

## Report of the Deputy Director, Integrated Commissioning, Adults and Health

### Report to the Director of Adults and Health

**Date: 13 March 2019**

**Subject:** Request to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2, using the authority set out in CPR 1.3, to enter into two contracts with St Anne's Community Services for provision of a Residential Alcohol Detoxification Service and a Residential Alcohol Rehabilitation Service in 2019/20.

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. Leeds Adults and Health directorate currently has two contracts with St Anne's Community Services for the delivery of a 5 bed residential alcohol detoxification service and a 17 bed residential alcohol rehabilitation service in Leeds.
2. These services, including the availability of funding and premises have been subject to ongoing review and consultation since 2016 resulting in a Market Sounding Exercise (MSE) being published in December 2018 with submissions due 30 January 2019. Completion of the evaluation of the MSE and the subsequent implementation of any longer term re-procurement decisions arising from it may take up to 12 months depending on the procurement process used to procure the new services.
3. As the existing contracts with St Anne's expire on 31st March 2019 with no extension periods available to invoke, interim contract arrangements are being sought to ensure the continuity of service provision until any subsequent re-procurement of the detoxification and rehabilitation services is complete. Approval is therefore being sought to waive contracts procedure rules and award St Anne's an interim 6 month contract with the option to extend for a period of up to 6 months for each service.

## Recommendations

1. The Director of Adults and Health is recommended to approve the waiver of Contract Procedure Rules (CPRs) 9.1 (requirement of competition) and 9.2 (invitation of a minimum of four written tenders) using the authority set out in CPR 1.3, in relation to high value procurements, and award St Anne's Community Services a 6 month contract for the Residential Alcohol Detoxification Service commencing 1st April 2019 and expiring on the 30th September 2019 with the option to extend for a further period of up to 6 months in any combination. The maximum sum of the six month contract shall not exceed £185,750. A request to utilise the available extension will be subject to a separate decision.
2. The Director of Adults and Health is recommended to approve the waiver of Contract Procedure Rules (CPRs) 9.1 (requirement of competition) and 9.2 (invitation of a minimum of four written tenders) using the authority set out in CPR 1.3, in relation to high value procurements, and award St Anne's Community Services a 6 month contract for the Residential Alcohol Rehabilitation Service commencing 1st April 2019 and expiring on the 30th September 2019 with the option to extend for a further period of up to 6 months in any combination. The maximum sum of the six month contract shall not exceed £179,250. A request to utilise the available extension will be subject to a separate 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 put in place two interim contracts commencing 1 April 2019, each for a period of 6 months with an option to extend for a period of up to 6 months, in any combination if required, with St Anne's. This will enable provision of the residential detoxification service and the residential rehabilitation service which both play a major role in the successful treatment of alcohol misuse in the city to continue while longer term commissioning arrangements are put in place.

## **2. Background information**

- 2.1 The existing one year interim contracts with St Anne's for delivery of a residential alcohol detoxification service and a residential alcohol rehabilitation service are both due to expire on 31 March 2019. These interim arrangements were put in place to allow budget and review work as described below to take place.
- 2.2 These services are delivered from premises owned by St Anne's Community Services in LS2. The detox element of the service comprises five bed spaces and the rehab element comprises 17 bed spaces. Four of the rehab beds are in a step down unit providing semi-independent living accommodation which was opened in January 2015 following receipt of a Public Health England capital grant to extend provision. All referrals come via Forward Leeds (the community drug and alcohol treatment and recovery service in the city).
- 2.3 These services have been subject to ongoing discussion and review with key issues being the cost of delivery exceeding the contract values, funding pressures (including the reduction of Public Health funding) and availability of the existing premises for future use.
- 2.4 Following an in depth review of provision which commenced in 2016 a full options appraisal was undertaken and presented to the Public Health Programme Board and Adults Social Care Commissioning Board regarding the longer term commissioning of the residential detox and rehab service.
- 2.5 The review was positive with the service being well-received by service users and delivering excellent outcomes but facing significant cost pressures following a 5% reduction in the contract values for both services in 2016/17 as a result of public health funding cuts. The shortfall was originally confirmed as circa £30k p.a. across both services then later re-confirmed as being over £111k p.a. due to general increases in running costs e.g. rising food/energy prices and other variable costs such as agency cover and unexpected premises expenditure.
- 2.6 Subsequent discussions at the Adults and Health Directorate Leadership Team (DLT) in 2017 supported the preferred option put forward which was to continue commissioning the existing service model. This recognised that tackling alcohol misuse is a key priority in Leeds (in order to reduce hospital admissions and improve life expectancy), demand for the service remains high, it is more cost effective than out of area residential placements and the current service performs well, making a substantial contribution to the achievement of national measured outcomes.
- 2.7 The Adults and Health DLT recommended that the service should be competitively tendered at an increased budget envelope to ensure the full cost was covered with further work being undertaken around future premises and budget availability. It was agreed that in the interim period, additional funding of up to £111,546 p.a. be

