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## Report of Interim Chief Officer, Commissioning – Adult Social Care

### Report to Director of Adult Social Services

**Date: 24 August 2016**

**Subject: Request to waive Contracts Procedure Rules (CPR's) No 8.1 and 8.2 using the authority set out in CPR 1.3 to appoint Creative Space Management to assess Phase 2 viability of Assisted Living Leeds.**

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
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:		

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### Summary of main issues

1. The purpose of this report is to seek approval to directly appoint Creative Space Management to carry out a detailed assessment of the viability of Phase 2 options for Assisted Living Leeds. This is expected to cost £20,000.
2. The Council is looking for alternative sites for the current Assisted Living service due to potential regeneration of the surrounding area of the existing site and mitigation against flood risk. A business case is currently being developed for the proposed move. As part of the relocation Adult Social Care is looking to introduce new and enterprising ways of engaging with the private and third sector to take advantage of opportunities in the market and create partnerships aimed at developing improved and cost effective services.
3. Adult Social Care require the assistance of a consultant to scope and develop the Phase 2 proposals and provide data for this aspect of the emerging detailed business case. This work is a resource intensive activity, requiring specialist skills and experience in the fields of business development and the health and social care technology sector.

## **Recommendations**

4. The Director of Adult Social Services is recommended to approve the waiver of the Contracts Procedure Rules (CPR's) 8.1 and 8.2 using the authority set out in CPR 1.3, and award a contract directly to Creative Space Management in the sum of £20,000.00, without seeking competition.
5. Implementation of the decision will be carried out by Colin Mawhinney, Leeds Health Partnerships.
6. Implementation will take place from the 1<sup>st</sup> of September 2016

## **1 Purpose of this report**

- 1.1 This report seeks to waive Contracts Procedure Rules 8.1 and 8.2 using the authority set out in CPR 1.3 and to appoint Creative Space Management directly to carry out a detailed assessment of the viability of Phase 2 of Assisted Living Leeds in the context of a move to new premises.

## **2 Background information**

- 2.1 The Care Act 2014 (“the Act”) presents commissioners and providers with a new set of challenges which in turn will become opportunities for business development. The Act places a new statutory duty on Local Authorities to promote the diversity and quality of local services, in order that there is a sufficient range of high quality service providers to enable genuine choice for service users. The opportunities for market growth and diversification follow on from this and are further accelerated by increasing interest from Assistive Technology providers in collaborative platforms to deliver services in new formats and in new ways.
- 2.2 In 2015 Leeds City Council opened Assisted Living Leeds (ALL) in the Leeds Dock area of the city, a refurbished warehouse and office space which brought together the Leeds Community Equipment Service, Telecare, the Independent Mobility Assessment Team and administrative functions. As part of the Council's ongoing plans, including alternative uses for the site due to regeneration of the surrounding area (including the site being needed for a new school) and mitigation against flood risk it has now become necessary to again explore the potential relocation of the services into a new site.
- 2.3 The potential relocation provides the opportunity for the Leeds health and social care community to use ALL to act in new and enterprising ways by engaging with the private sector to take advantage of opportunities in the market and create partnerships aimed at further improving services.
- 2.4 Analysis carried out by Leeds Beckett University indicates that there is a growing potential market of users of Assisted Technology in Leeds due to the increasing elderly population. Alongside this Adult Social Care already has commissioning priorities around the promotion of independent living through the use of Assisted Technology. With this in mind some concepts around how these opportunities could be met have already been developed and include:
  - A retail presence with a linked online offer which would stock a range of Assisted Technology Smart products to ensure that customers are able to buy the Assisted Technology products that best meet their needs and support independent living.
  - A Smart House to demonstrate new Assisted Technology to professionals and citizens in a domestic setting
  - Opportunities for innovation and for end users to influence research and development in the field are also intended through the development of an Innovation Lab, where service users can contribute to the design and development process of Assisted Technology solutions via focus groups held with designers and manufacturers. A pilot was set up in September 2015 following the award of funding from the Better Care Fund to test this concept. The trial is ongoing and is set to run until March 2017.
  - A dementia space which would provide a regional resource to demonstrate services and products to support people with dementia and their families and to drive good practice in the quality of services delivered. A Dementia Group has been set up with representation from the National Health Service, Leeds City Council and the third sector with the aim of developing this idea.

- An informal refreshments area possibly as part of the reception with vending machines and a small kitchen to facilitate occasional pop up catering. This area could bring people into the space and support creative partnership engagement.
- Office spaces for rent that would support the development of new and existing businesses and third sector organisations working in the fields of assistive technology, health, housing and social care.

2.5 Initial work has been undertaken to test the viability of these ideas by means of stakeholder engagement workshops, visits and research activity which will be made available to Creative Space Management. The proposed services will further enhance Leeds' reputation as an innovative, enterprising provider of Assistive Technology services.

2.6 The report produced by the consultants will provide valuable information into the emerging detailed business case for Phase 2 in the context of the move of Assisted Living Leeds from existing buildings in Clarence Road to yet to be defined premises elsewhere in the city. Adult Social Care is required to move from the existing premises by Asset Management as the site is needed for a new school. It is planned that the business case will be presented to the March 2017 Executive Board for approval. This will then lead to the identification of a suitable building or land and the adaptation or construction of a new building for Assisted Living Leeds.

