

**Report seeking approval to vary the existing contract with Leeds Centre for Independent Living (LCIL) under Regulation 72 (1) (c) of the Public Contracts Regulations 2015 (PCR 2015) in the sum of £ £293,076 for the provision of a Payroll and Managed Bank Account (MBA) Service for a period of seven months from 1<sup>st</sup> September 2024.**

**In line with CPR 3.1.7 the report is also seeking the Authority to Procure a Personal Assistant (PA) Payroll and Managed Bank Account Service for individuals in receipt of a Direct Payment.**

Date: 22nd May 2024

Report of: Interim Deputy Director, Integrated Commissioning

Report to: Director of Adults and Health

Will the decision be open for call in?  Yes

Does the report contain confidential or exempt information?  No

## **Brief summary**

Leeds City Council commissions Leeds Centre for Integrated Living (LCIL) to provide a payroll assistance service to individuals in receipt of a direct payment and employing a Personal Assistant (PA) to deliver their care and support. The service also facilitates a managed bank account (MBA) service to provide support for individuals who have difficulty managing financial and administrative responsibilities related to their direct payment. The Council's existing contract with LCIL (Ref: D55592) commenced on 1<sup>st</sup> September 2022 for a period of up to 24 months (including the extension period) with a total contract value of £1,004,817 (Existing Contract).

This report sets out a proposal to vary the Existing Contract with LCIL under the provision of Regulation 72 (1) (b) (i) of The Public Contracts Regulations (PCR) 2015 for an additional period of seven months. The period of the modified contract will run from 1<sup>st</sup> September 2024 31st March 2025 with a contract value of £293,076.

Authority to procure a new Personal Assistant (PA) Payroll and Managed Bank Account Service for individuals in receipt of a Direct Payment is also sought. The procurement exercise will commence in June 2024 with the contract anticipated to be awarded in the Autumn of 2024. The contract will commence on 1st April 2025 for a period of three years, expiring on 28<sup>th</sup> February 2028, with an option to extend for a further period of up to 60 months in any combination. The maximum cost of the contract per annum will be £450,000.00 or £1,350,000.00 for the initial period (overall contract value if all extensions are utilised: £3,600,000.00).

## Recommendations

The Director of Adults and Health is recommended:

- a) to approve Adults and Health and Children and Families request to vary the existing contract with LCIL under the provision of Regulation 72 (1) (b)(i) of The Public Contracts Regulations 2015 for an additional period of up to seven months. The period of the modified contract will run from 1st September 2024 to 31<sup>st</sup> March 2025 with a contract value of £293,076.
- b) In line with CPR 3.1.7, to give authority to procure a new PA Payroll and Managed Bank Account Service, for a period of 3 years commencing on 1<sup>st</sup> April 2025, with an option to extend for a further period of up to 60 months in any combination. The maximum cost of the contract per annum will be £450,000.00 or £1,350,000.00 for the initial period (overall contract value if all extensions are utilised: £3,600,000.00).
- c) To note; The Director of Adults & Health will be taking this decision on behalf of the Director of Children and Families, who contributes to this contract provision.

## What is this report about?

- 1 Leeds City Council commissions Leeds Centre for Integrated Living (LCIL) to provide the current service of payroll assistance to individuals in receipt of a direct payment and employing a Personal Assistant (PA) to deliver their care and support. The service also facilitates a managed bank account (MBA) service to provide support for individuals who have difficulty managing financial and administrative responsibilities related to their direct payment.
- 2 The Existing Contract expires on the 31<sup>st</sup> August 2024 and an additional extension period of 7 months is being sought, which would commence 1<sup>st</sup> September 2024 and expire on 31 March 2025, at a value of £293,076 to ensure continuation of service whilst a competitive procurement exercise is undertaken and the new contract mobilised.
- 3 The service is currently commissioned by Adults and Health and Children and Families Directorates to provide administrative and financial support to individuals and children and families in receipt of a Direct Payment and or Managed Bank Account. The service also facilitates this on behalf of Leeds Integrated Care Board (Leeds ICB) for Personal Health Budgets (PHB).
- 4 A procurement exercise will commence in June 2024 with the contract being awarded in the Autumn of 2024 with a new service commencing on 1<sup>st</sup> April 2025.
- 5 An interim service specification for a PA Payroll and Managed Bank Account service was finalised in August 2023 to allow the temporary continuation of service delivery whilst a market sounding exercise was undertaken, and a revised service specification produced in preparation for a new procurement exercise.
- 6 The proposal put forward includes a request to award a contract to the successful provider for a period of three years with the option to extend for a period of up to 60 months in any combination. The proposed long-term funding arrangement will provide the Council and the successful provider with sufficient time to develop and further innovate services, greater stability; continuity of partnership working arrangements; and staff recruitment and retention. The new contract will incorporate the Councils social value approach.

