

West Yorkshire Combined Authority (WYCA) funding for victims' support services 2023-2025 (general grant funding): Request to accept receipt of grant and to allocate it to Leeds Women's Aid (LWA)

Date: 24th July 2023

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

Brief summary

West Yorkshire Combined Authority (WYCA) has awarded Leeds City Council (the Council):

- £181,216 to continue funding 2 specialist Independent Domestic Violence Advisers (IDVAs) for Children and Young People and Complex Needs until 31st March 2025
- £70,000 as a contribution to IDVA provision until 31st March 2024

Approval is being sought to accept receipt of the grant and to award this funding to LWA – through a grant - to continue providing IDVA resource for existing partnership structures in place to support victim-survivors of domestic abuse. Previous funding arrangements expired on 31st March 2023.

Recommendations

- a) Accept receipt of grant funding of £251,216 from WYCA.
- b) Approve a grant of £251,216 (£160,608 in 2023/24 and £90,608 in 2024/25) to LWA to continue to fund 2 additional IDVAs and other staffing which supports the IDVA function in Leeds.
- c) The decision will be implemented by the Head of Commissioning (Housing and Public Health) with support from Procurement and Commercial Services (PACS).

What is this report about?

- 1 The Council has received an allocation of £90,608 for both 2023/24 and 2024/25 from the WYCA to provide specialist IDVA support for victim-survivors of domestic abuse. It has also received an allocation of £70,000 for 2023/24 for IDVA provision in the city. This report sets out the intention

for how the funding will be allocated and seeks authority from the Director of Communities, Housing and Environment to proceed with this proposal.

- 2 The proposal in this report directly contributes to the Best Council Plan's overarching vision of tackling poverty and reducing inequalities. It addresses the Best Council Plan's priority of keeping people safe from harm and protecting the most vulnerable.

What impact will this proposal have?

- 3 This proposal will allow LWA to continue to manage the IDVA support required for high-risk clients, as identified at Daily Risk Assessment Meetings (DRAM) and Multi-Agency Risk Assessment Conferences (MARAC), resulting in more victim-survivors receiving this specialist support. The service works with over 300 families at any one time and there is continually high demand for support.
- 4 The £70,000 will be used for the same purpose as the previous year's allocation – supporting the DRAM process and undertaking short-term interventions.
- 5 The £181,216 will continue funding the 2 specialist IDVA posts (children and young people and people with complex needs) which support the MARAC process. The addition of these 2 posts has meant that more focussed support is available for people from these priority groups.
- 6 These IDVAs work closely with other partners – for example housing providers and drug and alcohol services – which results in more people gaining knowledge and skills relating to supporting victim-survivors of domestic abuse from those client groups.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing Inclusive Growth Zero Carbon

- 7 Supporting individuals and families to recover from their experiences of domestic abuse has a positive impact on health and wellbeing.

What consultation and engagement has taken place?

Wards affected: City-wide

Have ward members been consulted? Yes No

- 8 The West Yorkshire Combined Authority has been consulted on and is in agreement with this proposal.
- 9 Partners involved in the DRAM and MARAC processes were involved in the decision that a Children and Young People's IDVA and a Complex Needs IDVA would add value to the DRAM/MARAC arrangements.

What are the resource implications?

- 10 WYCA has paid the funding to the Council. It is WYCA's expectation that this funding is used for the delivery of IDVA support during 2023/25, specifically for the 2 specialist IDVA posts.

11 There are no longer-term resource allocations for the Council. LWA is aware of the short-term nature of the funding and the length of employment contracts reflects the period of the funding allocation.

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

12 The proposal is that the funding be allocated to LWA to deliver IDVA support to victim-survivors of domestic abuse. Should the service fail to deliver this support then there is a risk that the Council could have to repay the funding to WYCA. This will be mitigated by payment in instalments, through robust monitoring by Adults and Health Commissioning Team and through ongoing updates and communication with WYCA.

What are the legal implications?

13 The value of the grant in total exceeds £100k, but is below £500k, for this reason it has been determined that approval is a Significant Operational Decision, but is not subject to Call In. There are no grounds for keeping the contents of this report confidential under the Access to Information Rules.

14 The Council would be entering into a grant agreement directly with LWA for the specified project. Under the grant agreement the Council is allowed to use its discretion to withhold, suspend or request repayment (part or full) of the grant from LWA if it is found that the LWA breach their obligations under grant agreement. A termination provision for the Council will also be provided for within the grant agreement.

