

Report of Health Improvement Manager Children and Families and Commissioning and Contracts Officer

Report to Director of Public Health

Date: 14th June 2017

Subject: Family Healthy Living Programme interim arrangements 2017-19 - Request to enter into interim contracts and initiate a contract extension and variation in accordance with Contracts Procedure Rules 8.1, 8.2, 9.1, 9.2, 21.1 and 21.7

Are specific electoral wards affected? If yes, 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. In April 2013, Local Authorities took the lead from the NHS for improving the health of their local communities. As part of this process, public health budgets were transferred and protected in order to drive local efforts to improve health and wellbeing by tackling the wider determinants of poor health.
2. As part of the transfer to the Council, contracts delivering public health services such as healthy living, smoking cessation and weight management, were awarded new contracts based on the Local Authority/ Department of Health standard terms and conditions.
3. Since the transfer, Public Health has worked with the Projects, Programmes and Procurement Unit (PPPU) to develop and implement its strategic commissioning priorities in order to undertake a structured and staged approach to re-commissioning which can be resourced effectively in order to obtain the best quality and value for money solution for the Council and the citizens of Leeds.
4. The strategic commissioning priority for an integrated healthy living service (IHLS) for Leeds was reported to Executive Board on 9th March 2016, who gave authority for the project to progress and for these services to be competitively procured. This project comprised two elements; One You Leeds providing a holistic approach to delivering adult healthy living services (including smoking cessation and weight management), which is due to be operational on 1st October 2017. The second contract, the family healthy living programme was due to provide services promoting healthy weight for children and families by providing physical

activity and healthy eating sessions and delivering tailored weight management programmes, however this contract was not awarded following a detailed evaluation of the tender submissions.

5. Interim contract arrangements were previously put in place for 6 months from 1st April 2017 to ensure service continuity whilst the Integrated Healthy Living project was concluded. Due to the unsuccessful award of family healthy living programme, there is insufficient extension provision available on the existing interim contract arrangements for Public Health to complete the further work required to ensure a successful project outcome. In addition, the children and families team have recently started a review of the healthy child pathway services (including community public health nurses, health visiting and dental public health services) with the intention for new arrangements to be put in place from 1st April 2019.
6. This report is therefore seeking approval of interim contract arrangements for the family healthy living programme services from 1st October 2017 for 18 months, which will align all the end dates of the contracts delivering the healthy child pathway strategic commissioning priority. These arrangements will comprise taking up an extension of the contract with Leeds Community Healthcare NHS trust (LCH) for the children's weight management service (Watch-It) only and new contracts with existing third sector providers for the delivery of children's physical activity, healthy eating and weight management services.

Recommendations

1. The Director of Public Health is recommended to approve:
 - the 18 month extension to the healthy lifestyle service contract held with Leeds Community Healthcare NHS trust for the delivery of Watch it – Children's weight management and a variation to remove smoking cessation, weight management and healthy lifestyle services as defined in Appendix 1 in accordance with CPR 21.1 and 21.7; and
 - the waiver of CPRs 8.1 and 8.2 (intermediate value procurements) and 9.1 and 9.2 (high value procurements) to award new contracts to existing third sector providers for the delivery of children's physical activity, healthy eating and weight management services as defined in Appendix 1, to commence on 1st October 2017 and expire on 31st March 2019 (with the option to extend for a period of up to 12 months).

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval from the Director of Public Health to set up interim contract arrangements to ensure service provision is continued whilst the Council undertakes a further review of all the contracts that deliver both the family healthy living programme and the healthy child pathway (0-19 years) strategic commissioning priority.
- 1.2 The report sets out the rationale for seeking an 18 month extension to the Healthy Lifestyle Service contract held with Leeds Community Healthcare NHS trust (LCH) for the delivery of Watch it – children’s weight management service and a variation to remove the services delivering smoking cessation, weight management and healthy lifestyle services in accordance with Contracts Procedure Rules (CPRs) 21.1 (Contract extension) and 21.7 (Contract variation). Full details are provided in Appendix 1.
- 1.3 In addition, there is insufficient extension provision available on the contracts held with third sector providers, and therefore approval is sought to waive CPRs 9.1 and 9.2 (high value procurements) and 8.1 and 8.2 (intermediate value procurements) in order to enter into new 18 month contracts (with up to 12 months extension provision) with the current providers without seeking competition. The extension provision is required to prevent disruption to services should there be any unforeseen delays to the reviews of both the 0-19 healthy child pathway and family healthy living programme. Full details are provided in Appendix 1.

