

**Report of: Advanced Health Improvement Specialist (Workplace)**

**Report to: Ian Cameron – Director of Public Health**

**Date: 21<sup>st</sup> November 2016**

**Subject: To request the waiver of CPRs 9.1 and 9.2 to enable the Council to directly commission Leeds Occupational Health Advisory Service (LOHAS) to deliver occupational health support services for employees of small and medium sized businesses**

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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

- Public Health is seeking to waive Contract Procedure Rules (CPRs) 9.1 and 9.2 (high value procurements) and directly award a new 1 year contract (with the option to extend for a period up to 36 months) without seeking competition to Leeds Occupational Health Advisory Service (LOHAS) for an occupational health support service for employees of small and medium sized businesses at a cost £48,010 per annum. LOHAS has a track record of successfully delivering cost effective support to employees throughout Leeds for the past twenty three years.
- Improving the health and wellbeing of the working age population is a priority hosted within the Joint Health and Wellbeing Strategy 2016-2021. LOHAS will primarily support those in work and falling out of work and with work related health conditions.

## **Recommendations**

The Director of Public Health is recommended to approve:

- the waiver of Contract Procedure Rules 9.1 and 9.2 (high value procurements) to directly award a new contract for occupational health support for employees of small and medium sized businesses to Leeds Occupational Health Advisory Service for the sum of £48,010 per annum to commence on 1<sup>st</sup> April 2017 and expire on 31<sup>st</sup> March 2018 (with the option to extend for a period of up to 36 months).

## **1 Purpose of this report**

- 1.1 The purpose of this report is to seek approval from the Director of Public Health to waive CPRs 9.1 and 9.2 to directly award a contract for the occupational health support for employees of small and medium sized businesses to LOHAS. The current Public Health contract for the occupational health support service with this provider expires on 31<sup>st</sup> March 2017 and there are no further extensions available.

## **2 Background information**

- 2.1 The working age population is anyone between the age of 16 and 65. By 2028, this will increase for both men and woman to 67, with the first change being introduced in 2018. The health and wellbeing needs of the working age population fall into three distinct aspects.
- 2.2 Firstly improving the health and welling of those who are unemployed due to health related issues. Eighty percent of those who are unemployed suffer with emotional health and wellbeing and mental health issues. The research shows that supporting employees around health issues would enable them to move back into the workplace and in most cases result in an improvement in the individual's health and wellbeing. The Department of Work and Pensions and The Department of Health have established a Health and Work Unit which will be formally launched in 2017, with one of its primary aims to address health related worklessness.
- 2.3 Secondly, improving the health and wellbeing of those who are in the work, this includes using the workplace as a setting to affect behavior change and lifestyle choices, and the promotion and development health and wellbeing initiatives in the workplace. The evidence suggests that the better the quality of work the better one's health. Public Health England and the Confederation of Work have identified a number of components that are necessary for work to be deemed "good quality work". The research suggests that being in "poor quality work" is almost as detrimental to one's health as being unemployed. The evidence reveals those in lower paid jobs are most affected, which highlights the inequalities issue.
- 2.4 Thirdly, the working age population includes improving the health and wellbeing of those who are falling out of work. Traditionally, this was the rehabilitation of employees to enable them to return to the workplace. However nowadays occupational health is more proactive, supporting employees whilst they are still in the workplace, which is crucial to preventing long term sick and worklessness. Occupational health services are increasingly addressing behavioral and lifestyle issues in the workplace as there is an acknowledgement that these issues can and do result in sickness absence.
- 2.5 LOHAS was set up to address the above aspects and the objectives of the service are:
- To provide information and advice on all aspects of health and safety law to individuals and to appropriate organisations in Leeds
  - To support people with long-term conditions to remain/return to the workplace
  - The provision of advice and information on the prevention of ill health to adults in employment or suffering from work-related ill-health
  - Improve the quality of life of vulnerable people in workplaces as well as enhancing their safety and support through preventative action
  - Promote and increase awareness of the importance of having a healthy work environment for all staff throughout sectors
  - Address emotional health and wellbeing in the workplace
  - Improve safeguarding arrangements for vulnerable adults through better information and responses to risk in the workplace
  - To run seminars, conferences and other appropriate events which help raise awareness for workplace health issues in Leeds