## What impact will this proposal have?

- 7 It is clear from information gathered through the Working Age Adult Commissioning Team contract management process and social work operational services, that this service is essential and supports individuals to maximise their independence, their opportunities to maximise their choice and control for health and wellbeing, and how that can be facilitated via direct payments.
- 8 The service will:
- deliver on a city-wide basis so will impact all wards.
  - delivers some of LCC's statutory responsibility under the Care Act 2014 to ensure individuals receive financial and administrative support to use and manage their direct payment.
  - consolidate skills and confidences for individuals who want to manage their finances independently.
  - embed social value by identifying and measuring social value outcomes to be delivered.
- 9 This provision delivers a service for people with physical and sensory disabilities in the city, who are more likely to be adversely affected by inequality and poverty. Without such provision, the health and wellbeing of individuals in receipt of a direct payment would be adversely affected.
- 10 An Equality Diversity Cohesion Integration screening has been completed and is attached.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 11 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.
- 12 The service will contribute towards the best city ambition by:
- Supporting self-care, with more people managing their own health in the community.
  - Reducing health inequalities and improve the health of the poorest fastest.
- 13 The service will 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.

- 14 Developing and supporting Direct Payments, improving the offer, availability, and training of PAs, also supports a local and diverse workforce in Leeds, the use and development of micro and small enterprises is strength based and helps in turn support inclusive growth in the city.
- 15 An improved and diverse workforce also encourages opportunities for local support which could reduce unnecessary journey times and travel. This helps to reduce carbon emissions and environmental pollution which contributes to city actions to better manage air quality.
- 16 The type of interventions provided are aimed at improving health and well-being, whilst being managed in the community, including the prevention of hospital admissions which helps ensure we better manage our use of resource intensive (and high carbon footprint) health and care services.
- 17 Furthermore, 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 will 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.

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

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

- 18 Detailed consultation with service users and stakeholders was undertaken as part of the review, and the views obtained shaped the new service specification.
- 19 The Executive Member for Adults and Health was consulted on the proposal on 14<sup>th</sup> May 2024.
- 20 Procurement and Commercial Services (PACS) will provide advice and guidance on the procurement process.
- 21 A market sounding exercise was undertaken in July 2023, to consult with and brief potential providers prior to the launch of the formal tender process. Six providers responded to queries regarding technical requirements, financial and delivery methods. The MSE feedback further informed and developed the service specification whilst minimising the possibility of budget and technical challenges.

**What are the resource implications?**

- 22 The award of this contract will be jointly commissioned by the Directorate of Adults and Health, the Directorate of Children and Families and NHS Integrated Care Board (ICB).

- 23 To vary and extend the Existing Contract for a period of 7 months at a cost of £293,076. This cost is split between the Adults & Health and Children and Families Directorates at £236,328 for Adults and £56,748 for Children's.
- 24 It is requested that the maximum amount allocated for the contract due to commence 1<sup>st</sup> April 2025 be £450,000 per annum to meet the identified need (£3,600,000.00 in total, including extensions). The total value contract value per annum will be £450,000; Adults and Health contribution per annum over will be £330,300; Children and Families contribution will be £80,775. Leeds Integrated Care Board (ICB) will contribute £38,970 per annum to support NHS outcomes for personal health budgets.
- 25 The total contract value would therefore be a maximum of £450,000 per annum, subject to the value of the successful tender. The tender submissions will be evaluated on a price quality separated approach and bidders will be invited to submit a tender within a stated budget envelope, thereby offering the opportunity for realising a further saving on the current cost.
- 25 Officer time will be necessary 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 key risks and how are they being managed?**

- 26 A project team comprising of representation from Adult Operation Services, Children and Families Directorate, WAA, Commissioning, Procurement & Commercial Services (PACS) and Leeds NHS ICB has been set up to oversee the re-commissioning process to ensure that the process adheres to the Public Contracts Regulations 2015, as well as the council's Contract Procedure Rules.
- 27 A risk register has been established to support the re-procurement process and this will continue to be managed and updated. Significant risk will be reported to the Adults and Health Commissioning Board and Directorate Leadership Team.
- 28 A mobilisation period has been built into the procurement timetable to ensure that the service can be fully mobilised before the contract start date.
- 29 This procurement will enable the continuity of provision that addresses a key commissioning priority of direct payment financial support. This will be managed through the Project Team throughout the procurement and mobilisation process, and then through a robust contract management process
- 30 The work is being led by the Working Age Adults Commissioning Team, with support from PACS, and wider Adults & Health colleagues reporting up to the Head of Commissioning (Working Age Adults). A project team will oversee and manage any project risks associated with this contract.
- 31 If this decision is not approved, the current services contract will end on the 31st of August 2024 causing significant risk to the Council and the provider. Disinvestment would place a significant amount of additional pressure on social work teams and support services commissioned by both Adults & Health and Children & Families and would further

disadvantage adults and families across Leeds who would struggle to find an alternate service and specialist provision elsewhere in the city.

