

**Report of Head of Complaints**

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

**Date: 30 October 2019**

**Subject: Waiver of Contract Procedure Rules (CPRs) 8.1 and 8.2 using the authority set out in CPR 3.1 to enter into a contract with AKD Solutions for the provision of Complaints Training for Adults and Health staff**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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**

**1. Main issues**

- Adults and Health Directorate wish to award a contract to AKD Solutions for the delivery of high quality complaints training for its staff who are involved in resolving and responding to complaints in line with The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 and the NHS Bodies and Local Authorities (Partnership Arrangements, Care trusts, Public Health and local Healthwatch) Regulations 2012.
- The complaints regulations requires that frontline staff and Managers are trained to handle, progress and resolve concerns and complaints and trained to develop key skills, through learning and ongoing training.
- The report seeks permission to waive Contract Procedure Rules (CPRs) 8.1 and 8.2 using the authority set out in CPR 3.1 to enter into a contract with AKD Solutions for the provision of complaints training for Adults and Health Directorate staff and staff of commissioned services involved in resolution of complaints. The contract will be for 5 years and a potential 12 month extension. Training will be provided to groups of staff according to need so the contract value may vary. The training is charged at £1,600 for a full day session a 6 per cent increase from £1,500 per day. The Council has committed to purchase 10 full training days per

annum which means at a maximum, the value of the contract will be £16,000 per annum, £80,000 for the five years and £96,000 to include the option to extend for a further year.

## **2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- Complaints training and ensuring that staff are clear of their role in identifying mistakes, putting them right and learning from them, as quickly as possible will contribute to the Best Council Plan by meeting the ambition of Leeds Council being efficient and meeting this by ensuring that staff are effective and have the right knowledge and skills.

## **3. Resource Implications**

- Because the Council are required to ensure that frontline staff and managers understand the complaints system and their role within it, the complaints training is funded from annual provision within the organisational and workforce development budget.

## **Recommendations**

- a) The Director of Adults and Health is recommended to waive Contract Procedure Rules (CPRs) 8.1 and 8.2 using the authority set out in CPR 3.1 to award a contract to AKD Solutions for the provision of complaints training for Adults and Health Directorate staff and staff of commissioned service providers who are involved in resolution of complaints, for the period of 5 years at a maximum value of £16,000 per annum, with a total value of £80,000 for the full contract period and £96,000 to include the option to extend for a further year. The contract shall commence on the 25 October 2019 and expire on the 24 October 2024 and potential 12 month extension.
- b) The Director of Adults and Health to note that the Head of Complaints is responsible for implementation and will implement the contract with AKD Solutions as soon as possible following the decision being made.

## **4. Purpose of this report**

- 4.1 To seek approval for the award of a contract to AKD Solutions for the delivery of high quality complaints handling training for Adults and Health Directorate staff of commissioned service providers involved in resolution of complaints.

## **5. Background information**

- 5.1 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 require the National Health Service and Adult Social Care to establish and implement a procedure for dealing with complaints and representations.
- 5.2 The Local Government and Social Care Ombudsman (the Ombudsman) has statutory powers to consider complaints about the functions of councils, including their adult social care departments and the adult social care services they operate

and commission. From 2009, their role in providing independent redress was extended to all adult social care providers registered with the Care Quality Commission (CQC), the regulator for health and social care. This means the Ombudsman also deals with unresolved complaints about care arranged, funded and provided without the involvement of a local council.