- To produce a quarterly report on activity and performance using the agreed outcomes framework
- To direct activities so as to assist the narrowing of the gap in mortality rates between the deprived parts of Leeds and Leeds as a whole
- To support the work of relevant partnerships and participate in any of their appropriate activities including bid applications at both regional and local level when and if operational conditions allow
- To support signposting and referral of adults of working age to other appropriate healthy lifestyle services, including those that address the wider determinants of health
- To provide information and advice on benefits and compensation following work related illness or injury
- To provide advocacy support in relation to employment law
- To provide a public resource, for individuals and appropriate organisations in Leeds to use
- Reduce and prevent health inequalities, morbidity and mortality in Leeds workplaces.

- 2.6 The Service is delivered by outreach through GP practices, with a significant presence in the 10% most deprived neighborhoods. Individuals can self-refer into the service or receive a referral through a GP.
- 2.7 As a direct result of the Public Health grant cuts announced by the Government in 2015, the Public Health Directorate has developed a contracts strategy to make the required cuts. A 5% cut was made to all Public Health directly commissioned contracts with third sector providers (including LOHAS), which were extended using the last available extension provision (1<sup>st</sup> April 2016 - 31<sup>st</sup> March 2017). Any new contract entered into will be based on a further 5% cut in the annual contract value.

### **3 Main issues**

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

- 3.1 LOHAS provides an outreach service to support the working age population in work and falling out of work to address their work related ill-health. They are the only provider in Leeds with the infrastructure and pathways in place to deliver positive service outcomes at the service commencement date as they have established relationships and recognition with vital service partners including GP practices, employers and employees. These partnerships and relationships have been developed over a considerable period of time (23 years).

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

- 3.3 LOHAS is considered the established provider of occupational support and advice to employees of small and medium sized businesses in Leeds, both from a primary care and general public perspective. If no direct appointment is made, there would be a significant gap in service provision whilst a new service is procured and mobilised (i.e. the required relationships and partnerships developed). During this potentially lengthy mobilisation period, GP's and employees would have nowhere to refer or be referred to. Ultimately this would mean that individuals are not getting the help they require to enable them to remain in or return to the workplace and address their health needs. The evidence shows that the longer one is out of work the more unlikely it is for that individual to return to the workplace.

#### **Advertising**

- 3.4 There is no proposal to undertake a formal tendering exercise for this service due to the reasons set out in this report.

### **4 Corporate Considerations**

## **4.1 Consultation and Engagement**

- 4.1.1 Consultation about the need for a new contract to deliver occupational health support for employees of small and medium sized businesses has been undertaken with public health staff, the Executive Member for Health, Wellbeing and Adults and the provider
- 4.1.2 PPPU has also been provided the opportunity to comment on this waiver report.
- 4.1.3 The provision of feedback from service users has been important element of the benchmarking and evaluating the service's performance undertaken by Public Health. Some recent quotes from service users include.

*"At the end of June 2015 I visited my GP and was diagnosed as suffering from work related stress. My GP offered me the services of Leeds Occupational Health Advisory Service and I was put in touch with and appropriate rep. I had two consultations and found them extremely useful... The work done on behalf of LOHAS and his input to my GP helped me to formulate a realistic return to work plan and agreement with my employer. I have now returned to work"* (anon 1)

*"The Leeds OHAS Advisor gave me the space to reflect on my current situation and provided advice relating to employment law i.e. flexible working options. My appointment with the Leeds OHAS Advisor had a direct impact on my ability to put forward solutions, other than resigning. Being able to contact the Leeds OHAS Advisor via telephone or email is a good way to ensure that I continue to receive support and advice without having to take additional time off work"* (anon 2)

*"I confirm that I have now returned to work. I have been lucky to have had great support and return to work training.... Thank you so much for your guidance. It has been much appreciated"* (anon 3)

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

- 4.2.1 A screening assessment has been undertaken in respect to the impact of the cut in contract value on the service and the organisation itself. There was found to be no impact in respect to this report.

