



Report of Commissioning Manager and Advanced Health Improvement Specialist

Report to Director of Public Health

Date: 26th April 2019

Subject: Specialist Children and Family Weight Management Service – Request to waive CPRs 9.1 and 9.2 using the authority set out in CPR 1.3 to enter into interim contract with Leeds Community Healthcare Trust for a period of 12 months commencing 1st May 2019 with the option to extend for a period of up to 12 months

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	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: 10.4 (3) Appendix number: Appendix 1, Appendix 2, Appendix 3	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

What is your reason for seeking to waive CPRs?

There is a genuine, unforeseeable emergency meaning there is no time to go through a procurement process (e.g. to deal with the consequences of extreme weather).	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
To purchase supplies or services on particularly advantageous terms due to liquidation/administration.	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Requirement to put a contract in place with a current provider whilst a review of the services is completed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Ran out of time to undertake a new procurement exercise	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Other (please provide summary here)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Leeds City Council commissions a family healthy living programme that provides services promoting healthy weight for children and families by providing physical activity and healthy eating sessions, and delivering a tailored weight management programme.
2. The family healthy living programme is currently delivered through separate contracts with four local providers (Health for All, The Works, Leeds Community Healthcare Trust (LCH) and DAZL). A 12 month extension was recently put into place for the existing contracts with third sector providers for the delivery of children's physical activity and healthy eating services from 1st April 2019. This will allow further time for the providers to integrate and develop aligned and varied services, which are attractive to those who need them.
3. The current contract with LCH to deliver the Watch-It children's weight management service is due to end on 30th April 2019. A 1 month contract variation was applied from the 31st March 2019 to allow time to agree the new service specification and to vary the children's weight management service into the 0-19 Public Health Integrated Nursing contract as of 1st May 2019. LCH have subsequently indicated that they are un-able to deliver the full service against the fixed budget and therefore a variation into the 0-19 Public Health Integrated Nursing Service contract is no longer an option.
4. This report is seeking approval for a new contract to be awarded to Leeds Community Healthcare Trust to ensure service continuity, provide the necessary time to review, re-scope the service and establish the procurement route to deliver a value for money service.

Recommendations

In respect of the Specialist Children and Family Weight Management Service, the Director of Public Health is recommended to:

- (i) Grant approval to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 (high value procurements) to enter into new contracts from 1st May 2019 with the current NHS provider.
- (ii) Approve the contract to **Leeds Community Healthcare Trust** in the sum of £112,500 per annum. The contract shall commence on the 1st May 2019 and expire on the 30th April 2020 with the option to extend for a period of up to 12 months.
- (iii) Note the new contract is required to prevent service disruption as there are no further contract extensions available on the existing contract.
- (iv) Acknowledge that elements of the proposed specification will not be delivered following feedback from Leeds Community Healthcare Trust that these are not affordable and therefore a reduced service specification is being offered for this period which, it is considered, does not offer best value longer term.
- (v) Note the new contract will ensure service continuity, provide the necessary time to review the provision of child weight management services, re-scope the service and establish the procurement route to deliver a value for money service.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 (high value procurements) to enter into new contracts from 1st May 2019 with the current NHS provider Leeds Community Healthcare Trust (see table 1).
- 1.2 The new contract is required to prevent service disruption as there are no further contract extensions available on the existing contract. We acknowledge elements of the new specification will not be delivered and that this is not satisfactory long term. The new contract will however ensure service continuity, provide the necessary time to review, re-scope the service and establish the procurement route to deliver a value for money service.

Contract details (Table 1)

Provider	Contract name	Existing Contract Ref	Contract Value
Leeds Community Healthcare NHS Trust	Specialist Children and Family Weight Management Service	DN192129	£112,500