made available to St Anne's (subject to LCC approval) to cover genuine expenditure incurred over and above the contract values for these services. It was also agreed to set aside additional budget of up to £23k p.a. to reimburse St Anne's for the cost of taking over the contract for the ILLY case management system which LCC was providing but wished to hand over in light of the new General Data Protection Regulation. (This was subsequently transferred to St Anne's on 1 August 2018.)

- 2.8 The additional funding agreed brings the maximum total combined budget for both services to £731,720 p.a. in 2018/19 (£282,860 detox contract + £314,314 rehab contract + up to £111,546 additional funding + up to £23,000 for Illy system costs). In 2018/19 this is currently funded through a combination of £268,720 public health funding and £463,000 iBCF funding.
- 2.9 As a result of the ongoing review work it has become clear that if the service is retendered, any new provider wishing to deliver the service would be required to supply their own premises. During the year this has required the project team working on the review to re-evaluate the options around the commissioning and re-tendering of the services which has resulted in the undertaking of a Market Sounding Exercise (MSE) to inform the long term commissioning of the service. The timescales for completing the MSE and implementing the outcome require further short term contract arrangements to be put in place to ensure continuity of service provision during the intervening period.
- 2.10 The Council's understanding of the market is that there are other organisations who would be able to provide the support for an alcohol detox and rehab service but no organisation currently has suitable and available premises in Leeds to deliver this from. The current budget envelope is unable to support the set up costs that would be required for an organisation without premises to establish a new service unless there was a provider, for example in the private sector, willing to invest in a building of their own accord, as part of a longer term strategy to expand their business into Leeds / northern England. In such circumstances there would be a risk that their medium to long term costs might increase to compensate giving rise to further budget pressures for the Council.
- 2.11 Following advice from Procurement and Commercial Services (PACS) a market sounding exercise is being undertaken in order to determine the level of market interest which in turn will inform the next steps regarding future re-commissioning of the services.
- 2.12 The market sounding exercise was published on 17 December 2018 with submissions due by noon on 30 January 2019. The responses are currently being evaluated and the outcome, with recommendations regarding the future procurement route for these services, will be reported separately in due course. New interim contracts for these services are being recommended in order to ensure continuity of service provision whilst evaluation of the MSE and the subsequent implementation of any longer term re-procurement decisions are completed.

### **3. Main issues**

- 3.1 The review has taken longer to complete than anticipated at the outset due to a number of key issues arising and needing to be resolved including the costs of delivery exceeding contract values, funding pressures (including the reduction of Public Health funding) and availability of the existing premises for future use. The market sounding exercise will help inform the longer term procurement of the services but the timescales for completion require arrangements to be put in place

to ensure continuity of service provision from when the existing contracts expire on 31 March 2019.

- 3.2 There are no other known providers offering these services at present in Leeds. Due to logistics and timescales, it is not considered possible for another provider to establish a residential facility in Leeds for a 6 month contract and a period of extension of up to a further 6 months. In addition, using a different provider for a short period of time would be detrimental to treatment outcomes both at the start and potentially again at the end of the year due to the disruption of delaying treatment starts or transferring clients to a new service mid-way through treatment.
- 3.3 Although out of area residential treatment is available, it is not considered a viable alternative, as the unit costs for both services are higher and out of area rehabilitation placements can be for 20 to 26 weeks which is considered too long by many clients who much prefer the 13 week intensive programme at St Anne's.
- 3.4 Were the services to be discontinued until long term commissioning arrangements were determined this would have a detrimental impact on treatment outcomes. The current service performs well, making a substantial contribution to the achievement of national measured outcomes. During 2018, Leeds achieved a green RAG rating for the first time regarding alcohol treatment completion data as reported by Public Health England (PHOF 2.15 indicator) and this would be harmed were the service to cease albeit temporarily. In addition, a number of service users including many drinking at hazardous levels with other serious physical and mental health issues would be denied, or have access delayed to an appropriate form of treatment, particularly for detox where NICE guidance applies.
- 3.5 The two service contracts are delivered as an integrated service with many service users accessing both services and transitioning seamlessly from detoxification into rehabilitation. This discounts the awarding of just one of the two contracts as this would be disruptive to treatment and impact on successful outcomes.
- 3.6 Waiving contracts procedure rules to enter into two new contracts with St Anne's for both elements of the service whilst evaluation of the MSE and the subsequent implementation of any longer term re-procurement are completed is considered the best option. Ensuring continuity of provision represents all round value for money by supporting service user choice, achieving lower unit costs and delivering better outcomes.
- 3.7 The proposed timescales for implementation of the above decisions shall be as follows:

