

Report of: Commissioning Manager, Children & Families Service

Report to: Director of Children and Families

Date: 6th March 2020

Subject: Request to approve entering into a cooperation agreement to Leeds Community Healthcare Trust for provision of clinical psychology & speech and language therapy input into the Therapeutic Social Work Team (TSWT)

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: 10.4.3 Appendix number: Appendix 2	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- Children & Families Service currently hold a contract with LCHT for provision of clinical psychology input in to the TSWT. The current contract with LCHT for provision of clinical psychology is due to expire on 31st August 2020.
- The TSWT have identified the need to increase the provision of therapeutic clinical interventions as part of the wider offer of the TSWT. A proposal has been brought together to expand the provision of clinical psychology and also to include an element of Speech & Language Therapy (SaLT).
- It is therefore proposed that most appropriate way of developing the service is via a co-operation agreement under the Regulation 12 (7) of the Public Contracts Regulations 2015. It has been mutually agreed by both parties, that the existing agreement with LCHT for provision of clinical psychology will be terminated early and a new agreement will commence for the increased provision of clinical therapeutic provision. This report seeks approval to establish a cooperation agreement for the new provision.

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

- Improve social, emotional and mental health and wellbeing

- Keeping people safe from harm, protecting the most vulnerable

3. Resource Implications

- The total maximum value of the agreement is £579,926.
- Children & Families Commissioning team will manage the contract in collaboration with TSWT Team Managers.

Recommendations

- a) The Director of Children and Families is recommended to approve entering into a cooperation agreement to Leeds Community Healthcare Trust (LCHT) under the Regulation 12(7) of the Public Contracts Regulations 2015 for provision of clinical psychology & speech and language therapy input into the Therapeutic Social Work Team (TSWT). The total maximum value of the agreement is £579,926
- b) The cooperation agreement shall commence on the 1st June 2020. There are two elements to the contract:
 - a. Element 1 - LCHT will recruit permanent posts (psychology & SaLT) and the agreement will be for 3 years to expire on the 31st May 2023. The value of this element is £445,552.
 - b. Element 2 - LCHT will recruit to a temporary post (psychology) for 12 months to expire initially on 31st May 2021. This element will be reviewed each year with the aim of extending for a further 2 x 12 months; subject to funding being available. The value of this element is £134,374 for the full 3 years. The value for the first year is £44,320.

1. Purpose of this report

- 1.1 To seek approval to enter into a cooperation agreement to Leeds Community Healthcare Trust (LCHT) for provision of clinical psychology & speech and language therapy input into the Therapeutic Social Work Team (TSWT)

2. Background information

- 2.1 Children & Families Service have held a contract with LCHT since 2015 for provision of psychological input into the therapeutic social work team. A short term contract was held with LCHT in 2018/19 for provision of speech & language therapy.
- 2.2 The benefits of these therapeutic interventions to children & young people has been evidenced through contract monitoring, via an evaluation of the service and from feedback from members of staff within the TSWT.
- 2.3 Only LCHT can sufficiently meet the Council's requirements to support some of the city's most vulnerable CYP as part of the coordinated offer of support with the TSWT due to interdependencies with other NHS Community Services provided by LCH.
- 2.4 LCC requires structurally and functionally integrated services to achieve best outcomes for CYP. Structural integration within LCHT delivers seamless interfaces between services provided by LCHT under contracts held by LCHT with NHS commissioners. These interfaces are underpinned by well-developed pathways, shared information systems, shared infrastructure and consistent clinical

supervision and continued professional development. Structural and functional integration ensures a seamless service for CYP accessing a range of health and social services.

- 2.5 Establishing this cooperation agreement will mean swifter access for CYP to LCH services as initial clinical assessments will have been completed prior to referral and so are not subject to the same wait time and consultation clinic protocol as 'external' referrals coming in.
- 2.6 The presence of Clinical Psychology within TSWT is supported by legislative and research papers (NICE 2015; NSPCC 2016; Department of Health and NHS England, 2015) and is supportive of the achieving the outcomes outlined within Leeds Children's and Young Peoples Plan.

3. Main issues

- 3.1 The current contract with LCHT for provision of clinical psychology is due to expire on 31st August 2020.
- 3.2 The TSWT have identified the need to increase the provision of therapeutic clinical interventions as part of the wider offer of the TSWT. A proposal has been brought together to expand the provision of clinical psychology and also to include an element of Speech & Language Therapy (SaLT).
- 3.3 It is therefore proposed, and has been mutually agreed by both parties, that the existing agreement with LCHT for provision of clinical psychology will be terminated early and a new agreement will commence for the increased provision of clinical therapeutic provision. This report seeks approval to establish a cooperation agreement for the new provision.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Following detailed discussions with LCH, and procurement and legal staff within the local authority, it is felt that the most appropriate arrangement for this service is a Co-operative Agreement under Regulation 12 (7) of the Public Contracts Regulations 2015. The work described in section 3 fulfils the requirement required to establish or implement co-operation between contracting authorities:

(7) A contract concluded exclusively between two or more contracting authorities falls outside the scope of this Part where all of the following conditions are fulfilled:—

(a) the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;

(b) the implementation of that co-operation is governed solely by considerations

(c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.

