

Report of Sexual Health Lead / Commissioning and Contracts Officer

Report to Director of Public Health

Date: 24th January 2018

Subject: Request to waive CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into new contracts with GP and Pharmacy providers of locally enhanced sexual health services and novate these contracts to Leeds Community Healthcare NHS Trust as part of the Integrated Sexual Health Service Contract (YORE-96TER5)

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

- Following the transfer of the Public Health function to the Council in 2013, Public Health reviewed and undertook a procurement exercise for a new Integrated Sexual Health Service (ISHS) for Leeds. A requirement of the ISHS contract is for the provider (Leeds Community Healthcare NHS Trust) to takeover both the contract management and clinical governance of the activity based GP and pharmacy locally enhanced sexual health services. In advance of the contract novation (due to take place on 1st April 2018), Public Health has undertaken a service review of the GP and pharmacy services, which has informed the development of new service specifications and payment schedules for these services.
- In order for the Council to be in a position to meet its contractual obligations under the ISHS contract and novate the GP and pharmacy contracts to LCH, there is a requirement to award new one year contracts to the GPs and pharmacy's from 1st April 2018.

Recommendations

- The Director of Public Health is recommended to waive CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into new contracts to commence on 1st April 2018 with GP and pharmacy providers for the delivery of the following
 - GP sexual health locally enhanced services – Implants up to the maximum sum of £470,000 for one year and Intrauterine Contraceptive Devices (IUCD) (inc. long-acting reversible contraception (LARC) up to the maximum sum of £365,580 for one year.
 - Pharmacy sexual health enhanced services in the maximum sum of £70,000 for one year.

In addition, approval is sought to novate these contracts over to Leeds Community Healthcare NHS Trust on 1st April 2018 as a requirement under the Integrated Sexual Health Service contract (YORE-96TER5).

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 (high value procurements) to enter into new one year contracts to deliver locally enhanced sexual health services from 1st April 2018 with GP and pharmacy providers. Further details of the contracts are provided in Appendix 1.
- 1.2 In addition, it is seeking approval to novate these contracts to Leeds Community Healthcare NHS Trust (LCH) as per the conditions of the Integrated Sexual Health Service (ISHS) from 1st April 2018. Following the novation, LCH will take over the responsibility for contract and performance management of these activity based contracts.

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 Projects, Programme and Procurement Unit (PPPU) to ensure all contracts were reviewed and providers were formally awarded interim contracts based on Local Authority or Department of Health terms and conditions.
- 2.3 Public Health developed a number of strategic commissioning priorities in order to have a robust programme of recommissioning and procurement of all public health commissioned services. One of the first procurement projects to be completed was the Integrated Sexual Health Service (ISHS), and the new service delivered by LCH started on 1st July 2015 for a period of 5 years.
- 2.4 A requirement of the ISHS contract is for LCH to takeover both the contract management and clinical governance of contracts held by GPs and pharmacy's for locally enhanced sexual health services one year after those services commenced (July 2016). However, this transfer was been delayed by two years to enable Public Health to undertake a service review of the GP and pharmacy services, which has informed the development of new service specifications and payment schedules for these services. Interim 12 month contracts from 1st April 2017 were awarded to existing providers to enable this service review to be completed.
- 2.5 The only option for the Council to be in a position to meet its contractual obligations under the ISHS contract and novate the GP and pharmacy contracts to LCH, is to award new one year contracts to the GPs and pharmacy's from 1st April 2018.

The Services

- 2.6 Long-acting reversible contraceptives (LARC) are methods of birth control that provide effective contraception for an extended period without requiring user action. They include injections, intrauterine devices (IUDs) and subdermal contraceptive implants. They are the most effective reversible methods of contraception because they do not depend on patient compliance. Access to and uptake of LARC is a key public health priority. The Council therefore has 2 separate sexual health contracts with GPs for the fitting, monitoring, checking and removal of contraceptive implants and IUCDs.
- 2.7 The pharmacy contract service provides emergency hormonal contraception along with a wider range of sexual health services; chlamydia screening, pregnancy testing, support and

advice and onward referral into other contraceptive services to women of all ages with a Leeds postcode. The service is targeted in pharmacies located in areas of sexual health priority. These areas are determined by a range of sexual health indicators including areas that are known to have higher under 18 conception rates and repeat termination rates (all ages). The majority of sexual health priority areas are also situated within areas that are either within the 1% most deprived neighbourhoods in the UK or 10% most deprived neighbourhoods within Leeds.

