



CABINET – 24 APRIL 2023

EXCEPTION TO CONTRACT PROCEDURE RULES
URGENT ACTION TAKEN BY THE CHIEF EXECUTIVE IN RELATION
TO ADULT SOCIAL CARE WINTER DISCHARGE FUND

REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

PART A

Purpose of the Report

1. The purpose of this report is to advise the Cabinet of urgent action taken by the Chief Executive to agree an exception to the Council's Contract Procedure Rules to distribute the Adult Social Care Discharge Fund. The objective of the Fund is to support timely and safe discharge from hospital into the community by reducing the number of people delayed in hospital awaiting social care and reducing the number of bed days lost to delayed discharges.

Recommendation

2. It is recommended that the Cabinet notes the urgent action taken by the Chief Executive to agree an exception to the Contract Procedure Rules to approve the direct award of a contract on behalf of the Integrated Care Board to Voluntary Action South Leicestershire running until the 31 March 2023 with a maximum value of £310,000.

Reasons for Recommendation

3. The Council's Constitution (Contract Procedure Rule 6 (b) (ii)) provides that exceptions to the Contract Procedure Rules may be made by the Cabinet where it is satisfied that an exception is justified on its merits and that in urgent cases the Chief Executive (after consultation with the Leader or Deputy Leader save where this is not practicable) may direct that an exception be made subject to it being reported to the Cabinet.
4. The exception was necessary in order to ensure that the available funds were allocated and spent within the eligible time period.
5. The County Council's Contract Procedure Rules (Part 4G of the Constitution) require that, where the estimated value of a contract exceeds £177,897, formal tenders must be invited.

6. Where an exception to the Contract Procedure Rules is required for contracts over £177,897, Rule 6 (b)(ii) provides that Cabinet approval be obtained to the exception where this is justified on its merits. The contract with Voluntary Action South Leicestershire (VASL) has a value not exceeding £310,000 up to 31 March 2023.
7. The circumstances and financial considerations explained in Part B of this report, meant that other procurement processes were not possible in order to ensure the funding could be allocated in time according to the guidance issued by the Department of Health and Social Care.
8. The majority of the funding was allocated via increasing capacity within existing County Council contracts. All the Local Authority allocation has been issued in line with the procurement regulations and County Council internal Contract Procedure Rules, through modifications to existing contracts or through the use of corporate contracts.
9. The Integrated Care Board (ICB) allocation amounts to £2.7m. £2m of this was issued compliantly through existing contracts or on internal County Council staff. £310,000 was issued via a direct award to VASL.
10. Due to the short timescales and fixed term nature of this funding, including the need to commit funds by 31 March 2023. The final spend on this fund will not be known until the end of April 2023 at which point there may be some underspend and additional items of expenditure that may be appropriate. Any such items will be committed in similar ways to those outlined above. If needed the Director of Adults and Communities will use his delegated authority to make direct awards, within procurement regulations and with agreement from the Authority's Commissioning Support Unit.

Timetable for Decisions (including Scrutiny)

11. The Chief Executive agreed the exception on 23 March 2023.
12. There is no forward timetable at present for any future funds made available to the County Council for adult social care purposes.

Policy Framework and Previous Decisions

13. The exception to the Contract Procedure Rules follows the Council's Constitution (Contract Procedure Rule 6 (b)(ii)).

Resource Implications

14. The financial resource implications are detailed throughout this report. The schemes are being administered through established staff resource.
15. The Director of Corporate Resources, the Director of Adults and Communities and the Director of Law and Governance have been consulted on the rationale behind this contract exception. Any risk associated with this award is minimal

since the majority of the expenditure has been managed through existing contractual arrangements.

Legal Implications

16. The decision to approve the direct award of a contract on behalf of the ICB to VASL running until the 31 March 2023 with a maximum value of £310,000 is under the threshold for light touch procurements and therefore outside the requirements of the Public Contract Regulations (PCR) 2015. It is therefore permissible to make such an award by excepting the Council's Contract Procedure Rules using rule 6(b)(ii).
17. Additional sums to other providers under existing contracts and any variations thereto should also be consistent with Contract Procedure Rules and, depending on value, PCR.