4.2 Equality and diversity / cohesion and integration

4.2.1 The equality, diversity, cohesion and integration screening form is attached as Appendix 1. This form identifies that an impact assessment is not required in this case

4.3 Council policies and the Best Council Plan

4.3.1 The delivery of this service enables Leeds City Council to meet its statutory duty to improve outcomes for young children and their families and reduce inequalities.

4.3.2 This proposal will contribute to a number of the outcomes and priorities within the refreshed Children and Young People' Plan 2018-2023, including

- To ensure all children and young people are safe from harm
- To ensure all children and young people enjoy healthy lifestyle
- To help children and parents to live in safe, supportive and loving families

4.3.3 This proposal also supports the 2019/20 – 2020/21 Best Council Plan priorities to

- Improve social, emotional and mental health and wellbeing
- Keeping people safe from harm, protecting the most vulnerable

Climate Emergency

4.3.4 LCHT will be required to consider the environmental impact of their approach to service delivery. They will be asked to demonstrate how they will reduce their carbon footprint, including making best use of technology and sustainable transport in delivering the outcomes required for this grant funded provision.

4.4 Resources, procurement and value for money

4.4.1 The total maximum value of the agreement for the three years is £579,926.

4.4.2 The cooperation agreement will consist of a detailed service specification, including clear outcomes and performance indicators, and legally binding terms and conditions. This agreement will ensure we have clear expectations of all partners and will ensure accountability for the funding. It will also strengthen our partnership working with LCHT to drive quality and ensure continuous

4.4.3 The quality and value for money of the service will continue to be monitored by the Children & Families Commissioning Team in collaboration with the TSWT Team Managers.

4.4.4 This cooperation agreement represents value for money due to the social benefits detailed in section 2 of this report.

4.4.5 Our intention will be to review this arrangement after 2 years. If future funding is available and mutual benefits are still realised we will look to extend the arrangement beyond the 3 year period.

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

- 4.5.1 The total maximum cost in relation to this cooperation agreement is £579,926. We therefore deem that this decision is subject to call-in and was published on the forthcoming list of key decisions.
- 4.5.2 It is considered that the conditions required to utilise Regulation 12 (7) of the
1. Public Contracts Regulations 2015 (and set out at in 4.1.1 above) are met due to the reasons set out at section 3 above. Also, this agreement is not a procurement for the purpose of the Council Contract Procedure rules (CPR 1.5.2).
 2. If this Regulation is used incorrectly, and it is subsequently determined that the above conditions are not met, the Council will be open to legal challenge that it has breached the procurement rules. Further, an aggrieved contractor could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity.
 3. A Voluntary Transparency Notice (VTN) has been developed for publication in the Official Journal of the European Union (OJEU) in accordance with the Public Contracts Regulations 2015, and waiting 10 days to see if any challenges are made. If no challenges are made the chances of a claim for ineffectiveness being brought are significantly reduced, and would only be successful if the Council had sought to rely upon Regulation 12 (7) incorrectly. Further, publishing such a notice will also start time running for any other potential claim for breach of the Public Contracts Regulations 2015, which must be brought within 30 days of the date that an aggrieved party knew or ought to have known that a breach had occurred.
- 4.5.3 It should be noted that voluntary transparency notices themselves can be challenged. A grey area remains around whether the protection of a voluntary transparency notice will be available where the contracting authority genuinely, but mistakenly, considers it was entitled to award the contract without notice.
- 4.5.4 In making their final decision, the Director of Children and Families should be satisfied that the course of action chosen represents best value.

4.6 Risk management

- 4.6.1 There is a potential risk of challenge if it can be demonstrated that the requirement under Regulation 12(7) are not met. This risk has been significantly reduced by publishing in the Official Journal of the European Union (OJEU) a Voluntary Transparency Notice (VTN). A standstill period will be observed as indicated under section 4.5.2 above prior to formally enter into contract. Until the effective award of this contract take place there is still a potential risk of claims for breach of Public Contracts Regulations 2015 but this risk is low due to the publication of the VTN.
- 4.6.2 The agreement will be performance managed by Children & Families Commissioning team in collaboration with TSWT Team Managers. This includes regular reviewing of service delivery, performance information including any identified risk via quarterly contract management meetings with the provider.

5. Conclusions

- 5.1 Entering into this cooperation agreement to LCHT will ensure some of the most vulnerable young people in the city have access to appropriate and expedient therapeutic interventions as part of a coordinated offer of support from the TSWT.

6. Recommendations

- 6.1 The Director of Children and Families is recommended to approve entering into a cooperation agreement to Leeds Community Healthcare Trust (LCHT) under the Regulation 12(7) of the Public Contracts Regulations 2015 for provision of clinical psychology & speech and language therapy input into the Therapeutic Social Work Team (TSWT). The total maximum value of the agreement is £579,926
- 5.2 The cooperation agreement shall commence on the 1st June 2020. There are two elements to the contract:
- a) Element 1 - LCHT will recruit permanent posts and the agreement will be for 3 years to expire on the 31st May 2023. The value of this element is £445,552.
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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.