

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

Report to Director of Adults and Health

Date: 19th February 2020

Subject: Request to vary the contract awarded to Leeds Centre for Integrated Living (LCIL) for additional funding of £519,850 for 8 months through the modification of contracts during their term under Regulation 72 (1b) (i) & (ii) of the Public Contracts Regulations 2015 commencing 1st August 2020

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 checked="" type="checkbox"/> Yes <input 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 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

1. Main issues

- This report sets out a proposal to vary the contract awarded to LCIL for an additional eight months at a cost of £519,850.
- Adults and Health currently has a contract in place with Leeds Centre for Integrated Living (LCIL) for the provision of Direct Payment Support Services (DPSS). The current contract expires on 31st July 2020.
- In July 2019 CCG formerly agreed to participate in a joint commissioning approach in procuring a DPSS along with Adults and Health and the Directorate of Children and Families. The CCG currently has an ad hoc arrangement with the current provider in facilitating approximately ninety Personal Health Budgets (PHB). The inclusion of the CCG impacted on the procurement timetable as an integrated approach to commissioning the service was to be incorporated.
- A variation is required to enable Working Age Adults (WAA) Commissioning Team to complete a competitive procurement exercise and facilitate a six month mobilisation period. During this period, the Councils HR department will also

facilitate the TUPE transfer of staff from the existing provider back into the Council, as well as allow the continuation of service provision with the current provider whilst these functions are being undertaken.

- The current service is jointly commissioned with the Directorate of Children and Family services. Adults and Health contribution to the value of the contract will be £419,183 and Children and families' value of the contract will be £100,667. The combined value of the varied contract will be £519.850.
- The indicative timeframes are:

Spring 2020	Design and remodel of future provision and tender documentation, including Authority to Procure
May 2020	Commence procurement exercise for payroll and Managed Bank Account
September 2020	Contract Award
October 2020	Commence contract mobilisation and TUPE Transfer
April 2021	New service commences

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

2.1 The Best Council Plan (2015-20) provides the strategic plan for overarching vision for Leeds, including outcomes for the proportion of people who use social care services who have control over their daily life.

- The proposal in this report directly contributes to the Best Council Plan's overarching vision of tackling poverty and reducing inequalities
- The services make significant contributions to a range of the City Priority Plans, but particularly the Health and Wellbeing Plan and its priority to make Leeds the best City for Health and Wellbeing by 2030. This is achieved through supporting clients to make healthy lifestyle choices and to live safely

3 Resource Implications

- The service is jointly commissioned, funding for this variation is being provided by Adults and Health and the Directorate of Children and Families.
- Adults and Health contribution to the contract will be £419,183 and Children and Families, £100,667. The combined value of the contract will be £519.850.

4 Recommendations

4.1 The Director of Adults and Health is recommended to approve the modification of contracts during their term under Regulation 72 (1b) (i) & (ii) of the Public Contracts Regulations 2015 to vary the existing contract with Leeds Centre for Integrated Living (LCIL) commencing 1st August 2020 for the provision of Direct Payment Support

Service for a period of eight months. The service is jointly commissioned with Children's Services. Adults and Health contribution to the contract will be £419,183 and Children and Families contribution will be £100,667. The combined value of the contract will be £519,850.

1. Purpose of this report

- 1.1 The purpose of this report is to seek approval to vary the contract with LCIL to provide information, guidance, training and payroll services to individuals and families in receipt of a direct payment. The varied contract duration is eight months commencing 1st August 2020 and the total value of the contract is £519,850.

2. Background information

- 2.1 The provision of direct payment support services have been commissioned for a number of years through a number of different contracts. The current service was a request to utilise the negotiated procedure without publication of a notice under Regulation 32 (2) (b) (ii) of the Public Contracts Regulations 2015 to enter into negotiations with Leeds Centre for Integrated Living in order to establish a new contract. The service is provided to:
- Adults receiving a direct payment;
 - People with responsibility for a child/young person with Special Educational Needs (SEN) and disabilities who receive a direct payment for the child's education, health or social care needs
 - Young people aged 16-17 with SEN and disabilities who receive a direct payment for their education, health or social care needs.
- 2.2 Adults and Health completed a full review of the Direct Payment (DP) process. As part of the review process, nine members of LCIL staff were relocated to care management working closely with social work teams. The focus of the review considered how Adult and Health, supported by LCIL staff could improve its processes both in terms of the ways in which social work staff help people to set up a DP and how recipients are subsequently supported, through the externally provided service to manage their services, including helping people to recruit and employ their own personal assistants (PAs).
- 2.3 The outcome of the review helped to identify the changes that were required to encourage and support more people to have a DP to enable them to arrange and manage their own care. This included developing and implementing a pre-pay card scheme, streamlining the administrative and payment processes and looking at ways to help increase and support the PA market.
- 2.4 A contract was awarded in April 2019 for sixteen months to inform the development of a revised specification, undertake consultation regarding the service model as well as prepare for undertaking a procurement exercise whilst enabling the current service provider to continue to deliver its services without disruption to service users.