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

- 4.3.1 This service supports the delivery of the Leeds Joint Health and Wellbeing Strategy 2016-2021, specifically improving the health and wellbeing of the working age population and using the workplace as a setting to promote and encourage healthy lifestyles, which are priorities identified in the plan. One of the primary aims of the Government's new Work and Health Unit (due to be formally launched in 2017) is to support collaborative working to enable businesses, employment agencies and the health sector to support people into/back into work with health conditions. LOHAS has been successfully working on this agenda for 23 years and will actively continue to do so.

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

- 4.4.1 The cost of this contract will be met by revenue funding by the Public Health directorate. In the light of the cuts to the Public Health grant, a 5% reduction has been applied to the value of the new contract.
- 4.4.2 At present, LOHAS has a contractual obligation to see 200 referred patients. In 2015, LOHAS significantly exceeded this target and worked with 360 individuals who were affected by work-related illness, 264 of which were newly registered service users. This past performance illustrates good value for money and performance will continued to be monitored through robust contract management.

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

- 4.5.1 The decision is a significant operational decision and is not subject to call-in. The report does not contain any exempt or confidential information.
- 4.5.2 Awarding a contract directly to a provider in this way could leave the Council open to a potential challenge from other providers to whom this contract could be of interest. The contract falls within social and other specific services under the Public Contracts Regulations 2015 (Regulations). The total value of this contract is below the threshold set down by the Regulations for social and other specific services. However, it should 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 is appropriate.
- 4.5.3 The Director of Public Health has to consider the nature of the services being delivered, the requirement to physically deliver the services in Leeds and relatively low value of the contracts being offered, and is satisfied 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 CPRs 9.1 and 9.2, the above comments should be noted. In making their final decision, the Director of Public Health should be satisfied that the course of action chosen represents Best Value for the Council.

#### **4.6 Risk Management**

- 4.6.1 A side from the risk that the occupational advice and support to employees of small and medium sized businesses is not provided resulting in circumstances where people are falling out of the workplace and entering a cycle of worklessness, and the risk of challenge detailed in section 4.5 above, which is mitigated by the circumstances described, there are no other specific risks apart from the procurement risk detailed in section 4.5.

### **5 Conclusions**

- 5.1 LOHAS is the only provider with the infrastructure and pathways in place to deliver the occupational health support service for employees of small and medium sized businesses in Leeds.
- 5.2 The award of a new contract without competition to LOHAS will be by a waiver of CPRs 9.1 and 9.2 (high value procurements).

- 5.3 This new contract will be offered on the Council's standard terms and conditions; a review of performance measures will take place and implemented to ensure robust performance monitoring continues to take place. This will ensure that the Council continues to receive value for money.

## 6 Recommendations

6.1 The Director of Public Health is recommended to approve:

- the waiver of Contract Procedure Rules 9.1 and 9.2 (high value procurements) to directly award a new contract for occupational health support for employees of small and medium sized businesses to Leeds Occupational Health Advisory Service for the sum of £48,010 per annum to commence on 1<sup>st</sup> April 2017 and expire on 31<sup>st</sup> March 2018 (with the option to extend for a period of up to 36 months)

## 6 Background documents

Public Health England (2016) **Health, work and health related worklessness- A guide for local authorities**. Public Health England

Public Health England (2016) **Briefing for local enterprise partnerships on health and work, worklessness and economic growth**. Public Health England

Leeds City Council (2016) **Leeds Joint Health and Wellbeing Strategy 2016-2021**. Leeds City Council

Public Health England (2015) **Local action on health inequalities-promoting good quality jobs to reduce health inequalities**. Public Health England

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460700/2a\\_promoting\\_good\\_quality\\_jobs-Full.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460700/2a_promoting_good_quality_jobs-Full.pdf)

King's Fund (2013) **Improving the public's health- A resource for local authorities**. The Kings Fund. [http://www.kingsfund.org.uk/sites/files/kf/field/field\\_publication\\_file/improving-the-publics-health-kingsfund-dec13.pdf](http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_file/improving-the-publics-health-kingsfund-dec13.pdf)

Black and Frost (2011) **Health at work- an independent review of sickness**. Black and Frost  
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