

**Report of: Deputy Director Integrated Commissioning**

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

**Date: 17<sup>th</sup> March 2021**

**Subject: Request to vary the contract awarded to Aspire Services (Leeds) Limited for 12 + 12 months through the modification of the contract during their term under Regulation 72 (1b) (i) & (ii) of the Public Contract Regulations 2015, at a per annum cost of £21,038,000 commencing 1<sup>st</sup> August 2021 (DN192185 Learning Disability Community Support Services)**

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 existing contract with Aspire Services (Leeds) Limited for an additional 12 + 12 months at a per annum cost of £21,038,000.
- The existing block contract arrangement DN192185 Learning Disability Community Support Services with Aspire Services (Leeds) Limited (Aspire) expires on 31<sup>st</sup> July 2021, following the invocation of the 12 month contract extension period. Approval was obtained to invoke this extension from the Director of Adults and Health on 25<sup>th</sup> March 2020.
- A review of Aspire's services was undertaken during 2019/20 resulting in a series of recommendations being presented to the Council's Executive Board on 21<sup>st</sup> October 2020. Executive Board approved these proposals and recommendations regarding the longer term commissioning arrangements for the Aspire learning disability services as follows:

- To consult with customers and key stakeholders on a change from a block contract arrangement to individual arrangements for the day opportunities and supported living elements of Aspire's provision. This is in order to give parity with the rest of the Leeds learning disability market, and to ensure that prices for service users' care and support packages are fully individualised in a person centred way. This consultation is now underway and early findings strongly suggest that those consulted are very much in favour of an individualised approach.
- To continue work on a city wide review of respite provision which is being undertaken jointly by the Council with the NHS Leeds Clinical Commissioning Group (CCG). The Aspire respite provision forms part of the scope of this review. The interim findings of the respite review suggest that further work is required to determine the city's respite service requirements, and to consult on remodelling proposals which may then be subject to a competitive tender process. It is anticipated that this process will take around 12 to 24 months to complete.
- The proposals approved by Executive Board require time to implement and as such, the option available now is to vary the existing contract DN192185 Learning Disability Community Support Services with Aspire Services (Leeds) Limited under Regulation 72 of the PCR 2015 for a set period of 12 + 12 months. The intention is that this period will allow sufficient time to conclude the complex negotiations regarding the individualised prices for supported living and day opportunities with the provider. In addition, it will ensure sufficient time to implement these new pricing arrangements in a staged manner, with support and resource from Social Work colleagues, and in a way which fully involves service users and their family carers. Finally, the additional contract period will ensure sufficient time to complete the review and remodelling of respite services in Leeds.
- Any remodelling and procurement of respite provision could not be commenced at this time due to the current national lockdown, when many of the organisations in this sector are either operating limited services or dealing with unprecedented operational issues, including supporting the roll out of the Covid vaccine. To ensure any procurement process is fair and competitive, the 12 + 12 month period will allow the Aspire respite service to be delivered during the current lockdown and until a time when the market is in an improved position to engage.
- The funding envelope has been approved in light of the Council's budgetary issues due to the critical nature of the services.

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

These services contribute to a number of the priorities specified in the 2020-2025 Best Council Plan: Tackling poverty and reducing inequalities, including:

- Inclusive Growth: helping people into paid employment
- Health & Wellbeing: supporting self-care, with more people managing their own health conditions in the community; supporting healthy, physically active lifestyles; working as a system to ensure people get the right care, from the right people in the right place
- Housing: Providing the right housing options to support older and vulnerable residents to remain active and independent

- Safe, Strong Communities: keeping people safe from harm, protecting the most vulnerable; Being responsive to local needs, building thriving, resilient communities.

The Aspire 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 people to make healthy lifestyle choices and to live safely.

### **3. Resource Implications**

- The services are commissioned by Adults and Health and funding for this variation is being provided by Adults and Health.
- Adults and Health funding will be a maximum of £21,038,000 per annum, however, as set out in the service specification, block payments for day opportunities and supported living will gradually reduce or ‘taper off’ as individualised arrangements are implemented in a staged way. It is anticipated that this may take up to 12 months due to the resources required across both Working Age Adults (WAA) Commissioning and Social Work to undertake any care plan reviews and the administrative side of the new arrangements, including setting up payment systems. This period of time will also allow individualised arrangements to be set up in person centred and co-produced way with service users, family carers and key stakeholders.

