

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

Report to Director of Adults & Health

Date: 8 August 2018

Subject: To approve the waiver of Contract Procedure Rules (CPR) 9.1 and 9.2, to enable the award of a five year contract with a whole life value of £149,500 to Leeds Community Foundation from 21st October 2018 to 20th October 2023 for delivery of the Ideas that Change Lives Investment Fund.

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. This report seeks the authority to waive CPRs 9.1 and 9.2 (high value procurement) to award a contract to Leeds Community Foundation for the purpose of delivering the Ideas that Change Lives Investment Fund for a five year period from 21 October 2018 to 20 October 2023. The total contract value is £149,500 (£29,000 p.a.) for the purpose of managing the fund and providing business support to applicants.
2. A total of £425,000 (£85,000 p.a.) will be made available for the investment fund, over the life of the contract, which will be awarded as grants to successful applicants. Approval will be sought annually for the release of the investment fund at £85,000 p.a.
3. The value of the current three year contract, which is being delivered by a consortium comprising Leeds Community Foundation (LCF) and SEEAhead is £29,000 p.a. plus £85,000 p.a. for the investment fund. The current contract ends on 20 October 2018 and there is no provision to extend it. Feedback from applicants has been very positive regarding the quality of service they have received, from the ease of the application process, ongoing support and monitoring through to the business support provided both pre and post application.

4. There is no provision to extend the current contract therefore, prior to going out to tender for the service, a market sounding exercise took place in May 2018 to inform the procurement options. Leeds Community Foundation was the only organisation to respond to the exercise, which was the same situation when the service was tendered in 2015. The lack of interest demonstrates that there are no other providers in the market willing or able to deliver the contract within the advertised budget and that going out to tender is likely to result in the current provider being awarded the contract again. Due to the lack of interest by other providers the risk of challenge by another provider to awarding the contract without going out to tender is very low hence the proposal to waive contract procedure rules and directly award the contract to Leeds Community Foundation.
5. The current provider can add value to the contract through its role as the largest independent grants management organisation in the city. In 2016-17 they awarded 526 grants totalling almost £3,000,000. Some of the grants they manage, such as Leeds Older People's Forum 'Time to Shine', complement Ideas that Change Lives so applicants to the fund may benefit from more than one funding source as well as any other support attached to the funding.
6. This report provides the background to the current service provision and an overview of the process undertaken to put the new contract in place.

Recommendations

1. The Director is recommended to approve the waiver of Contract Procedure Rules 9.1 and 9.2 to award a five year contract to Leeds Community Foundation for the management of the Ideas that Change Lives Investment Fund at a total cost of £149,500 (£29,000 p.a). The contract will commence on 21 October 2018 and end on 20 October 2023.
2. And to note that:
 - Annual approval will be sought via an Administrative Decision for the release of the Investment Fund grant funding at £85,000 p.a.
 - The contract will contain a break clause to enable the contract to be terminated in the event of grant funding not being available.
 - The implementation of the new contract is supported by the Enterprise Development Officer who will work with Procurement and Commercial Services (PCS) to issue the contract and ensure the new service is in place and operational by the contract start date.

1. Purpose of this report

- 1.1 The purpose of this report is to gain authority to waive CPRs 9.1 and 9.2 and to award a contract to Leeds Community Foundation to deliver the Ideas that Change Lives Investment Fund for a five year period from 21 October 2018 – 20 October 2019. The total contract value is £149,500.

2. Background information

2.1 The Ideas that Change Lives Investment Fund (ItCL) offers business support and financial investment to support and encourage organisations and individuals to develop socially enterprising ideas that enable Leeds residents with care and support needs to remain independent. The types of activity the fund seeks to support include alternatives to traditional day care and support services; brokerage; health and wellbeing promoting activities; employment related opportunities. The priority groups are:

- Older people
- People with a learning disability; physical disability or sensory impairment
- People with mental health needs
- People with alcohol or substance use issues
- People with long term health conditions
- Carers
- Young people in transition between services

2.2 The Ideas that Change Lives Investment Fund has been running since 2013 when a competitive tender exercise which was carried out resulted in Leeds Community Foundation being awarded a two year contract to manage the Fund.

2.3 A second competitive tender exercise took place in 2015 which resulted in Leeds Community Foundation being awarded a three year contract to deliver the service.

2.4 At the start of the current contract there were three types of awards: Community Capacity up to £2000, Kick Start (up to £5000) and Development up to £15,000. However, based on LCF's experience in delivering the contract the funding levels were reviewed. The Community Capacity level was removed due to very low uptake and the Kick Start level was reduced to £4000. The Development grant remained at the same level of £15,000.

2.5 During the current and previous contract period LCF has worked with SEEAhead who have provided business support to applicants, both pre and post award. During the period November 2016-October 2017 SEEAhead delivered 375 hours of business support to applicants, including the delivery of workshops covering various topics including; increasing income through trading, marketing and business planning.