3. Main issues

- 3.1 A stakeholder engagement event was convened in April 2019, interested organisations engaged and discussed the scope of future service delivery models and aspects of the

potential procurement process, prior to its launch. A total of thirteen providers nationwide registered an expression of interest and twenty nine representatives attended the event.

- 3.2** The information gained from the event and the learning from the review was used to explore a number of service delivery models. Post April 2019 arrangements for the procurement of a Direct Payment Support Service (DPSS) were discussed at Directorate Leadership Team (DLT) meeting, two options of recommissioning a DPSS were considered:

Option 1 – to re-procure the whole service in its current configuration.

Option 2, the advice information and guidance element to be brought back in-house with the TUPE transfer of nine members of the Independent Living Team and the Payroll service to undergo a procurement exercise.

- 3.3** Option 2 was deemed the preferred option and this was supported through the analysis carried out by the Review Project and the outcome of the stakeholders' engagement event.
- 3.4** Through ongoing review and consultation, in July 2019 CCG formerly agreed to participate in a joint commissioning approach in procuring a DPSS. The CCG currently has an ad hoc arrangement with the current provider in facilitating approximately 90 Personal Health Budgets.
- 3.5** Whilst the CCG inclusion is seen as positive, to develop a fully integrated Health and Social Care model of DPSS has necessitated a review of the original procurement timetable as an integrated approach to commissioning the service now has to be incorporated.
- 3.6** Adults and Health, Children and Families and the Leeds CCG undertook a joint public engagement strategy. The CCG developing their consultation with patients and carers in October 2019 whilst Adults and Health; Children and Families shared a parallel six week consultation period in November. All individuals in receipt of a direct payment and/or a personal health budget were sent a questionnaire for completion to comment on the suggested service model in November 2019. The results of the consultation will assist in shaping the service specification for the new contract.
- 3.7** There are approx. 1400 Adults and families receiving a direct payment and approx. 48% of those have their service delivered by PAs. The review identified PA support has been insufficiently developed over the years. Whilst it is recognised that the number of people registering to be a PA has increased, the number of active PAs has remained at the same levels. A more robust and coordinated PA support service which includes a comprehensive standard training package; a coordinated facilitated PA support network and peer support has been identified but the preferred model of delivery has yet to be finalised.
- 3.8** To ensure Leeds CCG, Children's and Families and Adults and Health governance procedures are all adhered to, an additional eight months is needed to complete the procurement exercise. The current contract is due to expire on 31st July 2020, however further approval needs to be sought to vary the contract for an additional

eight months. This will enable the existing contract to continue under the existing terms and conditions until the award of a new contract that will be subject to the full EU Procurement regulations. The new procurement exercise will be awarded in September 2020, with a six month mobilisation period, the new contract will commence 1st April 2021.

Consequences if the proposed action is not approved

- 3.9** If the recommendation to vary the contract is not approved, the continuation of the commissioned service would be disrupted. This would have a significant impact on people in receipt of a Direct Payment who employ a Personal Assistant to provide their own personal care and support rather than access the Councils commissioned services. In the majority of cases, the disruption of services would impact an individual's ability to be an effective employer as is stated in the Care Act 2014.

The possibility exists that if the recommendation to vary the contracts is not approved, the service could continue to be delivered off-contract on an implied basis after 31st July 2020, including all the risks that come with such a scenario.

Advertising

- 3.10** No advertising has taken place in regards to the varying of the contract, the contract considered within this report have not been subject to competition in relation to this decision. As noted within this report, the outcome of the consultation and final specification is currently being undertaken which will provide intelligence that will inform the contract service specification.
- 3.11** The total value of the service is above the Key Decision threshold of £500,000.00 but is below the threshold set down by the Regulations for social and other specific services, which is currently set at £663,540.00. The service is delivered within the Leeds Local Authority region and the provider has extensive knowledge of the service and the people the service delivers to.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1** Ongoing consultation has taken place involving officers from Adults and Health, Children and Families, NHS Leeds Clinical commissioning group and the current provider. The executive member was informed of the report on the 6th February.
- 4.1.2** An engagement event was held in order to consult with potential providers. This enabled us to gather views on how best service provision could be provided as well as brief providers prior to the launch of a formal tender process.
- 4.1.3** Significant consultation has been undertaken as part of the service review, over nine hundred Adults and Children/Families were consulted and 165 responses were received. These responses are being used to inform the decision on a combined service and to shape the detailed specifications on the type of services required.

4.2 Equality and diversity / cohesion and integration

4.2.1 An Equality Diversity Cohesion screening has been completed for this project.

4.3 Council policies and the Best Council Plan

4.3.1 The DPSS contributes and supports a number of strategies and plans that Leeds as a city is aiming to deliver:

- The Vision for Leeds (2011-2030) to be the best city in the UK, one that is compassionate with a strong economy that tackles poverty and reduces inequalities.
- The Best Council Plan (2015-20) provides the strategic plan for overarching vision for Leeds, including outcomes for the proportion of people who use social care services who have control over their daily life
- The Leeds Health and Wellbeing Strategy aims to improve the health of the poorest fastest, including the following priority areas: strong engaged and well connected communities; promote mental health and physical health equality; a stronger focus on prevention; the best care in the right place at the right time and support self-care with more people managing their own conditions.