Action	Date	Responsibility of
Contract Award Instructions submitted	w/c 18 March 2019	Helen Moran, Commissioning Manager, Adults and Health
Contracts Issued	By 31 March 2019	Procurement and Commercial Services

### 3. Corporate considerations

#### 3.1 Consultation and engagement

- 3.1.1 The proposed waiver of CPRs 9.1 and 9.2 to enter into new contracts for each of these services does not involve a change to current provision so has not involved

service user consultation on this specific matter. Consultation earlier in the review process with existing and former service users found they value these services highly.

- 3.1.2 Throughout the review there has been ongoing dialogue with St Anne's including meetings of Caroline Baria, Deputy Director, Integrated Commissioning, and Julie Staton, Head of Commissioning with from St Anne's, Chief Executive, Derek Bray, Susie Maguire, Director of Operations, and Helen Simpson, Finance Director.
- 3.1.3 The Chief Officer Resources and Strategy, Adults and Health was consulted on 2 October 2018 regarding budget for future provision of the service.
- 3.1.4 The Executive Member for Health, Wellbeing and Adults was briefed on future intentions for the service during December 2018.

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

- 3.2.1 An Equality, Diversity, Cohesion and Integration Screening Tool has been completed and is attached to this report as Appendix 1.
- 3.2.2 A full Equality, Diversity, Cohesion and Integration assessment will be completed for any subsequent re-procurement following the outcome of the market sounding exercise for these services.

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

- 3.3.1 By supporting people to lead alcohol free lives these services are delivering the vision contained within the Best Council Plan for Leeds to be the best city for health and wellbeing where more people are supported to make healthy lifestyle choices and to live safely, with choice and control over their health and social care services.
- 3.3.2 The residential alcohol rehabilitation and residential detoxification services directly deliver on the priorities set out in the Leeds Drug and Alcohol Strategy and Action Plan for 2016 – 2018 (including the recently updated strategy due for publication in 2019) making a significant contribution to the outcome "More people to recover from their drug and alcohol misuse and the harms it can cause" and the associated key indicators:
  - Number of successful completions from drug and alcohol treatment
  - Re-presentations to drug and alcohol treatment services
  - Alcohol related hospital admission rates, both specific and attributed

### **3.4 Resources and value for money**

- 3.4.1 The maximum p.a. equivalent cost of the 6 month interim contracts will be no greater than the current cost of delivery including the additional funding being provided for agreed expenditure above the existing contract values.
- 3.4.2 To simplify approvals and payments it is proposed that the contract values be adjusted to include the expenditure for which additional funding is being provided in 18/19 including the Illy System costs that have now passed to St Anne's. The submission of a breakdown of expenditure incurred on a quarterly basis will be a requirement of the monitoring process for payment.

3.4.3 Based on analysis of costs and information provided by St Anne's the proposed contract values for the 6 month period are as follows:

<u>Cost</u>	
Detox Contract (6 mth)	£185,750
Rehab Contract (6 mth)	£179,250
TOTAL Apr–Sept 19/20	£365,000
Annual Equivalent	£730,000

<u>Budget</u>	
PH Funding (towards detox)	£134,360
iBCF £	£182,560
Adults and Health	£48,080
TOTAL Apr–Sept 19/20	£365,000

3.4.4 Funding availability for both contracts has been agreed by the Head of Finance, Adults and Health.

3.4.5 The weekly unit costs based on the proposed contract values continue to represent value for money when compared with the cost that would be incurred if service users had to go to other providers outside Leeds for treatment.

