

# Report seeking authority to procure a resource centre for people who are rough sleeping

Date: 10<sup>th</sup> January 2022

Report of: Head of Commissioning (Housing and Public Health)

Report to: Director of Communities, Housing and Environment

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

- Leeds City Council commissions a range of housing related support services for vulnerable people in Leeds. The primary aim of these services is to support people to achieve and maintain independent living. These contracts are managed by the commissioning team in Adults and Health on behalf of the Communities, Housing and Environment Directorate, and include a resource centre that engages with people who are rough sleeping, homeless or vulnerably housed. The current contract expires on 31<sup>st</sup> March 2022.
- Approval is therefore being sought to procure a new service.
- This will support the housing priority of *Minimising homelessness through a greater focus on prevention*.

## Recommendations

The Director of Communities, Housing and Environment is recommended to:

- a) Grant authority to procure the 'Resource Centre Service' utilising the Negotiated Procedure without Prior Publication of a Notice under Regulation 32 (2) (b) (ii) of the Public Contracts Regulations 2015, as these services can only be provided by St Anne's Community Services owing to the absence of competition for technical reasons. The award of the contract will be subject to the satisfactory completion of procurement and governance processes.
- b) Approve a contract period of 3 years commencing 1<sup>st</sup> April 2022 (with an option to extend for a period of up to 24 months in any combination), with a maximum budget of £210,000 per annum (£1,050,000 for the overall contract period should the full extension period be taken up). The utilisation of the extension period will be subject to a separate decision at the appropriate time and will be as a direct consequence of this decision.
- c) Note that a report will be submitted for approval at the end of the procurement process to approve the contract award, which will be a direct consequence of this key decision and will therefore be a significant operational decision and not be subject to call in.

## Why is the proposal being put forward?

- 1 Leeds City Council has commissioned a Resource Centre for a number of years, with the current contract being in place since 2019. It is an 'open door' drop-in information and advice service for people who are homeless, rough sleeping or vulnerably housed. The centre is central and accessible to Leeds City Centre and offers shower and laundry facilities and access to clean clothing to maintain dignity, providing clean towels and toiletries all day within the working week. Food is provided through the popular Breakfast Club. There is a 'safe mail address' that can be accessed by those rough sleeping or vulnerably housed. The centre staff engage with people to assist them into accommodation and support them to access services for their health and care needs. The centre also enables the co-location of other services, including Forward Leeds, Bevan Healthcare, Beacon, Leeds Housing Options, Mental Health Homeless Team and Basis Yorkshire amongst others. The contract is with St Anne's Community Services (St Anne's) and expires on 31<sup>st</sup> March 2022.
- 2 The Government has set ambitious targets to end rough sleeping by the end of this parliament. This service supports the work in Leeds to reduce the number of people rough sleeping.
- 3 A review of the current provision has been undertaken, including data analysis, consultation with current service users, staff and stakeholders, and a reflection on best practice in other cities across England. This has determined that there remains a need for this provision and that it is considered of benefit to the city by both service users and stakeholders.
- 4 The review also considered the city's response to the Covid-19 pandemic and what was learnt about the needs of this client group. The service played a critical role in responding to the "Everyone In" offer throughout the pandemic. Following initial government guidelines to close communal settings, St Anne's reprioritised their resource centre staff to ensure that emergency accommodation could be offered to all who needed it and that it was staffed and supported safely. They also continued to provide shower, laundry and mailing facilities for those who remained on the streets, and were key participants at the daily co-ordination meetings, bi-weekly hotel meetings and street support governance meetings.
- 5 An options appraisal was carried out using the findings, to consider procurement options, contract length and service model. The proposals are as follows.
- 6 In conjunction with Procurement and Commercial Services (PACS), it has been judged that only St Anne's Community Services is able to meet our requirements in terms of being a suitably qualified and experienced provider able to provide premises and deliver the services required within the maximum budget envelope of £210,000 per annum. As such, it is proposed that the contract be awarded to St Anne's utilising the negotiated procedure without prior publication of a notice under the Public Contracts Regulations 2015 (Regulation 32 (2) (b) (ii)), instead of undertaking a competitive procurement exercise. The reasons for this are:

### Location

- The service currently benefits from being located in the same building as the York Street Medical Practice, commissioned by Leeds Clinical Commissioning Group (CCG) and run by Bevan Healthcare, which serves people who are rough sleeping. Staff from either service are able to easily arrange support from the other whilst the client is in the building.
- In the last few years, there has been a city ambition to provide a "health and wellbeing hub" for people who are, or who are at risk of, rough sleeping. This would include a range of services to provide a one stop shop for health and wellbeing. Discussions have been ongoing at a city level about how this might be achieved, but there are no plans in place yet.

