

## Report of Head of Commissioning, Adults and Health

### Report to Director of Public Health

Date: 11 July 2018

**Subject: Request to vary the contract awarded to Humankind Charity (formerly DISC) for the Community Drug and Alcohol Prevention, Treatment and Recovery Service (known as Forward Leeds) to include additional CCG investment of £147,000 in 2018/19.**

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 2014 the 5 year contract for delivery of the Community Drug and Alcohol Prevention, Treatment and Recovery Service (YORE-9F7N76) was awarded to Developing Initiatives for Support in the Community (DISC) which has recently changed its name to Humankind Charity (Humankind) with the new service, known as Forward Leeds, commencing on 1 July 2015.
2. The three area Clinical Commissioning Groups in Leeds, now combined and known as the NHS Leeds Clinical Commissioning Group, agreed at the time to provide additional investment into the new service for geographically targeted interventions delivered from GP practices through a Section 256 Agreement with the Council.
3. The Leeds South and East CCG committed to provide funding for five years from 1 July 2015 to 30 June 2020. The Leeds North and Leeds West CCGs initially committed to two years of funding from 1 July 2015 to 30 June 2017 then agreed an additional year of funding to 30 June 2018.
4. Further CCG funding totalling £147,000 has been confirmed to continue work in the north and west areas of Leeds up to 31 March 2019 and approval is now being sought to vary the Forward Leeds contract with Humankind to include this additional amount.

### Recommendations

5. The Director of Public Health is recommended to approve in accordance with Contract Procedure Rule 21.7 a variation to the contract price for the Community Drug and Alcohol Prevention, Treatment and Recovery Service (YORE-9F7N76) which is known as Forward Leeds and delivered by Humankind to include an additional £147,000 in 2018/19.

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

- 1.1 The Director of Public Health is recommended to approve in accordance with Contract Procedure Rule 21.7 a variation to the contract price for the Community Drug and Alcohol Prevention, Treatment and Recovery Service (YORE-9F7N76) which is known as Forward Leeds and delivered by to include an additional £147,000 in 2018/19.

## **2. Background Information**

- 2.1 In 2014 the contract for delivery of a combined drug and alcohol prevention, treatment and recovery service for adults, children and young people in Leeds (known as Forward Leeds) was awarded to Developing Initiatives for Support in the Community (DISC) which has recently changed its name to Humankind Charity (Humankind) with the service commencing on 1 July 2015. Discussions took place at the time to ascertain whether CCG investment in alcohol treatment should continue and if so whether it should remain separate or be made through this contract.
- 2.2 These discussions reflected the requirement for increased alcohol capacity as part of a wider integrated recovery model in the city and the outcome was that all three Leeds area CCGs determined that additional interventions, tailored to local need and delivered out of GP practices by area based CCG Teams as part of the Forward Leeds service would represent best value. The Leeds North and the Leeds South and East CCGs expanded the scope of their investment to include drug interventions although in practice referrals have primarily been for alcohol.
- 2.3 These arrangements were formalised through a Section 256 agreement between the area CCGs and Leeds City Council and a contract variation between Leeds City Council and DISC as the organisation was then known. The initial funding commitment from the Leeds South and East CCG was for £93k p.a. for five years from 1 July 2015 to 30 June 2020 with the Leeds North and Leeds West CCGs each committing £80k p.a. and £107k p.a. respectively for two years from 1 July 2015 to 30 June 2017.
- 2.4 Leeds North CCG and Leeds West CCG both subsequently agreed a third year of funding (to 30 June 2018) amounting to £80k and £116k respectively. The amount committed by Leeds North CCG was the same value as in previous years whereas the amount from Leeds West CCG included an extra £9k p.a. to cover increased premises costs. The contract was subsequently amended to include this additional funding following approval by the Director of Public Health on 22 February 2017 to vary the contract.
- 2.5 Further CCG funding of £60k and £87k to continue the work of the respective north and west based, Forward Leeds CCG teams to 31 March 2019 has now been confirmed and approval is required to vary the contract with Humankind to include this. The total amount of CCG funding committed to date through the Forward Leeds contract will increase by £147k from £1.034m to £1.181m.