### **Recommendations**

- a) 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 increase the scope of the existing contract with Aspire Services (Leeds) Limited for the provision of learning disability community support services . This will commence 1st August 2021 for a period of 12 + 12 months at a maximum cost of £21,038,000 per annum.

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

- 1.1 The purpose of this report is to seek approval from the Director of Adults and Health to vary contract DN192185 Learning Disability Community Support Services with Aspire Services (Leeds) Limited to provide an additional 12 + 12 months under Public Contract Regulation 72 (1b) (i) & (ii) on the grounds set out at paragraph 4.5.6 below. The cost per annum will be a maximum of £21,038,000 commencing on 1<sup>st</sup> August 2021. This period of time will be used to implement the recommendations approved by Executive Board in October 2020. Namely, to complete work on a review of respite provision for the city, to consult with service users and stakeholders on any remodelling proposals arising from this, and to undertake a subsequent procurement exercise for city wide respite provision. In addition, this time will be utilised to enable a transition to individualised arrangements for the Aspire supported living and day opportunities services in a person centred and co-produced way.

## 2. Background information

2.1 In 2015 approval was obtained for the Council's in-house learning disability support provision to be "spun-out" through the formation of a new social enterprise called Aspire. Aspire are now commissioned by the Adults and Health directorate to deliver all of the services which were previously delivered in-house, namely; supported living, respite (including emergency respite) and day opportunities (Fulfilling Lives). Aspire employs approximately 800 staff of which 72% are former Council employees who have retained their Leeds City Council terms and conditions.

2.2 Aspire Services (Leeds) Limited have a block contract with the Council for the above provision, but have also secured additional business in relation to one to one support and new services which have been recently developed.

2.3 The block contract was originally issued for five years from 1<sup>st</sup> August 2015 to 31<sup>st</sup> July 2020. The contract contains provision for one 12 month extension period, which has been invoked, resulting in an end date of 31<sup>st</sup> July 2021.

### 2.4 Contract Value

Indicative annual block contract prices for the initial five year period were agreed prior to the services moving over to Aspire Services (Leeds) Limited. However, work is done annually between Aspire and Council finance colleagues to determine and agree what will be included within the block contract price in relation to pensions, staff turnover (when retained historical Council staff leave and new staff are recruited on different terms and conditions), pay inflation as well as any further costs specific to each year e.g. Microsoft licenses. Through the ongoing renegotiation of larger costs within the block contract there has been an overall reduction of approximately 5% since the award of the contract. Aspire and the Council operate a 'contract change log' which reflects in detail any deviation from the above pre-agreed contract prices. The maximum per annum value for the proposed contract extension is £21,038,000.

2.5 Aspire support just under 1000 adults with a learning disability (and their family carers) through day services, supported living services, respite and crisis services. The head office is based in Lower Wortley, Leeds, however, the vast majority of the staff work in numerous locations across the whole of Leeds from where they directly deliver care and support services.

### 2.6 Supported Living

The block contract has provision for 311 individual supported living placements. The support ranges from 24 hour staff on site to visiting support for a few hours each week and advice on all aspects of independent living. Types of accommodation include shared bungalows and houses, individual flats and individual tenancies. The properties are owned by a range of different landlords including Registered Providers of Social Housing and the Council. The Learning Disability Nominations Panel (which is managed by Social Work colleagues) are made aware of any voids in order to fill these as quickly as possible. Voids are generally kept low and there are very few issues filling vacant properties via the Nominations Panel.

2.7 In addition to providing assistance around the home and with developing independence, people who live in the supported living service are supported by Aspire to get involved in their local community and social events. There is no automatic requirement for individuals residing in Aspire supported living to attend Aspire day opportunities: 197 of the 311 supported living service users attend Aspire day opportunities. The performance information return which covered 01/04/18 to 31/03/19 shows that there is an aging population within the Aspire supported living services, with the average age being 57.

