

**Report of Deputy Director, Integrated Commissioning**  
Adults and Health, Leeds City Council & NHS Leeds Clinical Commissioning Groups

**Report to Director of Adults and Health**

**Date:** 24 January 2018

**Subject:** To seek a waiver of Contract Procedures Rules 9.1 and 9.2 in order to enter into a new contract with Black Health Agency for the delivery of a HIV Social Care Support Service from 1 April 2018 to 31 March 2019.

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. Adults and Health currently has a contract with Black Health Agency (BHA) for the provision of Leeds skyline HIV Social Care Support Service. The current contract expires on 31 March 2018.
2. Adults and Health undertook a market sounding exercise in July 2017 and as a consequence three providers including the existing provider BHA submitted Expressions of Interest (EOI).
3. A procurement exercise will therefore be undertaken during 2018/19 with the view to awarding a five year contract with an annual value of £293,455
4. Therefore, the purpose of this report is to seek approval from the Director of Adults and Health to waive Contract Procedure Rules (CPRs) 9.1 and 9.2 and award a contract to BHA for the provision of Leeds Skyline HIV Social Care Support Service from 1 April 2018 for one year. The contract value for one year will be £293,455.

## **Recommendations**

1. For the Director of Adults and Health to waive Contract Procedure Rules 9.1 and 9.2 using the authority set out in Contract Procedure Rule 1.3 to enter into a contract for one year from 1 April 2018 with the Black Health Agency for the provision of Leeds Skyline HIV Social Care Support Service. The contract value will be £293,455.
2. The Director of Adults and Health Social Care should note that:
3. The Council's Projects, Programmes and Procurement Unit will be requested to issue the new contract.
4. The Adult Commissioning Manager will be responsible for implementing this decision.

## **1. Purpose of this report**

- 1.1 The purpose of this report is to seek approval from the Director of Adults and Health to waive CPR 9.1 and 9.2 and award a contract to BHA for the provision of Leeds Skyline HIV Social Care Support Service from 1 April 2018 for one year.
- 1.2 The Commissioning Manager for Working Age Adults will implement this decision

## **2. Background information**

- 2.1 During 2016/17 the provision of the HIV Social Care Support Service was the subject of a service review. At the time of the review:
  - BHA had 202 clients of whom 63 had complex/intensive support needs; and
  - In the 6 months before the review BHA:
    - Provided 1012 1-2-1 support sessions to clients.
    - Provided 180 hours of 1-2-1 mental health support.
    - Provided 71 group support sessions.
- 2.2 BHA was accredited with the ISO 9001 standard during 2014/15, obtaining 100% for projects in both Manchester and Leeds. This is an internationally recognised quality mark standard, which demonstrates that BHA's provision of services is of the highest standard. They are giving services user, volunteers and key stakeholders the best service possible, and are audited annually to ensure this continues.
- 2.3 The review confirmed that BHA is respected by its stakeholders and highly valued by its service users. It helps users to deal with the emotional and practical issues of HIV in a manner that statutory services are unable to provide.
- 2.4 The service review report was presented to the Commissioning and Programme Managers Team Meetings in October 2016. The decision was made to enter into a new contract with BHA for up to 12 months from 1 April 2017 to ensure continuity of service whilst a market sounding exercise was undertaken.
- 2.5 This contract was originally awarded to BHA on 1 April 2007 following a procurement exercise for a contract period of five years.
- 2.6 Since then annual contracts have been issued to BHA by seeking a waiver of Contract Procedure Rules approved by the Director of Adults and Health. This was necessary with the ending of the AIDS Support Grant, which at the time was awarded on an annual basis, which fully funded the service. With the uncertainty of future funding it was not possible to subject this contract to competition.
- 2.7 With Public Health moving into the local authority, and their budget being announced late in 2016, it was once again necessary to seek a waiver to enter into a new contract with BHA for the provision of this service.
- 2.8 Funding has now been made available for the next six years and as a consequence a procurement exercise will be undertaken during 2018/19 thus the need for the one year contract award to BHA. This will ensure continuity of service whilst this exercise is undertaken.

### **3. Main issues**

- 3.1 Adults and Health currently has a contract with BHA for the provision of a HIV Social Care Support Service. The current contract expires on 31 March 2018.
- 3.2 Adults and Health undertook a market sounding exercise in July 2017 and as a consequence three providers including the existing provider submitted Expressions of Interest (EOI).
- 3.3 Therefore a further report will be produced seeking approval from the Director of Adults and Health to undertake a procurement exercise. The new one year contract with BHA will allow sufficient time for this to take place whilst ensuring service continuity.
- 3.4 An email will be sent out via Yortender to providers informing them of the Council's intention to procure this service during 2018/19.

### **4.0 Corporate considerations**

#### **4.1 Consultation and engagement**

- 4.1.1 BHA consulted with service users as to how best to achieve reductions in services when the budget was reduced in the previous two years. Service users are actively involved in developing the service on a regular basis and this is reported on as part of the performance management.
- 4.1.2 Service user consultation will form a part of the procurement process and they will have the opportunity to comment on the service specification outcomes.
- 4.1.3 The lead member for Adults and Health has been briefed on this decision.

#### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An Equality Impact Assessment Screening Tool has been completed and is attached at Appendix 1. If the recommendations are approved an EDCI screening will be undertaken.

#### **4.3 Council policies and best council plan**

- 4.3.1 The HIV Social Care support service makes significant contributions to all of the City Priority Plans, but particularly the Health and Wellbeing Plan and its priority to make Leeds the best City for Health and Wellbeing by 2030. This is achieved through supporting clients to make healthy lifestyle choices and to live safely.

#### **4.4 Resources and value for money**

- 4.4.1 The total value for the one year contract will be £293,455. The budget for this contract has been reduced by 5% in each of the two previous financial years.

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

- 4.5.1 This is a Key Decision which is subject to call-in as the maximum combined cost of services within this decision is more than £250k. A notice was published on the List of Forthcoming Key Decisions.

- 4.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 4.5.3 Awarding the new contract direct to BHA 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 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 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.
- 4.5.5 The Director of Adults and Health has considered this and, due to the nature of the services being delivered 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.
- 4.5.6 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.

## **4.6 Risk management**

- 4.6.1 The contract will continue to be performance managed by officers in Adults and Health. This includes regular reviewing of performance information and quarterly contract management meetings with the provider, at which any delivery issues are discussed. To date the service has delivered in accordance with the service requirements and performance criteria outlined in the service specification.
- 4.6.2 Previous contracts were awarded to BHA firstly as the outcome of a competitive procurement exercise and then via waivers of CPRs due to the uncertainty initially of the AIDS Support Grant and then when Public Health moved into the Local authority there was a delay in the budget being identified for this service.

## **5 Conclusions**

- 5.1 The new contract commencing 1 April 2018 will ensure that there is continuity of service delivery whilst the procurement exercise is undertaken.

## **6. Recommendations**

- 6.1 For the Director of Adults and Health to waive Contract Procedure Rules 9.1 and 9.2 using the authority set out in Contract Procedure Rule 1.3 to enter into a contract for one year from 1 April 2018 with the Black Health Agency for the provision of Leeds Skyline HIV Social Care Support Service. The contract value will be £293,455.
- 6.2 The Director of Adults and Health Social Care should note that:

- 6.2.1 The Council's Projects, Programmes and Procurement Unit will be requested to issue the new contract.
- 6.3 The Adult Commissioning Manager will be responsible for implementing this decision.

## **7 Background documents<sup>1</sup>**

- 7.1 None

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<sup>1</sup> 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.