## **3. Main issues**

- 3.1 Varying the contract to include the additional funding will enable the delivery of targeted interventions in GP surgeries by a dedicated CCG team of workers in each

area to continue. The teams are well-established and performing well with the number and proportion of service users who successfully complete or transfer to other parts of the Forward Leeds service increasing year on year. Without this investment up to 269 fewer people a year in North and 240 fewer a year in West would be able to access support for alcohol and / or drug misuse than at present. Clients receiving support through the CCG teams benefit from being part of the integrated Forward Leeds service with easy access to other services such as recovery co-ordinators, primary care enhanced services, and sustained recovery support.

- 3.2 This investment reflects an awareness of the city-wide impact of alcohol and drug misuse across the city on individuals, families and the wider community and the wish to make services as accessible as possible. The aim being to attract increasing numbers, especially from diverse backgrounds or those who would not access support at a Forward Leeds hub, to come forward for information, advice and treatment at a point where this will have maximum impact and before significant issues have developed. Without this investment, access to locally based services would be substantially reduced.
- 3.3 The variation will involve changing the Form of Pricing Table 5.1 Investment by Leeds Clinical Commissioning Groups to include an additional £60,000 for North area in 2018/19 and an additional £87,000 for West area in 2018/19 as set out below. The scope and nature of the service is not impacted by this additional funding.

**Current: Form of Pricing Table 5.1**

Year	Maximum Value		
	South and East CCG	West CCG	North CCG
Year 1 (1 July 2015 to 31 March 2016)	£69,586	£80,341	£59,785
Year 2 (1 April 2016 to 31 March 2017)	£92,781	107,121	£79,713
Year 3 (1 April 2017 to 31 March 2018)	£92,781	113,780	£79,713
Year 4 (1 April 2018 to 31 March 2019)	£92,781	29,000*	£19,928*
Year 5 (1 April 2019 to 31 March 2020)	£92,781	-	-
Year 6 (1 April 2020 to 30 June 2020)	£23,195	-	-

\*For period 1 April 2018 to 30 June 2018

**Proposed: Form of Pricing Table 5.1 (new figures in bold)**

Year	Maximum Value		
	South and East CCG Team	West CCG Team	North CCG Team
Year 1 (1 July 2015 to 31 March 2016)	£69,586	£80,341	£59,785
Year 2 (1 April 2016 to 31 March 2017)	£92,781	107,121	£79,713
Year 3 (1 April 2017 to 31 March 2018)	£92,781	113,780	£79,713
Year 4 (1 April 2018 to 31 March 2019)	£92,781	<b>116,000</b>	<b>£79,928</b>
Year 5 (1 April 2019 to 31 March 2020)	£92,781	-	-
Year 6 (1 April 2020 to 30 June 2020)	£23,195	-	-

- 3.4 The additional £147,000 will bring the total amount of CCG funding added to this contract to £1,180,286 which equates to an additional 2.8% based on the original contract value of £42,498,650. The CCG funding has helped maintain additional

capacity in the Forward Leeds service which was impacted by the reduction of Public Health Funding in 2016/17. The cumulative impact on overall contract values of these changes is shown below:

Lifetime Value - Contract Term 1 July 2015 to 30 June 2020

	Total Amount
Initial Contract Award	£42,498,650
Current Contract Value	£40, 811,934
Proposed Contract Value	£40,958,934

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

4.1.1 Ongoing consultation has taken place involving officers from Adults and Health, Humankind, Forward Leeds and the former Leeds area CCGs, now combined and known as the NHS Leeds Clinical Commissioning Group.