3 Main issues

Reason for contracts procedure rules waiver

- 3.1 In order for the Council to be in a position to meet its contractual obligations under the ISHA contract and novate the GP and pharmacy contracts to LCH, there is a requirement to award new one year contracts to the GPs and pharmacy's from 1st April 2018. The new contracts have been developed based on the findings of the service review and associated consultation, and will also deliver cost improvements.
- 3.2 The new service specifications will enable practices to work in partnership and refer service users to other practices to obtain their LARC. Following a pricing bench-marking exercise with our regional partners and the other core cities, a new payment schedule is to be included within the contracts, which aligns with rates offered in comparable cities.
- 3.3 The location of the pharmacies offering sexual health enhanced services has been reviewed to ensure the providers are located in the current sexual health priority areas (see paragraph 2.7).
- 3.3 From April 2018, LCH will become responsible for the contract management, provider training and clinical governance of the GP and pharmacy contracts providing locally enhanced sexual health services. The involvement of LCH should increase service quality for the service users, improve clinical governance and align these activity based contracts with the ISHS. This transfer will also generate resource efficiencies for the council as it will no longer be responsible for the administration of these contracts with multiple providers.

Consequences if the proposed action is not approved

- 3.4 New contracts are required to enable these services to be novated across to LCH as part of the existing ISHS contract, which has already been subject to a competitive procurement in accordance with council's CPRs. Continuity of these locally enhanced services is required 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 sexual health support and services that they require.

Advertising

- 3.5 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 about the new contracts and novation agreement has been undertaken with the Executive Member for Health, Wellbeing & Adults, LCH and GPs. This consultation has informed the development of the new service specification.

4.2 Equality and diversity/cohesion and integration

4.2.1 An equality and diversity screening assessment has been undertaken in regard to this decision to award new contracts and the novation of the new contracts to LCH. This is presented in Appendix 2.

4.3 Council policies and best council plan

4.3.1 Continuity of the services provided by these GP and pharmacy contracts supports the delivery of the council's public health responsibilities and priorities, which will help to deliver:

- Vision for Leeds 2011 to 2030
- Joint Health and Wellbeing Strategy 2016 - 21
- Best Council Plan 2017-18
- Leeds Health and Care Plan

4.4 Resources and value for money

4.4.1 The cost of new contracts is met by revenue Public Health funding. The rates for these activity based contracts have been subject to a price bench-marking exercise to ensure that the rates included with the new contracts are fair and comparable to those offered in comparable local authorities.

4.4.2 The performance of these activity based contracts will be monitored by the council as part of the quarterly contract meetings with LCH to ensure that the activity remains in line with the budget available and the necessary actions can be taken if required.

4.4.3 The novation of the contracts to LCH who will become responsible for their contract and performance management will provide efficiency savings for the council in respect to the resources required for the administration of these 3 contracts, which all have multiple providers.

4.5 Legal implications, access to information and call-in

4.5.1 This is a key decision due to the maximum combined annual values of the contracts is greater than £250,000 and is therefore 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 GP and Pharmacy contracts 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 these values could be of interest to contractors in other EU member states, and if it could, the opportunity should be subject to a degree of European wide advertising.

4.5.4 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 contracts, 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.

- 4.5.5 The Director of Public Health has considered this and, due to the nature of the services being delivered and the requirement for the contracts to be novated to LCH under the conditions of the ISHS, 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.
- 4.5.6 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.
- 4.5.7 Although there is no over-riding legal obstacle to preventing the waiver of CPR 9.1 and 9.2 by putting in place these contracts, the contents of this report should be noted. In making the final decision, the Director of Public Health should be satisfied that the course of action chosen represents best value for money.

4.6 Risk management

- 4.6.1 A contract schedule and plan has been produced for the contracts. This will be reviewed and updated on a regular basis until novation of the contracts to LCH on 1st April 2018.
- 4.6.2 Risk management has been built into the ISHS and LCH has the necessary experience and skills to manage risks of working with regular and vulnerable service users who do not receive the sexual health support and services that they require.

5 Conclusions

- 5.1 Following the transfer of the Public Health function in the Council, Public Health undertook a review and procurement for a new ISHS for Leeds. A requirement of the ISHS contract is for the provider (LCH) to takeover both the contract management and clinical governance of the activity based GP and pharmacy locally enhanced sexual health services. In advance of the transfer on 1st April 2018, Public Health has undertaken a service review of the GP and pharmacy services, which has informed the development of new service specifications and payment schedules for these services.
- 5.2 New contracts are required for these locally enhanced GP and pharmacy contracts in order for the Council to transfer and novate these contracts to LCH as a requirement of the ISHS. The new contracts will be from 1st April 2018 and have been developed based on the findings of the service review and associated consultation, and will also deliver cost improvements.

6 Recommendations

- 6.1 The Director of Public Health is recommended to waive CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into new contracts to commence on 1st April 2018 with GP and pharmacy providers for the delivery of the
- GP sexual health locally enhanced services – Implants in the maximum sum of £470,000 for one year and Intrauterine Contraceptive Devices (IUCD) (inc. long-acting reversible contraception (LARC)) in the maximum sum of £365,580 for one year.
 - Pharmacy sexual health enhanced services in the maximum sum of £70,000 for one year

6.2 In addition, approval is sought to novate these contracts over to Leeds Community Healthcare NHS Trust on 1st April 2018 as a requirement under the Integrated Sexual Health Service contract (YORE-96TER5).

7 Background documents ¹

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.