## 2.8 Day Opportunities (Fulfilling Lives)

There are 26 non-complex day services providing 577 spaces each week and 3 complex day services providing 65 spaces each week. The average age of people using Aspire day services is 50. Non-complex day services are delivered in mainstream community settings such as leisure centres. Complex placements provide a higher staffing ratio and support some people with complex physical needs (including Continuing Healthcare [CHC] eligible) and people who are living with older carers. These day opportunities are located in three Fulfilling Lives Centres (Bramley, Rothwell and Potternewton). Day opportunities are attended by individuals who live with parents and individuals who live in Aspire or other supported living services.

## 2.9 Respite and Emergency Respite

There are four general respite services each offering five spaces per week. There is also a fifth service providing emergency respite with a capacity of five spaces. The general respite services provide planned respite support whereas the emergency service is for short term stays (three months maximum) where a service user's existing accommodation may have broken down or be at risk (e.g. a family carer goes into hospital or a relationship breakdown occurs). Respite beds are very well-used and are managed by the Learning Disability Respite Panel which is chaired by Social Work colleagues. The panel considers need for respite on a city wide basis (including respite commissioned by the Council and the CCG with other providers) and the Aspire units are pre-booked up to a year in advance.

2.10 Aspire are increasingly accepting people with more complex health and behavioural issues. Such issues, alongside general demand for community vs in-patient health respite are being considered through the review of respite provision which is being conducted jointly by WAA Commissioning and colleagues at the NHS Leeds Clinical Commissioning Group.

## **3. Main issues**

3.1 During 2019/20 a full review of Aspire's service provision was undertaken by officers in WAA Commissioning, which included analysis of the provider's performance and outcomes data, consultation with key stakeholders including Social Work colleagues, a review of customer feedback and a full review of the contract price.

3.2 A number of findings arose through the review:

- Aspire services are highly regarded by both service users and stakeholders.

- The services are considered to be innovative and delivered in a strengths based way.
- The services are delivered across Leeds and are able to demonstrate how they support service users to link in with both specialist and mainstream services within specific localities and communities.
- The cost of the services compares very favourably to other provision within the Leeds learning disability market.
- The block contracting arrangement for supported living and day opportunities makes it challenging to achieve full clarity and true individualisation in relation to service user's care and support packages.

3.3 In October 2020 a series of recommendations were presented to and approved by the Council's Executive Board. These were:

- To consult with customers and key stakeholders on a change from a block contract arrangement to individual arrangements (e.g. Supported Living Individual Service Agreements, or SLISAs) for the day opportunities and supported living elements of Aspire's provision. This is in order to give parity with the rest of the Leeds learning disability market, and to ensure that prices for service users' care and support packages are fully individualised. This consultation is now underway and early findings strongly suggest that those consulted are very much in favour of an individualised approach.
- To continue work on a city wide review of respite provision which is being undertaken jointly by the Council with the NHS Leeds Clinical Commissioning Group (CCG). The Aspire respite provision forms part of the scope of this review. The interim findings of the Respite Review suggest that further work is required to determine the city's respite service requirements, and to consult on remodelling proposals which may then be subject to a competitive tender process. It is anticipated that this process will take around 12 to 24 months to complete.

3.4 Work is underway in relation to both of these areas. Advonet are conducting a detailed consultation project on behalf of the Council to seek the views of service users and family carers on individualised arrangements e.g. SLISAs. As stated above, the initial findings suggest that people are very much in favour. Detailed negotiations are underway between WAA Commissioning and Aspire in order to agree on prices for the individualised arrangements. This work is progressing at pace and Aspire are working very positively and collaboratively towards a mutually agreeable price structure.

3.5 The first phase of the Respite Review has been completed and an 'as is' position has been presented to the Learning Disability Commissioning Review Board along with next steps recommendations. These recommendations have been approved by the Board and CCG colleagues are in the process of agreeing the recommendations which relate to the LYPFT respite provision. The next stage of the review will involve the development of a co-production group between Adults and Health, the CCG and providers to ensure there is the right level of provision in the city to meet needs in a person-centred and cost effective way.

#### **4. Corporate considerations**

## **4.1 Consultation and engagement**

- 4.1.1 Service users are currently being consulted with, as detailed above. Stakeholders, including Social Workers were consulted through the service review which was undertaken during 2019/20, and this feedback was used to inform the recommendations made to Executive Board in October 2020. Consultation will be a key feature of the ongoing Respite Review. To date, 174 families have directly fed into the consultation and families will play a key role in the shaping of future provision.
- 4.1.2 The Executive Member for Health, Wellbeing and Adults received an electronic briefing on the content of this report on 25<sup>th</sup> January 2021.