2.6 For the period March 2016-November 2017, 48 applications to the Fund were received, with 21 being approved. A total of £203,090 was awarded to successful applicants.

2.7 During the current contract, as a result of investment awarded and business support provided, 13 new services were set up and seven new ideas were tested. Beneficiaries of the services include older people, plus those with a learning

disability, physical disability, mental health issues or people on the Autistic spectrum.

2.8 The majority of new services developed were as a result of ideas being tested first with the support of a Kick Start grant. Development funding was awarded to nine organisations that had previously been awarded Kick Start funding, enabling new services to be developed.

2.7 Enterprising Ideas that have been supported include:

- A sensory allotment
- A mental health support café
- Increased employment opportunities for people with physical disabilities and learning disabilities (through food snacks, order fulfilment and café social enterprises)
- Training services delivered by adults on the Autistic spectrum

2.9 LCF and SEEAhead also signpost applicants to more appropriate sources of funding if their ideas did not meet the criteria for the Fund.

3. Main issues

Reason for Contracts Procedure Rules Waiver

3.1 The ItCL investment fund and business support contract is currently being delivered by Leeds Community Foundation in partnership with SEEAhead (a social enterprise). Leeds Community Foundation manage the grant application process whilst SEEAhead provide business support to applicants.

3.2 Leeds Community Foundation (LCF) is an expert in the field of grant making and has the infrastructure in place to manage the Ideas that Change Lives Investment Fund.

3.3 LCF in partnership with SEEAhead has successfully delivered the service for the past five years having been successful in two competitive tendering exercises; first for a two year contract 2013-2015, and second for a three year contract 2015-2018. LCF were the only bidders in the 2015 exercise.

3.4 As the current contract expires in October 2018, a market sounding exercise took place in May 2018 to test the market prior to going out to tender but just one response was received, from Leeds Community Foundation.

3.5 As Leeds Community Foundation was the only bidder in the last procurement exercise, and the only submission in the recent market sounding exercise, this would suggest that there are no other providers in the market that could deliver the contract at the contract value advertised.

3.6 The current provider has consistently delivered a high quality service and met all outcomes in the service specification. This is supported by positive feedback received on the level and quality of service provided from Fund applicants.

3.7 Awarding the contract to LCF will facilitate a seamless transition from the current contract to the new one thus maximising the investment that LCF and SEEAhead have already made.

3.8 There is no internal service provider to undertake this service.

Consequences if the proposed action is not approved

3.9 As the previous tendering exercise and market sounding exercise both resulted in just one response, from the current provider, if the contract is put out to tender and there are no bids other than from Leeds Community Foundation, a disproportionate amount of time and resources could be expended to achieve the same outcome.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Feedback from applicants to the Fund show that they highly value the knowledge, expertise and support provided by Leeds Community Foundation and SEEAhead. This applies even when applicants have been dissuaded from applying, or it's suggested they defer their application if they have been advised that there are more appropriate sources of funding for their ideas or that they undertake more research before submitting an application.
- 4.1.2 Consultation with the current provider has taken place to agree the service specification and to confirm that the service can be delivered within budget.
- 4.1.3 Consultation took place on 2 July 2018 with the Executive Member, Cllr Charlwood, who is supportive of the proposal.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An equality screening tool was completed which concluded that a full Equality Impact Assessment was not required as equality, diversity, cohesion and integration issues have already been considered and informed the development of the service specification.
- 4.2.2 The current provider has delivered a high quality service and continued delivery by the provider is likely to produce similar results.
- 4.2.3 Awarding the contract directly to Leeds Community Foundation will have a positive impact on equality, diversity, cohesion or integration issues through continued delivery of the fund which supports the development of new socially enterprising ideas supporting people with care and support needs to remain independent.
- 4.2.4 ItCL specifically targets the following groups:
 - Older people
 - People with a learning disability, physical disability or sensory impairment
 - People with mental health needs
 - People with alcohol or substance use issues
 - People with long term health conditions
 - Carers
 - Young people in transition between services
- 4.2.5 During the current contract period a wide range of services and opportunities have been developed across the city involving the target populations including:
 - Expanding employment opportunities for adults with disabilities

- Decorating/home improvements involving adults with mental health support needs
- Improving community facilities primarily for older people but which all sectors of the community can access.

4.2.6 Waiving Contract Procedure Rules 9.1 and 9.2 will have no negative impact on the target groups for the Fund.

4.3 Council policies and best council plan

4.3.1 This proposal supports the delivery of the Best Council Plan 18/19-20/21 health and Wellbeing Priority of enabling people with care and support needs to have choice and control. It also supports Leeds Health and Wellbeing Strategy 2016-2021 priority of Leeds being an Age Friendly City where people age well.

