

## Cabinet

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**Date of Meeting:** 2<sup>nd</sup> February 2021

**Report Title:** Occupational Health Contract Procurement

**Portfolio Holder:** Cllr Jill Rhodes, Portfolio Holder for Public Health and Corporate Services

**Senior Officer:** Jane Burns, Executive Director of Corporate Services

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### 1. Report Summary

- 1.1. The Council provides Occupational Health services via a contract with People Asset Management.
- 1.2. The current contract covers Cheshire East Council, Alternative Service Delivery Vehicles (ASDV's) and Schools and Academies through a buy back arrangement. The current contract was procured jointly by Cheshire East Council, Cheshire West and Chester and Warrington Borough Council in 2016.
- 1.3. The contract which has been extended for a maximum of two additional years equating to five years in total ends on the 31 August 2021 and it is proposed to re-tender this contract on a collaborative basis with Cheshire West and Chester Council. Warrington Borough Council have separate contractual arrangements which run over a different period and they have not been involved in any ongoing collaborative work since the original procurement and are therefore not party to this re procurement exercise.
- 1.4. The procurement with Cheshire West and Chester will include both Councils' Arms' length companies and ASDV's. It is anticipated that the contract will be awarded by the end of May 2021 enabling a smooth transition to the new contract commencing on 1 September 2021.

## **2. Recommendation**

- 2.1. That Cabinet delegates authority to the Executive Director of Corporate Services in consultation with the Portfolio Holder for Public Health and Corporate Services to award and enter into the new contract following a tender exercise.

## **3. Reasons for Recommendation**

- 3.1. The current contract commenced in September 2016 and is due to expire on 31 August 2021. Therefore, it is recommended that the council undertakes a tender process to ensure that the Council has access to an Occupational Health service when the current contract expires.
- 3.2. It is proposed that competitive tenders would be invited and evaluated from suppliers for the provision of Occupational Health services. This competitive process may enable costs to be reduced and will ensure the Councils' requirements can be delivered.
- 3.3. If the successful bidder is an organisation other than the current provider there will need to be a 12 to 16-week lead in time in order to set up the new contract from 1 September 2021.
- 3.4. The procurement process will be undertaken jointly with Cheshire West and Chester Council being the lead. Procuring the contract jointly will result in the contract being more attractive to bidders due to its size and also it will be more efficient and reduce duplication of effort across both Councils.

## **4. Other Options Considered**

- 4.1. Consideration has been given as to whether the contract should be procured jointly or not and on balance it presents the council with more advantages than disadvantages. It is felt that it makes economic sense and will be more efficient to undertake the procurement on a joint basis given that both authorities are seeking to procure the same service and from discussions it is clear that the needs of both organisations are very similar.
- 4.2. A joint procurement group has been set up and is operating across both organisations. It is felt that by procuring the contract jointly it will minimise duplication of work and enable officers to share some of the workload fairly in order to meet the very challenging time scales. As outlined above it is also likely that the contract will be more attractive to the market if procured jointly than it would be if both authorities undertook separate procurement exercises.

- 4.3. At present both Cheshire East and Cheshire West and Chester Councils use People Asset Management as their provider and have worked together successfully over the period of the current contracts to manage and develop the offer with the provider.
- 4.4. The option to procure from a consortia framework has been considered but it is felt that to do so would limit the number of potential bidders.

## **5. Background**

- 5.1. The current contract was procured in 2016 and involved Cheshire East Council, Cheshire West and Chester Council and Warrington Borough Council procuring jointly but with each authority holding their own individual contract and being responsible for the management that contract. The process undertaken worked very well and the successful bidder was People Asset Management.
- 5.2. The Occupational Health contract provides a range of services to the Council and its workforce including pre employment health screening, management referrals and the provision of reports to managers, wellbeing counselling, ill health retirement and independent pension signatory, health surveillance services and audio screening.
- 5.3. There were a limited number of bidders for the contract in 2016 but this was due in part to there being staff employed as part of the in-house occupational health service that existed, having to be TUPE'd to the new provider. According to feedback received this acted as a disincentive to several potential bidders. People Asset Management accepted the staff from the in-house provision under TUPE. This is unlikely to be an issue during the next procurement exercise as any staff who meet the criteria for TUPE will be fewer in number than existed during the previous exercise and in addition any staff would be transferred from the current provider to a new provider if successful.
- 5.4. The current contract with People Asset Management has been managed by each council independently and regular meetings have taken place between the provider and the contract managers for both councils. In addition, some collaborative work has also been undertaken between Cheshire East Council and Cheshire West and Chester Council and People Asset Management in order to develop the provision and improve the service.
- 5.5. The process for setting up the new contract in 2016 was a significant project and was complicated by the fact that all medical records had to be transferred to the new provider and the majority of these records were paper based. During the period of the current contract the new provider has undertaken a

