

Report of Interim Chief Officer Commissioning

Report to Director of Adult Social services

Date: 18 January 2017

Subject: To seek approval from the Director of Adult Social Services to waive Contract Procedure Rules (CPRs) 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into a contract for up to one year from 1 April 2017 with Black Health Agency (BHA) for the provision of Leeds Skyline a HIV/AIDS social care support service. The contract value for 2017/18 will be up to a maximum of £293,455 (this is made up of £261,455 from Public Health and £32,000 from ASC for rental costs).

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: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. A contract was awarded to BHA on 1 April 2007 following a procurement exercise, and covers the provision of Leeds Skyline a HIV/AIDS Social Care Support Service. From April 2013 the contract has been renewed on an annual basis, due to the uncertainty of funding, and this years' contract is due to expire on the 31st March 2017.
2. Previously, the service was wholly funded by the AIDS Support Grant until it ended when Public Health moved into the Local Authority in 2013. Public Health then provided the funding.
3. During 2016/17 Skyline was the subject of a service review which confirmed that Skyline is respected by its stakeholders and highly valued by its service users. It helps users to deal with the emotional and practical issues of HIV in a manner that statutory services are unable to provide.
4. The service review report was presented to the Commissioning and Programme Managers Team Meetings in October 2016. The decision was made to request a further contract be entered into with BHA for up to 12 months to ensure continuity of service while a competitive tendering exercise is carried out.

5. However, due to the lateness of this years' Public Health Grant announcement, Adult Social Care (ASC) have not been in a position to submit this report until now as agreement had to be reached on the level of reduction to be applied to the contract value. The budget will be reduced by 5% compared to 2016/17 which equates to a reduction of £13,761.

Recommendations

6. The Director of Adult Social Services is recommended to approve the waiver of CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into a contract for up to one year from 1 April 2017 with Black Health Agency for the provision of Leeds Skyline a HIV/AIDS social care support service. The contract value for 2017/18 will be up to £293,455 (this is made up of £261,455 from Public Health and £32,000 from ASC for rental costs).
 - a. The new contract commencing 1 April 2017 will ensure that there is continuity of service while a competitive tendering exercise is carried out.
 - b. The Director of Adult Social Services should note that:
7. The Council's Projects, Programmes and Procurement Unit will be requested to issue the new contract
8. Sinéad Cregan, Adult Commissioning Manager is the officer responsible for implementation.

1 Purpose of this report

- 1.1 For the Director of Adult Social Services to waive CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into a contract for up to one year from 1 April 2017 with Black Health Agency (BHA) for the provision of Leeds Skyline a HIV/AIDS social care support service. The contract value for 2017/18 will be up to £293,455.

2 Background information

- 2.1 Following a procurement exercise in 2007 BHA was awarded a contract for the provision of this service. From April 2013 the contract has been renewed on an annual basis due to the uncertainty of funding.
- 2.2 Previously, the service was wholly funded by the AIDS Support Grant until it ended 31 March 2013 when Public Health moved into the Local Authority. Public Health then provided the funding but ASC continued to manage the contract.
- 2.3 During 2016/17 Skyline was the subject of a service review. At the time of the review:
 - Skyline had 202 clients of whom 63 had complex/intensive support needs.
 - In the 6 months before the review:
 - Provided 1012 1-2-1 support sessions to clients.
 - Provided 180 hours of 1-2-1 mental health support.
 - Provided 71 group support sessions.

- 2.4 BHA was accredited with the ISO 9001 standard during 2014/15, obtaining 100% for projects in both Manchester and Leeds. This is an internationally recognised quality mark standard, which demonstrates that BHA's provision of services is of the highest standard. They are giving services user, volunteers and key stakeholders the best service possible, and are audited annually to ensure this continues.
- 2.5 The review confirmed that Skyline is respected by its stakeholders and highly valued by its service users. It helps users to deal with the emotional and practical issues of HIV in a manner that statutory services are unable to provide.
- 2.6 The service review report was presented to the Commissioning and Programme Managers Team Meetings in October 2016. The decision was made to request a further contract to BHA's for up to 12 months to ensure continuity of service while a competitive tendering exercise is carried out.

