

**Report of the** Deputy Director, Integrated Commissioning  
Adults and Health, (Leeds City Council) & NHS Leeds Clinical Commissioning Group

**Report to the** Director of Adults and Health

**Date:** 13 February 2019

**Subject:** To seek approval to waive Contract Procedure Rules (CPR 9.1 and 9.2) to award a contract to Black Health Agency (BHA) for the provision of Leeds Skyline HIV Support Service from 1 April 2019 for up to 12 months. The annual value for this contract is £293,455. 267

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 BHA for the provision of Leeds Skyline HIV Support Service. The current contract expires on 31 March 2019.
2. A market sounding exercise was undertaken by Procurement and Commercial Services using Yortender to seek expressions of interest. Three expressions of interest were received including the existing provider.
3. A procurement exercise will therefore be undertaken during 2019/20 with the view to awarding a five year contract with an annual value of £293,455. An interim contract will allow for the procurement exercise to be undertaken.
4. A permission to procure report has previously been agreed by the Director of Adults and Health.

### Recommendations

1. For the Director of Adults and Health to approve the waiver of CPR 9.1 and 9.2 and to award a contract to Black Health Agency for the provision of Leeds Skyline HIV

Support Service from 1 April 2019 for up to 12 months. The annual value for this contract is £293,455.

2 The Director of Adults and Health should note that:

- The Council's Procurement and Commercial Service will be requested to issue the new contract.
- The Adult Commissioning Manager will be responsible for implementing this decision.

## 1. Purpose of this report

1.1 To seek approval from the Director of Adults and Health to award a contract to BHA for the provision of Leeds Skyline HIV Support Service from 1 April 2019 for up to twelve months.

1.2 The Director of Adults and Health should note that:

The Council's Procurement and Commercial Service will be requested to issue the new contract.

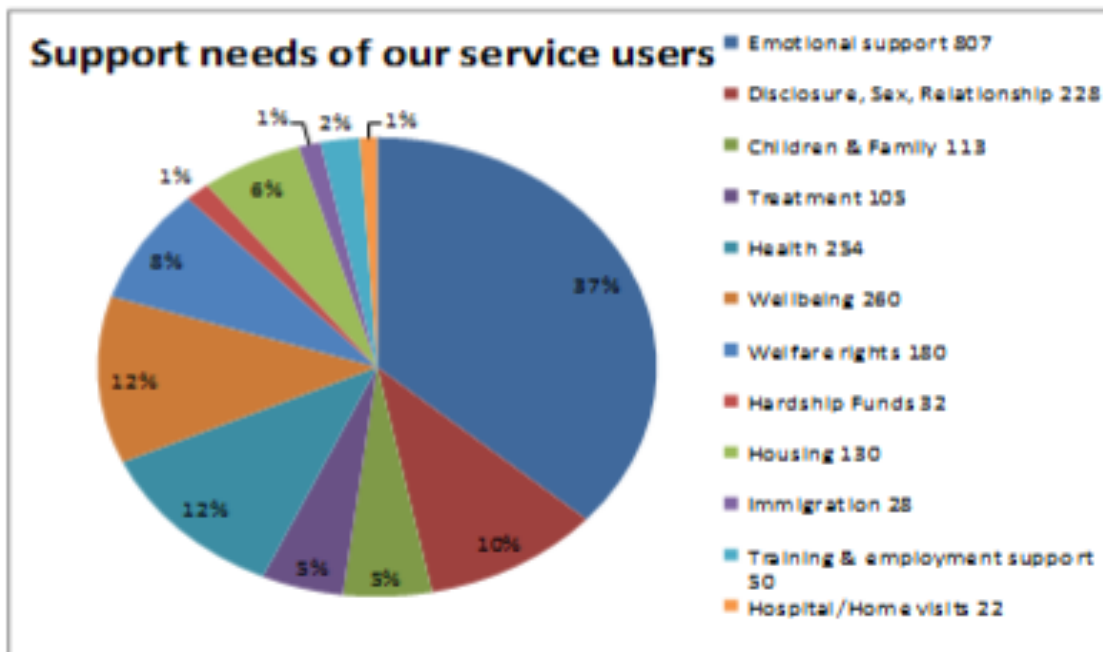
The Adult Commissioning Manager will be responsible for implementing this decision.

## 2. Background information

2.1 During 2017/18 the HIV Social Care Support Service provided the following support to 267 service users of the service;

- 300 hours of CBT
- 300 sessions of complementary therapies
- Their support groups continue to have a high number of people attend and have provided the following;
- **PACT** – For GBT men - 51 sessions
- **Valour** - For migrant women - 23 sessions
- **Str8 Talk**- for heterosexual men- 11 sessions.

