

Leeds Advice Service

Date: 7 June 2021

Report of: Advice & Access Manager

Report to: Chief Officer, Communities, Housing & Environments

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report provides an update on Leeds Advice Consortium made up of Citizens Advice Leeds, Citizens Advice Chapeltown and Better Leeds Communities which collectively delivered the Leeds Advice Service contract.
- It evidences the good work that has been undertaken to improve access to advice services particularly during the pandemic and the need for the Leeds Advice Service to continue. It highlights the issues in relation to the Leeds Advice Service contract which will need to be taken into account when considering the ongoing requirement for this service.

Recommendations

- a) To approve the award of a contract for 3 years (with provision for annual extensions) for the Leeds Advice Service to Leeds Advice Consortium under Regulation 32 (2) (b) (ii) - Negotiated Procedure without prior publication – of the Public Contracts Regulations 2015..

Why is the proposal being put forward?

- 1 The purpose of the report is to provide an update on the current contractual position relating to the Leeds Advice Service contract. The report also highlights the areas of good performance, the challenges faced and emerging areas of concern/risks relating to the contract.
- 2 The contract was awarded on 1st April 2017 for a period of three years with an option for annual 12 months extensions subject to confirmation of funding. The contract was therefore due to be extended before the 1st April 2021, however, confirmation of funding agreements from partners who currently contribute towards the contract was not received until after this date. There was some uncertainty over whether some funding was going to be withdrawn which would have impacted on the level of services that could be delivered under the contract and may have required revision to the scope of the contract.
- 3 Confirmation of all funding was not received until 7 April 2021, which meant the option to extend the contract could not be actioned before the contract expired.

- 4 The Leeds Advice Consortium are the only organisations that can deliver this service due to their capacity to offer the full range of services required. Market research conducted prior to the previous procurement exercise provided evidence to support this, and only one tender was submitted, from Leeds Advice Consortium.
- 5 The Consortium was developed specifically for the purposes of the contract. Their model of service delivery handles a significant volume of enquiries ensuring an efficient, effective and economic advice service for the people of Leeds. It includes a choice of access routes and covers the full range of social welfare law subjects from assisted self-help to generalist level, with casework support in welfare benefits, debt, housing and immigration. They have offered face to face advice as well as integrated telephone, webchat and email services which have proved invaluable during the pandemic.
- 6 The Consortium has staff resources in place to meet all requirements of the service and deliver the range of advice required. Their teams of advisers are suitably qualified and have extensive advice experience.
- 7 It would prove implausible for another organisation to organise itself into a similar arrangement and deliver the services under a new contract and under the current circumstances.

What impact will this proposal have?

Wards affected:

Have ward members been consulted?

Yes

No

- 8 The performance information received by the Board allows it to assess and challenge performance in relation to the Leeds Advice Services Contract and the in-house Welfare Rights Team in relation to the Best Council Plan 2020-2025.
- 9 The proposal to award a further contract will ensure Leeds citizens continue to have access to essential advice and support and thereby improve their health, welfare and wellbeing and contribute to the Best Council Plan's vision of reducing health inequalities and improving the health of the poorest the fastest, tackling poverty and reducing inequalities.

What consultation and engagement has taken place?

- 10 This report is not proposing any changes to the current service provision and as such there is no need for wider consultation.

What are the resource implications?

- 11 The information provided within this report demonstrates how advice across the city has been provided to ensure best use of resources and value for money. There is sufficient funding secured to allow the ongoing service provision. The service should continue to deliver improved value for money by reaching more clients, within the reduced budget allocation. This will be achieved through better use of technology and by targeting and promoting services more effectively.

What are the legal implications?

- 12 As the value of the extension exceeds £250k per year then it constitutes a key decision and as such will need to be published on the Council's List of Forthcoming Key Decisions for 28 days. It will also be subject to call-in.

- 13 Due to the unique way in which these services are delivered by the Leeds Advice Consortium the council intends to directly award a contract on the grounds set out at Regulation 32 (2) (b) (ii) - Negotiated Procedure without prior publication – of the Public Contracts Regulations 2015.
- 14 Due to the level of spend it is considered that there is the potential risk of challenge that organisations interested in providing these services have not been provided with an opportunity to tender for this work. In addition, there is also the potential risk of challenge that there are no real technical reasons justifying the use of the negotiated procedure without publication of a notice in accordance with the Public Contracts Regulations 2015, and that the Council are simply seeking to circumvent the application of the rules. However, due to the reasons set out in paragraph 4 above these risks are perceived to be low.
- 15 In addition, these risks can be diminished somewhat by the publication of a voluntary transparency notice on Find a Tender immediately after the decision to award the contract has been taken and then 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 used the negotiated procedure without publication of a notice incorrectly. Further, publishing such a notice will also start time running for any other potential claim for breach of the Regulations, 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.
- 16 However, it should be noted that voluntary transparency notices themselves can be challenged. The European Court of Justice case of *Italian Interior Ministry v Fastweb SpA (Case C-19/13)* highlights the limited protection that the voluntary transparency notice route can offer to contracting authorities wishing to make direct awards without following an above threshold compliant process. A grey area remains around whether the protection of a voluntary transparency notice will be available where the council genuinely, but mistakenly, considers it was entitled to award the contract without notice. It shows that the safe harbour will only be 'safe' to the extent that the justification for the direct award is in itself sound and ready to stand up to the increased scrutiny that the publication of the voluntary transparency notice may well invite.

What are the key risks and how are they being managed?

- 17 In many cases, access to advice can help to secure a client's income, reduce indebtedness and help them to remain in their homes. Without this type of service further costs may be incurred not only for the local authority but also for the NHS.
- 18 Without the award of a further contract to Leeds Advice Consortium, there is a risk that vulnerable Leeds citizens will not be able to access the advice and support they require, particularly during the difficult circumstances brought about by the pandemic.

Does this proposal support the council's three Key Pillars?

Inclusive Growth

Health and Wellbeing

Climate Emergency

Options, timescales and measuring success

What other options were considered?

19 An alternative option would be to subject these services to a full competitive tendering procedure. However, this would take approximately six to eight months to complete. It is debatable as to whether this would lead to a different outcome since the market research conducted at the outset of the previous procedure demonstrated Leeds Advice Service was the only consortium with the resources and capacity to deliver the full service. Following publication of the previous tender, only Leeds Advice Service submitted a bid.

How will success be measured?

20 The performance information received by the Board allows it to assess and challenge performance in relation to the Advice Services Contract and in relation to the Best Council Plan 2020-25. The advice service will contribute towards the delivery of Council priorities, particularly those within the following city priority plans: the Children & Young People's Plan and the Health & Wellbeing Strategy. It is also a key contributor to the Best Council Plan and our vision for Leeds to be a compassionate, caring city that helps all its residents to benefit from the effects of the city's economic growth by tackling poverty and reducing inequality

What is the timetable for implementation?

21 As the contract value exceeds £250k per year, this represents a Key Decision and as such requires publication on the List of Forthcoming Key Decisions for a period of 28 days. Provided the decision is not called in, the decision can be implemented after the requisite period.

Appendices

22 Confidential - Leeds Advice Contract Q4 report

23 Confidential - Leeds Advice Consortium 2020-21 statistics

Background papers

24 There are no other background papers.