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

### EXISTING CONTRACT VARIATION:

- 32 The contract variation is being requested in accordance with the provisions of Regulation 72 (1) (b) (i) of the Public Contracts Regulations 2015.
- 33 The modification of contracts is governed under the Public Contracts Regulations 2015 at Regulation 72 which permits certain types of modifications. The Regulation considers the extent to which a contract may be modified before it should be considered so substantially changed as to necessitate a new procurement. Permissible grounds for modification include a need for additional services due to unforeseen circumstances (subject to 50% maximum increase in initial contract value). It also requires the consideration of the effect of cumulative variations. Therefore, this needs to be considered in taking this decision.
- 34 The figures set out in the Brief Summary section of this report show the value of the Existing Contract and the proposed increase due to the request to vary the contract and is within the realms of the regulation.
- 35 The provisions of Regulation 72 (1)(b) (i) PCR 2015 provide an exception “where all of the following conditions are fulfilled:
- (b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor:
  - (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement; ...
- provided that any increase in price does not exceed 50% of the value of the original contract.
- 36 In making this variation, the above conditions of Regulation 72 (1) (b) (i) PCR 2015 are deemed to be satisfied for the following reasons:
- a) The original intention was that the review of the service model and procurement be completed by the end of the current contract period, however, due to the embedding of the wider Direct Payment system review and the findings from a recent Market Sounding Exercise (MSE) it was not considered a suitable option to pursue at an earlier time, given the likely changes to LCC systems and processes which would affect the look and functionality of any future procurement.
  - b) The change is only to the contract period and does not affect the terms and conditions of the service.
  - c) The value of the additional period is 29% of the original contract value.
- 37 When contracts are varied on reliance on Regulation 72(1)(b) PCR 2015, it is a requirement to submit a modification notice to Find a Tender (FTS) to alert the market that a modification to the contract has taken place (or is to take place). Once the notice is published on FTS it will

start time running for bringing a claim for a breach of the PCR, 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 modification notice to that effect will be published.

- 38 However, if Regulation 72(1)(b) PCR 2015 is used incorrectly, and it is subsequently determined that the conditions to permit Regulation 72(1)(b) PCR 2015 are not met, the council will be open to legal challenge that it has breached the procurement rules by modifying the contract. Further, an aggrieved supplier could potentially argue that it has missed out on a competitive opportunity and thereby seek damages for that loss of opportunity. These risks are considered low for the reasons stated in this report.
- 39 There is no overriding legal obstacle preventing the variation of this contract under Regulation 72 PCR 2015. The percentage uplift is within the range permitted under Regulation. In making the final decision, the Director of Adults and Health should be satisfied that the course of action chosen, as to varying the contract, is the best course of action for the Council and should be satisfied that in doing so it represents best value for the Council.

#### NEW CONTRACT PROCUREMENT:

- 40 With reference to the new contract, this was the subject of a Key Decision (D56735) given the total value of the new contract proposed (including potential contractual extensions) exceeds £500,000.00 and was therefore subject to Call In. It was published on the List of Forthcoming Key Decisions on 26th September 2023 .
- 41 As a direct consequence of the Key Decision, the decision to award the new contract will be taken as a Significant Operational Decision, which will not be subject to call-in.
- 42 This report is seeking in accordance with the Council's internal Contract Procedure Rules (CPR) CPR 3.1.7, to give authority to procure a new PA Payroll and Managed Bank Account Service, for a period of 3 years commencing on 1st April 2025, with an option to extend for a further period of up to 60 months in any combination. The maximum cost of the contract per annum will be £450,000.00 or £1,350,000.00 for the initial period (overall contract value if all extensions are utilised: £3,600,000.00).
- 43 The proposed contract value of the new contract (including any possible extensions) will exceed the procurement threshold for Health and Social Care services which currently stands at £663,540. Whilst the service is not subject to the "full" above-threshold regulations but to the "Light-Touch Regime" under the Public Contracts Regulations 2015, there is still a requirement to advertise this opportunity via the Council's YORtender portal and the Find a Tender Service to ensure an open competitive tendering exercise.
- 44 This report does not contain any exempt or confidential information under the Access to Information Rules.
- 45 In making their decision the Director of Adults & Health should be satisfied that the course of action proposed represents value for money.

- 46 It is to be noted that the Director of Adults & Health will be approving this decision on behalf of Children and Families Directorate.

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

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

- 47 An option to pursue a more immediate procurement for the PA Payroll/MBA element of this service provision was considered, however due to the wider Direct Payment system review which was taking place, as well as the internal transfer of the PA employment support and functions to LCC, and the findings from a recent Market Sounding Exercise (MSE) it was not considered a suitable option to pursue at an earlier time, given the likely changes made both internally to LCC systems and processes which would affect the look and functionality of any future procurement.
- 48 Extensive market knowledge within the Commissioning Team and a previous market sounding exercise demonstrates there is a buoyant provider market therefore the option being pursued now is to undertake a full and rigorous procurement exercise to fully test that market.

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

- 49 The procurement exercise will be project managed by a project team comprising officers from Working Age Adults Commissioning and PACS, reporting up to the Head of Commissioning on key risks and milestones.
- 50 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.

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

- 51 The Head of Service Commissioning is the officer responsible for implementation of this contract and will liaise with Procurement and Commercial Services (PACS) to oversee its implementation before the existing arrangement expires on 31st August 2024. PACS will be requested to issue an additional 7-month extension for this contract.

## **Appendices**

- Equality, Diversity, Cohesion and Integration (EIA) Screening Assessment as completed for the decision.

## **Background papers**

- None