

# Report seeking approval to continue to fund the legacy terms and conditions rights for the ex-LCC staff who now work for Aspire Community Benefit Society (Aspire)

Date: 25 May 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 seeks the approval to continue to fund the legacy terms and conditions (T&C) rights for the ex-LCC staff who currently work for Aspire Community Benefit Society (Aspire).
- This report is to provide the Director of Adults & Health with the details of the legacy T&Cs for the ex-LCC Aspire staff, and why a decision is required to continue to pay and support the pension and terms and conditions as the Aspire contractual relationship changes.
- This decision will allow the Adults & Health directorate the ability to monitor and review all ex-LCC staffing costs as a standalone agreement.
- 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.
- 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.

## Recommendations

- a) The Director of Adults and Health is recommended to approve the continued funding of the legacy terms and conditions rights for the ex-LCC staff, who work within the Aspire Community Benefit Society (Aspire) that should not exceed £3M per annum, as the contractual relationship changes.

## Why is the proposal being put forward?

- 1 In 2015 the in-house LCC learning disability services spun out to become Aspire Community Benefit Society (Aspire) under a block contract arrangement which was subject to TUPE regulations.
- 2 Aspire support just under 1000 adults with a learning disability (and their family carers) through day services, supported living services, respite and crisis services. Aspire is the largest social care provider to individuals with learning disabilities in the City.
- 3 Aspire's staffing operating business model was underpinned by a principle of a two-tier workforce, where ex-LCC staff would be retained on their existing terms & conditions, and new vacancies, or staffing backfills would be recruited to on new Aspire terms & conditions.
- 4 There are approximately 460 staff who are contracted on LCC terms and conditions and approximately 300 staff employed on Aspire terms and conditions.
- 5 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 21st October 2020. Executive Board approved these proposals and recommendations regarding the longer-term commissioning arrangements for the Aspire learning disability services.
- 6 Recommendations included consultation with customers and key stakeholders on a change from a block contract arrangement to individual arrangements, 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.
- 7 The work that has been progressed to date means that Aspire will be issued the overarching Working Age Adults contracts bundle and terms and conditions and Individual Service Agreements will be issued for each service user that they support, rather than a block contract.
- 8 Work has been ongoing to renegotiate the costs associated with the block contract into individualised arrangements so that the amount and costs of support for each person is clear and individualised.
- 9 The Council wishes to continue to support the legacy terms and conditions rights for the ex-LCC staff within Aspire at a time of significant recruitment and retention pressure within the adult social care workforce, where maintaining well trained, committed and long term retained staff is important.
- 10 Through detailed analysis of Aspire delivery and staffing costs, LCC and Aspire have been able to identify the cost differential between the two-tier workforces, which allows LCC to track and monitor costs as the number of ex-LCC staff reduce through normal organisational turnover.

- 11 The legacy terms and conditions (pay and pension) for the ex-LCC staff is best paid and managed separately to the other costs of care in order to provide clarity over service costs in line with the rest of the Leeds learning disability market and so that the costs of care for users are not affected by this decision and the costs associated with ex-Council staff.
- 12 The setting aside of this payment ensures the Council can monitor any cost reductions in relation to ex-LCC staff turnover which will be transparent and reconciled with the Council at regular intervals. This will also allow the Council to offset any cost increases associated with pension and inflation increases which are necessary for staff on LCC terms and conditions.

### What impact will this proposal have?

**Wards Affected: All**

Have ward members been consulted?       Yes       No

- 13 The head office for Aspire 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.
- 14 An Equality, Diversity, Cohesion and Integration (EIA) Screening Assessment was completed for the Key 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 was also undertaken in relation to the proposed move to individualised arrangements.
- 15 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 opportunities are run from leisure centres sites which supports service users to play a more active role in their local community. The organisation operates regular cultural awareness days for service users and staff have supported individuals to attend the annual LGBTQ+ Pride parade in previous years. Aspire also worked with Hamara to deliver a six-week cultural history course via Zoom for service users.

### What consultation and engagement has taken place?

- 16 Extensive consultation and engagement with Aspire, their service users and family members has taken place as part of best practice.
- 17 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.
- 18 In winter 2020/21 Advonet conducted a detailed consultation project on behalf of the Council to seek the views of service users and family carers on individualised arrangements. The outcome found that people are very much in favour of the recommendations being proposed.
- 19 Detailed negotiations are taking place between the WAA Commissioning team and Aspire in order to agree on prices for the individualised arrangements. This work is progressing

and Aspire are working very positively and collaboratively towards a mutually agreeable individualised price structure.

