

Report of Head of Complaints

Report to The Chief Officer, Resources and Strategy

Date: 19 May 2020

Subject: Authority to procure a contract for the provision of Independent Persons and Independent Investigating Officers

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

- This report is to seek approval to re-procure a contract for the provision of Independent Persons and Independent Investigating Officers. It allows the time to follow a procurement exercise whilst the current contract is nearing its end. The current Contract for Independent Person and Independent Investigation Services to provide services for the Adults and Health and Children’s Services Complaints Teams is due to expire on 31st December 2020 with no extension provisions available (the current contract was previously extended from 31st May 2020).
- This report identifies the contract value and the budget from which the contract will be paid.
- The procurement exercise will enable Adults and Health to offer Best Value, quality, efficiency and consistency whilst meeting our statutory duties.

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

- This Service should operate within the strategic context determined by the national and local agenda for children and young people and the change agenda driving Children’s Services:-
 - For Leeds to be the best city in the UK and the best city for children and young people to grow up in.
 - For Leeds to be a child friendly city.
 - To invest in children and young people to help build an increasingly prosperous and successful city.
 - To improve outcomes for all our children whilst recognising the need for outcomes to improve faster for children and young people from vulnerable and deprived backgrounds.
- This Service should also operate within the strategic context determined by the national and local agenda for older people and the change agenda driving Adult and Health’s increasing focus on the prevention of illness, dependency and the promotion of health, well-being and independence, for instance, the
 - Best Council Plan 2020/21
 - Leeds Health and Wellbeing Strategy 2016-21
 - Leeds Inclusive Growth Strategy 2018-2023
 - Leeds 2030 – Vision for Leeds 2011-30

3. Resource Implications

- The local authority has a statutory duty to investigate complaints in respect of children and young people under the Children Act 1989 Representations Procedure (England) Regulations 2006 and in respect of adults under the Local Authority Social Services and NHS Complaints (England) Regulations 2009. In respect of children and young people, this includes a statutory duty to secure Independent People to investigate complaints at Stage 2 and 3. Whilst there is no such statutory duty in respect of adults, good practice guidance suggests that it may be appropriate to appoint Independent Officers to investigate certain complaints (for example, due to complexity).
- The contract will be funded from the existing Adults and Health and Children’s Services Complaints Teams’ budgets.

Recommendations

- a) In accordance with CPR 3.1.6 the Chief Officer Resources & Strategy is requested to approve a tender exercise to procure Independent Persons and Independent Investigating Officers under CPR9.
- b) The procurement exercise will commence in June 2020 and conclude by December 2020. The contract will commence in January 2021 and expire in December 2025, with the option to extend for a further 12 month period.

1. Purpose of this report

- 1.1 This report seeks authority from the Chief Officer, Resources & Strategy to approve the commencement of a tender exercise for the Independent Persons and Independent Investigating Officers services, under CPR 9, with the new contract to commence on 1st January 2021. The value of the new contract is anticipated to be in the region of £60k per year.

2. Background information

- 2.1 The current Contract for Independent Person and Independent Investigation Services to provide services for the Adults and Health and Children's Services Complaints Teams is due to expire on 31st December 2020 with no extensions available.
- 2.2 To ensure sufficient time for the re-procurement, a variation was completed in April 2020 to vary the end date of the contract from 31st May 2020 to 31st December 2020, in accordance with CPR 21.5-10 and Regulation 72 1(e) of the Public Contracts Regulations 2015.
- 2.3 This extension of 6 months was permitted as a non-material change to the contract, however as this is a statutory requirement there is a need to procure a new contract to commence in January 2021 to replace the current contract upon expiration. Due to the value of the new contract, a formal tender exercise must be undertaken.

