

ADULT SOCIAL CARE & PUBLIC HEALTH SUB COMMITTEE	Agenda Item 27 Brighton and Hove City Council
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Subject:	Integrated Sexual Health Services Contract		
Date of Meeting:	7th September 2021		
Report of:	Robert Persey		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report seeks agreement for the direct award of a new contract for Integrated Sexual Health Services to the current provider: University Hospitals Sussex NHS Foundation Trust for one year with the option of a 1-year extension.
- 1.2 The report explains the rationale for the direct award of a new contract to provide continuity of service in the context of the pandemic, in-line with the national commissioning direction for health services, and to support some critical business interdependencies.

2. RECOMMENDATIONS:

- 2.1 That the sub-committee agrees the direct award of a new contract for Integrated Sexual Health Services to the current provider for one year with the option of a further 1-year extension.
- 2.2 That the sub-committee grants delegated authority to the Executive Director of Health and Adult Social Care to extend the above contract in accordance its terms subject to satisfactory performance

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 There is a high burden of poor sexual health in Brighton and Hove with the 17th highest rate of new sexually transmitted infections (STIs) of local authorities in England and the highest rates in the South East region. Gay and other men who have sex with men (MSM), younger people, under 25, and those with a black ethnicity have been statistically shown to be at highest risk of STIs.
- 3.2 Brighton and Hove has the 8th highest prevalence of diagnosed HIV in England and the highest outside of London. In 2019 the prevalence was 7.94/1,000 aged 15-59 compared to 2.39/1,000 in England. The vast majority (84%) of people living with HIV in Brighton and Hove (92% of males) probably acquired the infection through sex between men. 85% of people living with HIV in the City are white but over half of women with HIV locally have a black ethnicity.
- 3.3 The Contract for Integrated Sexual Health Services is currently delivered in Brighton and Hove by University Hospitals Sussex NHS Foundation Trust (previously Brighton and Sussex University Hospital Trust who have joined up with Western Sussex Hospitals to form a new NHS Trust).
- 3.4 Current contract performance is good. University Hospitals Sussex have generally met the core KPIs for the delivery of the services throughout the period of the contract, and there is a mature and responsive relationship between the service provider and the Council commissioners.
- 3.5 Officers deem that the best option for BHCC regarding the immediate future of the service beyond March 2022 is to directly award a 1 + 1 year contract to the incumbent provider under Regulation 32(b)(ii) and Regulation 12(7) of the Public Contract Regulations 2015. The reasons informing this assessment are outlined below

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

For more detailed information on the options outlined here please see appendix 1 to this report.

Preferred Option 1: Direct award of a 1 + 1 contract to the incumbent provider

Aligns with the national commissioning direction for health services

- 4.1 The Government's White Paper 'Integration and Innovation: Working together to improve health and social care for all'¹ (Feb 2021) proposes a national shift towards integrated and partnership working between local authorities and NHS providers. Extending the current contract aligns with the national proposals to eliminate the need for competitive tendering where the incumbent provider is doing a good job.

Ensuring stable conditions

- 4.2 Providing contract stability will reduce the on-going impact of the pandemic and increase opportunities to focus on collaboration and delivering outcomes for residents and people who use the services.

Critical business interdependencies

- 4.3 There is significant 'entwinement' between the Integrated Sexual Health Service contract commissioned by the Council and the HIV treatment service commissioned by NHS England. Many critical staff, at all levels, divide their time between the two services. A direct award would facilitate the ongoing smooth provision of services

Option 2: Proceed with a full market tender for a new contract in time for April 2022

- 4.4 Although the value of the contract is high, there are substantial fixed costs which may potentially render it unattractive to the market. The salary element accounts for a significant proportion of the budget. The staff pool is on NHS pay schemes which cannot be amended and would continue to be comparable in the event of a TUPE transfer
- 4.5 Given the current contract ends March 2022 it is likely that an extension to the current contract would be required to provide enough time to complete the appropriate procurement process and the shortened process would limit the range and depth of stakeholder activity and needs assessment.

Option 3: Bring the service into the Council

- 4.6 As a local NHS Trust, the current service provider is a public sector partner, operating within Brighton and Hove. The service requires significant specialist

¹ <https://www.gov.uk/government/publications/working-together-to-improve-health-and-social-care-for-all/integration-and-innovation-working-together-to-improve-health-and-social-care-for-all-html-version>

and established clinical infrastructure, expertise, and staffing. This includes laboratory and pathology functions as well as pharmacy and dispensing

- 4.7 Staff are employed on NHS terms and conditions and salary costs make up the vast majority of the overall service cost – these costs would be transferred to the local authority as a result of a TUPE event, should the service be brought in-house. The existing external provider provide the service in West Sussex, with joint management across both services. Should the service be brought in house, management and safeguarding lead roles would need to be fully funded from the Brighton and Hove service. In summary, there is unlikely to be a financial benefit to delivering the service in-house.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Preferred Option 1 will provide the necessary timeframe to conduct stakeholder engagement and a population health needs assessment for integrated sexual health services to inform a revised specification for the service going forward that reflects the needs of the population with the ongoing impacts of the pandemic including health inequalities.