	<b>St Anne's</b>	<b>Other (out of area)</b>	<b>Variance</b>
<b>Detox</b>	£1,429	£1,500 to £1,750	£71 to £421
<b>Rehab</b>	£406	£470 to £650	£64 to £244

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

3.5.1 The decisions to award the two contracts are both Significant Operational Decisions and therefore not subject to call-in as the value of each six month contract is greater than £100k but less than £250k.

3.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules.

3.5.3 Awarding a new contract directly to the existing provider 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 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.

3.5.4 The Director of Adults and Health has considered this and, due to the nature of the service being delivered and the requirement to be physically located in Leeds, is of the view that the scope and nature of the two six month contracts is such that they would not be of interest to providers in other EU member states. Also, this type of contract will fall within the Social and Other Specific Services within the Public Contracts Regulations 2015 and the value of the contracts is below the threshold for such contracts. However, note again the comments in 4.5.3 above.

- 3.5.5 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.
- 3.5.6 It is the Council's intention that these services will in due course be competitively tendered should the Market Sounding Exercise currently being undertaken demonstrate there is sufficient market interest from suitably qualified providers to deliver these services safely and effectively within available budget.
- 3.5.7 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.
- 3.5.8 These 6 month interim contracts are both being sought to allow sufficient time to undertake a competitive procurement exercise, which mitigates the risk of challenge from other providers to some extent. Although a waiver has been requested in the past for the same reason, ongoing budget issues have resulted in there being insufficient time to undertake a procurement exercise.
- 3.5.9 The decision to utilise any of the 6 month extension periods available will be subject to separate decisions taken at the appropriate time.

### **3.6 Risk management**

- 3.6.1 If a waiver to enter into 6 month contracts for these two services is not approved, there is a risk that the existing services will either cease or continue on an implied basis. If services cease there will be no service continuity whilst re-procurement following the outcome of the market sounding exercise is undertaken. This would significantly impact on the drug and alcohol treatment system in Leeds by reducing the number of people successfully completing treating which in turn would have a detrimental effect on performance indicators monitored by Public Health England.
- 3.6.2 Allowing the services to terminate would also impact upon the budget for out of area residential detoxification and rehabilitation, which is already under pressure. Although the numbers of people accessing out of area residential provision would increase, the overall numbers of people accessing residential provision would be less as out of area unit costs are higher and for detox the programmes are significantly longer. In addition there would be an associated increase in waiting times.
- 3.6.3 The majority of service users accessing residential detox and rehab treatment at St Anne's are, or have been, drinking at hazardous levels with many having complex mental and physical health needs. Any delay in accessing these services could result in an increase in unplanned hospital admissions (including A&E) and in the worst case scenario, an increase in alcohol-related deaths in service.
- 3.6.4 The proposed contracts will continue to be performance managed by officers in ASC. This includes regular reviewing of performance information and quarterly contract management meetings with the provider, at which any service delivery issues are discussed. Officers will continue to work with St Anne's during the new contract periods to monitor the cost and quality of service provision and provide support and guidance in managing these risks.

## **4. Conclusions**

- 4.1 Putting interim contracts in place with St Anne's for the residential alcohol detoxification and rehabilitation services is a cost effective way to ensure continuity of provision until evaluation of the market sounding exercise and longer term re-procurement of the service is complete. This supports service user choice and access to safe, effective treatment and the achievement of alcohol and wider health outcomes.

## **5. Recommendations**

- 5.1 The Director of Adults and Health is recommended to approve the waiver of Contract Procedure Rules (CPRs) 9.1 (requirement of competition) and 9.2 (invitation of a minimum of four written tenders) using the authority set out in CPR 1.3, in relation to high value procurements, and award St Anne's Community Services a 6 month contract for the Residential Alcohol Detoxification Service commencing 1st April 2019 and expiring on the 30th September 2019 with the option to extend for a further period of up to 6 months in any combination. The maximum sum of the six month contract shall not exceed £185,750.
- 5.2 The Director of Adults and Health is recommended to approve the waiver of Contract Procedure Rules (CPRs) 9.1 (requirement of competition) and 9.2 (invitation of a minimum of four written tenders) using the authority set out in CPR 1.3, in relation to high value procurements, and award St Anne's Community Services a 6 month contract for the Residential Alcohol Rehabilitation Service commencing 1st April 2019 and expiring on the 30th September 2019 with the option to extend for a further period of up to 6 months in any combination. The maximum sum of the six month contract shall not exceed £179,250.

## **6. Background documents<sup>1</sup>**

- 6.1 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.