process to digitise the majority of the medical records and therefore this should result in a far smoother transition if a new provider were to be successful during this procurement exercise.

- 5.6. Soft market testing was carried out during 2019 where both councils interviewed several other providers in the market to ascertain what provision might be available in advance of beginning the procurement exercise. From this soft market testing it is apparent that there are a number of new providers in the market who did not bid previously but would be in a position to do so this time. It is felt that this will be helpful from the council's perspective as it should provide a wider range of potential suppliers and may in turn offer cost savings as a result.
- 5.7. The current contract for Cheshire East Council costs £215,000 per annum, funded from the corporate HR budget and this is paid on a monthly basis. In addition, some additional services such as CBT Counselling can be provided by People Asset Management at an additional cost. The costs of additional services vary from month to month between £1,000 and £4,000 and these costs are met by individual service budgets.
- 5.8. The current contract specification only includes Occupational Health, but there are a number of providers including the current provider who can provide both Employee Assistance Programme (EAP) as well as Occupational Health, at present Cheshire East Council has a separate contract with a different provider for its EAP. It is envisaged that savings and efficiencies may be derived from utilising the same provider for both of these services and this will be included as part of the specification that will be drawn up for the contract. The contract for the EAP and Occupational Health Services terminate at the same time and both Councils are considering the option of utilising one provider for OHU and EAP services. The EAP provides a range of services to support the workforce which includes counselling and advice and guidance on a range of issues including debt management, the current contract has been extended for one year so that the termination date coincides with the OHU contract.
- 5.9. There are two types of contract available from providers these are fixed price contract which is the type of contract that the council currently has with People Asset Management or a pay as you go contract whereby all services are charged on an individual basis and paid for during the year. The advantage of a fixed price contract is that the total price cannot change as a result of usage, whereas a pay as you go arrangement could exceed any budget allocated at the beginning of the year. In addition, a pay as you go contract would entail far more administrative and management support of the contract than a fixed price contract as charges would need to be scrutinised

in more detail before agreeing payment. It will be possible as part of the procurement process to compare the costs from providers on both options and then make an assessment in relation to cost effectiveness.

- 5.10. Some of the cost of the contract to the council is offset by income generated by providing the service to schools and academies and ASDV's within Cheshire East on a buy back arrangement and the total income projected for 2020/21 is £114,982. It is intended that the ASDV's and ESAR Leisure Trust hold their own contract and pay for this themselves, however, in respect of schools and academies the council will continue to offer them the facility to buy into the council's occupational health contract through CHESSEX buy back and this will continue to generate income to offset the overall cost of the new contract. Schools, academies and ASDV's are all involved in the current procurement process. The ASDV's and ESAR Leisure Trust have been invited to be part of the joint procurement group which has been set up covering both councils and a subgroup has also been set up which involves representatives from schools and academies from both councils. It is hoped that by engaging with schools and academies current uptake may be improved and therefore income may increase.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1 Discussions with Cheshire West and Chester Council as to the management of the procurement process are ongoing. However, Cheshire West and Chester Council will be leading the procurement on behalf of both Councils so as to identify a provider who will hold the separate contracts for delivery of Occupational Health services with both Councils.

In so far as this procurement relates to 'Health Services' this falls within the meaning of Schedule 3 of the Public Contracts Regulations 2015. Therefore, the procurement should be conducted in accordance with Regulations 74 to 76 of the Public Contracts Regulations 2015 and be in compliance with Cheshire East Council's Contract Procedure Rules. In view of the prospective value of the contract it will be required to be advertised on "Find a Tender" which will replace OJEU as from 1 January 2021. Cheshire West and Chester Council are taking a lead in terms of preparation of the contract to be tendered and the Cheshire East Council's legal team will review the draft contract in due course.