- Independently of this, Bevan have approached St Anne's about using more of the building to expand their offer. They have reached an agreement whereby Bevan Healthcare will utilise the 2<sup>nd</sup> floor as well as the current ground floor space. Capital funding will be available to refurbish the building as part of the agreement. St Anne's will continue to have the use of the 1<sup>st</sup> floor, where the Resource Centre is situated.
- This provides an ideal opportunity to realise the ambition of the health and wellbeing hub within the York Street building with minimal investment required from LCC, by continuing the support provided through the Resource Centre in its present location and alongside a broader health offer.
- It will enable the current benefits of co-location of homelessness and health support to continue and be enhanced. Co-located multi-agency support has been shown to be incredibly valuable throughout the Covid-19 response, where a number of services have allocated staff to provide wrap-around support to those staying in the emergency accommodation within hotels. This has resulted in greatly increased levels of engagement from clients, who have seen better outcomes for both their housing and health issues.
- This approach was implemented following feedback from clients in the early months of the pandemic, who had said that they wanted support in one place. Where services are delivered from different sites, there can be a risk that clients disengage and do not receive the support they need.
- The current location is well known to clients as being a safe space from which they can access support.
- It is therefore considered that this service should remain in the York Street building.

#### Provider

- It is likely that there would be interest in this provision if it were to go out to open tender. However, there are circumstances that mitigate against doing so.
- St Anne's have been consulted about the possibility of making the building available should another provider be appointed. To date, it is not certain that this option would be available.
- It should be noted that in a similar situation with the residential alcohol detoxification and rehabilitation facility, St Anne's did not agree to this arrangement. As a result, the contract was awarded to them under Regulation 32.
- If they were to agree, the new provider would have to pay rent, which is not currently required in the budget. This would take a substantial amount from an already tight budget away from front-line delivery.
- There are no concerns with the current provision which would suggest that there would be any meaningful risk with entering into a new contract with St Anne's. They have consistently met their contractual obligations and engaged with both clients and commissioners with regard to ongoing service delivery and improvement.
- Indeed, they have played a critical role in responding to the "Everyone In" offer throughout the pandemic, as noted above.
- The excellent working relationship between St Anne's and Bevan was noted in the CCG's decision to award the latter the contract for the York Street Medical Practice.

7 Utilising Regulation 32 would still require St Anne's to submit a Due Diligence document, method statement responses and Service Cost Analysis Form (SCAF) for evaluation. The

contract will only be awarded if they meet the minimum required standards and the price included in the SCAF is within the allocated budget. St. Anne's will be encouraged to review their costs for delivering this service, but it is not expected that there will be any scope for achieving efficiencies as the service is operating at full capacity, and therefore any reduction would impact on service delivery.

- 8 Approval is being sought to procure a contract for a period of 3 years plus an extension of up to 24 months (to be taken in any combination), in order to align with the contract length of the healthcare element of the new health and wellbeing hub (between Bevan Healthcare and Leeds CCG), to encourage further integration and assist with long-term planning.
- 9 The service availability and scope will stay largely unchanged, since the review found no significant case for alteration. This means that the service will be operational from Monday to Friday, with the same facilities and requirement to provide space for the co-location of other agencies. Feedback from the consultation will be taken into account when writing the specification for the new contract.

### What impact will this proposal have?

**Wards Affected: All**

Have ward members been consulted?      Yes      No

- 10 The impact on rough sleeping in the city will be measured through the number of people supported:
  - to sustain their tenancy
  - into supported accommodation tenancy
  - into private tenancy
  - into emergency accommodation
- 11 An Equality Diversity Cohesion Integration screening has been completed and is attached. There are no issues to be addressed.

### What consultation and engagement has taken place?

- 12 As is best practice, service users and staff from the current services, as well as stakeholders, have been consulted as part of the review.
- 13 The Executive Member for Environment and Housing was consulted on the proposals on 27<sup>th</sup> September 2021 and is supportive of the approach.
- 14 The Project Board for the review has discussed the findings of the consultation and endorsed the recommendations of the options appraisal referred to in paragraphs 6 to 8.
- 15 The Project Team includes a representative from Homeless Link, the national membership charity for organisations working directly with people who become homeless in England. This ensures that the project benefits from knowledge and experience of good practice from around the country.
- 16 Procurement and Commercial Services have been consulted and confirmed that there is justification for taking the procurement option proposed.

### What are the resource implications?

- 17 It is requested that the maximum budget be set at £210,000 per annum, which is the current contract value. It has been determined that there is currently no scope for achieving efficiencies as the service is operating at full capacity, and therefore any reduction would impact on service delivery.
- 18 There is provision within the Communities, Housing and Environment revenue budget to fund this service over the lifetime of the contract.
- 19 Should there become a requirement to achieve financial efficiencies during the lifetime of the contract, these would be the subject of a contract variation. Any change to the budget will in turn impact the service specification and any amendments be discussed with the provider.
- 20 The new service will be subject to robust contract management to ensure that the contract outcomes and value for money are achieved.
- 21 The specification, tender documentation and terms and conditions will be written in such a way to allow flexibility in service provision should additional investment be secured.