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 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/Department of Health terms and conditions.
- 2.3 A new contract was awarded to LCH on 1st April 2015 to ensure stability and continuity of healthy living services whilst the strategic review and competitive procurement is undertaken. This contract includes services that deliver smoking cessation, weight management (children’s and adults) and healthy lifestyles service.
- 2.4 The third sector contracts, which are detailed in Appendix 1, were originally 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 expired on 31st March 2017. These contracts deliver a range of healthy living activities including children’s physical activity and weight management services.
- 2.5 The contracts covered in this report were included in the Integrated Healthy Living project, which was part of the Leeds City Council’s Health Breakthrough Project “Early Intervention to Reduce Health Inequalities”. This project was reported to Executive Board on 9th March 2016, who gave authority for the project to progress and for new services to be procured. The Integrated Healthy Living Service comprised two elements:
 - **One You Leeds** provides a holistic approach to delivering adult healthy living services (including smoking cessation and weight management). The procurement for this element was successful and the new service is due to start on 1st October 2017 after the on-going mobilisation period.

- **Family Healthy Living Programme** was due to provide services for promoting healthy weight for children and families by providing physical activity and healthy eating sessions and delivering tailored weight management programmes.

- 2.6 Interim arrangements comprising contract extensions and new interim contracts were put in place from 1st April 2017 to ensure service continuity whilst the Integrated Healthy Living Service was concluded and the new service was mobilised. Due to the unsuccessful award of family healthy living programme, there is insufficient extension provision available on the existing interim contracts to complete the further work required to ensure a successful project outcome. In addition, the children and families team have recently started a review of the healthy child pathway services (including community public health nurses, health visiting, dental public health services) with the intention for new arrangements to be put in place from 1st April 2019. This report is therefore seeking interim contract arrangements for the family healthy living programme services from 1st October 2017 for 18 months to align all the end dates of the contracts delivering the healthy child pathway strategic commissioning priority.
- 2.7 As a direct result of the public health grant cuts announced by the Government in 2015, the Public Health service has previously undertaken a series of cuts to value of contracts detailed in Appendix 1. The contract arrangements covered in this report will remain at the same value and will not be subject to any further cuts at the present time. Appendix 1 provides further detail.
- 2.8 A contract with Leeds United to deliver physical activity for children in disadvantaged communities will expire on 30th September 2017 and will not form part of the longer-term interim arrangements. This is because the services provided do not contribute sufficiently directly to the current public health outcomes.
- 2.9 There is 18 months extension provision still available on the healthy lifestyle service contract with LCH and this report intends to initiate use of this provision for the Watch it – children’s weight management service to cover this interim period. The provider has already been consulted about this proposal and is in agreement for a contract extension and variation for the Watch It element only as the other healthy lifestyle services within this LCH contract services were deemed in scope and included in the One You Leeds procurement exercise.

3. Main issues

Reason for contracts procedure rules waiver

- 3.1 The existing interim contracts with third sector providers delivering the family healthy living programme expire on 30th September 2017. These services were part of the service review for the new Leeds Integrated Healthy Living Service, however the procurement was unsuccessful and the contract for the family healthy living programme was not awarded. This means new longer term interim contracts are required to provide service continuity whilst Public Health undertakes additional work to ensure a successful project outcome. In addition, aligning the contract end dates with other public health contracts delivering the 0-19 healthy child pathway strategic commissioning priority provides great flexibility to achieve an innovative long-term solution for public health children’s services.
- 3.2 The service specifications for the new interim contracts will be subject to a review and update to ensure that the services continue to meet the current needs and contribute to the public health priorities in relation to child obesity. As part of this work, the two existing contracts with Health for All will be merged to ensure a more cohesive and targeted service.