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

- 4.2.1 An Equality, Diversity, Cohesion and Integration (EIA) Screening Assessment has been completed for this decision, see Appendix 1. The screening tool shows that it is highly unlikely that any protected group will be adversely impacted by the decision to extend the current contract, given that this involves a continuation of existing service arrangements. An EIA screening has also been undertaken in relation to the proposed move to individualised arrangements. The review of respite services will also incorporate its own EIA.
- 4.2.2 Aspire as an organisation are proactive with their efforts to promote equality and diversity within their services and the wider community. A number of day services are run from leisure centres sites which supports service users to play a more active role in their local community. The organisation operate regular cultural awareness days for service users and staff have supported individuals to attend the annual LGBTQ+ Pride parade in previous years. A recent example has seen Aspire working with Hamara to deliver a six week cultural history course via Zoom for service users.

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

- 4.3.1 The Vision for Leeds (2011-2030) is to be the best city in the UK, one that is compassionate with a strong economy that tackles poverty and reduces inequalities. The Aspire service outcomes have direct links to the Best Council Plan's outcomes and are reflected in the way the services are delivered. The high level outcomes from the Best Council Plan are;
- Be safe and feel safe
  - Enjoy happy, healthy, active lives
  - Live in good quality, affordable homes within clean and well cared for places
  - Do well at all levels of learning and have the skills they need for life
  - Enjoy greater access to green spaces, leisure and the arts
  - Earn enough to support themselves and their families
  - Move around a well-planned city easily
  - Live with dignity and stay independent for as long as possible

### Climate Emergency

- 4.3.2 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, the provider 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.

- 4.3.3 The locality based, city wide nature of Aspire provision allows individuals to receive services locally, within their own communities and close to family/carers. This provision directly contributes to maintaining independence and keeping individuals out of more expensive and restrictive environments, i.e. in-patient services. Supporting individuals at home reduces carbon emissions through less family travel time to out of area placements.

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

- 4.4.1 There is provision within the Adults and Health Directorate base budget to cover the cost for the proposed contract variation. However, the work which is currently underway to agree individualised prices with Aspire is likely to enable efficiencies to be made on some costs in order to contribute to the significant budget challenges the council is facing at present. This work is ongoing and is being reported to the Learning Disability Commissioning Review Board as it progresses.
- 4.4.2 Financial information has been provided to WAA Commissioning in the form of completed SCAFs which have been analysed in detail. Value for money (VFM) analysis has shown that the provider's non-staffing costs are exceptionally low. The costs associated with the TUPE staff (former Council staff costs) are substantial and contribute to a higher staffing to non-staffing cost ratio. The provider's average weekly unit costs for all three elements of their provision compare very favourably in the context of the rest of the Leeds learning disability market. There are no VFM concerns regarding the overall analysis of what the block contract costs, compared to what is being paid for – i.e. what is being purchased translates to a fair and transparent picture of costs for the purchase.
- 4.4.5 Significant added value for money is provided by the organisation's long standing history of working with this client group, and the range of additional, complementary initiatives which they also oversee and which service users can benefit from.
- 4.4.7 Any reduction to the contract value imposed before the completion and implementation of the individualised pricing arrangements would potentially undermine and have a detrimental impact the delivery of these services. This could also place a significant amount of additional pressure on other services commissioned by Adults and Health.
- 4.4.9 Adults and Health funding will be a maximum of £21,038,000 per annum, however, block payments for day opportunities and supported living will gradually reduce or 'taper off' as individualised arrangements are implemented in a staged way. There is provision for such an arrangement within the service specification as follows:  
*"The Parties recognise that the Contract Price will adjust over time should Direct Payments and Individual Service Funds result in a reduction in the Council's overall funding for the Service as a result of the transfer of activity from Council budgets to personalised budgets. In these circumstances the Contract Price shall be reduced by the amount corresponding to the reduction in activity level multiplied by the relevant Unit Cost."*



4.4.10 It is anticipated that this move may take up to 12 months due to the resources required across both Commissioning and Social Work to undertake any care plan reviews and the administrative side of the new arrangements, including setting up payment systems. This period of time will also allow individualised arrangements to be set up in a person centred and co-produced way with service users, family carers and key stakeholders. The reason for requesting a period of 12+12 months and not 24 months, is to allow for the fact that the Respite Review work may be concluded within a shorter period of time than 24 months.

