

Report of Health Improvement Principal – Sexual Health

Report to Director of Public Health

Date: 26.01.17

Subject: Request to award new 1 Year contracts commencing on 1st April 2017 to existing pharmacy providers of the Public Health Enhanced Sexual Health Pharmacy Scheme.

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

Summary of main issues

1. The existing Enhanced Sexual Health Pharmacy Scheme contract ends on March 31st 2017. A subcontracting arrangement had been developed for the transfer of commissioning responsibility to the provider of the Integrated Sexual Health Services provided by Leeds Community Healthcare NHS Trust(LCH). This was due to happen on 1st April 2017.
2. However during negotiations between LCC and LCH to make this transfer of commissioning responsibility it has become clear that LCH need longer to be able to accept the transfer.
3. Jointly LCC and LCH have agreed a revised timeline would be in the interest of the service with the aim of transferring in April 2018
4. This report is seeking approval for the award of 1 year contracts to the existing pharmacy providers to provide additional time for Public Health to negotiate the terms and conditions of the novation of the contract to Leeds Community Healthcare Trust.

Recommendations

1. The Director of Public Health is recommended to approve:

- the waiver of the following CPRs 8.1 and 8.2 (intermediate value procurements) to award new contracts to commence on 1st April 2017 to existing pharmacy providers for locally enhanced services to directly support people with their emergency contraception and sexual health needs for one year to enable the negotiations with Leeds Community Healthcare Trust to be completed.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to waiver 8.1 and 8.2 (intermediate value procurements) in order to enter into new contracts from the 1st April 2017 with the current pharmacy providers.
- 1.2 The new contracts are required to prevent service disruption as there are no further contract extensions available on the existing contracts and the Council's negotiations for transferring the contracts over to Leeds Community Healthcare Trust have been disrupted.

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 and compliance with the Council's CPRs, Public Health have worked with the Projects, Programmes and Procurement Unit (PPPU) to ensure all contracts were reviewed and providers were formally awarded contracts based on Local Authority terms and conditions.
- 2.3 The contracts were for one year from 1st April 2014 with the option to extend for a further period of 2 x 12 months (maximum of 3 years in total). Both of these extension periods have been taken up and the contracts are due to expire on 31st March 2017. The pharmacy contracts provide locally enhanced services to directly support people with emergency hormonal contraception and sexual health needs.
- 2.4 The management of the Enhanced Sexual Health Pharmacy scheme is within the scope of the Council's new Integrated Sexual Health Service (ISHS) and it was the intention for the Council to transfer the commissioning responsibility of these contracts to the ISHS provider from 1st April 2017. However as a result of an unexpected breakdown in negotiations with the provider this deadline cannot be met and a revised deadline of 1st April 2018 has been agreed. New 1 year interim LCC contracts are therefore required.

3 Main issues

Reason for contracts procedure rules waiver

3.1 *Locally enhanced services - sexual health*

The service enables pharmacies located in high teenage conception hotspot areas or within areas that were identified by the Pharmacy Needs Assessment to provide Emergency Hormonal Contraception (EHC) via a Patient Group Direction (PGD) to women with a Leeds postcode. It also provides Chlamydia and Gonorrhoea dual tests, a pregnancy testing service and condoms.

Consequences if the proposed action is not approved

- 3.2 Continuity of these services is necessary to maintain progress towards meeting the public health responsibilities of the Council, and towards meeting the priorities set out in the health and wellbeing strategy. If these services do not continue, there would be disruption to service users and a risk that vulnerable service users do not receive the support and services that

they need. The scheme cannot be transferred to the ISHS until negotiations are complete and therefore this decision is sought to ensure there is no disruption to the service until the new longer term arrangement is finalised and implemented.

Advertising

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

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Consultation has been undertaken with the providers, Public Health staff and the Executive Member for Health, Wellbeing & Adults in regard to entering into these interim contracts.

4.2 Equality and diversity/cohesion and integration

- 4.2.1 The subcontracting arrangements will be subject to an equality and diversity assessment and there are no issues in relation to this report.

4.3 Council policies and best council plan

- 4.3.1 Continuity of the identified services will support the delivery of key public health priorities, which will help to deliver:

- Vision for Leeds 2011 to 2030
- Joint Health and Wellbeing Strategy 2013 – 15
- Best Council Plan 2015 – 20
- The NHS Five Year Forward View and NHS Planning Guidance

4.4 Resources and value for money

- 4.4.1 The costs for the interim contracts are met by revenue funding (the Public Health Grant).

4.5 Legal implications, access to information and call-in

- 4.5.1 This is a Significant Operational Decision and is not 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 the new contracts directly to pharmacy providers 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. However given the implications disruption to the scheme and the unexpected time limitations due to the breakdown in negotiations it is felt that this approach is appropriate and necessary.

- 4.5.3 The Director of Public Health is asked to consider this and, due to the nature of the services being delivered, the relatively low contract value and the requirement to be physically located in particular areas of Leeds, 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.

- 4.5.4 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 8.1 and 8.2, 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 Aside from the risk of service disruption and the risk of challenge detailed in section 4.5 above, which is mitigated by the circumstances described, there are no specific risks with respect to this report.

5 Conclusions

- 5.1 These new contracts will be offered on Local Authority or Local Authority / Department of Health standard terms and conditions.

Recommendations

- 5.1 The Director of Public Health is recommended to approve:
- the waiver of the following CPRs 8.1 and 8.2 (intermediate value procurements) to award new contracts to commence on 1st April 2017 to existing pharmacy providers for locally enhanced services to directly support people with their emergency contraception and sexual health needs for one year to enable the negotiations with Leeds Community Healthcare Trust to be completed.

6 Background documents

None

