CITY OF YORK COUNCIL

Executive **26 September 2019**

Report of the Director of Public Health
Portfolio of the Executive Member for Health and Adult Social Care

Re-procurement of Primary Care Contraception Service

Summary

1. Ensuring the provision of free, open access to contraception services is a mandated local authority responsibility under the Health and Social Care Act 2012 and is funded by the Local Authority Public Health Grant Allocation.

2. This report outlines options for ensuring the continued provision of Long Acting Reversible Contraception (LARC) within the local population from 1st April 2020.

Recommendations

3. The Executive is asked to:

   1) Agree option 1 to enable a joint commissioning approach for the provision of Long Acting Reversible Contraception (LARC) between City of York Council (CYC) and NHS Vale of York Clinical Commissioning Group (VoYCCG).

      Reason: To ensure CYC meets mandated responsibility to provide LARC provision for women in York through the provision of effective and efficient joint commissioning arrangements.

   2) Approve the procurement of LARC through a competitive tendering process in order to secure provision for the proposed duration of commissioned activity from 1st April 2020 – 31st March 2026.

      Reason: To provide adequate resource and duration of contract to ensure equitable provision and the sustainability of LARC provision within York.

3) Agree to delegate the decision to award a contract to the preferred bidder to the Director of Public Health in consultation with the Executive Member of Health and Adult Social Care.

   Reason: To enable the contract to be awarded in a timely manner and allow maximum time for mobilisation of the new service to commence from 01 April 2020.

Background

4. The Health and Social Care Act 2012 resulted in significant changes to the commissioning of Sexual Health services. As from 1 April 2013, local authorities are required by regulation to commission HIV prevention, sexual health promotion and open access genitourinary medicine and contraception services for all age groups.

5. LARC is currently commissioned through a Section 75 agreement with VoYCCG acting with delegated authority as the commissioner on behalf of City of York Council. NimbusCare are the current provider of LARC and coordinate this provision across GP practices within the City of York.

6. Under the existing arrangement, there is a significant risk to CYC due to the current spend predicted to exceed statutory financial legislation limits for spend not aligned to a formal tender process. This is a key driver for requiring a commissioning process but does bring with it opportunity to develop service provision to be more efficient through encouraging, supporting and developing innovation in delivery.

7. The existing contract is an ‘activity based’ arrangement against a tariff payment model. This payment model was negotiated with the Local Medical Council which has significant influence in setting local tariff payments for health service provision. Under this current arrangement, payment is given for each LARC fitted rather than by a ‘block’ contract where a set contract value is paid to deliver a specific, broadly defined, service.

8. Under current arrangements of tariff payment against activity, year on year increases in spend have been seen which is due to year on year increase in demand for and provision of LARC. Activity for LARC is increasing year on year which is in line with stated aims of national guidance due to the fact that LARC is a method of contraception at a 99% effectiveness rate.

9. As a mandated area of service provision and one which supports key public health prevention and population health outcomes, the availability of LARC can not be rationed according to budget availability. It is provision that is required to be fully accessible to support a woman's choice to access contraception.

10. Supporting a commissioning process to implement a commissioning approach that looks to award a delivery model which will enable LARC service provision to respond to year on year increases in demand within a context of innovative service provision and a focus on developing efficiencies to ensure equitable and high quality clinical standards is a priority within the proposed commissioning arrangements.

Consultation

11. A series of exploratory meetings between CYC and VoYCCG have informed the development of this commissioning model. These considered future commissioning arrangements for the provision of LARC across both mandated organisational responsibilities – these being the provision of LARC for contraception purposes which sits within the Local Authority; and the provision of LARC for gynaecological purposes which sits within VoYCCG remit.

12. These meetings involved exploration of joint commissioning arrangements among lead commissioners; finance; legal; and procurement representatives from within both CYC and VoYCCG. A working group was established which has explored commissioning and procurement options; organisational processes, statutory and legal considerations; finance implications; scope of provision and potential cost and efficiency saving options in light of current and predicted budget limitations; and timelines for achieving new service delivery arrangements to be in place for 1st April 2020.

13. Following a market testing event held on 22nd July, 2019, it was considered important to follow this up with facilitated system-wide discussions about the development of delivery model options and to better understand what sort of budget and efficiencies might be realised if innovative practice is considered. This will be held on 22nd August and inform the ongoing development of service specification and contract development.

14. Feedback from the engagement event has been considered when developing the commissioning model and service specification. This has been particularly relevant when considering feedback about the suitability of a proposed financial envelope for the provision of LARC and setting a suitable budget to enable needs to be met whilst requiring efficiencies to be made through streamlining LARC provision, resource utilisation and achievement of key outcomes.