2.2 The service received fifty nine new referrals for support mainly from their key partners - Leeds General Infirmary Brotherton Wing Clinic and Leeds Centre for Sexual Health. The table below is taken from their annual report and shows the support needs identified by the people that use the service;



### 3. Main issues

- 3.1 Adults and Health currently has a contract with BHA for the provision of the Leeds Skyline HIV Support Service. Due to the uncertainty of the funding for this service it has not been subjected to a procurement exercise in the past five years. The current contract expires on 31 March 2019. The original contract was awarded to BHA following a procurement exercise.
- 3.2 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 been delivered in accordance with the service requirements and performance criteria outlined in the service specification.
- 3.3 This service has not been subject to a procurement exercise due to the insecurity of previous funding provided by the Department of Health and subsequently by Public Health. Funding has now been made available which will allow for a procurement exercise to be undertaken for a new five year contract.
- 3.4 The procurement exercise could not be undertaken up until now due to a lack of staff and capacity within the working age adults commissioning team this has now been resolved.
- 3.5 In order to allow for service continuity whilst the procurement exercise is being undertaken a new contract is required for up to 12 months. A previous Market Sounding Exercise resulted in three organisations expressing an interest.

### Corporate considerations

#### 4.1 Consultation and engagement

- 4.1.1 Consultation on the procurement approach and tender documentation is currently being undertaken with strategic partners, providers, LCC officers and the relevant Executive Member.

4.1.2 Councillor Charlwood (Executive Member for Health, Wellbeing and Adults) was briefed on the 29 November 2018.

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

4.1.1 An Equality, Diversity, Cohesion and Integration Screening Assessment has been completed for this report see Appendix 1. This will be submitted alongside the report for Delegated Decision Panel.

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

4.2.1 There are five outcomes from Leeds Health and Wellbeing Plan relevant to the HIV Social Care Support Service; People will live longer and have healthier lives, People will live full, active and independent lives, People will be actively involved in their health and their care, People's quality of life will be improved by access to quality services and People will live in healthy, safe and sustainable communities.

4.2.2 The Best Council Plan is our strategic planning document, sitting at the top of a range of supporting strategies. It sets out what the council, working in partnership, will do to deliver better outcomes across Leeds.

4.2.3 The high level outcomes from the Best Council Plan are;

- Be safe and feel safe
- Enjoy happy, healthy, active lives
- Live in good quality, affordable homes within clean and well cared for places
- Do well at all levels of learning and have the skills they need for life
- Enjoy greater access to green spaces, leisure and the arts
- Earn enough to support themselves and their families
- Move around a well-planned city easily
- Live with dignity and stay independent for as long as possible

The HIV Support Service outcomes have direct links to the Best Council Plan's outcomes and are reflected in the service delivery.

#### **4.3 Resources and value for money**

4.3.1 The annual funding of £293,455 for the service comes from the existing budget.

4.3.2 Undertaking the procurement exercise will help achieve value for money through the receipt of competitive tenders which meet all the requirements set out in the tender documentation.

4.3.3 The inclusion of key performance indicators in the service specification should also improve performance and provides a mechanism by which the council, if necessary, can withhold payment where the service may not be being delivered in accordance with the service specification requirements, thereby further ensuring value for money.

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

4.5 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 on the 31 October 2018.

- 4.6 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 4.7 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. 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.
- 4.8 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.
- 4.9 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.
- 4.10 Although there is no overriding legal obstacle preventing the waiver of CPRs 9.1, and 9.2 using the authority set out in CPR 1.3, the above comments should be noted. In making their final decision, the Director of Adults and Health should be satisfied that the course of action chosen represents Best Value for the Council.

#### **4.11 Risk management**

- 4.5.1 Issuing a new contract will allow for service continuity during the procurement exercise.
- 4.5.2 The procurement exercise will be undertaken in a fair, open and transparent way and in adherence with the Public Contracts Regulations 2015 and the council's own CPRs.
- 4.5.3 Project risks will be reviewed on a regular basis and the project team responsible for undertaking the procurement exercise will continue this during the procurement process.

#### **5 Conclusions**

- 5.5 The new contract for up to 12 months commencing 1 April 2019 will ensure that there is continuity of service delivery while a competitive procurement exercise is undertaken.

5.6 The procurement exercise will commence in March 2019 and the service specification and model are currently being consulted on with service users and other stakeholders.

## **6 Recommendations**

6.1 For the Director of Adults and Health to approve the waiver of CPR 9.1 and 9.2 and to award a contract to Black Health Agency for the provision of Leeds Skyline HIV Support Service from 1 April 2019 for up to 12 months. The annual value for this contract is £293,455.

6.2 The Director of Adults and Health should note that:

- The Council's Procurement and Commercial Service will be requested to issue the new contract.
- The Adult Commissioning Manager will be responsible for implementing this decision.

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

None

### **Appendix One**

Equality Impact Assessment

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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.