

# Request to waive CPRs 8.1, 8.2, 9.1 & 9.2 and award new interim contracts in respect of community based mental health services

Date: 19 January 2022

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 waive Contract Procedure Rules (CPRs) 8.1., 8.2, 9.1 and 9.2 in order to enter into new 12 month contracts with Touchstone-Leeds, Community Links (Northern) Ltd and Catholic Care (Diocese of Leeds) for their community based mental health services. The reason for seeking to waive CPRs is set out at Appendix 3.
- The requested 12 month period is required in order to ensure continuity of service whilst the Council (LCC) and NHS Leeds Clinical Commissioning Group (CCG) partners complete a review of community based mental health provision, and explore budget pooling and longer term recommissioning options for these services, together with the other services subject to the review.
- This report also provides the Director with an update on the progress made with the joint LCC and CCG review of community based mental health services.
- The services subject to this report 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 service users to make healthy lifestyle choices and to live safely. The proposals in this report directly contributes to the Best Council Plan's overarching vision of tackling poverty and reducing inequalities.

## Recommendations

- a) The Director of Adults and Health is recommended to approve the waiver of CPRs 9.1 and 9.2 in order to enter into new contracts with Touchstone-Leeds and Community Links (Northern) Ltd and waive CPRs 8.1 & 8.2 in respect of Catholic Care (Diocese of Leeds) as follows:
- Touchstone-Leeds for the provision of the Community Support Service – issue a new 12 month contract from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £201,473.
  - Community Links (Northern) Ltd for the provision of services at Oakwood Hall – issue a new 12 month contract from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £498,940.
  - Community Links (Northern) Ltd for the provision of services at The Maltings and Rose Villa – issue a new 12 month contract from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £211,546.
  - Catholic Care (Diocese of Leeds) for the provision of services at Foundry Mill – issue a new 12 month contract from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2023 at a cost of £34,508.
- b) The Director of Adults and Health is recommended to note the progress made to date with the joint LCC and CCG review of community based mental health services, including the results of the engagement and consultation phase.
- c) The Director of Adults and Health is recommended to note the intention of LCC and the CCG to explore opportunities to develop a pooled commissioning budget arrangement for community based mental health services, potentially through a variation to the existing Section 75 arrangement which is already in place for joint learning disability commissioning.

## Why is the proposal being put forward?

- 1 These proposals are being put forward to ensure continuity of service whilst the review of community based mental health provision and commissioning arrangements is concluded, and the project team fully explore the options available for longer term commissioning of these services.
- 2 The review commenced in 2019, with the aim of ensuring that services and commissioning arrangements between LCC and the CCG continue to meet local need and achieve good outcomes for people, in line with the new Mental Health Strategy for Leeds.
- 3 The services in scope of the review cover six themes: crisis and urgent care, specialist community support, supported accommodation, refugee and asylum seeker support, service user involvement and employment support. An overview of the services subject to the review is detailed at Appendix 1.
- 4 Through the review the project team have looked at a range of information to inform the work - national and regional best practice within mental health provision, information from performance and contract management of the services, views obtained from service users and staff working in these services, views from other key stakeholders including family members. The review has demonstrated the high quality of existing provision.

- 5 The review and recommissioning of these services was due to be concluded in 2022, however, the Covid-19 pandemic delayed the consultation and engagement phase of the project as providers were understandably focussed on operational issues and therefore unable to support the engagement work at the time originally planned. The engagement phase was undertaken during July and August 2021 and is detailed fully below in the Consultation and Engagement section.
- 6 Drawing on the findings from the analysis work undertaken, and also focussing on the key ambitions set out in the new Mental Health Strategy for Leeds, the Project Team developed a number of draft recommendations for each of the six thematic areas, which were shared with partners and service users through the engagement work. The recommendations contain a strong focus on ensuring that services maximise opportunities to link in with the wider mental health system (including statutory partners) and beyond in order to support recovery.
- 7 Following conclusion of the engagement phase, the next stage is for the Project Steering Group to consider the most appropriate recommissioning route for each of the six thematic areas of provision. The Project Team are currently developing detailed action plans for each theme which set out the steps required to achieve the proposals put forward and supported through the consultation work. Work will continue at pace during 2022 to determine appropriate recommissioning options for each of the six themes, in accordance with Legal and Procurement advice.
- 8 The CCG currently have contractual arrangements in place for the services they commission and fund (including Oakwood Hall and Touchstone CST) up until March 2023. The new interim contracts requested within this report will provide parity with the CCG's arrangements, and will allow sufficient time to conclude the recommissioning work including any pooled budget measures.
- 9 The Project Team are currently exploring options which may be available to develop a pooled commissioning budget for this provision, similar to that which is in place for learning disability joint commissioning. This would afford greater flexibility for commissioners and consistency for providers, instead of the complex array of funding streams and contractual arrangements which currently exist. One option for achieving this is to amend the existing Section 75 arrangement which is in place between LCC and the CCG. As this work develops, a further update and recommendations will be presented to the Director of Adults and Health during 2022.