- 5.3 The Ombudsman has made it very clear that it will hold commissioners to account for their commissioned service providers' failings. In view of this, the complaints training is extended to staff of commissioned service providers. It is important for commissioned provider staff to understand the health and social care statutory complaints procedure and how this dovetails to their systems. The training also aims to build capability and capacity in resolution of complaints which are made directly to the providers about Leeds City Council, Adults and Health commissioned services.
- 5.4 Further, the Adults and Health Directorate has implemented an information sharing protocol with commissioned service providers. This provides clear arrangements for providers to share information about Leeds commissioned services i.e. compliments and complaints.
- 5.5 A person is eligible to make a complaint under the statutory complaints procedure where the Local Authority and the Health Service have a power or duty to provide or secure a service.
- 5.6 People using health and social care services often need support if they wish to complain or they want to suggest an idea to improve services. The regulations require that health and social care services have clear and well understood arrangements for the handling and consideration of complaints.
- 5.7 In order to ensure that the complaints procedure is clearly understood and people who may wish to access the service are well supported, the following training is provided:-
  - a. Providing complaints training to front line staff and first line managers
  - b. Providing complaints training to Service Delivery Managers and Heads of Service involved in investigation and/or review of complaints
  - c. Providing complaints training to voluntary sector organisations so that they understand the health and social care complaints procedure and how they can support people who may wish to access the service
  - d. Providing complaints training to commissioned provider Registered Managers and Supervisors involved in resolving complaints to ensure they understand the complaints procedure and how their systems must dovetail the health and social care complaints procedure
- 5.8 In addition to the complaints regulations, following the Mid-Staffordshire failings, the Secretary of State made the improvement of complaints handling and improving people's experience of the health and social services a priority. Health and Social Care organisations are required to ensure that staff are adequately trained, supervised and supported to deal with complaints effectively.

## **6. Main issues – Reason for Contracts Procedure Rules Waiver**

- 6.1 Soft market testing was undertaken prior to commissioning specialist trainers by seeking two quotes where feasible. Searches and enquiries have been made across specialisms which best meet required development outcomes to achieve the minimum spend possible for the skills and experience of trainers.
- 6.2 Waiving the contracts procedure rules for selected specialist training suppliers will ensure retention of their services. It will ensure that their understanding of adult social care services, key processes and policy developments are maintained. This is of considerable value to ongoing service delivery.
- 6.3 In allowing the current providers of services to deliver services from 25<sup>th</sup> October 2019, Leeds City Council will benefit in the following ways:-
- Continuation of the current provider best ensures continuity in service delivery
  - Contract monitoring arrangements indicate that current providers are meeting their performance objectives
  - Research by OD officers has established that the present provider offer the best market price and quality and would continue to offer the best value for money option

## **7 Consequences if the proposed action is not approved**

- An increase in the minimum cost of the training. Soft market testing has established that a comparable experienced alternative provider will result in an increase in the charge of courses
- Generalist trainers have limited knowledge and understanding of local networks to current training provision
- A resultant loss of expertise of established trainers who have considerable experience working with adults and health, their commissioned services and voluntary sector organisations involved in supporting people who may wish to access the statutory complaints procedure
- Unable to continue to provide same level of specialist training provided.

## **8 Corporate considerations**

### **8.2 Consultation and engagement**

- 8.2.1 The Executive Member for Health, Wellbeing and Adults has been briefed on this decision.
- 8.2.2 The Head of Complaints has consulted colleagues in the Yorkshire and Humberside for options available regarding organisations who deliver health and social care statutory complaints training. The only organisations known to specialise in delivering the statutory complaints procedure training are Bond Solon and AKD Solutions.
- 8.2.3 Desk top consultation has therefore taken place with the two providers to identify the training they are able to deliver and what the financial impact of the delivery of

this training is. The results of this desk top consultation has informed the decision to opt for AKD Solutions.

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

8.3.1 An Equality and Diversity Impact Assessment Screening Tool has been completed and is included at Appendix 1.

### **8.4 Council policies and the Best Council Plan**

8.4.1 The following policies are related to the recommendations of this document:

- Best Council Plan
- Vision for Leeds
- Leeds Adult Social Services Workforce Strategy

#### Climate Emergency

8.4.2 When making arrangements for the training, we target staff groups and, therefore, the training is mainly held in services. This helps cut down on staff travelling to the city centre to attend training and, therefore, reduces unnecessary carbon emissions.

