

Request to modify the contract end date for the delivery of Leeds Sensory Impairment Support Service (LSISS) with BID Services under the provision available in the Public Contracts Regulations 2015, Reg 72(1)(c) modification of contracts during their term

Date: 18 August 2021

Report of: Deputy Director, Integrated Commissioning

Report to: Director of Adults and Health

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 requests permission to modify the contract end date for the delivery of Leeds Sensory Impairment Support Service (LSISS) with BID Services under the provision available in the Public Contracts Regulations 2015, Reg 72(1)(c) for a further 12 months with the option to extend up to a further 6 months (as contingency if deemed necessary). The modified contract period will start on 1<sup>st</sup> April 2022 for 12-months with an option to extend for up to 6 months from 1<sup>st</sup> April 2023 to 30<sup>th</sup> September 2023 at a total cost of £1,357,845.00.
- The current contract expires on 31<sup>st</sup> March 2022 and does not contain any options to extend. Therefore, the requested further 12 months is required to ensure continuity of service whilst a service review is completed, the specification revised, and a full competitive procurement exercise is undertaken. Depending on the outcome of the procurement exercise, the requested option to extend up to 6 months (contingency plan) may be required for a smoother mobilisation.
- The service makes significant contributions to a range of 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 clients to make healthy lifestyle choices and to live safely. The proposal in this report directly contributes to the Best Council Plan's overarching vision of tackling poverty and reducing inequalities.

## Recommendations

The Director of Adults and Health is recommended to approve the modification of the contract for Leeds Sensory Impairment Support Service with BID Services under the provision available in the Public Contracts Regulations 2015, Reg 72(1)(c). The modified contract period will start on 1st April 2022 for 12-months with an option to extend up to 6-months (contingency plan) from 1<sup>st</sup> April 2023 to 30<sup>th</sup> September 2023 at a total cost of £1,357,845.00.

## **Why is the proposal being put forward?**

- 1 The current Covid-19 pandemic has resulted in an exceptional and unprecedented situation which has significantly impacted on the timetable of a service review. Although a service review is currently underway on the Leeds Sensory Impairment Support Service, this service review needs to be completed to identify required changes to the current service specification and future provision. As a result of the Covid-19 pandemic the initiating and completion of the service review was deferred, not only to support Council priorities, but to review and consolidate planned interventions in line with best practise, to engage and consult with each sensory impaired group of service users and stakeholders who are integral for review feedback.
- 2 Adults and Health Commissioning Team recently engaged and consulted with 98 deaf, deafened, sight impaired and deafblind people, utilising a wide range of formats and methods to accurately evidence viewpoints. Undertaking these activities through the pandemic negatively impacted the anticipated timeline as the tasks could not be completed with the usual expediency. The review is continuing to analyse service performance and quality documentation, alongside consultation in completion of the review. However, the ongoing duration of the Covid-19 pandemic and its significant impact on the service review timetable is not something that the Council could have foreseen.
- 3 The current contract is expiring on 31<sup>st</sup> March 2022 with no options to extend. Due to the fact that Covid-19 is still pervasive and continues to impact on the timescales of the service review, it is recommended that the contract end date is modified to 31<sup>st</sup> March 2023 with the option to extend up to six months (contingency) to 30<sup>th</sup> September 2023 to allow sufficient time to finalise a service review and carry out a full procurement exercise and also allowing for an appropriate 6-month mobilisation period, should there be a change in provider.
- 4 A further report to the Director of Adults and Health will be presented in due course to seek the required authority to procure.
- 5 The service offered by (LSISS) is currently commissioned by Adults and Health. The service is open to people aged 18+ and a resident of Leeds metropolitan area. Young people in transition from children's services to adults are also entitled to access these services in accordance with their transitional needs and care plan. The service provides a range of different interventions according to need for people who have sensory impairments that includes people who are deaf, deafened, hard of hearing, blind visually impaired or have dual sensory loss.
- 6 The service has four core elements:

### **Specialist Information, Advice and Guidance.**

- The provider offers specialist information, advice and guidance tailored to the needs of people with sensory impairment. This is through identified areas e.g. audiology, hearing aid support services based at health centres and the eye clinics at St James and Seacroft hospitals and includes raising awareness and encouraging early action to prevent and delay the need for statutory services. Information, advice, and guidance are offered in traditional formats as well as peer support, befriending type approaches.

- **Equipment Assessment, Provision and Follow up**

The provider undertakes assessments and provides appropriate specialist equipment; this includes minor aids and adaptations. Service Users are referred to assistive technology and utilise cost effective digital platforms where appropriate, for example apps on smart phones or tablets. Equipment up to a certain limit is free of charge then people may need to be assessed to see if they have an eligible need or the service will support people to purchase equipment themselves. The service encourages and utilises self-assessment where appropriate and signposts people to purchase their own equipment if they prefer.