### What impact will this proposal have?

**Wards Affected:**

Have ward members been consulted?       Yes       No

- 10 The services subject to this report provide essential mental health support to service users in Leeds, and play a significant role in supporting pathways out of hospital, and preventing avoidable re-admission.
- 11 The Maltings (Community Links) provides housing related support for up to 16 people across three separate services in Beeston:
  - Four places in a hostel building with sleep in staff and shared facilities.
  - Six in the adjacent self-contained bedsits
  - Six nearby satellite tenancies with self-contained one bedroom accommodation and support provided by staff at Maltings Close.

- People can stay up to two years in each element of the service, but usually stay between two and three years across the whole service before moving on to more independent accommodation and lower level support.
- 12 Rose Villa (Community Links) provides accommodation based support and visiting support:
    - Five rooms with shared facilities and daytime staffing in Seacroft.
    - Community support for up to 12 people living independently city wide.
    - People can stay up to two years, if necessary in each part of the Rose Villa service.
    - The support level in the main service is for people with lower needs than that in the Maltings.
  - 13 The Maltings and Rose Villa are currently covered by a single contract funded exclusively by the Communities, Housing and Environment Directorate.
  - 14 Foundry Mill (Catholic Care) provides 10 self-contained flats on one site in Seacroft, with daytime staff support Monday to Friday. At weekends there is an on-call service and the offer of additional domiciliary care packages. People may stay up to two years then move on to lower support options. Foundry Mill is also exclusively funded by the Communities, Housing and Environment Directorate.
  - 15 The Community Support Team (Touchstone) is an assertive outreach service, working with people who have complex mental health support needs and who are excluded from or unable to access other services. The CST use a Strengths Based Recovery approach, working in collaboration with service users to develop a support plan that identifies their chosen goals. The service is available six days a week, generally within office hours although support can be given outside these times if needed, and planned in advance.
  - 16 Oakwood Hall (Community Links) is a twelve-bed dual registered nursing and residential care home for people with mental health needs. It provides recovery focused, responsive care and support focusing on therapeutic engagement, meaningful daily activity and the opportunity to make positive changes in the behaviours that may have led to being excluded from other services. It supports a broad range of individuals with severe and enduring mental health needs, including: personality disorder, psychosis, depression, anxiety, challenging behaviour and difficulties that arise from a dual diagnosis. One of the twelve beds is used to provide a respite service.
  - 17 The requested new interim contracts will enable the services detailed above to continue to be delivered seamlessly whilst the review is concluded, and the scoping and options appraisal work on a pooled mental health budget can be undertaken.

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

- 18 During July and August 2021 a detailed consultation and engagement project was undertaken as part of the review. The engagement was ratified by the CCG's Patient Assurance Group (PAG).
- 19 The project consisted of an introductory Zoom event, followed by a series of online workshops for key stakeholders, one for each of the six themes. Service users, family carers and significant others were invited to a programme of online focus groups, again with an event for each of the themes. In addition to the online events, there were also two focus group sessions held in person at the Oakwood Hall service where Officers spoke to service users and staff. Attendance at all of the events was good.

- 20 Participants were asked for their feedback and comments on the draft proposals put forward for each of the six themes, and also for more general feedback about mental health provision in Leeds.
- 21 The findings were encouraging, with very positive feedback received about the quality of support offered. There was support for the draft proposals put forward, along with very helpful suggestions for other changes which could be made to further improve the services offered.
- 22 An online feedback event was held in September 2021 where the results of the engagement were shared, along with a full report detailing the project and findings. This engagement report is attached at Appendix 2.
- 23 Councillor Venner (Executive Member for Health, Wellbeing and Adults) and Councillor Rafique (Executive Member for Environments and Housing) have been briefed on these decisions in January 2022.

### What are the resource implications?

- 24 Value for money analysis of the contract prices subject to this report has been undertaken by the review Project Team and the services are all considered to offer good value for money. The proposed interim contracts described in this report are based on existing contract rates with no uplifts. Both Touchstone CST and Community Links Oakwood Hall are jointly funded services with the CCG. The funding breakdown is as follows:

Provider	Service	LCC Investment	CCG Investment	Total funding
Touchstone	Community Support Team	£201,473	£232,301	£433,774
Community Links	Oakwood Hall	£498,940	£334,713	£833,653
Community Links	The Maltings	£139,678	£0	£139,678
Community Links	Rose Villa	£71,868	£0	£71,868
Catholic Care	Foundry Mill	£34,508	£0	£34,508

- 25 The overall LCC investment in the services subject to the review of community based mental health support is £1.2M and is detailed as follows:

Leeds Survivor Led Crisis Service	Dial House and Connect Helpline	LCC: £114,470
-----------------------------------	---------------------------------	---------------