4.3.2 Climate Emergency

4.3.3 In order to support the Council stated ambition of working towards a carbon neutral city by 2030, the impact on the climate should be considered across all officer work. Through ongoing contract management, providers will be encouraged to actively engage with the climate change agenda. Examples could include adhering to and working within the values of Council policy and guidance in relation to climate change, a reduction in carbon emissions through, for instance, decreasing private vehicle usage, using and/or investing in 'eco-friendly' resources.

4.3.4 Resources, procurement and value for money

4.3.5 This report has been discussed with the Director of Children's and Family Services and an agreement has been reached regarding their financial contribution to the contract.

4.3.6 The total amount incurred over the eight month period will be £519,850; Adults and Health contribution over the period is £419,183 and Children's and Families contribution is £100,667. The current contract value is £1,039,716 and the value of the variation equates to a 49.9% increase. It is deemed to represent value for money as the current provider has not received cost of living price uplifts during the life of the contract; therefore the Council can demonstrate value for money has been achieved over this period. The Service will be subject to a competitive procurement exercise in May 2020, and it is envisaged that through this re-modelling the procurement will achieve further efficiency savings.

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

- 4.4.1 This is a Key Decision which is subject to call-in as the maximum combined cost of services within this decision is more than £500k. A notice was published on the List of Forthcoming Key Decisions on 17th January 2020.
- 4.4.2 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 4.4.3 The modification of contracts is governed under the Public Contracts Regulations 2015 at regulation 72. This considers the extent to which a contract may be modified before it should be considered so substantially changed as to necessitate a new contract. It also requires the consideration of the effect of cumulative variations. Therefore this needs to be considered in taking this decision.
- 4.4.4 The figures set out at paragraph 4.3.6 of this report show the value of the initial contract, and the proposed increase due to the request to vary the contract. Taking these figures into account, the modification of the contract by the addition 8 months equates to a 49.9% (£519,850) of the initial contract value.
- 4.4.5 The provisions of Regulation 72 (1b) (i) & (ii) provide an exception “where all of the following conditions are fulfilled:—
- 72 (1) Contracts and framework agreements may be modified without a new procurement procedure in accordance with this Part in any of the following cases:—
- (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor —
- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and
- (ii) Would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract;
- 4.4.6 In making this variation the above conditions of Regulation 72 (1b) (i) & (ii) are deemed to be satisfied for the following reasons:
- (i) The CCG interest in investing in the service was not confirmed until July 2019 to participate in a joint commissioning approach in procuring a DPSS contract. Adults and Health, Children and Families and the Leeds CCG undertook a joint public engagement strategy. The CCG developing their consultation with patients and carers in October 2019 whilst Adults and Health; Children and Families shared a parallel six week consultation period in November that had an impact on the procurement timetable;
- (ii) The current contractor LCIL is providing services in regards to information, guidance, training and payroll services to individuals and families in receipt of a direct payment and a change of contractor would cause significant inconvenience or substantial duplication of costs for the Council. It is important that the current provider continues to provide the service as it must continue seamlessly if it is to provide an effective service. The additional 8 months is to cover the mobilisation period of the new procurement exercise therefore, all interested parties will be able to submit a formal tender under the new procurement exercise; and

(iii) The request to increase the price to vary the contract period by 8 months is 49.9% which does not exceed 50% of the value of the original contract. The additional funding does not change the overall nature of the contract.

In relying on this regulation, the Council will be required to send a notice to that effect for publication at EU level, in accordance with regulation 51. The Council will wait a minimum of 30 days from publication of the notice before entering into the variation. This gives any other market participants the opportunity to raise any queries or concerns in relation to the variation and reduces the chances of a successful challenge to this decision once the 30 day period has ended.

4.4.7 There is no overriding legal obstacle preventing the variation of this contract under CPRs 21.7 and the contents of this report should be noted. The percentage value uplift of 49.9% is within the value permitted under Regulation 72 (1b) (i) & (ii) of the Public Contract Regulations 2015. In making the final decision, the Director of Adults and Health should be satisfied that the course of action chosen represents best value for money.

4.5 Risk management

4.51 The contract will continue to be performance managed by officers in Leeds City Council Adults and Health section. 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 delivered in accordance with the service requirements and performance criteria outlined in the specification.

5 Conclusions

5.1 Variation to the existing contract from August 1st 2020 for eight months will ensure continuity of service as well as allow fully integrated health and social care model to be developed, undertake procurement activity, and improve service delivery and outcomes for those in receipt of a Direct Payment.

6 Recommendations

6.1 The Director of Adults and Health is recommended to approve the modification of contracts during their term under Regulation 72 (1b) (i) & (ii) of the Public Contracts Regulations 2015 to vary the existing contract with Leeds Centre for Integrated Living (LCIL) commencing 1st August 2020 for the provision of Direct Payment Support Service for a period of eight months. The service is jointly commissioned with Children's Services. Adults and Health contribution to the contract will be £419,183 and Children and Families contribution will be £100,667. The combined value of the contract will be £519,850.

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.