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

4.2.1 The Forward Leeds service is available to all Leeds residents but in particular works with many service users who have complex needs including mental health problems and homelessness. It includes dedicated support for expectant mothers, children / young people and families including those participating in the Family Drug and Alcohol Court work in West Yorkshire. GPs often have regular contact with or are often a first port of call for many of these protected groups making them ideally placed to engage people in support and treatment.

4.2.2 The additional investment facilitates service user choice and enhanced accessibility to drug and alcohol treatment services for these client groups and particularly benefits those who wish to receive support closer to where they live or prefer a more anonymous setting and would not seek help directly from a Forward Leeds hub.

4.2.3 An Equality Impact Assessment Screening Tool has been completed and is attached to this report at Appendix 1.

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

4.3.1 The Forward Leeds service is the principal deliverer of many elements of the Leeds Drug and Alcohol Strategy and Action Plan. The additional CCG investment into this service will help ensure that commissioned drug and alcohol services continue to deliver against the vision of the Leeds Drug and Alcohol Strategy and Alcohol Plan and its four key aims:

- People choose not to misuse drugs and alcohol
- More people recover from drug and alcohol misuse
- Fewer children, young people and families are affected by drug and alcohol misuse
- Fewer people experience crime and disorder related to the misuse of drugs and alcohol (this is also a key objective of the Safer Leeds Strategy)

4.3.2 The Forward Leeds service contributes to a number of other Council and city wide plans and objectives including:

- the Best Council Plan which includes “supporting healthy lifestyles and supporting communities and tackling poverty” amongst its aims
- the Leeds Joint Health and Wellbeing Strategy outcome of “People will live longer and healthier lifestyles”
- “supporting people to live longer and have healthier lives” which is a key aspiration of the Leeds vision ‘to be the best city in the UK by 2030’.

#### **4.4 Resources and Value for Money**

- 4.4.1 The additional expenditure that will be incurred by Forward Leeds is fully funded by the CCG investment and the Council is already in receipt of the funds.
- 4.4.2 It is deemed to represent value for money as it brings additional investment and capacity to the Forward Leeds service which was impacted by the reduction of Public Health Funding in 2016/17. It reflects local need and enables larger numbers of people, particularly those who would not seek help from a Forward Leeds hub to access provision. The service performs well and an increasing number and proportion of service users are successfully completing their treatment or transferring into other parts of the Forward Leeds service for further support.
- 4.4.3 The effectiveness of the investment will continue to be monitored through existing contract monitoring arrangements and the achievement of the agreed performance measures specific to the investment.

#### **4.5 Legal Implications, access to information and call In**

- 4.5.1 Under section 82 of the National Health Service Act 2006 the CCG and the Council are required to work together in order to secure and advance the health and welfare of the people of Leeds. The CCG is empowered by section 256 of this act to fund Council expenditure on services which have an effect on the health of any individuals, have an effect on or are affected by any NHS functions, or are connected with any NHS functions.
- 4.5.2 The modification of contracts is governed under the Public Contracts Regulations 2015 at regulation 72. This considers the extent to which a contract may be modified before it should be considered so substantially changed as to necessitate a new contract. It also requires the consideration of the effect of cumulative variations. Therefore this needs to be considered in taking this decision.
- 4.5.3 The figures set out at paragraph 3.5 of this report show the initial awarded value of this contract, which has been increased by the various additional funding provided by the CCGs and has also been decreased by previous variations to the Council funded element. Taking these figures into account, the modification of the contract by the addition of the CCG funding is 2.8% (£1.18m) of the initial contract value. This is above the EU threshold for services contracts. As such, the cumulative variations to this contract place it outside of the regulations and mean that there is a risk of challenge in making this further variation. The potential variations were not explicitly drafted into the specification at the outset of the contract, therefore most of the exceptions within the Regulations appear to be unavailable.
- 4.5.4 The provisions of Regulation 72 (1) (c) (iii) provide an exception “where all of the following conditions are fulfilled:—
- (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;

- (ii) the modification does not alter the overall nature of the contract
- (iii) any increase in price does not exceed 50% of the value of the original contract or framework agreement.”

