

Report to: SINGLE COMMISSIONING BOARD

Date: 25 May 2017

Officer of Single Commissioning Board: Angela Hardman, Executive Director - Public Health, Business Intelligence and Performance

Subject: DRUG & ALCOHOL RECOVERY SERVICE

Report Summary: Lifeline Project Ltd will transfer their business and assets to CGL (Change, Grow, Live) on 31 May 2017 and a novation of the current contract would be required to continue with current service provision.

Recommendations: That approval is given under Council Procurement Standing Order F1.5 to vary the contract for the above service by the novation of the contract to a new provider who takes on the obligations of the original contractor.

Financial Implications:
(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

Budget Allocation (if Investment Decision)	2017/2018 - £ 3.469 million
CCG or TMBC Budget Allocation	TMBC – Public Health
Integrated Commissioning Fund Section – S75, Aligned, In-Collaboration	Section 75
Decision Body – SCB, Executive Cabinet, CCG Governing Body	Single Commissioning Board
Value For Money Implications – e.g. Savings Deliverable, Expenditure Avoidance, Benchmark Comparisons	Avoidance of health service demand related expenditure

Additional Comments

Single Commissioning Board members should be satisfied that the novation of the contract to the new provider on 31 May 2017 will ensure continuity of an essential service to the health and social care economy.

It is important to note that the new organisation is currently considered to be financially stable based on the details provided within the organisation questionnaire referenced in **Appendix 1**.

However, it is critical that continual and regular reviews of the organisation's financial stability should be implemented within the ongoing contract monitoring arrangements to ensure there is a sufficient period available for alternative arrangements to be implemented in the eventuality of organisational failure in the future.

**Legal Implications:
(Authorised by the Borough
Solicitor)**

The need for the novation of the contract arises from the financial position of the contracted provider (Lifeline Project Limited) who intends to transfer the business to CGL Plc with effect from 1 June at the latest.

Regulation 72(1)(d) of the Public Contracts Regulations 2015 allows the modification of a contract without a new procurement procedure where as a consequence of universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the regulations.

Officers have evaluated the Organisational Questionnaire submitted by CGL Plc and are satisfied that it meets the criteria for qualitative selection initially established during the original procurement. CGL Plc have confirmed during due diligence discussions that they propose to operate the contract as is with no modification and therefore it would not be unlawful for the Council to rely on Regulations 72(1)(d) and approve the recommendation.

**How do proposals align with
Health & Wellbeing Strategy?**

Reducing harmful drug and alcohol use is identified as a priority within the Health and Wellbeing Strategy.

**How do proposals align with
Locality Plan?**

Reducing harmful drug and alcohol use is important to reduce premature mortality, hospital admissions and long term conditions, and contribute to our ambition to increase healthy life expectancy.

**How do proposals align with
the Commissioning
Strategy?**

Reducing harmful drug and alcohol use will contribute to reducing premature mortality, hospital admissions and long term conditions.

**Recommendations / views of
the Professional Reference
Group:**

The report has not been submitted to the Professional Reference Group due to the urgency of events leading to this report.

**Public and Patient
Implications:**

Novation of the contract will ensure continuity of service provision. The new service has attracted new clients, particularly alcohol users and young people.

Quality Implications:

The results of the Organisational Questionnaire are included in the waiver report. CGL passed all sections of the document which includes elements on organisational information, financial details, insurance, equal opportunities, health & safety, clinical safety and governance, business contingency and safeguarding. Each area has been evaluated by a lead officer.

**How do the proposals help
to reduce health
inequalities?**

Harmful drug and alcohol use is associated with social deprivation. The service aims to support recovery enable independence, and stability of housing, relationships and employment.

**What are the Equality and
Diversity implications?**

The service is available to self referral from anyone with a concern about their use of drugs or alcohol.

What are the safeguarding implications?

Service users and their families may be vulnerable as result of harmful drug use. The current service was reviewed by CQC in December 2106, and no concerns about safeguarding were identified. Safeguarding was included in the Organisational Questionnaire for CGL, and some policy issues for follow up were identified.

What are the Information Governance implications?

Information Governance was included in the Organisational Questionnaire and considered satisfactory.

Has a privacy impact assessment been conducted?

This was concluded within the tender in 2015.

Risk Management:

Information Governance was included in the Organisational Questionnaire and considered satisfactory.

Access to Information :

The background papers relating to this report can be inspected by contacting

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1 BACKGROUND

- 1.1 A Key Decision was taken on 22 October 2014 whereby the Council agreed the following:-
- Decommission all current Drug & Alcohol services and commission a single prime provider to develop and deliver a whole system approach.
 - Undertake a procurement exercise using the open procedure to let a 10 year contract with safeguards as highlighted in 6.6 of the Key Decision.
 - Delegate to the Director of Public Health in consultation with the Executive Director – Governance (Borough Solicitor) and Executive Director Finance authority to approve the evaluation criteria and the procurement documentation needed.
- 1.2 Public Health is the commissioner of this service and were supported by the Joint Commissioning and Performance Management Team.
- 1.3 An open tendering exercise commenced on 6 November 2014 and closed on 12 January 2015. This was completed in accordance with Tameside Metropolitan Borough Council Procurement Standing Orders. Tenders were invited via OJEU (the EU Official Journal) and other related on-line sites and journals via Delta Electronic Tendering Service who facilitate access to OJEU).
- 1.4 A full financial check was undertaken on all tendering organisations by the Treasury Management Department at Tameside Council. All providers were considered to be financially viable to provide this contract, met the requirements of the Health and Safety checks completed and indicated they had or were willing to take out relevant insurance on contract award.
- 1.5 Following receipt of a full summary of the evaluation scores, Lifeline Project Ltd were awarded the contract.

