



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

### Report to Director of Adults and Health

Date: 19 February 2020

**Subject: Waiver of Contract Procedure Rules (CPR) 9.1 and 9.2 using the authority set out in CPR 1.3. to enter into a contract with Comfort Call Limited to provide a Carers Emergency Scheme for a period of two years from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2022.**

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

- The purpose of a Carers Emergency Scheme is to promote carer wellbeing by providing 'peace of mind' in that carers know that if an emergency does happen, and they are temporarily unable to provide care, someone they know and trust, or someone who is appropriately skilled and trained, is stepping into their caring role.
- Two Focus Groups were held in order that carers and professionals had an opportunity to influence service design. A proposal was developed to separate out coordination of the scheme from delivery of emergency care
- A Market Sounding Exercise (MSE) was undertaken in order to gauge potential interest from providers and potential costs to deliver the emergency care component of the scheme. The MSE indicated that the service was not viable within the indicative budget
- A second MSE was undertaken based on the existing Carers Emergency Scheme where both coordination of the scheme and the delivery of emergency care, are all undertaken by the same organisation.
- A waiver of CPR is sought to award a contract for 2 years directly to Comfort Call on the basis that following 2 MSE's they are the only suitable provider to respond.

- Risk of challenge is considered low due to the lack of responses to the MSE's, the nature of the services being delivered, the value of the contract being below the threshold set down by the Regulations for social and other specific services (currently £663,540) and the requirement to be physically located in Leeds.

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

- A Carers Emergency Scheme supports the Best Council Plan priority on Health and Wellbeing and Leeds' Best City Ambition of a Strong Economy and a Compassionate City, by setting out how the council will meet the needs of carers and the people they care for in the event of an emergency which means the carer is temporarily unable to provide the care they normally provide
- It also contributes to delivering the vision of the Health and Well-being Strategy and supports the Council's Breakthrough projects, notably 'making Leeds the best city to grow old in' and 'reducing health inequalities'

## **3. Resource Implications**

- The contract value is £192,000 but with the caveat that any increase linked to the Ethical Care Charter rate for home care type services is considered as part of an annual review and any increase in annual costs for year 2 are mutually agreed.
- Funding is from an approved Adults and Health Budget (Adult Carers: 50486).

## **Recommendations**

This report recommends that the Director of Adults and Health:

- a) Waive CPR 9.1 and 9.2 (high value procurements), using the authority set out in CPR 1.3, in order to award a contract to Comfort Call Limited to provide a Carers Emergency Scheme for a period of two years from 1st April 2020 to 31st March 2022. The contract value will be £192,000
- b) Notes the Head of Commissioning (Integration) is responsible for the implementation of this decision which will be done in consultation with Procurement and Commercial Services (PACS).

## **1. Purpose of this report**

- 1.1 The purpose of this report is to seek approval to waive CPR 9.1 and 9.2, using the authority set out in CPR 1.3, in order to award a contract to Comfort Call to deliver a Carers Emergency Scheme for a period of 2 years from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2022

## **2. Background information**

- 2.1 The purpose of a Carers Emergency Scheme is to promote carer wellbeing by providing 'peace of mind' in that carers know that if an emergency does happen, and they are temporarily unable to provide care, someone they know and trust, or someone who is appropriately skilled and trained, is stepping into their caring role.
- 2.2 Although there are regional variances in how carers emergency schemes are delivered, the common aspects of schemes can be summarised as:
- a. Carers register with a scheme and/or complete a carers emergency plan
  - b. An organisation manages registrations and coordinates emergency care and support in the event of an emergency
  - c. An organisation provides emergency care and support where there are no emergency contacts (people, usually family or friends, who know both the carer and the person they care for, and who have agreed that they can be contacted in the event of an emergency and to provide emergency care and support)
- 2.3 Comfort Call are the existing provider of the Carers Emergency Scheme in Leeds. The existing contract was awarded under the instruction of a waiver report for a period of thirteen months from 1<sup>st</sup> March 2019 to 31<sup>st</sup> March 2020 during which time new approaches have been tested out, for example carers completing their own emergency plans. The existing annual contract value is £94,950.
- 2.4 Where carers have completed their own plans it has meant they have been able to register with the scheme quicker than they would have prior to this new approach. It has also reduced home visits by the provider which in turn has an impact on carbon emissions. The number of people registering with the scheme in the contract period is consistent with previous years.
- 2.5 In February 2019 the Director of Adults and Health gave authority to proceed with a procurement process to appoint a suitable provider or providers to deliver a Carers Emergency Scheme from 1<sup>st</sup> April 2020.
- 2.6 As part of the procurement process, Adults and Health committed to:
- Hold Focus Groups in order that both carers and professionals were involved in designing and shaping a new Carers Emergency Scheme
  - Publish a market sounding exercise to provide an opportunity for existing and potential service providers to contribute their views on the design of a new scheme
- 2.7 Two Focus Groups were held in July 2019 in order that carers and professionals had an opportunity to influence service design. Feedback from the groups indicated that some modernisation was required, particularly in terms of:
- Speeding up the time it takes to register with the scheme
  - Clear and unambiguous eligibility criteria
  - Being clear about the role of emergency contacts
- 2.8 A proposal was developed to separate out the coordination of the scheme from the delivery of emergency care. The proposal identified Leeds Tele Care Service as