4.4.11 The maximum cost of the variation equates to £21,038,000 per annum. The current contract value for 5 + 1 years is in excess of £100M. The value of the proposed variation is therefore no greater than 50% of the current contract. The variation is deemed to represent value for money as this period will allow sufficient time to continue to implement the individualised pricing arrangements for supported living and day services, with an opportunity for efficiencies to be made wherever possible. It will also allow the completion of the respite review and subsequent recommissioning of respite provision.

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

4.5.1 This is a Key Decision which is subject to call-in as the maximum cost of the services within the scope of this decision is greater than £500k.

4.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules.

4.5.3 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.

4.5.4 The figures set out at paragraph 4.4.11 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 of 12 +12 months equates to no more than 50% of the initial contract value.

4.5.5 The provisions of Regulation 72 (1b) (i) & (ii) provide an exception “where all of the following conditions are fulfilled:—  
Regulation 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.

4.5.6 In making this variation the above conditions of Regulation 72 (1b) (i) & (ii) are deemed to be satisfied for the following reasons:

- (i) Would cause significant inconvenience or substantial duplication of costs for the contracting authority;
- (ii) The additional period is to cover the uncertainty of the market and to allow time to undertake a future procurement exercise for respite provision;
- (iii) The request to increase the price to vary the contract period is less than 50% of the value of the original contract. The additional funding does not change the overall nature of the contract and;
- (iv) Service users have the right to choose who provides these care and support services to them, and they have chosen Aspire. Therefore, at this moment in time, and until procurement options have been pursued, there are no alternative options but to continue with Aspire.

4.5.7 In relying on this regulation, the Council will be required to send a notice to that effect for publication in the Official Journal of the European Union being that this contract was originally procured whilst the UK was still a member of the European Union. 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.

4.5.8 There is no overriding legal obstacle preventing the variation of this contract under CPRs 21.7 (variations) and the contents of this report should be noted. The percentage uplift of 50% is within the range permitted under Regulation 72 (1b) (i) & (ii) of the Public Contracts 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.

## **4.6 Risk management**

4.6.1 The variation to the contract to continue for a further 12 + 12 months will allow for service continuity during the period of the city wide Respite Review, and will also allow for the individualisation of supported living and day opportunities to be completed in a person centred and co-produced way.

4.6.2 Any subsequent procurement exercise in relation to the respite provision will be undertaken in a fair, open and transparent way and in adherence with the Public Contracts Regulations 2015 and the council's own Contracts Procedure Rules.

4.6.3 Project risks will be reviewed on a regular basis and the project team responsible for undertaking both the Respite Review and individualisation of prices will continue to report on these to the Learning Disability Commissioning Review Board.

4.6.4 If this proposal is not approved, there is a risk that the agreement of individualised costings and the gradual move to these arrangements will not be able to be achieved within the remaining contract period. In addition, this would likely put additional burden on Social Work colleagues who are required to support this

transition work, and who are already under significant increased pressure due to the ongoing pandemic.

## **5. Conclusions**

- 5.1 In order to implement the proposals approved by Executive Board in a person centred and co-produced way, a request is being made to vary existing contract DN192185 Learning Disability Community Support Services with Aspire Services (Leeds) Limited under Regulation 72 of the PCR 2015 for a set period of 12 + 12 months. The intention is that this period will allow sufficient time to conclude the complex negotiations regarding the individualised prices for supported living and day opportunities with the provider. In addition, it will ensure sufficient time to implement these new pricing arrangements in a staged manner, with support and resource from Social Work colleagues, and in a way which fully involves service users and their family carers. Finally, the additional contract period will ensure sufficient time to complete the review and remodelling of respite services in Leeds.

## **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 increase the scope of the existing contract with Aspire Services (Leeds) Limited for the provision of learning disability community support services . This will commence 1st August 2021 for a period of 12 + 12 months at a maximum cost of £21,038,000 per annum.

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

- 7.1 None.

## **8. Appendices**

- 8.1 Equality Assessment.

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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.