Once a contract is awarded consideration will need to be given as to

how records and other materials held by Cheshire East Council may be transferred to the provider. Such records and materials may contain sensitive data covered by laws of confidentiality and the provisions of the Data Protection Act; and therefore, the process of transfer will need to comply with all regulations applying to such data.

## **6.2. Finance Implications**

6.2.1 Expenditure budget of £247,800 is available to fund the cost of the contract, this is offset by an income budget of £139,400 relating to ASDV, and schools/academies buy-back of the OHU service, giving a net budget available of £108,400. It must be noted that income from schools is currently falling short of budget due to the number of schools dropping out of buying-back the service, with income forecast to fall short by approximately £25,000. Taking this income shortfall into account, sufficient budget still exists to meet the current contract cost of £215,000 per annum but there is very little scope to meet an increase in contract price.

6.2.2 In the past the council has not been able to scale the cost of the service to fit reduced demand, this situation will need to be resolved in some way as part of the new contract to protect the council from any future losses from schools not continuing to buy back the OHU service. Human Resources have indicated that it may be possible to reduce the cost of a new contract, but this may only be possible by reducing the scope of services being offered by potential providers.

6.2.3 The contract is likely to be for a five year period and therefore will be in excess of £1 million and is therefore a key decision.

## **6.3. Policy Implications**

6.3.1 No implications.

## **6.4. Equality Implications**

6.4.1 There will be positive benefits to the workforce of having an effective Occupational Health service, in particular with regard to staff who may suffer with health conditions. Occupational Health are able to provide advice to managers on reasonable adjustments that might be considered in respect of staff who have disabilities in line with the provisions of the Equality Act 2010.

## **6.5. Human Resources Implications**

6.5.1 Ensuring a smooth transition from the current to the new contract is essential. During implementation and launch of the new Occupational Health contract, managers who use Occupational Health will be trained on any new supplier's ICT platform. This will ensure that employees can be referred to Occupational Health when required.

6.5.2 The current contract is managed within the HR Service and this involves regular contract management discussions and meetings with the provider. In addition, dealing with complaints and issues that arise and monitoring of expenditure and budgets and arranging recharges to service departments for additional services which sit outside the core contract. The management of the contract as a fixed price contract is less onerous than a pay as you go option and therefore if a pay as you go contract were to be the preferred option, then additional administrative support would be required in order to support the contract. This would be factored into the overall costs.

## **6.6. Risk Management Implications**

6.6.1 All contract agreements are closely monitored throughout the contracted period to ensure that the Council continues to obtain and maximise value for money and consistent levels of service. A requirement of the contract is for continuous improvement throughout the term of the contract to ensure that best value is achieved.

## **6.7. Rural Communities Implications**

6.7.1 There are no direct implications for rural communities.

## **6.8. Implications for Children & Young People/Cared for Children**

6.8.1 There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1 The provision of an effective Occupational Health contract will provide employees with advice and guidance on health and wellbeing and should ensure that the councils absentee rates are kept to a minimum and that where staff require health related support this can be flagged and appropriate recommendations made to managers within services.

## **6.10. Climate Change Implications**

6.10.1 Most providers in the market have moved to virtual consultations during the COVID pandemic and this is likely to continue, this will

result in far less travel to attend face to face appointments, although some may still be required this will help to reduce the council's carbon footprint by reducing the amount of car travel which takes place

## **7. Ward Members Affected**

7.1 No impact on any specific wards and Local Ward Members.

## **8. Consultation & Engagement**

8.1 As part of this project, managers who currently use the Occupational Health system will be consulted to obtain feedback on their experience, this will be done through the Procurement Group and will include representatives from schools and ASDV's. Feedback received will be taken into account for the new contract specification. The trade unions will be consulted through the Corporate Trade Union meetings.

## **9. Access to Information**

9.1 No additional information.

## **10. Contact Information**

10.1 Any questions relating to this report should be directed to the following officer:

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