Options

15. Option 1: VoYCCG delegate the exercise of their LARC functions to CYC. CYC then lead commissions a service.

16. Option 2: CYC commissions it's own LARC services independent of VoYCCG.

17. Option 3: CYC and VoYCCG enter into some form of joint procurement for LARC services.

18. Option 4: CYC delegate exercise of their LARC function to the CCG. CCG then lead commissions a service.

19. Approve the procurement of LARC through a competitive tendering process in order to secure provision for the proposed duration of commissioned activity from 1st April 2020 – 31st March 2026.

20. Agree to delegate the decision to award a contract to the preferred bidder to the Director of Public Health in consultation with the Executive Member of Health and Adult Social Care.

Analysis

21. Of the 4 commissioning model options considered to ensure continuation of provision of LARC, Option 1 – that VoYCCG delegate the exercise of their LARC functions to CYC. CYC then lead commissions a service - is suggested as the preference:

22. Option 1: VoYCCG delegate the exercise of their LARC functions to CYC. CYC then lead commissions a service. This would require initial negotiation of a S75 partnering agreement, seeking CYC potentially exercise the CCGs LARC functions alongside it's own. Given the proposed values and duration, this S75 would need fairly extensive clauses dealing with process and liability. CYC may then procure and

commission a contract with a service provider to cover all. This would require a CYC Executive decision. The CCG would also have its own decision making processes to follow.

23. This option would allow alignment between the existing Integrated Sexual Health Service contract and LARC which could be combined at a future point. By adding the potential to combine these two elements of service provision, we would be strengthening our local joint commissioning and joint working arrangements and this approach could realise improved service provision and efficiencies for the provision of sexual health services in general.

24. This option would enable CYC to take a direct lead on contract arrangements and ongoing contract management for a substantial part of the current Public Health Grant. This would enable CYC to more effectively shape local service provision and to manage risks associated with this service provision, activity and costs.

25. This approach would support our VoYCCG colleagues to implement a service delivery model that supports NHS England priorities around prevention focussed provision and local area outcome based commissioning arrangements that contribute to and support CYC objectives and priorities, specifically Public Health related priorities but also priorities within the Health & Wellbeing Strategy and Council Plan.

26. Option 2: CYC commissions its own LARC services independent of VoYCCG. This would require CYC Executive decision. CYC would then set it's own procurement process, define clear timescales and documentation, and develop a specification.

27. Separating provision arrangements between LARC provision for contraception and gynaecological reasons would move away from a joint commissioning approach and destabilise the provision of LARC. It goes against NICE guidance for the recommended provision of LARC and it would be an inefficient and un-joined up approach to the provision of LARC for our local population. There would be potential negative consequences to the availability of expert support where one of the funding streams (the VoYCCG contribution towards LARC for contraception purposes) would be significantly lower in value.

28. This would make the clinical training and competency maintenance for practitioners much harder to achieve and maintain and carries risk to de-skilling our health system. It would create artificial barriers to accessing

LARC support for women based on funding streams. This would be expected to have negative impacts on equity of access to provision and potentially see an increase to unnecessary secondary care referrals for women who need to access LARC for gynaecological purposes.

29. Option 3: CYC and VoYCCG enter into some form of joint procurement for LARC services. This would require a CYC Executive decision. The CCG would also have it's own decision making processes. Parties would need to agree a procurement process, timescale and documentation/ specs.

30. This would essentially be a less robust and formal application of Option 1. This would not enable the most effective joint commissioning approach as it would not necessarily enable the provision elements of LARC to be joined up; it would not necessarily create a sustainable and long-term contract arrangement; it would not necessarily be the most attractive arrangement to a provider; and it would not necessarily enable service delivery contract terms to be aligned to the current Integrated Sexual Health Service contract.

31. These factors would make it much more challenging to influence the development of service delivery across the city that enabled and supported system delivery change, efficiency savings and improvements in outcomes for women accessing the service and wider population level health outcomes.

32. Option 4: CYC delegate exercise of their LARC function to the CCG. CCG then lead commissions a service. This would require negotiation of a S75 partnering agreement, seeking the CCG potentially exercise the CCGs LARC functions alongside its own. Given the proposed values and duration, this s75 would need fairly extensive clauses dealing with process and liability.

33. The CCG may then arrange or procure a new service covering both. This would require a CYC Executive decision. The CCG would also have it's own decision making processes. This is effectively what the current arrangement is. This doesn't seem the most appropriate arrangement when the bulk of investment into LARC provision comes from CYC and the most obvious service connections are to those also commissioned by CYC – the Integrated Sexual Health Service.