- **Statutory adult social care assessment, support planning and review – for Deaf, deafened, hard of hearing and dual sensory loss only**

The provider undertakes statutory responsibilities of the Council in assessing the needs of people who are deaf, deafened, and hard of hearing and those with dual sensory loss. This includes developing appropriate support plans and carrying out reviews. Residents needing a package of care are referred to internal services for a financial assessment and co-working to identify an appropriate package of care.

- **Social Groups, Peer Support, Volunteers and Partnership arrangements.**

The provider facilitates and supports over twelve social groups across the city. Partnership arrangements with third sector organisations, Feel Good Factor and Association of Blind Asians ensure sensory impaired African, Asian, and Caribbean communities are supported to access services, and develop their own social groups. Partnership arrangements with Age UK provide peer support to sensory impaired elders in residential and care homes.

- 7 Since the start of the contract in April 2017, (LSISS) have received 4616 new registered people. Figures April 2020 to March 2021 totalled 614 which represents a 46% reduction in the number of new people registering with the service during the pandemic. The age ratio of users accessing the service is over the age of 75, the breakdown by sensory loss is: Hearing impairment (39%) Sight Impairment (43%) and Deafblind (18%). (70%) of LSISS clients identify as disabled. During 2020-21, the service experienced an increase in the number of referrals with complex health and social situations.
- 8 In 2020/21, 17% of users were from African, Asian, and Caribbean communities, an increase of 3% from the previous year. Approximately 3% of service users identify as LGBTQ+.
- 9 During the COVID-19 pandemic, the service provided online/telephone provision to clients and a befriending service to the most vulnerable to ensure continuity of support to clients. Face to face support re-commenced in April 2021.

### **What impact will this proposal have?**

<b>Wards Affected:</b>
Have ward members been consulted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

- 10 This proposal will ensure that the services delivered by (LSISS) will continue to be delivered during the service review and procurement exercise. A 12-month period plus up to 6 months contingency is being requested to allow sufficient time to complete a service review, finalise a revised specification, prepare a full procurement exercise and allow for 6 months mobilisation period, should there be a change in provider.

### **What consultation and engagement has taken place?**

- 11 The service review commenced in April 2021, 22 stakeholders, 16 BSL users, 45 people with sight loss and 25 deafblind users have been consulted, a total of 108 people. The feedback will inform the service specification going forward. Stakeholders noted how effectively the organisation contributes to other provision within the city and works positively to reduce isolation, promote independence and wellbeing.
- 12 Councillor Venner (Executive Member for Health, Wellbeing and Adults) was briefed on 30<sup>th</sup> July 2021.
- 13 Advice has been sought from PACS throughout the duration of the review and will continue to be sought through the procurement process to contract award.

### **What are the resource implications?**

- 14 The service is commissioned by the Adults and Health Directorate. LSISS receives a number of different funding streams for the services they provide, including a Section 256 for £33k per year from NHS Leeds Clinical Commissioning Group (CCG) for a hearing aid support service and Better lives contributes £17,350 towards an Eye Care Liaison Officer post based at St James Hospital Trust. As part of the review and re-procurement, Adults and Health commissioning service will work with CCG colleagues to cement and augment contribution to this delivery where appropriate.
- 15 The contract value for 12 months is £905,230.00. The value for the proposed additional 12-months + up to 6 months period is £1,357,845.00. There is provision within the Adults and Health Directorate base budget to cover the cost of this service.
- 16 An efficiency saving of 10% totalling £96k was sought through the existing contract during 2021. It is acknowledged that in light of the Council's current financial situation further efficiencies may be required and realised through the future procurement of this service.
- 17 Officer time will be necessary in order to undertake the procurement and future contract monitoring. This will be met through existing capacity from within the Working Age Adults Commissioning team.

### **What are the legal implications?**

- 18 This is a Key Decision and subject to call in as the maximum cost of the service within this decision is more than £500K.
- 19 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 20 The modification of contracts is governed under the Public Contracts Regulations 2015 at Regulation 72 which permits certain types of modifications. Regulation 72 considers the

extent to which a contract may be modified before it should be considered so substantially changed as to necessitate a new contract.

