

Report of: Strategy & Development Manager, Health Partnerships

Report to: Director of Adult Social Services

Date: 15th February 2017

Subject: Arrangements for the interim transfer of agency staff from Leeds South and East Clinical Commissioning Group to Leeds City Council

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: 10.4.2 and 10.4.3 Appendix number: 1	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

- For the past year, Leeds has been developing a Plan to transform and sustain the health and care system in the city. This is a significant piece of work which will help achieve our bold ambition to be the Best City for Health and Wellbeing. There are a number of workstreams directly involved in service design and delivery including Prevention, Urgent Care and Rapid Response in Times of Crisis. These workstreams are underpinned by a number of enabling programmes including Workforce, Innovation and Procurement and Estates.
- The work to date has been carried out by agency staff contracted by Leeds South and East Clinical Commissioning Group (LSE) and the Health Partnerships Team hosted by Leeds City Council (LCC) on behalf of the seven statutory health and care organisations within Leeds. LSE previously hosted the Health and Care Transformation Programme on behalf of the city and thus as an interim position, hosted the core Leeds Plan development team. It is no longer viable for LSE to host the team due to staff structure changes currently being undertaken by the CCGs in Leeds as well as LSE no longer hosting the Transformation Programme; as such, it

has been agreed by the Leeds Health and Care Partnership Executive Group (PEG) that LCC is in the best place to host the existing agency worker leading on the Procurement and Estates programme for an interim period of up to 6 months until fixed-term posts are recruited to through an NHS organisation. LCC is also holding the joint partnership funding for the Plan in the interim until longer term arrangements can be agreed by NHS statutory partners within the city.

3. In order to maintain continuity and sustain progress, a waiver is requested to enable LCC to enter into a short-term contract with Practicus (an employment agency on the NHS framework agreement) whilst LCC is currently out of contract with Comensura. This will allow the senior member working on the Procurement and Estates enabling programme (which is expected to generate significant savings for the city) to stay in post for up to 6 months whilst the programme is further developed.

Recommendations

1. The Director of Adult Social Services is recommended to approve the waiver of the contracts procedure rule(s) no 8.1 and 8.2 intermediate value procurements and place an order for an agency worker directly with Practicus without seeking competition to cover an interim period of up to 6 months to work on the Procurement and Estates enabling programme of the Leeds Health and Care Plan, commencing on 1st February 2017, whilst the fixed-term posts to continue this programme of work are finalised and recruited to. This decision will be implemented with immediate effect by Steve Hume, Chief Officer Resources and Strategy. This will maintain continuity of the development and delivery of the Leeds Plan as agreed at the Leeds Health and Care Partnership Executive Group on 6th October 2016.

1 Purpose of this report

- 1.1 This report sets out the particular circumstances with regard to the transfer of an agency worker to LCC from Leeds South and East CCG for which a waiver of CPRs 8.1 and 8.2 is requested. The waiver will allow an existing member of staff to continue to work on the Transformation and Procurement Enabling Programme of the Leeds Plan, a key and time limited programme of work to drive transformation in the Leeds health and care system, for which Tom Riordan is the Senior Responsible Officer.
- 1.2 The report provides background and context to the waiver request, including approval at the Leeds Health and Care Partnership Executive Group (PEG) on 6th October 2016 to keep existing agency workers on the programme of work, with the hosting moving to LCC for an interim period of up to 6 months.

2 Background information

- 2.1 Achieving Leeds' ambition to be the Best City for Health and Wellbeing is a key priority for all health and care partners. Transforming the Leeds health and care system to increase both its sustainability and quality is a significant part of this ambition. Accordingly, the Leeds Transformation Programme Management Office was set up several years ago, to drive change across a number of key workstreams. The PMO was jointly funded by the three Leeds CCGs and hosted by Leeds South and East CCG. The PMO was staffed predominantly by agency workers, recruited through NHS framework agreements and using standard NHS procedures.

- 2.2 A review of the Transformation Programme began in the summer of 2015 with many agency workers having their contracts terminated; in December 2015, NHS England produced guidance for all areas to develop Sustainability and Transformation Plans setting out how they would close the health and wellbeing, care quality and finance and efficiency gaps. Senior health and care leaders in Leeds agreed that this significant piece of work would be carried out by the former Transformation PMO, “repurposing” the small number of agency staff still hosted by LSE, who would be working closely with the Health Partnerships Team hosted by LCC. PEG would oversee the process and Tom Riordan (as Chair of this group) was appointed as the Senior Responsible Officer for the Leeds Plan.
- 2.3 In the autumn of 2016, the three Leeds CCGs began to develop a “One Commissioner Voice” (OCV) for the city. Whilst the ‘blueprint’ is yet to be finalised, it is highly likely that there will be some significant reorganisation and restructure of these three bodies over the next 6 months or so. Therefore, it is not viable for LSE to continue to host agency workers at the moment or for one of the other two CCGs to take over this function. However, once the outcomes of the OCV review have been implemented, the fixed-term posts will return to an NHS organisation. Additionally, it has been agreed by PEG that the collective funds to progress Leeds plan are to be held by LCC. The Health Partnerships Team is managing the funding and, as set out in the paragraph above, working closely with the former Transformation PMO agency staff on the Leeds Plan. Thus, it is logical to move agency contracts to LCC in the interim.

