

Report of Commissioning and Contracts Officer

Report to Director of Public Health

Date: 21st February 2018

Subject: Request to waive CPRs 8.1 and 8.2 using the authority set out in CPR 1.3 to enter into interim contracts with existing third sector and NHS providers of public health services

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 type="checkbox"/> Yes <input checked="" 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 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, the contracts held with the third sector and NHS trusts were reviewed and new contracts were awarded based on council terms and conditions. The contracts with third sector organisations delivered a wide range of public health services including sexual health support services for street workers.
3. Since the transfer, Public Health has undertaken a programme of service reviews and procurements to secure high quality and value for money solutions for key public health services. Most of the public health service reviews are now either well underway or have been completed with new services already in operation. There is still one outstanding review of Council wide commissioned services for street workers to be undertaken. Approvals to initiate this project will be obtained as required.
4. This report is seeking approval for new interim contract to be awarded to the existing third sector provider to provide additional time for public health to participate in this Council-wide review of commissioned services for street workers.

5. The report is seeking approval for a new contract with Leeds Community Healthcare NHS Trust (LCH) who provide a specialist library and information service to ensure that the public health specialists continue to have access to a large evidence base for their work.

Recommendations

The Director of Public Health is recommended to approve the waiver of CPRs 8.1 and 8.2 (intermediate value procurements) using the authority set out in CPR 1.3 to award the following new contracts - :

- (i) A contract for targeted sexual health services for street workers to Basis in the sum of £36,520 for one year (with the option to extend for a period of up to 12 months) to commence on the 1st April 2018;
- (ii) A contract for public health library services to the Leeds Community Healthcare NHS Trust in the sum of £9,225 per annum for two years (with the option to extend for a period of up to 12 months) to commence on the 1st April 2018.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contracts Procedure Rules (CPRs) 8.1 and 8.2 (intermediate value procurements) to enter into new contracts from 1st April 2018 with the current third sector and NHS providers (see table 1).
- 1.2 The new contracts are required to prevent service disruption as there are no further contract extensions available on the existing contracts.

Contract details

Provider	Contract name	Existing Contract Ref	Contract Value
Basis	Improving the health of women involved in the commercial sex scene	DN234709	£36,520
Leeds Community Healthcare NHS Trust	Public Health Library Services	DN220590	£9,225

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 Programme, Projects 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 contract with Basis, which delivers sexual health support and advice services for street workers is due to expire on 31st March 2018 and there are no extensions available. The contract value is £36,520 per annum and it has already been subject to a 10% cut due to the central government public health grant cuts.
- 2.4 The contract with Leeds Community Healthcare NHS Trust (LCH) provides a library service for the public health service and resource centre. It also provides access to Athens management, literature searches and specialist databases, journals and e-books. This contract is due to expire on 31st March 2018.

3. Main issues

Reason for contracts procedure rules waiver

Targeted Sexual Health Services for Street Workers

- 3.1 The public health contract with Basis provides support and outreach services to improve the sexual health of women involved in the commercial sex scene. The Council is due to start a review of all current contracts and funding arrangements, which support women who are sex working. This work will review options to jointly commission services to support women to access services such as sexual health, housing and drug and alcohol treatment, with the overall aim to keep women safe and help them to exit sex working where women wish to.

Therefore, a further one year interim contract with up to 12 months extension provision is required for this review to take place.

Public health library services

- 3.2 The contract enables public health to have access to the library service provided by LCH. Following a review of the systems used in the Public Health Resource Centre, a new two year contract (with up to 12 months extension) is still required to ensure the public health service has continued access to this specialist library service including to the wide range of databases and journals, Athens maintenance, awareness and information updates on a range of public health topics and access to the catalogues of other NHS libraries. Based on the a recent service review, the contract provides value for money in terms of the amount of information resources, which are accessible to public health and the considerable savings in respect to officer time locating this information. The direct appointment is also required due no other local supplier being available for this type of service.

Consequences if the proposed action is not approved

- 3.3 Continuity of these services is necessary to maintain progress towards meeting both the public health responsibilities of the Council, and the priorities set out in the health and wellbeing strategy. If the service for street workers does 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 while the Council completes its service review and procurement.
- 3.4 The library service provides the service access to a wide range of information sources to ensure that the public health work is evidenced based. Significant officer resource would need to be employed should this service not be available.

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 has been undertaken with the providers, public health staff and the Executive Member for Health, Wellbeing & Adults in regard to entering into these new contracts.

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 these contracts.

4.3 Council policies and best council plan

- 4.3.1 Continuity of these services 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 these new interim contracts is met by revenue public health funding.
- 4.4.2 The new contracts will continue to be closely contract managed to ensure robust performance monitoring takes place and value for money is being achieved for the Council.

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

- 4.5.1 This is a Significant Operational Decision which is not subject to Call In and 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 these 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. 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.
- 4.5.3 The Director of Public Health has considered this and, due to the nature of the services being delivered, the relatively low contract value and the requirement to be physically located in 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.
- 4.6.2 Public health have started to work with other Council services to determine the scope of the review of commissioned services who support women who are sex working. The aim of the review will be to develop a long solution to provide support services for women to access services such as sexual health, housing and drug and alcohol treatment, with the overall aim to keep women safe and help them to exit sex working where women wish to.

5 Conclusions

- 5.1 Since the transfer into the Council, Public Health has undertaken a programme of service reviews and procurements to secure high quality and value for money solutions for key

public health services. Most of the public health service reviews are now either well underway or have been completed with new services already in operation. There is still one outstanding review of Council wide commissioned services for street workers to be undertaken. This report is seeking approval for new interim contract to be awarded to the existing third sector provider to provide additional time for public health to complete this review of commissioned services for women who are sex working.

- 5.2 The report is seeking approval for a new contract with LCH who provide a specialist library and information service to ensure that the public health specialists continue to have access to this large evidence base for their work.
- 5.3 These new contracts will be offered on Local Authority standard terms and conditions, a review of performance measures will take place and implemented to ensure robust performance monitoring takes place in order to ensure the Council receives value for money.

6 Recommendations

- 6.1 The Director of Public Health is recommended to approve the waiver of CPRs 8.1 and 8.2 (intermediate value procurements) using the authority set out in CPR 1.3 to award the following new contracts:
- (iii) A contract for targeted sexual health services for street workers to Basis in the sum of £36,520 for one year (with the option to extend for a period of up to 12 months) to commence on the 1st April 2018;
 - (iv) A contract for public health library services to the Leeds Community Healthcare NHS Trust in the sum of £9,225 per annum for two years (with the option to extend for a period of up to 12 months) to commence on the 1st April 2018.

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.