6. CONCLUSION

- 6.1 Officers deem that the best option for BHCC regarding the immediate future of the Integrated Sexual Health Service beyond March 2022 is to directly award a 1 + 1 year contract to the incumbent provider under Regulation 32(b)(ii) and Regulation 12(7) of the Public Contract Regulations 2015. This is considered to provide the best value for money and continuity of a quality service for residents and others in the City whilst positioning the commissioning of the Integrated Sexual Health Service to take advantage of the future flexibilities offered in the Government White Paper.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1. The existing Integrated Sexual Health Services contract is funded by the ringfenced Public Health grant (Health & Adult Social Care directorate). 7.2 The net budget is £3.109m for financial year 2021/22 and has been assumed as ongoing for 2022/23 and 2023/24. However, the Public Health grant allocation has not been confirmed beyond financial year 2021/22 which may impact on the availability of funding, though it is anticipated that financial resources will be available to enable the commissioning of the services detailed above up to March 2024.

Legal Implications:

- 7.2 The value of the Integrated Sexual Health Contract exceeds the threshold for light touch regime services (£663,540). Regulation 12(7) and Regulation 32(2)(b)(ii) of the Public Contract Regulations 2015 allow above threshold contracts to be directly awarded (without a procurement) in certain limited circumstances.

Under Regulation 32(2)(b)(ii), contracts can be directly awarded using a negotiated procedure without prior publication where services can only be supplied by a particular provider as competition is absent for technical reasons.

Regulation 12(7) allows contracts to fall outside the scope of the procurement regime where a contract establishes or implements a co-operation between contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving their common objectives, where the implementation of that co-operation is governed solely by considerations relating to the public interest and where the contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.

Officers have sought specialist legal advice from Counsel who has advised that the Council has reasonable argument to direct award the contract to the existing provider under Regulation 32(2)(b)(ii) for 1 year and to direct award the contract under Regulation 12(7) for 2 years.

Lawyer Consulted:

Name Sara Zadeh

Date: 25/08/21

Equalities Implications:

- 7.3 There are no TUPE considerations in the preferred Option 1.

The contract includes specific requirement that the service provider must not discriminate between or against Service Users, on the grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation or any other non-medical characteristics

The Integrated sexual health service will be provided with full regard to The Equality Act (2010) and the Public Sector Equality Duty (2011) in ensuring

services are appropriate and accessible to all. The provider will participate in equality impact assessments annually and as required.

The provider will collect, monitor, and analyse data to inform and ensure equitable access to the service. Remedial action will be taken in a timely fashion to ensure equity of access where any challenges are identified.

The provider will work with the HIV prevention and social care service provider's Black and Minority Ethnic communities' worker to develop a thorough Action Plan for the city to ensure specific vulnerable communities receive equitable access to advice, testing, treatment, and care.

Sustainability Implications:

- 7.4 Continuation of the existing service ensures that existing staff and buildings remain in their current locations within Brighton and Hove. Over the life of the current contract, service delivery has maximised the benefits of co-location with the HIV service, pathology, and pharmacy functions. This ensures travel, for both staff and people using the service, is reduced and focused on community-based delivery of appointments and groups

Brexit Implications:

- 7.6 There are no direct impacts caused by the UK's exiting the EU on the recommendations in this report

Any Other Significant Implications:

- 7.7 None

Crime & Disorder Implications:

- 7.8 There are no immediate effects on preventing crime and disorder in this proposal

Risk and Opportunity Management Implications:

- 7.9 The main risk with proceeding with the proposed option is the risk of legal challenge – this is covered in the legal implications at 7.

Public Health Implications:

- 7.10 Improving public health is directly addressed by the public health service to which this paper refers.

Corporate / Citywide Implications:

- 7.11 The City's Health and Wellbeing Strategy and Living Well Delivery Plan identify improving sexual health including reducing new HIV infections as a priority for the City.

- 7.12 Poor sexual and reproductive health and ongoing transmission rates of HIV have major impacts on population mortality, morbidity and wider wellbeing, and result in significant costs for health service and local authority budgets. Good access to testing, treatment, and care services for STIs and HIV as well as the full range of contraception methods and evidence based sexual health promotion is key to improving sexual health

SUPPORTING DOCUMENTATION

Appendices:

1. Further detail on Options 1-3 in this report

Background Documents

1. Integration and Innovation: Working together to improve health and social care for all, Secretary of State for Health & Social Care February 2021
[Integration and innovation: working together to improve health and social care for all \(HTML version\) - GOV.UK \(www.gov.uk\)](#)