It is considered that this applies in these circumstances as follows:

- (i) The service was competitively tendered following an extensive period of consultation with a wide range of stakeholders including the CCGs during which period there was no indication that they wished to invest in the service.
- (ii) The nature of the contract is not changed as the interventions delivered by the CCG teams are no different to those provided elsewhere in the service in accordance with the original service specification.
- (iii) The additional investment equates to 2.8% of the original contract value.

In relying on this regulation, the Council will be required to send a notice to that effect for publication at EU level, in accordance with regulation 51.

4.5.5 The contract was entered into prior to the commencement of the 2015 regulations, but the provisions of regulation 72 were the result of preceding case law that was applied by the courts prior to 2015, so it would be the case that these would apply to this contract. The Director of Public Health needs to be aware of this risk and any potential mitigation of the risk in taking this decision.

4.5.6 This report does not contain any exempt or confidential information. This is a significant operational decision as the change to the contract price relating to the new investment is greater than £100,000 but not more than £250,000 and is therefore not subject to call in.

## **4.6 Risk management**

4.6.1 Established processes are in place to ensure compliance with the terms attached to the CCG funding through the S256 Agreement:

- Officers from the Commissioning Team will continue to work closely with Forward Leeds through the established contract monitoring processes to ensure funding is being used towards achievement of the aims and objectives for which it has been provided and is within the annual budgets agreed.
- Payment will be made quarterly in arrears to Forward Leeds by the public health business support team based on invoices supported by evidence of expenditure up to the maximum budgets agreed.
- The public health business support team will arrange each year for the officer responsible under the s151 of the Local Government Act to authenticate an annual expenditure voucher provided by the CCG and pass this by 30th September to the Council's external auditor for certification and submission to the CCG no later than the 31 December.

4.6.2 Officers in the Commissioning team will work closely with Forward Leeds through the established contract monitoring processes to ensure the CCG funded provision continues to deliver against agreed objectives and targets. This will be a key factor in ensuring continued CCG investment in the Forward Leeds service for the whole 5 year contract term to 30 June 2020 and for any extensions beyond (the contract includes extensions up to 3 years). Performance is reported formally to CCG commissioning managers on an annual basis with regular updates and communication provided throughout the year.

4.6.3 The Forward Leeds Service works with clients experiencing a range of physical and mental health needs and involves the collection and storage of highly sensitive information in delivering the service. Contract management officers will continue to review and work with the Forward Leeds service to ensure appropriate safeguarding and information governance arrangements are in place. Humankind is the data controller for this service.

4.6.4 There is a risk of challenge to the variation of this contract on the grounds it has been modified for the purposes of the Public Contracts Regulations 2015. This means that a challenge could be brought to require the council to procure a new contract which encompasses the full scope of the service. This would be opposed on the grounds that the variation fulfils the exception criteria described at 4.5.4. The publication of a notice of reliance upon regulation 72(1)(c)(iii) would start the time running for any potential challenge and ensure that the Council is open, transparent, and able to manage the risk by awaiting any potential challenge within a set, minimised, time frame

## **5 Conclusions**

5.1 Varying the contract to include the additional CGG investment will enable the ongoing delivery of targeted interventions in GP surgeries in the North and West areas of Leeds to continue to 30 April 2019 alongside those already approved for the South and East area. This will maintain improved access to services through community-based settings across the whole of Leeds and deliver increased alcohol capacity as part of a wider integrated recovery model. The effectiveness of drug and alcohol provision in Leeds will be enhanced by this investment and the Director of Public Health is therefore asked to approve the recommendations in this report.

## **6 Recommendations**

6.1 The Director of Public Health is recommended to approve in accordance with Contract Procedure Rule 21.7 a variation to the contract price for the Community Drug and Alcohol Prevention, Treatment and Recovery Service (YORE-9F7N76) which is known as Forward Leeds and delivered by Humankind to include an additional £147,000 in 2018/19.

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

7.1 Nil.

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.