### What are the resource implications?

- 20 The services are commissioned by Adults and Health and funding of the £3M is already being paid for by Adults and Health as part of the current block contract. No new monies are being requested.
- 21 Adults and Health anticipate that the continued funding for the legacy terms and conditions rights for the ex-LCC staff should not exceed £3M per annum.
- 22 As ex-LCC staff retire and leave Aspire, the full budgeted amount may no longer need to be committed towards the legacy pay/pension but will be accrued in order to off-set any risk of increase from tri annual pension re-evaluation.
- 23 Since the service spun out of the Council, LCC has received fluctuating financial remunerations to date, due to the pension agreement that Aspire has been able to secure for these staff as an independent provider with West Yorkshire Pension Fund.
- 24 By keeping the agreement to pay for this support, the Council is benefitting overall from a reduced rate of pension contributions for ex- LCC staff.
- 25 We have information detailing the predicted retirement dates, based on the national retirement age of 67, of ex-LCC staff to forecast the future payments. The graph below shows there are currently 463 individuals employed under TUPE arrangements and details the number of staff at each period who are due to retire.:



### What are the legal implications?

- 26 This is a Key Decision which is subject to call-in.
- 27 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 28 Advice has been sought from PACS throughout the review of the Aspire Services and the planned Individualisation. This decision will be linked to the over-arching contract,

specification and terms and conditions of the delivery services of supported living, day services and respite provision which have been refreshed and re-issued to all providers of care and support services in Leeds.

- 29 Advice has been sought from Legal Services, from an employment lawyer around the agreements and arrangements for the ex-LCC staff.

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

- 30 If this proposal is not approved, Aspire, who are the largest Leeds Learning Disability Services provider, may not be financially sustainable.
- 31 In order to be financially sustainable, Aspire would need to move to a one-tier workforce, which would involve lengthy consultation with staff and Trade Union's and potentially involve profound recruitment and retention issues in an already compromised adult social care market.
- 32 By agreeing to continue to fund this payment for the ex-LCC staff, these risks are reduced and Aspire continues to be a learning disability service in Leeds that users can continue to utilise and ex-LCC staff continue to receive their LCC terms and conditions of employment.
- 33 As costs attributable to this payment will reduce year on year as shown in the above table, this will financially provide for any increased financial risks from the triannual pension re-evaluation which can fluctuate.
- 34 Detailed tracking of staff turnover (when retained historical Council staff leave and new staff are recruited on different terms and conditions) will be compiled and monitored on a regular basis by Commissioning staff to support the Council with budget projections in future years around the financial commitment to the legacy terms and conditions (T&Cs) rights for the ex-LCC staff. No timescale for this has been set.

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

Inclusive Growth

Health and Wellbeing

Climate Emergency

- 35 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.
- 36 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.

- 37 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.
- 38 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.

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

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

- 39 Not to support the funding of the legacy T&C rights for the ex-LCC staff. The key risks around not funding this payment for the ex-LCC staff are highlighted above, which include Aspire no longer being financially sustainable, with a risk of a reduced service to Leeds users or lengthy staff and Trade Union negotiations for Aspire to amend ex-LCC staff terms and conditions of employment. With current profound social care workforce issues, this is not a viable option.
- 40 A decision has already been made to individualise the Aspire services and consequently the immediate option available is to continue to fund the legacy T&C rights for ex-LCC staff. An implementation plan of this option will be subject to further approval through the Adults & Health Directorate Leadership Team (DLT) meeting.

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

- 41 The service is subject to a robust service specification including key service delivery outcomes. Ongoing contract management meetings and individualisation meetings will be held between the provider and Working Age Adults Commissioning colleagues to ensure continued quality and financial governance.
- 42 Detailed tracking of staff turnover (when retained historical Council staff leave and new staff are recruited on different terms and conditions) will be compiled and monitored on a regular basis by Commissioning staff to support the Council with budget projections in future years around the financial commitment, which will reduce to a nil return and hence no risk at all to the Council.

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

- 43 The Individualisation of the Aspire Services is expected to be completed by October 2022 which is when this commitment to continued funding for legacy T&C rights for ex-LCC staff will commence via this separate arrangement, distinct from the individualised arrangements.

### **Appendices**

None

## Background papers

44 None