


## REPORT TO CABINET

9 December 2020

<b>Subject:</b>	<b>Co-operative working with Sandwell and West Birmingham Hospitals NHS Trust</b>
<b>Presenting Cabinet Member:</b>	<b>Cabinet Member for Healthy Lives Cllr Farut Shaeen</b>
<b>Director:</b>	<b>Director of Public Health, Dr Lisa McNally</b>
<b>Contribution towards Vision 2030:</b>	
<b>Key Decision:</b>	Yes
<b>Cabinet Member Approval and Date:</b>	Yes
<b>Director Approval:</b>	Yes
<b>Reason for Urgency:</b>	Urgency provisions do not apply
<b>Exempt Information Ref:</b>	Exemption provisions do not apply
<b>Ward Councillor (s) Consulted (if applicable):</b>	Boroughwide
<b>Scrutiny Consultation Considered?</b>	Scrutiny not consulted
<b>Contact Officer(s):</b>	Nicola Plant, Service Manager, Adult Social Care, Health and Wellbeing

### DECISION RECOMMENDATIONS

**That Cabinet:**

1. Approve the continuation of co-operative working between the council and Sandwell and West Birmingham Hospitals NHS Trust.

2. Authorise the Director – Public Health to award a contract for a co-operative working contract with Sandwell and West Birmingham Hospitals NHS Trust for a period of five years, with an initial period of three years from 1 October 2021 to 30 September 2024, and an option to extend for a further two years to 30 September 2026 for the services detailed below:-

Service	Annual Value	Description
0-5 Services	Up to £6,384,100	This includes the Health Visiting Service, The Best Start Service (intensive home visiting programme) for vulnerable families and breastfeeding support services.
Sexual Health Services	Up to £2,000,000	Integrated Sexual Health Services including Domiciliary Care.
Infection Prevention Service	Up to £43,000	Consultation and support on infection control

3. Authorise the Director Law and Governance – Monitoring Officer in consultation with the Director of Public Health to approve variations up to a maximum of 10% of the contract value, should they be necessitated.
4. Authorise the Director Law and Governance – Monitoring Officer to execute any documentation necessary to enable the above on terms agreed with the Director of Public Health - for the period specified.
5. Subject to approval of recommendations above authorise any necessary exemptions to the Council’s Procurement and Contract Procedure Rules to enable the proposed actions to proceed.

## 1 PURPOSE OF THE REPORT

- 1.1 The council currently has a co-operative working arrangement with Sandwell and West Birmingham Hospitals NHS Trust which commenced on 1 October 2016 for a period of three years, extended for a further two years to September 2021.

This report proposes that the council continues with its co-operative working arrangement with Sandwell and West Birmingham Hospitals NHS Trust and awards a contract for the services currently contracted within these arrangements under the provisions of Regulation 12(7) of the Public Contracts Regulations 2015. It is proposed that the contract is awarded for a period of five years with an initial period of three years from 1 October 2021 to 30 September 2024, and an option to extend for a further two years to 30 September 2026, subject to performance and review.

## **2 IMPLICATION FOR VISION 2030**

- 2.1 This proposal aligns to Ambition 2 of Sandwell's Vision 2030 – Sandwell is a place where we live healthy lives and live them for longer, and where those of us who are vulnerable feel respected and cared for.
- 2.2 This decision would support the council's ambition to prevent ill health and improve long-term health and wellbeing by supporting and protecting our most vulnerable adults and children.
- 2.3 The proposal also aligns to Ambition 4 of Vision 2030 - Our children benefit from the best start in life - by contributing to improving school readiness through universal and targeted early years interventions.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 In August 2015 Cabinet approved the development of co-operative working with Sandwell and West Birmingham Hospitals NHS Trust (SWBHT) for the purpose of achieving shared objectives for health and social care (Key Decision ASCH007). Through co-operative working the two organisations are seeking to:
  - achieve common objectives;
  - integrate care pathways;
  - improve service quality and maximise opportunities for innovation;
  - secure value for money and make the most of resources.
- 3.2 To progress co-operative working, the council entered a contract with SWBHT under regulation 12(7) of the Public Contracts Regulations 2015. This allowed the local authority to enter into a contract without competition as the contract was with another contracting authority and co-operation was established to ensure public services were provided with the aim of achieving common objectives.