3. Main issues

- 3.1 Children Act Regulations requires the involvement of an Independent Person in the consideration of representations including complaints from children, young people and carers.
- 3.2 Whilst there is no such statutory duty in respect of adults, good practice guidance suggests that Local Authorities and NHS Bodies should consider involving Independent Investigating Officers in the consideration of representations (including complaints) on grounds of vulnerability of the complainant or the complexity of the complaint.
- 3.3 An Independent Person should neither be an Elected Member nor an employee of the Local Authority, nor a spouse of an employee or Elected Member of the Local Authority. For this reason the Council has to procure a contract with an external organisation in order to carry out this work.
- 3.4 For the reasons mentioned above, a new tendering process is required. The tendering process will take place in the coming months and a new five year contract will be put in place to commence on 1st January 2021. The contract will have a 12 month extension option. The tender will be published as an open opportunity in accordance with the Contract Procedure Rules 9 (Over £100k – High Value Procurements). Due to the nature of the services provided, the contract falls under Schedule 3 (Social and other Specific Services) of the Public Contracts Regulations, however a full OJEU procurement process under the light touch regime is not required because it does not exceed the financial threshold (currently £663,540) for the light touch regime.

3.5 Undertaking a procurement exercise in accordance with CPR9 will provide an opportunity to review the specifications of the services and enable us to consider the arrangements within the contract and what provides Best Value.

3.6 If the proposed action is not approved, the Council would not have arrangements in place for the appointment of Independent Persons and would be in breach of the statutory complaints procedure regulations.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 As detailed in section 3.5, a tender exercise will be carried out in accordance with the Contracts Procedure Rules, using the council's e-tendering system. By publishing the tender as an open opportunity, the opportunity will be accessible to any potential tenderer in the market. The invitation to tender will be advertised on Leeds City Council Supplier and Contract Management System YORtender.

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no particular equality and diversity/cohesion and integration issues. Due regard to the equality impact assessment process will be undertaken during the re-tendering exercise.

4.3 Council policies and the Best Council Plan

4.3.1 Entering into this tender arrangement will allow the opportunity to attract the best provider who understands the Council's statutory requirements and, therefore, demonstrate how their service can support the Council to meet those requirements and contribute to supporting the Council to achieve its Best Council plans.

Climate Emergency

4.3.2 When making arrangements for undertaking investigations i.e. reviewing files and interviewing staff, considerations should be made to use public transport and/or arranging to meet and interview staff at venues that helps cut down on staff travelling to the city centre and, therefore, reduces unnecessary carbon emissions.

4.3.3 Unnecessary printing is also to be avoided by reviewing information and/or sharing information electronically.

4.3.4 The tendering process will provide potential tenderers an opportunity to evidence their contribution to supporting the council's climate emergency.

4.4 Resources, procurement and value for money

4.4.1 The contract will be funded from existing Adults and Health and Children's Services Complaints Teams' budgets.

4.4.2 Advice has been provided by the Council's Procurement and Commercial Services, who will provide support throughout the tender process.

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

4.5.1 Due to the estimated total contract value of £360,000 (5 years at £60,000 per annum with an option to extend for a further 12 months) this is a Significant Operational decision as defined under article 13 of the consultation, and requires publication but is not subject to call-in under the Scrutiny Board Procedure Rules.

4.6 Risk management

4.6.1 If the Council does not procure a new contract to replace the current contract upon expiration, it will be unable to fulfil its statutory duties in respect of children and young people's complaints, or act in accordance with good practice guidance in respect of adult's complaints. By undertaking a competitive tendering exercise in accordance with CPR9, the Council will ensure that it achieves Best Value for Money.

5. Conclusions

5.2 The provision of Independent Persons is a statutory requirement, therefore, it is essential that we have a contract in place to provide the same. Approval will give the service an opportunity to explore a procurement exercise for the services. The current contract expires at the end of December 2020.

6. Recommendations

- a) In accordance with CPR 3.1.6 the Chief Officer Resources & Strategy is requested to approve a tender exercise to procure Independent Persons and Independent Investigating Officers under CPR9.
- b) The procurement exercise will commence in June 2020 and conclude by December 2020. The contract will commence in January 2021 and expire in December 2025, with the option to extend for a further 12 month period.

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.