34. This arrangement has seen a lack of focus on contract and performance monitoring, as well as access to data and intelligence through primary

care which, if obtained, would enable more effective contract monitoring and service development. These gaps would not be expected to change if this arrangement was continued.

35. In addition to this, VoYCCG is not under the same organisational risk connected to potential breach of financial regulations that CYC is and as this is an extremely small part of overall CYC budget spend, it is not an organisational priority for VoYCCG to lead a commissioning exercise.

36. There is a clear acknowledgment of the need for CYC to respond to the organisational risk identified; along with a clear acknowledgement of the importance of LARC as a Public Health mandated provision; and a clear acknowledgement of the necessity and importance of entering into a joint commission arrangement. Therefore, there is a clear willingness to support CYC in this commissioning process but with CYC as the lead with delegated authority to manage VoYCCG commissioning duties for the relatively low activity of LARC provision that is connected to gynaecological need.

37. Approve the procurement of LARC through a competitive tendering process in order to secure provision for the proposed duration of commissioned activity from 1st April 2020 – 31st March 2026.

38. In relation to the budget envelope, the continued provision of LARC under an activity based tariff payment schedule is not sustainable given the trend of year on year activity increases. There is a need to develop innovation into the delivery model in order to realise efficiency savings.

39. Feedback from market testing indicated a risk to provision due to a capped payment model which might not be adequate to cover predicted increases. The finance envelope for this service is therefore based on a period of continued budget increase calculated from predicted spend against current tariff payments on an assessment of trend of activity increase. This is offered to enable a new delivery model to be established and to realise efficiency savings before ongoing investment is capped. A contract review will be built into a potential break point of this contract in order to enable both parties to assess and review how effectively the resourcing of LARC is being achieved against demand.

40. An activity based contract such as a tariff led delivery model would not allow future budget planning to be put in place due to the variable nature of quarterly and annual costs associated with provision. This would be

particularly important when the aspiration for LARC is to increase its uptake within our local population.

- The application of a fixed price, block contract approach that would remove unpredictable activity based spend based on tariff prices aligned to predicted increase in activity needs detailed exploration. Appendix C highlights some financial modelling that will support the process of identifying a suitable budget for the duration of the contract. Finance options are further explored in the section below this

- A range of efficiency saving options could be considered dependent upon the proposed delivery model of a lead provider that would not be as achievable if GP practices were paid on an individual basis. This is because there would be limited opportunity for efficiency savings if commissioned at an individual practice level.

- This commissioning model would also support the new and developing way of working through Primary Care Networks which supports place based outcome focussed commissioning

- This would enable the potential development of a mixed or 'nurse rich' staffing group with the expertise to provide LARC at reduced cost levels when compared to this being primarily GP led provision

- This would better support a skilled and trained staff group to maintain their skills to fit and extract LARC which requires specific activity and competence levels to be achieved due to an increased likelihood of dedicated and targeted specialist staff groups across the city

    - Consideration about how a delivery model would support skill attainment and retention will require some clear focus so that this is achievable

- This would enable the development of cost and efficiency saving initiatives to be built into the Service Level Agreement and the service delivery of this contract

41. Aligning the lifecycle of the LARC contract with that of the Integrated Sexual Health Contract would support:

    - Future commissioning arrangements to consider incorporating both of these key areas of delivery into one contract if this was considered preferential.

    - A commissioning cycle that supports long-term and sustainable delivery by offering a long duration contract as opposed to many regular and short term contracts that can have detrimental impacts on system development and service delivery due to lack of consistency.

    - The development of a delivery plan that enables potential alignment of other services and health provisions that support sexual health across the city.

        - What and how this might be achieved can be explored in greater detail at the market testing event and during the procurement process.

42. Meaningful use of the Social Values Act requirement to build into the contract an expectation that the winning bidder provide an element of social value within their contract delivery that meets system wide requirements.

    - This might consider things such as health inequality and the provision of / development of capacity to support holistic health services to those women who experience health inequalities across a range of indicators e.g. those accessing substance misuse or mental health services; those with learning disabilities; those who are immigrants or refugees; those who are homeless; or those who are living in poverty; those who are experiencing domestic abuse.

43. Agree to delegate the decision to award a contract to the preferred bidder to the Director of Public Health in consultation with the Executive Member of Health and Adult Social Care.

44. This option would enable the effective implementation of a contract in a timely manner to ensure that service provision can be mobilised on 1st April 2020 meaning no gap in service delivery of a mandated requirement.