	Crisis House and mental health support phone line	
Leeds Mind	Work Place Leeds Employment support - to seek and help retain employment	LCC: £155,970
Touchstone	Community Support Team Provides an assertive outreach service to people with complex and severe mental health problems	LCC: £201,473
Inspire North (Community Links)	Oakwood Hall – 11 bed Mental health residential rehabilitation unit.	LCC: £498,940
Inspire North (Community Links)	The Maltings – 10 bed (+6 dispersed supported tenancies) Mental Health supported housing in a hostel & bedsit.	LCC: £139,678
Inspire North (Community Links)	Rose Villa – 5 bed, 12 units floating Mental Health supported housing.	LCC: £71,868
Catholic Care	Foundry Mill - 10 bed Mental Health supported housing.	LCC: £34,508

26 As part of the Adults and Health Directorate Medium Term Financial Strategy planning, a commitment has been made to reduce the above LCC funding into the services subject to this review by 10% from 2023-24. However, due to the acute pressures on mental health services, there is a desire between LCC and the CCG to maintain the current level of investment in these services overall. Exploratory work is underway with Health partners to look at opportunities for how to achieve this.

27 Rose Villa, The Maltings and Foundry Mill are all funded exclusively by the Communities, Housing and Environment directorate. The Director of Communities, Housing and Environment has agreed that the Director of Adults and Health can take the required decisions on his behalf for the contracts funded by Communities, Housing and Environment.

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

28 This report contains recommendations relating to four separate Significant Operational Decisions which will not be subject to call-in. Each decision separately is less than £500K.

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

- 30 The legal implications of moving to a pooled community mental health commissioning budget with Health will be reported to the Director of Adults and Health in 2022 when the scoping work around this has been concluded.
- 31 The contracts detailed in this report fall within social and other specific services under the Public Contracts Regulations 2015. The value of these contracts is below the threshold set down by the Public Contracts Regulations 2015 for social and other specific services. However, Contracts Procedure Rules 8.1, 8.2, 9.1 and 9.2 require competition for procurements for contracts of this value. A waiver of these Contracts Procedure Rules using the authority set out in CPR 1.3 is required to award contracts direct to these providers.
- 32 Awarding contracts directly to the providers in this way could leave the Council open to a potential challenge from other providers, to whom these contracts could be of interest, that the Council has not been wholly transparent as the opportunity is not being advertised.
- 33 In terms of transparency, it should be noted that case law suggests the Council should always consider whether contracts of this value should be subject to a degree of advertising. It is up to the Council to decide what degree of advertising would be appropriate.
- 34 Consideration has been given to the subject-matter of the contracts, estimated values, the specifics of the sector concerned (size and structure of the market, commercial practices, etc.), the geographical location of the place of performance and the short timeframe of 12 months along with the value falling below the threshold for social and other specific services and the Director of Adults and Health is of the view that the scope and nature of the service is such that it would not be of interest to other suppliers if an opportunity was published on Find a Tender.
- 35 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. The complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration; however, such investigations are by their nature more subjective than legal proceedings, but it is considered that this risk is low.
- 36 Although there is no over-riding legal obstacle preventing the waiver of CPRs 8.1, 8.2, 9.1 and 9.2 using the authority set out in CPR 1.3, by awarding direct contracts to the providers without seeking competition, the contents of this report should be noted. 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 to the Council.

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

- 37 There are significant risks associated with not approving these proposals and ceasing investment in these services. Disinvestment would place a significant amount of additional pressure on other mental health care and support services commissioned by both Adults and Health and CCG partners and would further disadvantage a vulnerable group of people experiencing mental health issues.

38 Ending the contracts in March 2022 would not provide sufficient time for LCC and health partners to explore the opportunities for pooling resources, or for continuing the work to establish the most appropriate long term re-commissioning option for these services. It would also limit the time available to continue the budget and investment discussions which are underway.

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

Inclusive Growth

Health and Wellbeing

Climate Emergency

39 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 three providers 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.

40 During the COVID 19 pandemic, the providers have wholly embraced technologies allowing for remote service provision, such as Zoom. Within the Touchstone CST service this remains an option for service users even now face to face support is resuming. Supporting individuals at home reduces carbon emissions through less travel time to face to face appointments.

41 The services directly contribute 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 service users to make healthy lifestyle choices and to live safely.

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

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

The Project Team considered whether it might be possible to conclude the review of community based mental health services before these current contracts end in March 2022. However, the changes being introduced to Health commissioning and procurement through the new Health and Care Bill have not yet been confirmed, and are not anticipated to come into force until April 2022. Trying to conclude the review and the longer term recommissioning of these services without fully understand the options which may be made available to joint LCC and CCG commissioners is not considered to be the best option.

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

The services are subject to the Integrated Commissioning Service'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 performance against the targets set out in the service specifications. For the jointly commissioned services there is a joint contract management process in place with the CCG.

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

The decisions in this report require implementation when the current contracts expire on 31<sup>st</sup> March 2022.

## **Appendices**



- 42 Appendix 1 – overview of providers and services included within the scope of the review of community based mental health services.
- 43 Appendix 2 – Consultation and Engagement report
- 44 Appendix 3 – Reasons for waiving CPRs

## **Background papers**

- 45 None