Consequences if the proposed action is not approved

- 3.3 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 and the Children and Young People's Plan 2015-2019. If these services do not continue, there would be disruption to service users and their families, and a risk that they will not achieve their personal goals and behaviour change. It could also increase child obesity levels and health inequalities across the city. Longer interim contractual arrangements are also required to align contract end dates of all the healthy child pathway services and to ensure Public Health has sufficient time to develop a long-term and effective solution to delivering these services.

Advertising

- 3.4 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 leadership team, Public Health Children's and Families team and the Executive Member for Health, Wellbeing & Adults about the approach described in this report.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An equality and diversity screening assessment has been undertaken in respect to this report.

4.3 Council policies and best council plan

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

- Vision for Leeds 2011 to 2030
- Leeds Health and Wellbeing Strategy 2016 – 21
- Best Council Plan 2015 – 20
- Children and Young People's Plan 2015-2019
- The NHS Five Year Forward View and NHS Planning Guidance
- Leeds Child Healthy Weight Plan 2016-2021

4.4 Resources and value for money

- 4.4.1 The costs for the family healthy living programme interim contracts will be met by Public Health revenue funding. These services have already been subject to a series of cuts following Central Government's cuts to the ring-fenced public health grant. No further cuts are proposed at the present time.

4.5 Legal implications, access to information, and call-in

- 4.5.1 This is a key decision and is 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 direct to the providers identified at Appendix 1 in this way could leave the Council open to a potential claim that it has not been wholly transparent, from other providers, to whom this contract could be of interest,. 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 from 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.

- 4.5.3 The Director of Public Health has considered this and, due to the nature of the services being delivered, the relatively low contract value the requirement to be physically located in Leeds, and that these contracts are for an interim period, 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, 8.2, 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 Aside from the risk of service disruption if this course of action is not approved 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. The interim contracts have an extension provision in case there are any delays to the project to re-commission the healthy child pathway services, including the family healthy living services.

5. Conclusions

- 5.1 New interim arrangements for the contracts delivering family healthy living services are required to provide sufficient time for Public Health to undertake additional work to develop a long-term and effective project outcome. It is proposed that the interim contracts be for 18 months (with extension provision available) in order to align the end dates with the other public health contracts delivering 0-19 healthy child pathway services (health visiting, community nursing).
- 5.2 To enable continuity of the services between 1st October 2017 and 31st March 2019, the following actions are required
- implement an 18 month contract extension and variation of the Healthy Lifestyle Service held with LCH for the delivery of Watch It – children’s weight management in accordance with CPR 21.1 and 21.7.
 - award new contracts without competition to the existing third sector providers as listed in Appendix 1 by a waiver of CPRs 9.1 and 9.2 (high value procurements) and 8.1 and 8.2 (intermediate value procurements) (see Appendix 1).
- 5.3 These new contracts will be offered on Council standard terms and conditions, a review of the service specifications including performance measures is taking place and will be implemented to ensure robust performance monitoring takes place whilst the additional service review takes place.

6. Recommendations

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

- the 18 month extension to the healthy lifestyle service held with Leeds Community Healthcare NHS trust for the delivery of Watch It – children’s weight management and a variation to remove the smoking cessation, weight management and healthy lifestyle services as defined in Appendix 1 in accordance with CPR 21.1 and 21.7; and
- the waiver of CPRs 8.1 and 8.2 (intermediate value procurements) and 9.1 and 9.2 (high value procurements) to award new contracts to existing third sector providers for delivery of children’s physical activity, healthy eating and weight management services as defined in Appendix 1, to commence on 1st October 2017 and expire on 31st March 2019 (with the option to extend for a period of up to 12 months).

7. Background documents¹

7.1. Appendix 1 – Contract Details

7.2. Equality and diversity screening assessment – Family Health Living Programme

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.