2 Background information

- 2.1 On 1st April 2013, the Leeds Primary Care Trust (PCT) ceased to exist and the Public Health function transferred to Leeds City Council as set out in the Health and Social Care Act 2012. Through a Statutory Instrument under the Act functions, resources, ring-fenced budget and assets and liabilities, including contracts, transferred to the Council via two transfer schemes.
- 2.2 In order to ensure service continuity and compliance with the Council's CPRs, Public Health worked with Procurement and Commercial Services (PACS) to ensure all contracts were reviewed and providers were formally awarded contracts based on Local Authority/Department of Health terms and conditions. These contracts delivered key public health services such as healthy living, smoking cessation and weight management.
- 2.3 A new contract was awarded to LCH on 1st April 2015 to ensure stability and continuity of healthy living services whilst a strategic review and competitive procurement was undertaken. This contract included services that deliver smoking cessation, weight management (children's and adults) and healthy lifestyles service.
- 2.4 These services were subject to short-term interim contracts from 1st April 2017 to provide service continuity whilst the procurement for the Integrated Health Living Project was completed.
- 2.5 The Integrated Healthy Living project was part of the Leeds City Council's Health Breakthrough Project "Early Intervention to Reduce Health Inequalities" and was reported to Executive Board on 9th March 2016, who gave authority for the project to progress and for new services to be procured. The Integrated Healthy Living Service comprised two elements:
- **One You Leeds** provides a holistic approach to delivering adult healthy living services (including smoking cessation and weight management). The procurement for this element was successful and the new service started on 1st October 2017.
 - **Family Healthy Living Programme** was due to provide services for promoting healthy weight for children and families by providing physical activity and healthy eating sessions

and delivering tailored weight management programmes. The procurement for this element was unsuccessful following a detailed review of the tender submissions.

- 2.6 The current contract arrangements to deliver the family healthy living programme were put in place on 1st October 2017 for 18 months (with an option to extend for a further 12 months) following the unsuccessful procurement to commission a single contract delivering the family healthy living programme.
- 2.7 Since 1st October 2017, Public Health Specialists working with Commissioning and Contract Officers have worked closely with the providers to ensure the services cover all aspects of the healthy living agenda, reflect the latest evidence base, are co-located where possible, and service users are able to access both specialist weight management services and suitable physical activity/healthy living sessions, particularly in more disadvantaged areas of the city. Contract monitoring of these new ways of working is showing early successes including increased referrals between services and sharing of delivery venues.
- 2.8 LCC have recently been working with HENRY, a national charity who support families to help babies and young children get the best possible start in life by making positive lifestyle changes, to collaborate with LCH to design and develop a family based weight management programme for 5 to 11 years as part of their tailored weight management service. This new programme will build upon a key element of the Council's "Child Healthy Weight Plan" where HENRY provide training and resources to enable Early Start Teams to offer evidence based local HENRY parents groups (under license) to families of under 5 year olds across the city.
- 2.9 The Council has recently awarded the 0- 19 Public Health Integrated Nursing Service (PHINS) contract to LCH following a negotiated procurement procedure. The contract starts from 1st April 2019 until 31st March 2023, with the option to extend for a further 2 plus 2 years. The new 0-19 PHINS model brings together three services (Health Visiting (0-5), School nursing (5-19) and Oral Health Promotion. The service is responsible for the delivery of the Healthy Child Pathway, which includes the prevention and management of child obesity and the delivery of the National Child Measurement Programme.

3 Main issues

3.1 Reason for Contracts Procedure Rules Waiver

- i. The previous contract with LCH to deliver Watch It - children's weight management service expired on 31st March 2019.
- ii. A one month contract extension was approved to enable additional time to complete the discussions with LCH, finalise the new service specification and complete the variation into the 0-19 Public Health Integrated Nursing Service contract. LCH had raised time constraints regarding their internal governance procedures and considered one month sufficient time to achieve this.
- iii. LCH have subsequently very recently highlighted they cannot deliver the new service specification for the fixed budget. The key areas they are unable to deliver on are:
 - a) Access to a multi-disciplinary team for the design and development of the service
 - b) Delivery of physical activity sessions for the children and young people
 - c) Provision of interactive healthy eating sessions
 - d) An appropriate use of an obesity-associated tool assessment
 - e) Unable to deliver sessions in community venues

- iv. It is recognised that LCH did at one time deliver all aspects of their current specification for the £112,500 including convening a multi-disciplinary team to support service delivery and development, and the provision of a regular physical activity session as part of the classic programme. Given this and LCH current proposal it is felt this new procurement approach is likely to provide better value than undertaking a contract variation to integrate the service into 0-19 PHINS contract.
- v. A new contract will ensure service continuity, provide the necessary time to review the provision of child weight management services, re-scope the service and establish the procurement route to deliver a value for money service.

3.2 Consequences if the proposed action is not approved

- 3.2.1 Continuity of this service is necessary to maintain progress towards meeting both the public health responsibilities of the Council, and the priorities set out in the health and wellbeing strategy. If the service does not continue there would be no specialist child weight management service for overweight children and families to access support and this would increase child obesity levels and inequalities across the city.