Circulation under the Local Issues Alert Procedure

18. None.

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PART B

Background

19. The Adult Social Care Discharge Fund can be used flexibly on the interventions that best enable the discharge of patients from hospital to the most appropriate location for their ongoing care.
20. The Council and the Leicester, Leicestershire and Rutland ICB were required to use the funding during the period 9 December 2022 to 31 March 2023 to:
- enable more people to be discharged to an appropriate setting;
 - prioritise those approaches that are most effective in freeing up the maximum number of hospital beds including those discharges for people with Mental Health; and
 - boost adult social care workforce capacity through recruitment and retention activity, where that will help to reduce delayed discharges from hospital and support more people within their own homes.
21. The total allocation received is £4,773,904, which is the total of the ICB allocation and Local Authority (LA) grant. The ICB allocation is £2,762,031 and Leicestershire County Council/LA Grant is £2,011,873.
22. As stated in paragraph 10 above, the final expenditure on this Fund will not be known until the end of April 2023. The ICB allocation has mostly been committed to existing contracts or County Council staff, however some of the funding has been allocated to fund schemes that are either new or which could not be delivered under existing contracts. These required sign-off by exception according to Rule 6(b)(ii) of the Council's Contract Procedure Rules.
23. The expected scheme end spend against the **ICB Allocation** is broken down as follows:

| Amount | Supplier | Procurement Route |
|---------------|---|--|
| £116,667 | Internal County Council staff | Spend through existing County Council staff. Allocated through redeployment, corporate finance, or through existing roles within the organisation. |
| £47,620 | Internal NHS staff | |
| £958,539 | Home Care for Leicestershire (HC4L) suppliers | Use of existing HC4L Framework – increased night care wraparound and Pathway 1 capacity. |
| £720,211 | Home Care for Leicestershire (HC4L) suppliers and County Council staff. | |

| | | |
|-------------------|---|---|
| £310,000 | Carers Services – VASL | This is a direct award to VASL to administer the distribution of carers incentive payments. Within this allocation for carers the ICB will also be commissioning additional carers support services. |
| £60,000 | Numerous training providers and County Council Learning and Development | |
| £80,000 | Royal Voluntary Service | No existing contract. |
| £12,600 | Leicestershire Partnership NHS Trust | CareTec service for incontinence sensors to be commissioned by the ICB. |
| £366,554 | Leicestershire Partnership NHS Trust | This is the total value of two different schemes to be commissioned by the ICB. |
| £44,840 | London Road Neurological (3 beds) Oakdale Care home – Rowlatts Hill (2 beds) | Residential care contract with each care home provider is in place (TBC). Each award is relatively low value and below the Contract Procedure Rule threshold therefore a low risk to direct award. Commissioned by City Council |
| £45,000 | Lightbulb Project | Blaby District Council |
| £2,762,031 | TOTAL | |

24. The LA allocation has been allocated on either existing contracts or internal staff and will be compliant with any procurement regulations. Existing contracts may have required a modification, but no material change to the original requirement was required. The expected spend against the **LA Allocation** is broken down as follows:

| Amount | Supplier | Procurement Route |
|---------------|--|---|
| £46,667 | Reed | Use of existing Corporate Contract to increase workforce capacity |
| £56,106 | HC4L suppliers | Use of existing HC4L Framework – mental health reablement |
| £62,500 | Nottingham Community Housing Association | Use of existing contract – increase floating support capacity through the existing contract |
| £1,846,600 | HC4L suppliers and County Council staff. | Spend through existing County Council staff. Allocated through |

| | | |
|-------------------|--------------|--|
| | | redeployment, corporate finance, or through existing roles within the organisation |
| £2,011,873 | TOTAL | |

25. The funding was distributed to the local authority and ICB to pool into the local Better Care Fund (BCF). In line with usual BCF requirements, the use of both elements of this funding has been agreed between local health and social care leaders.
26. The ICB has agreed for the Council to award VASL a contract for the delivery of carers incentive payments. The total value of the contract is £310,000. The Carers Discharge Grant is only available to carers who are supporting cared for people to be discharged from hospital and for the short, time limited period up to 31 March 2023. To develop the scheme quickly and effectively VASL, the Council's current carers support service provider, were asked to deliver this scheme on behalf of the Council. VASL already have access to carers, can provide a wide range of additional carer support that might be needed, have a profile with carers and organisations for this work, and are a reliable provider with a proven track record. Within this carers allocation the ICB will also be making direct awards for smaller carers support services.
27. The County Council is the awarding body of the contract to VASL, therefore any procurement risk of challenge will sit with the Authority. This risk is likely to be limited as the contract value is below the relevant threshold for the full PCR to apply.
28. The exception was therefore required in order to allocate the funding on behalf of the ICB to VASL in order to deliver flexibly on the interventions that best enable the discharge of patients from hospital to the most appropriate location for their ongoing care.

Equality and Human Rights Implications

29. There are no equalities or human rights implications arising from the recommendations in this report.

Background papers

30. None.