45. The current procurement process is being managed against a project plan which has very limited opportunity to extend current deadlines. The procurement process being followed is fully supported by CYC legal and procurement colleagues as well as having been developed in partnership with VoYCCG commissioning, legal and Transformation colleagues all of which has been developed in collaboration within the context of a joint commissioning arrangement and with input from Joint Commissioning Lead.

Council Plan

46. This provision supports the Council Plan priority to focus on frontline service provision, particularly for those who experience health inequalities. It supports the approach to develop effective provision within a range of community based locations.

Implications

Financial

47. The current budget for LARC is £274k. However in recent years the cost of the service has risen significantly due to increased demand (2016/17: £255k, 2017/18: £284k, 2019/20: £312k) and this additional cost has been funded by underspends elsewhere in Public Health.

48. The budget for 2020/21 allows for further increases in activity and can provide an increased LARC budget of £377k (2020/21) and £415k (2021/22 to 2025/26). Over the proposed 6 year duration of this contract, this equates to a total CYC financial contribution of £2.45M.

Human Resources (HR)

49. There are no HR implications.

Equalities

50. For the purposes of this procurement, LARC applies to women within City of York. The provision is expected to be accessible to all women with a need for either contraception or gynaecological use of LARC. To ensure that this provision will be accessible, a focus on providing breadth of access across primary care that considers equity and diversity will be a requirement of the provider.

51. In addition to this, there is some provision built into the existing Integrated Sexual Health contract that requires provision of LARC within the specialist service. This is offered to those women who would otherwise not engage with primary care services to receive LARC.

52. The development of service delivery arrangements to ensure that those women who might most benefit from LARC be part of the service development focus within the new arrangements. There will be an expectation to support the development of the service to reduce health inequalities and to contribute to a reducing unplanned pregnancies and abortion rates within York.

Legal

53. The procurement of LARC services will need to comply with the requirements of the Public Contracts Regulations 2015 and CYC's Contract Procedure Rules. The form of procurement process and related contract documentation would need to be finalised.

54. In relation to proposed s75 arrangements, the NHS Act 2006 provides powers to Local Authorities and NHS Bodies to enter in to s75 agreements relating to relevant prescribed health functions. This can include delegation of prescribed health functions and powers including lead commissioning, pooled budgets and integrated services. The NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 also set out information requirements for such partnering agreements.

55. A s75 agreement would be required between VoY CCG and CYC were CYC to agree to lead commissioning LARC services. The agreement would also need document any related partnering arrangements and agreed processes. The power to enter into a section 75 agreement is also conditional on the following:

    - That the arrangements are likely to lead to an improvement in the way in which those functions are exercised; and

    - The partners having jointly consulted people likely to be affected by such arrangements.

Crime and Disorder

56. There are no crime and disorder implications.

Information Technology (IT)

57. There are no IT implications.

Property

58. There are no property implications.

Risk Management

59. There are a number of risks connected to the provision of LARC which are being mitigated against in a range of ways. An immediate risk is that if this arrangements to commission through a suitable tender process are not followed that CYC will breach legal and statutory legislation as at 1st April 2020.

60. The current commissioning model is provided through an activity based provision model attached to payment tariff for specified activity. The provision of service in this way allows no control over budget forecasts. Remaining within this model of service delivery will maintain ongoing budget pressures for CYC.

61. There is a risk that moving to a block contract based commissioning arrangement, that there will not be provider interest to bid for this contract. This is being mitigated against by building a finance model for the duration of the contract to be based on a payment schedule that mirrors predicted budget spend against the current payment tariff for a set period of time before maintaining annual budget at this level. This is seen as an effective compromise to ensure that risk is adequately shared between provider and commissioner; that the provision opportunity is fair, realistic, and attractive to potential bidders; and will enable a suitable amount of time for a new service provider to develop a delivery model to support efficiency savings.

62. It is important to acknowledge that whilst a range of mitigations are planned to reduce the risk to CYC, the ultimate responsibility for funding and securing provision of LARC in line with mandated responsibility lies with CYC. There remains a risk to CYC around provision of robust and adequately resourced service where factors like governance, sustainability and future demand are never risk free and might be influenced by market forces.

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	Report Approved	√	**Date**	18/09/2019

Wards Affected: List wards or tick box to indicate all **All** √

For further information please contact the author of the report

Background Papers:
None

Annexes
None

List of Abbreviations Used in this Report
LARC - Long Acting Reversible Contraception
VoYCCG - NHS Vale of York Clinical Commissioning Group