8.4.3 Unnecessary printing is also avoided by not printing training manuals. These can now be sent out electronically.

### **8.5 Resources, procurement and value for money**

8.5.1 The AKD cost for a full day session is £1,600. In addition, AKD does split the session into half days and, therefore, doubles the number of delegates that can attend per day.

8.5.2 The Council as a maximum has committed to purchase 10 full training days per annum which means at a maximum, the value of the contract will be £16,000 per annum and a maximum of £80,000 across the five year contract and potential extension of 1 year taking maximum to £96,000.

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

8.6.1 Whilst the value of the decision is under £100,000 this report is submitted as a significant operational decision as it is a waiver of contract procedure rules. As a significant operational decision it is not subject to call-in.

8.6.2 There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

8.6.3 Awarding these contracts directly to this training provider may leave the Council open to a potential claim from other providers, to whom these contracts could be of interest that it has not been wholly transparent as the opportunity is not being advertised. In terms of transparency, it should be noted that case law suggests that the Council should always consider whether contracts of this value would be of interest to providers in other Member States and if it would, subject the matter to a degree of European wide advertising.

- 8.6.4 The Director of Adults and Health has considered this and, due to the specialist nature of the services being delivered, the requirement of the services to be delivered in Leeds and the relatively low value of these contracts is of the view that it would not be of interest to contractors in other EU Member States.
- 8.6.5 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.
- 8.6.6 Although there is no overriding legal obstacle preventing the waiver of CPR 8.1 and 8.2, the content of the report should be noted. In making their final decision, the Director of Adults and Health should be satisfied that the approved course of action represents best value for the council.

## **8.7 Risk management**

- 8.7.1 Health and Social Care has a statutory complaints procedure and staff at all levels of the organisation has a role to play in identifying mistakes, putting them right and learning from them, as quickly as possible. In order to do this effectively, staff need the right knowledge and skills. It is a requirement that staff are trained and that they understand their role in handling complaints including carrying out investigations professionally and effectively in order to encourage early resolution and therefore avoiding unnecessary escalation.
- 8.7.2 Staff must also understand how health, social care and commissioned service providers dovetail with one another.
- 8.7.3 The risk if this decision is not agreed is that the staff within the Adults and Health Directorate and those of the commissioned service providers will not be trained and, therefore, may lack clarity of the statutory complaints procedure, how services dovetail with one another and their role in resolving complaints promptly.
- 8.7.4 There is also the risk that staff will not adhere to the requirements of the statutory complaints procedure and be in breach of the regulations. This has the potential to expose the Council to potential compensation payments and reputational damage due to complaint mismanagement which could result in negative publicity.

## **9 Conclusions**

- 9.2 The conclusions of this report is that the waiver of Contract procedure rules (CPRs) 8.1 and 8.2 set out in CPR 3.1 to the total value of £80,000 for the full contract period from 25<sup>th</sup> October 2019 and expire on 24<sup>th</sup> October 2024 (£96,000 if extended for a further year) in order to enter into a contract with AKD Solutions will allow for the delivery of high quality complaints handling training for the Adults and Health Directorate staff and staff of commissioned service providers involved in the resolution of complaints.

## **10 Recommendations**

- 10.1 The Director of Adults and Health is recommended to waive Contract Procedure Rules (CPRs) 8.1 and 8.2 using the authority set out in CPR 3.1 to award a contract

to AKD Solutions for the provision of complaints training for Adults and Health Directorate staff and staff of commissioned service providers who are involved in resolution of complaints, for the period of 5 years at a maximum value of £16,000 per annum, with a total value of £80,000 for the full contract period and £96,000 to include the option to extend for a further year. The contract shall commence on the 25 October 2019 and expire on the 24 October 2024 and potential 12 month extension.

10.2 The Director of Adults and Health to note that the Head of Complaints is responsible for implementation and will implement the contract with AKD Solutions as soon as possible following the decision being made.

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

11.1 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.