3 Main issues

- 3.1 Confirmation of funding from Public Health was only received in November 2016. That left too little time for a competitive tendering exercise to be carried out by 1 April 2017. Therefore a waiver is being requested to allow a contract of up to twelve months to be awarded to Skyline. If the waiver is approved, this will allow time for a competitive tendering exercise to take place, with a further contract commencing as early as possible during 2017-18.
- 3.2 Due to the continuing need to make savings the budget will be reduced by a further 5% which equates to a reduction of £13,760. Skyline have absorbed previous reductions by (for example) reducing the provision of complementary therapies, negotiating a rent reduction, and stopping the operation of their own food bank, while maintaining their core services to a similar number of users, thus demonstrating their willingness to cooperate with the Council in achieving value for money. Skyline will consult with service users as to what they value the most about the services provided and will then make adjustments accordingly in order to deal with the latest reduction.
- 3.3 There is no internal provider capable of providing a HIV/AIDS social care support service.
- 3.4 If the proposed waiver is not approved there is a risk that the existing service will either cease or continue on an implied basis. If the service was to cease, service users would be displaced into other health or social care services which would have neither the capacity nor expertise to deal with them.
- 3.5 When the contract was originally tendered in 2007 advertising was undertaken in accordance with the procurement rules relevant at the time. The reasons for not undertaking advertising with this proposed waiver are explained in paragraphs 4.5.3 and 4.5.4 below.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 BHA is in continuous dialogue with their stakeholders and service users. Additionally, the Service Review results will assist BHA in deciding how the budget reduction will be implemented.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact Assessment Screening Tool has been completed and is attached at Appendix 1. If the recommendations are approved an EDCI screening will be undertaken.

4.3 Council policies and the Best Council Plan

4.3.1 Leeds Skyline makes significant contributions to all of the City Priority Plans, but particularly the Health and Wellbeing Plan and its priority to make Leeds the best City for Health and Wellbeing by 2030. This is achieved through supporting clients to make healthy lifestyle choices and to live safely.

4.4 Resources and value for money

4.4.1 Due to the reduction in the Public Health grant the value of this contract has been reduced by 5% for 2017/18. BHA will consult with service users as to what they value the most about the services provided and will then make adjustments accordingly. Commissioners will be kept fully updated as to what changes will be agreed and implemented to reflect the financial reduction. The contract value for 2017/18 will be up to £293,455.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This is a Key Decision which is subject to call-in as the maximum combined cost of services within this decision is more than £250k. A notice was published on the List of Forthcoming Key Decisions on 15 November 2016.

4.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules.

4.5.3 Awarding the new contract direct to the provider 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 should be noted that case law suggests that the Council should always consider whether contracts of this value could be of interest to contractors on other EU member states and, if it could, the opportunity 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.

4.5.4 The Director of Adult Social Services has considered this and, due to the nature of the services being delivered, the requirement to be physically located in Leeds and the relatively low value of the contract, is of the view that the scope and nature of the services is such that it would not be of interest to providers in other EU member states.

4.5.5 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.

- 4.5.6 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 Adult Social Services should be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk Management

- 4.6.1 The contract will continue to be performance managed by officers in ASC. This includes regular reviewing of performance information and quarterly contract management meetings with the provider, at which any delivery issues are discussed. To date the service has delivered in accordance with the service requirements and performance criteria outlined in the service specification.

5 Conclusions

- 5.1 The contract is for up to 12 months commencing 1 April 2017 and will ensure that there is continuity of service delivery while a competitive tendering exercise is carried out for the next contract due to start as early as possible in 2017-18. The tendering exercise will provide an opportunity for all interested organisations to tender for the new contract.

6 Recommendations

- 6.1 The Director of Adult Social Services is recommended to approve the waiver of CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into a contract for up to one year from 1 April 2017 with Black Health Agency for the provision of Leeds Skyline a HIV/AIDS social care support service. The contract value for 2017/18 will be up to £293,455 (this is made up of £261,455 from Public Health and £32,000 from ASC for rental costs).
- 6.2 The new contract commencing 1 April 2017 will ensure that there is continuity of service while a competitive tendering exercise is carried out.
- 6.3 The Director of Adult Social Services should note that:
- The Council's Projects, Programmes and Procurement Unit will be requested to issue the new contract
 - Sinéad Cregan, Adult Commissioning Manager is the officer responsible for implementation.

7 Background documents¹

- 7.1 None.

¹ 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.