the potential scheme coordinator with a procurement process to take place to identify a suitably qualified and experienced organisation to deliver emergency care in the event that a carer is temporarily unable to provide the care they normally provide, and where there are no family members or friends who can step in and take over the caring role.

- 2.9 The annual costs identified by Leeds Tele Care Services to coordinate the scheme were £50,000. This included employing three part-time response centre operators to ensure 24/7 cover.
- 2.10 Leeds City Council conducted a Market Sounding Exercise (MSE) in October 2019 in order to gauge potential interest from providers and potential costs to deliver the emergency care component of the scheme.

### **3. Main issues**

- 3.1 Although a total of 14 different organisations viewed the MSE, only 1 organisation responded. The response, which was from an organisation who provide a carers emergency scheme in a different LA, stated their costs to deliver the scheme in that area were £145,000. The absence of any other responses, particularly from established Leeds based home-care providers, can be taken as further evidence that the market feels that delivery of emergency care and support is not viable within the indicative budget. The existing provider did not formally respond to the MSE, as they had indicated separately that their indicative costs would be in the region of £72,000 pa.
- 3.2 On the basis that the MSE indicated that the proposal to separate scheme coordination from the delivery of emergency care was not viable with the indicative budget, Leeds City Council carried out a second MSE based on the existing Carers Emergency Scheme where both coordination of the scheme and the delivery of emergency care, are all undertaken by the same organisation. Two organisations submitted a response, one of which was from the existing provider.
- 3.3 The existing provider stated that the service would be delivered and overseen by a dedicated care coordinator and incorporated into the out-of-hours team to respond to emergency cover 24 hours per day. The indicative annual cost to provide the service is stated as £96,000 which includes an hourly rate for care workers based at Leeds Living wage, pension, overheads and management costs. Any increase in Ethical Care Charter rate for home care type services would need to be considered as part of annual review and any increase in annual costs for subsequent year would need to be mutually agreed.
- 3.4 The second response is from a newly formed home care agency in South Leeds. They state on their response that they have just been registered by CQC to provide personal care and are therefore new entrants into the home-care sector. The provider does not currently have a CQC rating. They state that this service would be the only service they would provide at this stage despite the requirement in the MSE that the scheme would need to be provided by an organisation that has an established domiciliary care service operating in Leeds. The provider submitted an indicative cost of £56.5k. However, their costings do not meet the service requirements as they are based on a fixed number of hours per week with no standby costs built in. Feedback will be provided to the organisation as part of the MSE process.

- 3.5 A waiver of CPR is sought to award a contract for 2 years directly to Comfort Call on the basis that following 2 MSE's they are the only provider that meets the requirements to have responded and submitted a viable bid.
- 3.6 A contract period of 2 years is recommended as this will provide ample opportunity to further refine service delivery and to take into account potential service developments, for example in relation to the NHS Long Term Plan priority for carers contingency planning. This may in turn lead to the service becoming more attractive to potential future bidders.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 Two Focus Groups were held in July 2019 in order that carers and professionals had an opportunity to influence the proposed service design.
- 4.1.2 Two separate Market Sounding Exercises (MSE) have been undertaken to gauge potential interest from providers and potential costs. The second MSE was undertaken as the first MSE indicated that the service model as proposed was not viable within the indicative budget.
- 4.1.3 This work will be reported to the Leeds Carers Partnership which has strong representation from carers, voluntary and community sector organisations and statutory sector partners.
- 4.1.4 The Executive Member for Health, Wellbeing and Adults has been briefed on the contents of this report.

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

- 4.2.1 An Equality, Diversity, Cohesion and Integration Screening Tool has been completed and is appended to this report.