2. PROCUREMENT STANDING ORDER SEEKING TO WAIVE / AUTHORISATION TO PROCEED

- 2.1 Authorisation required under Procurement Standing Orders F1.5 to vary a contract by novation of the contract to a new provider who takes on the obligations of the original contractor.

3 VALUE OF CONTRACT

- 3.1 The total contract value at commencement was £32,920,000. The contract began on 1 August 2015, with contractual planned end date of 31 July 2025.
- 3.2 The term currently remaining is 8 years and 2 months with a maximum value of £26,380,166 (including Payment for change element).

4. GROUNDS UPON WHICH WAIVER/AUTHORISATION TO PROCEED SOUGHT

- 4.1 Lifeline Project Ltd recently advised of their intention to transfer the business and assets of Lifeline to another organisation, Change, Grow, Live (CGL Plc). Lifeline Project Ltd proposed the change due to their current financial position following advice from financial advisors FRP Advisory. Lifeline have developed a close relationship with CGL in order to secure the continuity of its services to the community. The financial prospects of Lifeline is currently uncertain.

- 4.2 Lifeline and CGL have progressed their transfer to the stage of legal, contractual and workforce transference that is necessary for the handover from Lifeline to CGL to occur. This is planned to take effect at the end of May 2017.
- 4.3 In order to take all necessary steps to continue to protect the care of service users and employees it is proposed to novate the current contract held between Tameside MBC and Lifeline Project Ltd to a contract to be held between Tameside MBC and CGL Plc (Charity No: 1079327) (Company No: 03861209).
- 4.4 The novated contract would be completed on the existing contractual terms agreed for the remainder of the contractual term, which includes the necessary protection of staff in all areas of the contract, the value of which is provided within section 3.
- 4.5 In order to be assured of the capability and competence of CGL as an organisation and their ability to achieve and deliver the contractual obligations, a full organisational questionnaire was submitted by CGL, identical to the document provided by tendering organisations during the original service tender.
- 4.6 The results of the organisational questionnaire are provided in Appendix 1. CGL passed all sections of the document which includes elements on organisational information, financial details, insurance, equal opportunities, health & safety, clinical safety and governance, business contingency and safeguarding. Each section has been evaluated by lead officers.

5. REASONS WHY USUAL REQUIREMENTS OF PROCUREMENT STANDING ORDERS NEED NOT BE COMPLIED WITH BUT BEST VALUE AND PROBITY STILL ACHIEVED

- 5.1 Regulation 72(1)(d) of the Public Contracts Regulations 2015 allows the modification of a contract without a new procurement procedure where as a consequence of universal or partial succession into the position of the initial contractor, following corporate restructuring, including takeover, merger, acquisition or insolvency, of another economic operator that fulfils the criteria for qualitative selection initially established, provided that this does not entail other substantial modifications to the contract and is not aimed at circumventing the application of the regulations.
- 5.2 In order to ensure compliance with Regulation 72(1)(d) and to be assured of the capability and competence of CGL as an organisation and their ability to achieve and deliver the contractual obligations, a full organisational questionnaire was submitted by CGL identical to the document provided by tendering organisations during the original service tender.
- 5.3 The results of the organisational questionnaire are attached. CGL passed all sections of the document which includes elements on organisational information, financial details, insurance, equal opportunities, health & safety, clinical safety and governance, business contingency and safeguarding. Each section has been evaluated by lead officers.
- 5.4 The novation would require a new agreement on the same terms as the original agreement, with the original agreement between Tameside MBC and Lifeline Ltd being discharged. Once transferred, the original contract terms remain and the assignor (CGL) will remain bound by any prospective obligations and liabilities under it

6. RECOMMENDATION

- 6.1 As stated on the report cover

Appendix 1

Organisational Questions & Scores		
Provider Name: CGL - May.17		
Q. Number	Questions	Score
1.10a	Bankruptcy proceedings or been involved in an organisation that has been subject to liquidation proceedings or had receivers appointed	Pass
1.10b	Convicted of any criminal offence, apart from minor traffic offences	Pass
1.10c	Committed a criminal offence relating to the conduct of your business or profession	Pass
1.10d	Any legal proceedings (including Arbitration) with any other organisations including local authorities	Pass
1.13	Compliant with Data Protection Act	Pass
2.1	Financial Details	Pass
3.1	Insurance Levels	Pass
4.1	Equal Opportunities Policy compliant with Equality Act 2010	Pass
4.3	Response to any finding of any unlawful discrimination	Pass
5.1	Is the Provider CHAS (or equivalent) registered?	Yes
5.2	If not CHAS or equivalent registered, is Health & Safety Policy compliant with legislation	Pass
6.1	Clinical Questions	Pass
6.2	Clinical Questions	Pass
6.3	Clinical Questions	Pass
6.4	Clinical Questions	Pass
6.5	Clinical Questions	Pass
6.6	Clinical Questions	Pass
6.7	Clinical Questions	Pass
6.8	Clinical Questions	Pass
6.9	Clinical Questions	Pass
6.10	Clinical Questions	Pass
6.11	Clinical Questions	Pass
7.1	Business contingency	Pass
7.2	Business contingency	Pass
8.1	Safeguarding	Pass
8.2	Safeguarding	Pass