focussed in areas where there are the highest numbers of injecting drug users living.

#### **4.1.2 Administration of the Community Pharmacy Needle Exchange Service**

Feedback from the pharmacies is that after some initial issues getting familiar with the PharmOutcomes system, they are happy with the arrangement with CPWY administering the service.

#### **4.1.3 Supply of Medical Equipment**

Consultation meetings have taken place with:

- CPWY
- Forward Leeds (Harm Reduction Team)
- PPPU

All parties are in agreement that joining the NHS Supply Chain framework is a better option than going out to tender. The framework will fulfil the requirements of the needle exchange service and allow the Council to avoid a costly procurement exercise because a robust, EU compliant process has been followed for the framework.

#### **4.1.4 Waste Collection and Disposal**

- Current pharmacy providers
- LCC Waste Management Services

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 An Equality Impact Assessment (EIA) Screening Tool has been completed in relation to these services and is attached as a background document for information. The EIA Screening Tool indicates that a full EIA does not need to be completed. The main reason for this is that the new contracts will not involve any major changes to the services which could impact negatively on service users or stakeholders.

- 4.2.2 The new service will improve the access to needle exchange provision for vulnerable service users by making sure that the service is available in those parts of the city where it is most needed.
- 4.2.3 All pharmacies will need to demonstrate that they have robust equality and diversity policies in place.

### **4.3 Council Policies and City Priorities**

- 4.3.1 The community pharmacy needle exchange service forms part of the wider harm reduction services delivered across the city. These services are strategically relevant, and contribute to a number of strategies and priorities, including the Health & Wellbeing strand of the City Priority Plan by supporting clients to make healthy lifestyle choices and live safely. The service also contributes to the priorities set out in the Leeds Drug and Alcohol Strategy & Action plan, by reducing harm and supporting people to recover from drug misuse.

### **4.4 Resources and value for money**

- 4.4.1 Pharmacies receive a fee of £75 per quarter, which includes payment for the first 50 needle exchange transactions they make that quarter. They then receive £1.50 for each subsequent transaction. Pharmacies are only paid for transactions for which they fully complete a "What Works" form and all appropriate information has been recorded on PharmOutcomes.
- 4.4.2 CPWY is a non-profit making organisation and charges a management fee of £4 per pharmacy each month. This currently totals £720 for the year which represents excellent value for money. The number of pharmacies contracted to provide the service is unlikely to go significantly beyond 15, based on historical data, so a maximum of £1,000 per annum will be needed for CPWY to continue providing this service. This cost to the council in terms of officer time administering the service would be significantly in excess of £1,000 per annum.
- 4.4.3 The annual costs for each element of the service are as follows and will be met from the Public Health budget.
- Direct payments to the pharmacies: £45,000
  - Service Administration Scheme delivered by CPWY: £1,000 (maximum)
  - Medical equipment: £150,000
  - Waste collection and disposal: £12,000 (Internal Service Provider)

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 This report does not contain any exempt or confidential information and is not eligible for call in. For reasons of transparency the decision was published on the List of Forthcoming Key Decisions on 8<sup>th</sup> December 2015, but due to the value and impact of the decision it is considered a significant operational decision, and as such will be published.
- 4.5.2 A new contract for a Community Pharmacy Needle Exchange Service will be entered into using the Department of Health template, appropriate specification, terms and conditions and performance measures will be included.
- 4.5.3 The contents of this report are neither confidential nor exempt under the Access to Information rules.

#### **Community Pharmacy Needle Exchange Service**

- 4.5.4 Entering into contracts for the provision of this service without subjecting them to competition, presents a risk of challenge to the Council from other potential providers that it has not been

wholly transparent and that they may have been unfairly denied the chance to tender for this opportunity. In terms of transparency it should be noted that European case law suggests that contracts of this value should be subject to a degree of advertising if it is considered that it would be of interest to contractors operating in another Member State. 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.