15 There is a risk of challenge that a grant payment is not actually a grant. Legally there is a grey area concerning when a grant can and cannot be used, as there is a fine line between a grant (which is not caught by the procurement rules) and a contract for services (which is caught by the procurement rules). Although no longer directly applicable due to the UK's departure from the European Union the preamble to EU Procurement Directive 2014/24/EU (from which the Public Contract Regulations 2015 (PCR) were transposed into English law) is still persuasive and the directive makes it clear at paragraph (4) that "the mere financing, in particular through grants, of an activity, which is frequently linked to the obligation to reimburse the amounts received where they are not used for the purposes intended, does not usually fall within the scope of the public procurement rules".

16 As such, unconditional grants are unlikely to meet the definition of a contract as set out in the PCR. However, where grants are used with strict qualification criteria and an obligation to pay back money if certain targets are not reached, the position is less straightforward and it is possible that an arrangement referred to as a grant could actually meet the definition of a contract set out in the PCR and, if it does, then PCR may apply. It is therefore extremely important to ensure that, if providing grants, the process followed does not fall within the definition of a "public contract" as set out in PCR 2015 which states –"contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services."

17 Furthermore, the Council's Contract Procedure Rules (CPR) as at CPR 1.4 state "A genuine grant funding arrangement is not a procurement. However, officers should consider whether the purpose that the grant is being provided for could be achieved through a procurement." The instructing officer(s) of the Council confirm that this is a genuine grant funding arrangement which

could not be achieved via a procurement, nor would a competitive grant process be relevant here due to the nature of the project, as detailed in this report.

- 18 As a public body, the Council must also comply with the Subsidy Control Act 2022 when it is providing financial assistance to companies, charities and other organisations. A subsidy occurs when financial assistance is provided from public resources - whether directly or indirectly - and all the following conditions are met:
- a) the assistance confers an economic advantage on a recipient;
 - b) the assistance specifically benefits a recipient over other entities in relation to the production of goods or the provision of services; and
 - c) the assistance has, or is capable of having, an effect on (a) competition or investment within the UK (b) trade between the UK and another country or territory or (c) investment as between the UK and another country or territory.
- 19 CPR 1.4 further states, “where a grant is being provided it must also be assessed against the provisions of the Subsidy Control Act 2022 so as to ensure that no unlawful subsidy is provided.” The award of grant funding to the LWA has therefore been assessed against the provisions of the Subsidy Control Act 2022 to ensure that no unlawful subsidy is provided. Following this assessment, it has been determined that it is not a subsidy on the basis that the recipient, LWA, is not an enterprise, as they are not engaging in any economic activity, which is a permitted exclusion as detailed within the Subsidy Control Act 2022 guidance. Therefore there is no requirement to report this grant award to the as it is not determined to be a subsidy for the purposes of the aforementioned legislation.
- 20 Funding from which any grant payment is made must be designated as “grant” money. If the Council wish to make a grant, the money must be in the Communities, Housing and Environment “grant” block. If it is not, it can normally be moved from other blocks in the Council budget into the grant block.
- 21 Awarding the grants to the named organisation in this way could leave the Council open to a potential claim from other providers, to whom this grant could be of interest, that it has not been wholly transparent. However, the risk of this would appear to be low as the service will ensure that details of any standalone subsidy awards are uploaded on the Government’s subsidy control transparency database.
- 22 As these are grants, they are not subject to the council’s Contracts Procedure Rules or within the PCR but good practice and transparency will be observed throughout.
- 23 There is no overriding legal obstacle preventing the award of the grant and the contents of this report should be noted. In making their final decision, the Director of Communities, Housing and Environment should be satisfied that the course of action chosen represents best value for the Council.

Options, timescales and measuring success

What other options were considered?

- 24 There is an existing contract in place with LWA for the provision of IDVA support which is performing well and is now an established service within the city providing positive outcomes for the individuals that are supported. Consideration was given to using the grant funding to vary this contract but because of previous variations that have been undertaken, the threshold allowed under the Public Contracts Regulations 2015 for modifying contracts has already been reached.

How will success be measured?

25 Victim-survivors of domestic abuse will feel safer as a result of the IDVA support – this will be measured through client consultation and feedback.

26 The numbers of repeat presentations at DRAM and MARAC will be reduced due to the additional support of the 2 specialist IDVAs.

What is the timetable and who will be responsible for implementation?

27 The Grant Agreement will be issued upon confirmation of approval from the Director of Communities, Housing and Environment.

28 The funding is being used for a continuation of existing provision so activity will continue without interruption.

Appendices

- ECDI screening

Background papers

- N/A