### **3 Main issues**

#### **Reason for Contracts Procedure Rules Waiver**

3.1 This report seeks to waive Contract Procedures Rule 8.1 and 8.2 using the authority set out in CPR 1.3 with the former referring to the need for competition for procurements valued between £10,000 and £100,000 where no appropriate Internal Service Provider, Exclusive Supplier, existing provider or Third Party Framework Agreement exists. Rule 8.2 stipulates that at least three written tenders should be invited through an open or restricted tendering opportunity on the YORtender portal.

3.2 Creative Space Management is a property management and consultancy company based in Leeds which operates work spaces for clusters of industries including science and technology sectors. The company manages work spaces such as the Round Foundry and Marshall Mills in Holbeck, Leeds with the intention of stimulating business growth and enterprise. It assists building owners to appraise the viability of schemes, develop business plans and convert them into viable projects. This first-hand experience of managing workspaces is invaluable for the proposed Phase 2 report and cannot be provided by other consultancies in the field which has been proven by the tender process outlined in 3.3

3.3 The company has been informally approached by Adult Social Care and has provisionally agreed to a fee of £20,000 for the production of the Assisted Living Leeds Phase 2 report. This figure is the same as that charged by the company to Adult Social Care for the production of a similar report in 2015 with the title "*Growing Science and medical technology companies in Leeds and the Leeds City Region*". This commission was won through a competitive tender process based on a quality and price evaluation, hence the Council has market tested the cost of the report. It is unlikely that a new tender will provide a significantly lower price given the relatively low value of the procurement. During the tender process there were no other consultancies coming forward who could offer Creative Space Management's blend of property consultancy and first-hand experience of running work spaces.

## **Consequences if the proposed action is not approved**

- 3.4 If the contract is not directly awarded to Creative Space Management there will be a need for a tender process which will delay the programme and lead to a later submission of the detailed business case to Executive Board in May 2017.

## **4.0 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Adult Social Care engaged with service users to define the requirements of Phase 2 when the current ALL building was being completed. Research has been ongoing into the various aspects of phase 2 through engagement with suppliers and visits to similar facilities. There is also an ongoing process of engaging with services within the Council and external organisations to ascertain whether they are interest in co-locating to a new building. The briefing for the Executive Board member for Health, Wellbeing and Adults took place on 18<sup>th</sup> august 2016.

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

- 4.2.1 An Equality, Diversity, Cohesion and Integration Screening has been completed for this procurement and is included in Appendix 1.

### **4.3 Council Policies and Best Council Plan**

- 4.3.1 Strategically Assisted Living Leeds supports the aims of a number of Leeds City Council, Adult Social Care and NHS drivers and deliverables including:
- The Leeds Health and Wellbeing Strategy 2016-2021,
  - Best Council Plan 2016/17, Leeds Children and Young People's plan 2015-19 and
  - The NHS Five Year Forward View and is referenced in the Sustainability and Transformation Plan as a key component in delivering preventative services.

### **4.4 Resources and Value for Money**

- 4.4.1 The total cost of the report carried out by Creative Space Management is £20,000 and is anticipated to be comparable in size with a similar report mentioned in paragraph 3.3 carried out by the same company for Leeds Health Partnerships and Leeds University.
- 4.4.2 Funding for the fees will come from the following sources:
- £6667 - Health Partnerships
  - £6667 - Better Care Fund
  - £6666 - Assisted Living Leeds.

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

- 4.5.1 The decision taken will be a significant operational decision as it is a waiver of Contract Procedure Rules and is therefore not subject to call in. There are no grounds for keeping the contents of this report confidential under the Access to Information rules.

- 4.5.2 Awarding contracts directly to the provider identified above in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In terms of transparency it must be noted that case law suggests that the Council should always consider whether contracts of this value should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising would be 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 The Interim Chief Officer, Adult Social Care Commissioning has considered this and, due to the nature of the services being delivered and the requirement to be physically located in the City of Leeds, is of the view that the scope and nature of the service is such that it would not be of interest to providers in other EU member states.
- 4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.5 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the above comments should be noted. In making their final decision, the Chief Officer should be satisfied that the course of action chosen represents Best Value for the Council.

## **4.6 Risk Management**

- 4.6.1. There is a risk that other organisations are not in favour of the decision to award a contract without competition, however it is unlikely as the sum is relatively low for a commission of this nature. A risk register is developed and being managed by the project team.
- 4.6.2 Whilst making the decision, the Director of Adult Social Care should acknowledge the risks identified above.

## **5 Conclusions**

- 5.1 The work to develop and assess the viability of proposals for phase 2 of Assisted Living Leeds is a resource intensive activity, requiring specialist skills and experience in the fields of business development and the health and social care technology sector. The appointment of Creative Space Management, a consultancy with a proven track record in this specific area, will allow Adult Social Care to gain an independent assessment of the ALL Phase 2 proposals and market opportunities to a standard and timescale that would not otherwise be possible. This will enable Adult Social Care to make the best possible decision about the future direction of the project.

## **6 Recommendations**

- 6.1 The Director of Adult Social Care is recommended to approve the waiver of the following Contracts Procedure Rules (CPR's) 8.1 and 8.2 using the authority set out in CPR 1.3, and award a contract directly to Creative Space Management in the sum of £20,000.00, without seeking competition.
- 6.2 Implementation of the decision will be carried out by Colin Mawhinney, Leeds Health Partnerships.

6.3 Implementation will take place from the 1st of September 2016

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

7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.