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

- 4.3.1 A Carers Emergency Scheme supports the Best Council Plan priority on Health and Wellbeing and Leeds' Best City Ambition of a Strong Economy and a Compassionate City, by setting out how the council will meet the needs of carers and the people they care for in the event of an emergency which means the carer is temporarily unable to provide the care they normally provide..
- 4.3.2 It also contributes to delivering the vision of the Health and Well-being Strategy including such key elements as:
- An age friendly city where people age well
  - Strong, engaged and well connected communities
  - Maximise the benefits from information and technology
  - Promote mental and physical equality
  - The best care, in the right place and the right time
- 4.3.3 The service also supports the Council's Breakthrough projects, notably 'making Leeds the best city to grow old in' and 'reducing health inequalities'.

## Climate Emergency

- 4.3.4 At Full Council on 27 March 2019, Leeds City Council passed a motion declaring a Climate Emergency. In addition, the Leeds Climate Commission have proposed a series of science based carbon reduction targets for the city so that Leeds can play its part in keeping global average surface temperatures to no more than 1.5°C. A 'City Conversation' is planned for the summer of 2019, to raise awareness, review and refine the options and to start to build public, business and political support for transformative action.
- 4.3.5 Under the proposed arrangements carers will be able to complete their own emergency plans which will reduce the need for home visits thus reducing mileage and carbon emissions.
- 4.3.6 Effective and consistent use of family and friends who have agreed to act as emergency contacts will also keep the number of emergency visits by the provider to a minimum also reducing car journeys and unnecessary hospital admissions.

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

- 4.4.1 The contract value is £192,000 but with the caveat that any increase linked to the Ethical Care Charter rate for home care type services is considered as part of an annual review and any increase in annual costs for year 2 are mutually agreed.
- 4.4.2 Based on the information provided, the minimum cost of separating the coordination of the scheme from the emergency care delivery would be £244,000 for the same 2 year period.
- 4.4.3 Funding is contained within the approved Adults and Health Budget (Adult Carers: 50486).

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

- 4.5.1 The decision highlighted in this report will be taken by the Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 4.5.2 The decision will be classed as a Significant Operational Decision and will be required to be signed-off by the Director of Adults and Health.
- 4.5.3 The decision will be published to ensure transparency and accountability in relation to decision making within the authority.
- 4.5.4 There are no grounds for treating the contents of this report as confidential under the Council's Access to Information rules.
- 4.5.5 Awarding a new contract direct to the Comfort Call 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 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, the undertaking of two separate market sounding exercises, 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.

- 4.5.6 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.
- 4.5.7 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.
- 4.5.8 Although there is no overriding legal obstacle preventing the waiving of CPRs 9.1 and 9.2 in this manner, 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.

## **4.6 Risk management**

- 4.6.1 Should a waiver of CPR not be approved then current customers would be left without appropriate arrangements in place in the event of an emergency and in addition, new carers would not be able to register an emergency plan even if they were able to complete their own plan. This would result in a further request for a short term extension of 6 months while a formal procurement exercise takes place to identify a suitably qualified and experienced organisation. However, the low response to the MSE's indicates a lack of interest from other providers to deliver the service which would most likely to be the case should a procurement process take place.
- 4.6.2 In coming to the decision to approve these recommendations the Director of Adults and Health has considered the nature of the services being delivered and, due to the reasons stated in this report, be satisfied that these services would not be of interest to providers in other EU member states.
- 4.6.3 In making their final decision, Director of Adults and Health will be satisfied that the course of action chosen represents best value for the Council.

## **5. Conclusions**

- 5.1 A Carers Emergency Scheme promotes carer wellbeing by providing 'peace of mind' in that carers know that if an emergency does happen, and they are temporarily unable to provide care, someone they know and trust, or someone who is appropriately skilled and trained, is stepping into their caring role.
- 5.2 A market sounding exercise indicates that separating the coordination of a scheme from the delivery of emergency care is not a financially viable option.
- 5.3 A second market sounding exercise has identified a suitably qualified and experienced organisation who can deliver a carers emergency scheme within the budget available.
- 5.4 A waiver of CPR will ensure the carers emergency scheme continues without disruption to existing customers.
- 5.5 A contract period of 2 years will provide ample opportunity to further refine service delivery and to take into account potential service developments, for example in

relation to the NHS Long Term Plan priority in relation for carers contingency planning.

## **6. Recommendations**

This report recommends that the Director of Adults and Health:

- 6.1.1 Waive CPR 9.1 and 9.2 (high value procurements), using the authority set out in CPR 1.3, in order to award a contract to Comfort Call Limited to provide a Carers Emergency Scheme for a period of two years from 1st April 2020 to 31st March 2022. The contract value will be £192,000
- 6.1.2 Notes the Head of Commissioning (Integration) is responsible for the implementation of this decision which will be done in consultation with Procurement and Commercial Services (PACS).

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

- 7.1 None.

## **8. Appendices**

- 8.1 Equality, Diversity, Cohesion and Integration Screening Tool

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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.