- 21 Under Regulation 72 (1)(c) a contract may be modified without a new procurement where all of the following conditions are fulfilled: —
- (i) *“the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;*
  - (ii) *the modification does not alter the overall nature of the contract;*
  - (iii) *any increase in price does not exceed 50% of the value of the original contract or framework agreement.”*
- 22 It is considered that all the above conditions of Regulation 72(1)(c) have been met for the following reasons:
- (i) the need for the additional 12 months plus up to 6 months contingency to complete the service review has been brought about by the pervasive and ongoing Covid-19 pandemic which the Council, acting diligently, could not have foreseen for the reasons set out at paragraphs 1 – 2 of the report above;
  - (ii) the modification is only to the contract period, and does not alter the terms and conditions or specification of the service; and
  - (iii) the figures set out at paragraph 13 of this report show the value of the initial contract, and the proposed increase due to the request to modify the contract. Taking these figures into account, the modification of the contract by the addition of 12 months plus 6 months contingency equates to no more than 50% of the initial contract value. Regulation 72(1)(c) requires the consideration of the effect of cumulative variations. The contract has not previously been modified. Therefore, it is just the proposed modification that needs to be considered in making this decision.
- 23 However, if Regulation 72(1)(c) 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 provider could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity. However, this risk will be mitigated by subjecting this service to the proposed competitive procurement exercise during 2022/23, at which point other providers will be able to express their interest.
- 24 It is also a requirement of Regulation 72 (3) that, when using Regulation 72 (1)(c), a notice to that effect must be published in OJEU (being that this contract was originally procured whilst the UK was still a member of the European Union) to alert the market that such a modification to the contract has taken place (or is to take place). Once the notice is published it will start time running for bringing a claim for a 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. The service will ensure a notice to that effect will be published.
- 25 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.

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

- 26 The work is being led by the Working Age Adults Commissioning Team, with support from PACS, reporting up to the Head of Commissioning (Working Age Adults). A small project team has been set up to oversee the procurement process and ensure that the process adheres to the procurement regulations, as well as the council's Contract Procedure Rules.
- 27 There are significant risks associated with not approving this proposal and ceasing investment in this service. Disinvestment would place a significant amount of additional pressure on social work teams, LCC rehabilitation service and support services commissioned by both A&H and CCG partners, and would further disadvantage adults and families across Leeds who would struggle to find an alternate service that provides the cultural, linguistic and specialist provision elsewhere in the city.
- 28 The modification of the contract for a further 12 months plus a contingency of an additional up to 6 months will allow for service continuity during the period of the service being competitively procured. The procurement exercise 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. Procurement project risks will be reviewed on a regular basis and the project team responsible for undertaking the review and subsequent procurement exercise will continue to do this during the procurement process.

**Does this proposal support the council's 3 Key Pillars?**

☐ Inclusive Growth

☒ Health and Wellbeing

☒ Climate Emergency

- 29 To support the Council's 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.
- 30 During the COVID 19 pandemic, the current provider has wholly embraced technologies allowing for remote service provision such as Zoom. This remains an option for clients even now face to face support is resuming. Supporting individuals at home reduces carbon emissions through less travel time to face to face appointments, and requirement to retain this option for clients will be clearly set out in the new service specification.
- 31 The service directly contributes to the Council's Health and Wellbeing Plan and its priority to make Leeds the best City for Health and Wellbeing by 2030. This is achieved through supporting clients to make healthy lifestyle choices and to live safely.

**Options, timescales and measuring success**

**a) What other options were considered?**

32 A market sounding exercise was undertaken in 2016 with eight organisations expressing an interest. Therefore, the option being pursued now is to undertake a full and rigorous procurement exercise to fully test the market. The modification of the contract during their terms requested in this report is to allow the service to continue whilst this exercise is undertaken.

**b) How will success be measured?**

33 The service is subject to the WAA Commissioning Team's contract management processes. This includes regular contract management meetings between the provider and LCC officers to discuss operational issues, service quality, and to gauge the service's performance against the targets set out in the service specification. The provider has a long history of exceeding performance targets.

**c) What is the timetable for implementation?**

34 The current contract for LSSIS with BID Services expires on 31<sup>st</sup> March 2022. If approved, the contract will be modified to allow for a further 12-months plus an option to extend up to 6 months (contingency plan) and it is anticipated a new contract following a competitive procurement exercise will commence on 1<sup>st</sup> April 2023. Details of the proposed timetable is set out below:

<b>Procurement Activity</b>	<b>Timetable</b>
Service Review: Desk top exercise and service visits	July-October 2021
Adult Commissioning Board	November 2021
Consultation regarding the revised specification	Nov-Feb 2022
Authority to Procure Report	March 2022
Publish tender documents	June 2022
Award	July 2022
Mobilisation	September 2022 –March 2023
Contract start	April 1 <sup>st</sup> 2023

**Appendices**

35 Equality Impact Assessment screening tool.

**Background papers**

36 None.