3 Main issues

3.1 Reason for contracts procedure rules waiver

- 3.1.2 Throughout 2016, Transformation and Health Partnerships colleagues have worked intensively to develop a robust and credible plan for Leeds to close the three gaps. There is still a substantial amount of work to complete, which requires resource from across the partnership: namely to further scope, monitor and deliver the programmes, oversee the overall monitoring and reporting of the delivery of the Leeds plan, manage risks and issues, identify and track benefits and budgets and ultimately to ensure that the Leeds Plan is delivered to time, cost and quality. At the PEG meeting of 6th October 2016, it was agreed to jointly fund (across the statutory NHS organisations and LCC) a core team to do this, with LCC offering to be a substantive employer or contractor for resources where this best meets partnership needs as LSE CCG was no longer in the position to act as host.
- 3.1.2 There were originally four contractors who worked or are working for the citywide health and care transformation PMO who undertook specific roles and have a good understanding of the system, the programme of work required to deliver the Leeds Plan as outlined above and have established good working relationships across the partnership. The programme lead for Procurement and Estates in particular has made significant progress to date. All agency staff was recruited through the CCGs using the approved NMC NHS framework (meaning they are banded at NHS grade level).
- 3.1.3 Two project workers recruited via Hayes were transferred to LCC through the Council’s vendor neutral contract with Comensura. Two further senior members of

the Transformation PMO were employed via Practicus (an agency which specialises in interim NHS managers). Unfortunately there were no existing links in place between Comensura and Practicus to swiftly move these staff over and subsequently LCC came to the end of its framework contract with Comensura in December 2016 as set out in the recent report on agency worker contracts written by Alex Watson, Head of HR. Thus it has not been possible to transfer the Practicus agency worker to LCC under a contract framework.

- 3.1.4 Health and care colleagues are in the process of establishing fixed-term appointments for the posts required going forwards, which will be hosted by one of the statutory health organisations. The appointments are likely to initially be open to internal staff across the statutory health and care organisations to minimise any additional cost to the system as well as giving opportunities to internal staff across the partnership first.
- 3.1.5. As Senior Responsible Officer, Tom Riordan has asked that the Health Partnerships Team support the process of transferring of existing agency workers from LSE to LCC in order to maintain continuity to develop and deliver the Leeds Plan and its enabling programmes.

3.2 *Consequences if the proposed action is not approved*

- 3.2.1 Should the waiver not be agreed there will be a significant delay to the Leeds Plan; a key piece of work for the city. There is simply not the resource nor the required skill and knowledge set within the Health Partnerships Team or the wider health and care system to pick up this piece of work should the existing agency resource no longer be available if there is no host organisation.
- 3.2.2 The Health Partnerships Team is short-staffed at the moment, and to redirect members away from the current programme of work to take part in a procurement exercise will delay delivery of existing priorities and reduce the team's ability to provide an effective service to key stakeholders.
- 3.2.3 It has been agreed at PEG that LCC is to host any agency workers for the Leeds Plan and its programmes. To not approve the waiver request would undermine citywide health and care partnership working for which LCC takes a lead.

3.3 *Advertising*

- 3.3.1 Agency workers were appointed through standard recruitment processes via the existing Nursing and Midwifery Council NHS framework agreement. The fixed-term posts in development will firstly be advertised across the Leeds health and care partnership organisations, then go out to external recruitment if no suitable candidates can be appointed. This is in line with LCC's current recruitment practices.

4 Corporate considerations

4.1 Consultation and engagement

- 4.1.1 A paper setting out plans to further organise the health and care partnership in Leeds to develop and deliver the Leeds Plan was discussed and approved by PEG at their meeting of 6th October 2016. LCC's role in this was discussed with the Chief Executive of LCC and the Deputy Chief Executive, Strategy and Resources prior to the paper being finalised.

4.1.2 In order to begin to implement the recommendation, close engagement with LCC HR has been sought and HR is also involved in devising and recruiting to the new posts. Trade Unions have also been consulted on the proposals through a JCC committee meeting.

4.1.3 It is important to note that the waiver to allow the transfer of agency staff from LSE CCG to LCC to work on the Procurement and Estates programme requested in this paper will have no direct impact on service users or the wider population of Leeds.