3.3 Advertising

- 3.3.1 There is no proposal to undertake a formal tendering exercise for these services due to the reasons set out in this report.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Previous consultation has been undertaken with the providers, Public Health leadership team, Public Health Children's and Families team and the Executive Member for Health, Wellbeing & Adults (on 20.11.18) about the proposed approach to vary the contract into the 0-19 Public Health Integrated Nursing Service as of 1st May 2019. As this option is no-longer considered to be in the interests of the service users long term it is proposed additional consultation will be undertaken as part of the procurement process.
- 4.1.2 There will be no impact on families or children as the current service will continue to support them.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An equality impact assessment screening tool (EIA) will be completed as part of the proposed procurement process.

4.3 Council Policies and City Priorities

- 4.3.1 Continuity of the identified services will support the delivery of key public health priorities, which will help to deliver:
 - Vision for Leeds 2011 to 2030
 - Leeds Health and Wellbeing Strategy 2016 – 21
 - Best Council Plan 2015 – 20
 - Children and Young People's Plan 2015-2019

- The NHS Five Year Forward View and NHS Planning Guidance
- Leeds Child Healthy Weight Plan 2018-2021
- Leeds Inclusive Growth Strategy 2018-2023

4.4 Resources and Value for Money

- 4.4.1 The costs for the family healthy living programme contracts will be met by Public Health revenue funding. These services have already been subject to a series of cuts following Central Government's cuts to the ring-fenced public health grant. No further cuts are proposed at the present time.
- 4.4.2 The new contracts will continue to be closely contract managed to ensure robust performance monitoring takes place and value for money is being achieved for the Council.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This is a Significant Operational Decision which is not subject to Call In and there are no grounds for treating the contents of this report as confidential with the Council's Access to Information Rules.
- 4.5.2 Awarding the new contracts direct to this 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 could be of interest to contractors on 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.
- 4.5.3 The Director of Public Health has considered this and, due to the nature of the services being delivered, the relatively low contract value 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.
- 4.5.4 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.
- 4.5.5 Although there is no overriding legal obstacle preventing the extension or variations of contracts covered in this report, the contents of this report should be noted. In making their final decision, the Director of Public Health should be satisfied that the course of action chosen represents best value for the Council

4.6 Risk Management

- 4.6.1 The new contract arrangements as described in this report, will allow continuity of service provision and enable the Council and the providers to continue to work together to integrate and enhance services whilst developing new service requirements to meet future needs. This

contract will continue to be performance managed by the Council to ensure value for money is being achieved and any performance issues can be addressed.

- 4.6.2 Without this new arrangement, this service would fall out of contract causing significant risk to the Council and its providers. Should the service not continue to be delivered beyond the expiry of the current contract, this would result in people being without support, and increases in child obesity levels and health inequalities across the city.

5 Conclusions

- 5.1 This report is seeking approval for a new 12 month plus the option to extend up to a further 12 months contract with LCH for the continued delivery of the specialist children and family weight management service. The preferred option is to have an interim reduced service rather than no service at all and this new contract will ensure service continuity until 30th April 2020. This is in the best interests of the children and families that LCH are currently working with and it will provide the Council time to proceed with a procurement for a new service.
- 5.2 This new contract will be offered on Local Authority standard terms and conditions, a review of performance measures will take place and implemented to ensure robust performance monitoring takes place in order to ensure the Council receives value for money.

6 Recommendations

- 6.1 In respect of the Specialist Children and Family Weight Management Service, the Director of Public Health is recommended to:
- (i) Grant approval to waive Contracts Procedure Rules (CPRs) 9.1 and 9.2 (high value procurements) to enter into new contracts from 1st May 2019 with the current NHS provider.
 - (ii) Approve the contract to **Leeds Community Healthcare Trust** in the sum of £112,500 per annum. The contract shall commence on the 1st May 2019 and expire on the 30th April 2020 with the option to extend for a period of up to 12 months.
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 - (v) Note the new contract will ensure service continuity, provide the necessary time to review the provision of child weight management services, re-scope the service and establish the procurement route to deliver a value for money service.

7 Background documents

- a) Appendix 1 - Service specification - **Confidential**
- b) Appendix 2 – Key performance indicators - **Confidential**
- c) Appendix 3 - Response to LCH proposal April 2019 - **Confidential**