- 4.5.5 Given the nature of this contract which is dependent on provision of the services at a very local level it is considered that the scope and nature of the services is such that it would not be of interest to contractors in other EU member states.
- 4.5.6 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 their final decision, the Director of Public Health should be aware of the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

### **Supply of Medical Equipment**

- 4.5.7 Use of the NHS Supply Chain framework could place the council at risk of challenge from providers who are not included in the framework, or from providers on other frameworks which may be available for use by the council, however the council has the right, as an identified body in the advertisement of the framework, to use this framework in accordance with EU legislation. This mitigates the risk of any successful challenge.
- 4.5.8 PPPU have advised that the framework was duly advertised in OJEU, and was established through a whole of market competitive process and is current, meaning that any risk the council incurs in not undertaking such an exercise is mitigated. As far as PPPU are aware, the framework is not subject to any legal challenge. The terms and conditions of the framework and the call-off contract are considered acceptable to the council.
- 4.5.9 Use of the framework agreement is fully in accordance with CPR 3.1.7, which define an Approved Framework as an agreement set up by an external organisation which has been authorised by PPPU. It is considered that such authorisation is merited for this agreement.
- 4.5.10 In the interest of transparency and equal treatment, it is advised that following the call-off from the framework agreement and award decision, the other providers on the framework are advised of the outcome of the call-off, and a voluntary 10 day standstill period be observed in order to allow any potential challenge to be brought by those other providers. If no challenge is made, a claim for ineffectiveness cannot be brought against the council. Further, observing a voluntary standstill period 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.

### **Waste Collection and Disposal**

- 4.5.11 Current arrangements with SRCL Ltd will be terminated in accordance with general contract law in order to avoid any risk of challenge to the council that it has acted unfairly or in breach of any implied contract.

## **4.6 Risk Management**

- 4.6.1 Monthly finance reports will be submitted for each element of the service which will mean that risks of overspend can be picked up quickly. The overall cost of each element of the service is dependent on the number of transactions, so the better used the the service is the higher the overall cost will be. It is possible that changes in the locations of the pharmacies to better reflect the needs of service users may result in a higher usage of the service. Monthly



meetings take place between the Strategy & Commissioning Team and the Public Health Financial Management Team which means any issues can be discussed in a timely manner.

- 4.6.2 A risk register and issues log will be established as part of the contract management arrangements each of the service. Significant risks will be reported to the Drug and Alcohol Commissioning Group which has oversight of the drug and alcohol programme of work commissioned and contracted by the Strategy & Commissioning Team.

### **Community Pharmacy Needle Exchange Service**

- 4.6.3 As identified in section 4.5 above, there is a risk to the Council in awarding a contract directly in this way. However, the Director of Public Health considers that the risks are outweighed by the benefits of awarding a contract to the pharmacies, and the resource/value for money implications of doing so.
- 4.6.4 It is considered that in terms of the risk of challenge to the procurement route of this contract, the Council has taken steps to mitigate this. The contract, given its value, falls outside any remit of the EU Procurement Regulation beyond the duty to act transparently, fairly and non-discriminatorily that applies to all contracts.

### **Supply of Medical Equipment**

- 4.6.5 Whilst risk is inherent in the lack of control which the Council has over the procedure for establishment of the external framework, there are no current or previous challenges to this framework of which the Council is aware and legal advice is that the procedures seem well documented and robust.

## **5 Conclusions**

The current provisions for the Community Pharmacy Needle Exchange Service and the Supply of Medical Equipment end 31<sup>st</sup> March 2016 and require renewing otherwise would become non contract spend. The Waste collection and disposal service is currently non contract spend and therefore requires formalising under an internal Service Level Agreement.

## **6 Recommendations**

The Director of Public Health is recommended to:

- (i) waive CPRs 9.1 and 9.2 to enter into a contract with nominated pharmacies to deliver a community pharmacy needle exchange service at an overall cost of £225,000 (£45,000 per annum)
- (ii) confirm the NHS Supply Chain framework as an Approved Framework Agreement under the CPRs
- (iii) to approve the use of the NHS Supply Chain framework for the purchase of the medical equipment needed for the service in accordance with CPR 3.1.7 at an overall cost of £750,000 (£150,000 per annum)
- (iv) note that an agreement will be entered into with Community Pharmacy West Yorkshire (CPWY) to administer the community pharmacy needle exchange service at an annual cost of no more than £1,000
- (v) note that a service level agreement will be entered into with the Internal Service Provider Waste Management for the collection and disposal of sharps bins from the contracted pharmacies at an annual cost of £12,000.

## **7 Background documents<sup>1</sup>**

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four

## 7.1 Equality, Diversity, Cohesion and Integration Screening report

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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.