

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

**POLICY & RESOURCES CABINET BOARD**

**25<sup>TH</sup> JULY 2017**

**REPORT OF THE HEAD OF HUMAN RESOURCES – S.REES**

**Matter for Decision**

**WARD(S) AFFECTED: All**

**EXTENSION OF CONTRACTS FOR PROVISION OF AN  
OCCUPATIONAL HEALTH PHYSICIAN AND 2<sup>ND</sup> OPINION  
OCCUPATIONAL HEALTH PHYSICIAN**

**PURPOSE OF REPORT**

- 1 To seek authority to extend the current contracts for the Provision of an Occupational Health Physician and 2<sup>nd</sup> Opinion Occupational Health Physician (the ‘Contracts’) to ensure continuity of Occupational Health Physician Services (the “Service”) and to allow for the procurement and implementation of new contracts.

**EXECUTIVE SUMMARY**

- 2 The report seeks authorisation to exclude the requirements of competition, to suspend Rule 2.1 of Neath Port Talbot County Borough Council’s (the ‘Council) Contracts Procedure Rules (“CPRS”) and to extend the Contracts.

**BACKGROUND**

- 3 The Contracts commenced on the 1<sup>st</sup> August 2013 for a period of two years, with the option of two further one year extensions, such options having been implemented.
- 4 The due date for the end of the Contracts is 31<sup>st</sup> July 2017.
- 5 The Contracts are appointed to:  
  
Occupational Health Physician – Caer Health Services Limited  
  
2<sup>nd</sup> Opinion Occupational Health Physician – Workare Limited

- 6 The National Procurement Service Framework for Occupational Health and Associated Services (the “NPS Framework”) allows for call off contracts to be made via method of either Direct Award or Further Competition exercise.
- 7 It was anticipated that the Council would have made a direct award under the NPS Framework with an award date of July 2017.
- 8 However, the Council could not establish the most economically advantageous offer to make a direct award and the Council will now need to undertake a further competition exercise.
- 9 Therefore continuity of the provision of the service is at risk.
- 10 In order to ensure continuity of the Service, and to allow the Council to undertake a further competition exercise, it is necessary to extend the Contracts for a period of twelve months from the Contracts’ expiry date.

### **FINANCIAL IMPACT**

- 11 Subject to service requirements, the potential value for an extended period of the Contracts of twelve months is expected to be in the sum of £90,000.
- 12 The Council will continue to pay the service providers in accordance with the conditions of contract, thereby providing a greater certainty of price.

### **EQUALITY IMPACT ASSESSMENT**

- 13 There is a potential equality impact if continuity of Occupational Health provision is disrupted due to the nature of the service provided to employees that come under the remit of the Equality Act 2010.

### **WORKFORCE IMPACTS**

- 14 Any disruption to Occupational Health service will have a detrimental impact on the Council’s legal obligation under Health and Safety Legislation with potential serious financial implications.

- 15 In addition continuity of the service is vital towards the maintenance and management of Employee processes such as Attendance Management, Recruitment, Ill Health Retirement and Staff Health and Wellbeing.

## **LEGAL IMPACTS**

- 16 As indicated above, subject to service requirements, the potential value for an extended period is estimated to be £90,000 for twelve months and as a result of this, the Council must comply with its own internal CPRs which provide that the Council will put agreements of this value out to tender.
- 17 Rule 2.1 of the CPRs provides that where the value of the contract is over £50,000 tenders shall be invited using whichever of the tender procedures is deemed appropriate. As part of the Recommendations, an exclusion of the CPRs will be sought.
- 18 Therefore, the Council could potentially be exposed to challenge from aggrieved providers who have not had an opportunity to bid for the extended period. They may wish to challenge this by Judicial Review of the Council's decision.
- 19 The risk of challenge is acknowledged, however, it would be contended that the risk of challenge is somewhat limited as it is the Council's intention to utilise the NPS Framework for the eventual appointment of service providers and this exercise will be undertaken during the proposed extension period.
- 20 In addition, the Council must ensure that suitable contractual arrangements can be put in place for such services without delay and to ensure continuity is not disrupted and the proposed arrangements would represent best value to the Council.

## **RISK MANAGEMENT**

- 21 This report seeks to minimise the risk to the Council by ensuring continuity of service pending the Council undertaking a further competition exercise to secure new contracts for the service.

## **CONSULTATION**

- 22 There is no requirement under the Constitution for external consultation on this item.

## **RECOMMENDATION**

- 23 It is recommended:
- 23.1 That the requirements of competition are excluded and Rule 2.1 of the Council's Contracts Procedure Rules is suspended.
- 23.2 That the Contracts are extended for a period of twelve months from 1<sup>st</sup> August 2017 to allow the Council to run a further competition exercise which will be undertaken at the same time as the extension is to be put in place.

## **REASONS FOR PROPOSED DECISION**

- 24 To ensure continuity of service pending the Council's intended further competition exercise and the implementation of new contracts resulting therefrom.

## **IMPLEMENTATION OF DECISION**

- 25 The decision is proposed for implementation after the three day call in period.

## **APPENDICES**

- 26 None

## **LIST OF BACKGROUND PAPERS**

- 27 None

## **OFFICER CONTACT**

- 28 Sheenagh Rees, Head of Human Resources  
Tel: 01639 763315, email [s.rees5@npt.gov.uk](mailto:s.rees5@npt.gov.uk)
- 29 Shaun Burgess, Corporate Occupational Health, Safety and Emergency Planning Manager  
Tel: 01639 763955, email [s.a.burgess@npt.gov.uk](mailto:s.a.burgess@npt.gov.uk)