4.2 Equality and diversity / cohesion and integration

4.2.1 Further consideration of implications for inclusion and diversity will be made as part of the recruitment of staff to the fixed-term posts and the Plan will be taken through an equality screening process.

4.3 Council policies and best council plan

4.3.1 Developing and delivering a credible and robust Leeds Plan will contribute towards achieving the ambition of being the Best City for Health and Wellbeing and to meeting the outcomes set out in the Leeds Health and Wellbeing Strategy.

4.4 Resources and value for money

4.4.1 The agency contract will be in place for an interim period of up to 6 months whilst the fixed-term posts are finalised and recruited to in an NHS organisation. It is not considered value for money to carry out a procurement exercise for this short period of time when the existing agency staff is knowledgeable of the requirements of the role and willing to continue to work on the Leeds Plan.

4.4.2 Funding for this role is currently, and will continue to be, met from a joint reserve created with health partners.

4.5 Legal implications, access to information and call-in

4.5.1 The value of the individual order placed for the agency member of staff under this arrangement over the next 6 months will not exceed £100,000. The arrangement is on a short-term, interim basis and as such the decision is a Significant Operational Decision that is not eligible for call in.

4.5.2 The report which went to PEG on 6th October was marked as “confidential” as it contains sensitive information about staffing and the current host organisation. The report is attached as an appendix to this waiver report and as per the front sheet, contains exempt information under *Access to Information Procedure Rule* 10.4.2 “Information which is likely to reveal the identity of an individual” and 10.4.3 “Information relating to the financial and business affairs of any particular person (including the authority holding that information)”.

4.5.3 The Council does not have a framework contract in place for agency workers at present. A waiver report prepared by Alex Watson, Head of HR, has been approved by the Chief Officer of Human Resources which sets out the process for placing orders for agency workers immediately to ensure service delivery and it was agreed that such orders can be placed with any provider(s) by utilising CPR 7.1 which allows

officers to place orders directly with an organisation without seeking competition until a new framework contract is in place.

- 4.5.4 As a partnership resource hosted by LCC, it is important to note that the agency worker employed via Practicus was procured through the NMC NHS Framework Agreement.
- 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 process set out in this report being followed the above comments should be noted. In making a final decision, the Director of Adult Social Services should be satisfied that the course of action proposed represents best value for money to both the Council and the wider health and care partnership.

4.6 Risk Management

- 4.6.1 The main issues section of this report requires LCC to consider a number of risks to the successful delivery and development of the Leeds Plan if continuity of experienced, knowledgeable, senior staff is not maintained. This risk can be substantially mitigated by transferring the existing Practicus agency worker to LCC to continue to lead on this key piece of work for health and care in the city.
- 4.6.2 Changes to tax liability concerning the employment of Personal Services Companies undertaking public sector work come in to force on the 1st April 2017. Appropriate action will need to be taken to ensure the council meets its obligations under these regulations.

5 Conclusions

- 5.1 The Leeds Plan is a significant piece of work for the city, which can make a real difference to delivering better quality of care and improving health outcomes for our citizens. Its enabling programmes, particularly Estates and Procurement, will also support the health and care system to achieve financial balance and become more sustainable.
- 5.2 Significant progress has been made to develop the Plan and its programmes over the past year by the agency workers hosted by LSE CCG and LCC's Health Partnerships Team. In order to sustain progress to develop and deliver the Plan, it is clear that continuity of staff that understand the system and nature of work required is vital.
- 5.3 With the One Commissioner Voice review of the current CCG arrangements in Leeds still ongoing, it is sensible that Leeds City Council holds the joint funding and hosts the agency worker contracted by Practicus for an interim period to continue with the Procurement and Estates enabling programme of the Leeds Plan, as per the agreement at the PEG meeting of 6th October 2016, chaired by Tom Riordan.

5.4 In line with the recent waiver report approved by the Chief Officer of HR, agreeing this waiver to move the contract with Practicus from LSE to LCC will enable the city to maintain focus on delivering a credible and robust plan and ultimately support achievement of Leeds' bold ambition to be the Best City for Health and Wellbeing.

6 Recommendations

6.1 The Director of Adult Social Services is recommended to approve the waiver of the contracts procedure rule(s) no 8.1 and 8.2 *intermediate value procurements* and place an order for an agency worker directly with Practicus without seeking competition to cover an interim period of up to 6 months to work on the Procurement and Estates enabling programme of the Leeds Health and Care Plan, commencing on 1st February 2017, whilst the fixed-term posts to continue this programme of work are finalised and recruited to. This decision will be implemented with immediate effect by Steve Hume, Chief Officer Resources and Strategy. This will maintain continuity of the development and delivery of the Leeds Plan as agreed at the Leeds Health and Care Partnership Executive Group on 6th October 2016.

7 Background documents

7.1 None¹

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.