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

- 22 This is a Key Decision since the total value of the contract (including potential extensions) is £1,050,000 and is therefore subject to Call In. It was published on the List of Forthcoming Key Decisions on 14<sup>th</sup> July 2021. Should the option to take up the extension period be required then that will be subject to a separate decision at the appropriate time.
- 23 The award of a contract to St Anne's utilising the negotiated procedure without prior publication of a notice under the Public Contracts Regulations 2015 (Regulation 32 (2) (b) (ii)) is recommended.
- 24 Regulation 32 (2) (b) (ii) of the Public Contracts Regulations (2015) states:-  
*32 - (1) In the specific cases and circumstances laid down in this regulation, contracting authorities may award public contracts by a negotiated procedure without prior publication.*  
*General grounds*  
*(2) The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases:—*  
*(a) ...;*  
*(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—*  
*(i) ...;*  
*(ii) competition is absent for technical reasons,*  
*(iii)....,*
- 25 It is considered the above ground applies in this case as there is strong evidence that no reasonable alternative to St Anne's providing the services exists, as stated in paragraph 6.
- 26 Given that this is not a competitive process and that there is a set budget for this contract, it is imperative that we obtain the best quality service available. St Anne's will therefore be required to complete some method statement responses, in respect of which they must obtain a minimum score in respect of each question.
- 27 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 28 Subsequent decisions arising from this report, for example the decision to award the contract, will be treated as a consequence of this Key decision and will therefore be treated as a significant operational decision at most, which will not be subject to call in.

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

- 29 A project team comprising of Adults & Health Integrated Commissioning, Safer Leeds, Leeds Housing Options, Homeless Link and Procurement & Commercial Services has been set up to manage the re-commissioning process and ensure that the process adheres to the Public Contracts Regulations 2015, as well as the council's Contract Procedure Rules. The project team reports to a Project Board, which contains senior officers from the same council services and a representative of the Leeds Clinical Commissioning Group to ensure linkage to the health inclusion agenda.
- 30 A risk register has been established as part of the re-procurement process and this will continue to be managed and updated. Significant risks will be reported to the Project Board.
- 31 Regarding use of the negotiated procedure without the publication of a notice, it must be noted that there is the potential risk of challenge that there are no real technical reasons justifying the use of the negotiated procedure without publication of a notice under regulation 32 (2) (b) (ii) in accordance with the Public Contracts Regulations 2015, and that the Council is simply seeking to circumvent the application of the procurement rules. The reasons set out in Section 3.2.5 of this report are what the Council would rely on to justify this decision, and therefore the risk is perceived to be low.
- 32 In addition, this risk can be further mitigated by the publication of a Voluntary Transparency Notice (VTN) in the Find a Tender Service in accordance with the Public Contracts Regulations 2015 and subsequent UK regulations, immediately after the decision to enter into negotiation has been taken 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 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 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.
- 33 It should be noted that voluntary transparency notices themselves can be challenged. The recent 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 OJEU process. 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. 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.
- 34 If this decision is not approved, the current service will fall out of contract on 31<sup>st</sup> March 2022 causing significant risk to the Council and its providers. There is an evidenced need for this service, and should it not continue to be delivered beyond the expiry of the current contract, this would significantly affect the Council's aim of ending rough sleeping in the city.
- 35 Requirements relating to information governance and the processing of personal data will be included in the specification and monitored through contract management processes including a Quality Management Framework.

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

Inclusive Growth

Health and Wellbeing

Climate Emergency

- 36 The service specification will require that the service undertakes to meet all legislation, guidance and good industry practice in environmental management and the objectives of the Council's sustainability policies. Officers from Adults and Health work with the provider through the established contract management process to ensure the service is proactively seeking to minimise its carbon footprint and thereby support the Council in achieving its ambition to be carbon neutral by 2030.
- 37 The contract will also make a contribution to the Leeds Health and Wellbeing Strategy (2016-2021) in terms of helping to ensure that *'people will live in healthy, safe and sustainable communities'*.

### **Options, timescales and measuring success**

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

- 38 There is the option of ending the provision once the current contract expires. However, this would significantly affect the Council's aim of ending rough sleeping in the city.
- 39 Undertaking a competitive procurement process was considered, but for the reasons outlined in paragraph 6, it was considered that there would be no benefit to taking that approach.

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

- 40 The contract will include a Performance Framework for the purpose of monitoring service delivery and outcomes. This will reflect the aims listed in paragraph 10.

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

- 41 If approval is given, the intention is to commence the procurement process in January 2022 and subject to the satisfactory conclusion of the process approval to award the contract will be sought in February 2022, with the new contract commencing on 1<sup>st</sup> April 2022.

### **Appendices**

- 42 None

### **Background papers**

- 43 Equality Diversity Cohesion Integration Impact Screening