4.3.2 The overall aim of the fund is to support the development of a more diverse care and support market, helping to deliver the Better Lives Strategy 2017-2021, specifically supporting the Better Lives through Better Living and Better Connections themes. This will be achieved by supporting the development of new care and support services to be delivered across the Leeds Metropolitan District by established local third sector organisations, social enterprises and other organisations that deliver social benefit, as well as new social entrepreneurs.

4.3.3 The three outcomes for the service are:

- Improve the quality of life for people with care and support needs;
- Provide choice and control for people who have care and support needs, and
- Ensure value for money and the best use of the Leeds pound.

4.4 Resources and value for money

4.4.1 The contract fee will remain at the same level as the current contract at £29,900 p.a. Provision exists within the existing budget to deliver the programme.

4.4.2 The knowledge and expertise of the current provider adds value to the contract through their management of other grant schemes, some of which are complementary to ItCL, and their access to pro bono support for applicants in a number of areas such as marketing and legal.

4.4.3 Leeds Community Foundation and SEEAhead have developed a good understanding of the health and social care landscape in Leeds so are well placed to deliver the contract.

4.4.4 There are implications for staff time for monitoring of the contract but this has already been built into the Project Management resource.

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

4.5.1 Contract Procedure Rule 27 permits the waiving of CPRs in certain circumstances. This report requests that CPRs 9.1 and 9.2 (high value procurement) are waived as there appears to be no appetite from other providers to deliver the contract, as

evidenced by the response to the procurement for the current contract and the recent market sounding exercise both of which elicited just one response – from the current provider.

- 4.5.2 Authority to take the decision is set out in Part 3, Article 14.5 Finance, Contract and Legal matters which permits the Chief Executive and the City Solicitor to authorise any other person or persons authorised to act as Agent for the council to approve the execution of all contracts entered into by the council for £100,000 or above.
- 4.5.3 This is a significant operational decision which is not subject to call-in. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.
- 4.5.4 The Director, Adults and Health, should note that this waiver may leave the Council open to a potential claim from other providers, to whom this contract could be of interest and that it has not been wholly transparent since the tender opportunity is not being advertised. In terms of transparency, it should be noted that it is a requirement of recent case law to consider whether contracts of this value should be subject to a degree of European wide advertising. It is up to the Council to decide what degree of advertising is 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 and the geographical location of the place of performance.
- 4.5.5 Given the nature of the services being delivered, the relatively low value of this contract and the scope and nature of the services it is considered that it would be unlikely to be of interest to contractors in other EU member states.
- 4.5.6 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the content of the report should be noted. In making their final decision, the Director, Adults and Health, should be satisfied that the approved course of action represents best value for the council.

4.6 Risk management

- 4.6.1 The main risks identified with this proposal not being approved are:
- That an open tendering exercise could result in the same organisation being awarded the contract which means that officer resources would have been expended un-necessarily.
 - That no organisation bids for the contract which would mean that the Ideas that Change Lives programme would need to be suspended, leaving potential applicants with no access to funding or support.
 - Waiving CPRs 9.1 and 9.2 (high value procurement) could leave the council open to challenge as there may be providers who would have submitted a bid had the contract gone out to tender. However, when the contract was last tendered, only one provider – Leeds Community Foundation – submitted a bid. Additionally, only Leeds Community Foundation responded to the Market Sounding Exercise that took place in May 2018. This suggests there is no appetite in the market for another provider to deliver this contract.

5. Conclusions

- 5.1 Leeds Community Foundation has successfully delivered the Ideas that Change Lives Investment Fund to a high standard and within budget since October 2013.
- 5.2 Following discussions with Leeds Community Foundation, they are confident that they can continue to deliver the contract for £29,000 p.a.
- 5.3 Leeds Community Foundation has extensive experience of managing grant funds and has a good understanding of the health and social care sector in Leeds.
- 5.4 Leeds Community Foundation adds value to the programme through working in partnership with SEEAhead who provide business support to applicants, and through both organisations' ability to draw in pro bono support from other professionals.
- 5.5 The decision to waive Contract Procedure Rules 9.1 and 9.2 (high value procurement) is unlikely to be challenged as there does not appear to be an appetite from other providers to deliver the contract.
- 5.6 Subject to approval, a five year contract will be put in place with Leeds Community Foundation to deliver the Ideas that Change Lives Investment Fund, to commence on 21 October 2018.

6. Recommendations

- 6.1 The Director is recommended to approve the waiver of Contract Procedure Rules 9.1 and 9.2 to award a five year contract to Leeds Community Foundation for the management of the Ideas that Change Lives Investment Fund at a total cost of £149,500 (£29,000 p.a). The contract will commence on 21 October 2018 and end on 20 October 2023.
- 6.4 And to note that:
 - Annual approval will be sought via an Administrative Decision for the release of the Investment Fund grant funding at £85,000 p.a.
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 - The implementation of the new contract is supported by the Enterprise Development Officer who will work with Procurement and Commercial Services to issue the contract and ensure the new service is in place and operational by the contract start date.

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.