- 3.3 Improving the health and wellbeing of the local population requires organisations to work together as solutions are often multifaceted. SWBHT is the key provider trust for acute and community healthcare services in Sandwell. The development of co-operative working on shared public health objectives has enhanced current working relationships across health and social care services. It has brought greater opportunities to:
- Develop and preserve integrated care pathways
  - Improve service quality and scope for innovation
  - Secure value for money, including areas which are more difficult to place a direct monetary value such a research and evaluation.
- 3.4 Co-operative working is overseen by a joint governance arrangement that includes a Joint Co-operative Working Board which is supported by a Co-operative Working Steering Group.
- 3.5 The operation of the co-operative working relationship has been assessed and is considered to satisfy the conditions of Public Contracts Regulations 2015, regulation 12(7).
- 3.6 If it is agreed to continue the co-operative working arrangement it is proposed that the governance arrangements would continue and through this the co-operative working arrangement be monitored to ensure continued compliance with Public Contracts Regulations 2015, regulation 12(7) and to continue monitoring the value and impact of co-operative working.
- 3.7 The Joint Public Health Plan articulates the shared public health objectives between the council and SWBHT. The plan details how each organisation will be contributing to the achievement of goals and targets relating to the shared objectives. This plan will be reviewed and updated for 2021.
- 3.8 The current contract ends on 30 September 2021. It is proposed that the council enters into a new contract with SWBHT under the provisions of regulation 12(7) of the Public Contracts Regulations 2015, when the current contract expires.
- 3.9 It is proposed that the contract will be for five years, with an initial period of three years from 1 October 2021 to 30 September 2024, and an option to extend for a further two years to 30 September 2026 for the services detailed in table 1, subject to performance.

The form of contract will specify the nature of co-operative working between both parties and separate schedules for each service within the contract. Each schedule will contain service specific information including the service specification, quality standards, and financial arrangements. The schedules will also contain operational details of the co-operative working arrangements specific to each service.

3.10 A direct award of the following services is proposed: -

Table 1

Service	Annual Value*	Description
0-5 Services	Up to £6,384,100	This includes the Health Visiting Service, The Best Start Service (intensive home visiting programme) for vulnerable families and breastfeeding support services.
Sexual Health Services	Up to £2,000,000	Integrated Sexual Health Services including Domiciliary Care.
Infection Prevention Service	Up to £43,000	Consultation and support on infection control
<b>Total</b>	<b>Up to £8,427,100</b>	

*\*Service financial values shall be agreed on an annual basis taking into account performance, service demand, inflationary increases and financial settlements from central government.*

- 3.11 It is proposed that the ability to make variations to the contract up to a maximum of 10% of the contract value be approved for essential variations to service provision.
- 3.12 All services will be monitored quarterly through joint performance meetings and be subject to annual review that considers performance against KPI's and quality standards to inform future service requirements.
- 3.13 A Voluntary Ex-Ante Transparency Notice (VEAT) notice will be published in the Official Journal of the European Union (OJEU) to make the market aware of the council's intentions and an exemption from the councils Contract Procedure Rules will also be required for a direct award.

## 4 THE CURRENT POSITION

- 4.1 The co-operative working arrangement is operational however the contract ends on 30 September 2021.
- 4.2 The governance arrangements are in place and working effectively including the Co-operative Working Management Board, the Co-operative Working Steering Group and the joint performance management of services under co-operative working. The operation of the co-operative working relationship has been assessed and is considered to satisfy the conditions of Public Contracts Regulations 2015, regulation 12(7).
- 4.3 Services are performance managed and have all performed well over the lifetime of the contract. There are currently no concerns with performance of the services contained within the contract.
- 4.4 The Joint Public Health Plan is due for review and this will be updated for 2021.
- 4.5 The following services are currently contracted: -

Table 2

<b>Service</b>	<b>Current Annual Value*</b>	<b>Contract End</b>
Health Visiting (inc breastfeeding)	£5,876,442	30 September 2021  *only 50% to be paid 1 April- 30 September 2021
Best Start to Life	£507,625	
Antenatal Changes Programme	£3,900	
Integrated Sexual Health Service	£1,702,944	
Domiciliary Care	£32,400	
Infection Prevention Services	£42,341	

## 5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 Sandwell and West Birmingham Hospitals NHS Trust have been consulted and are in support of this proposal. There has been no direct consultation with service users or wider stakeholder. However, consultations are undertaken as required for individual services that are delivered through the co-operative working arrangement.

## **6 ALTERNATIVE OPTIONS**

- 6.1 The council could consider not continuing with co-operative working and procure the services via the open market. This option would not build upon the successes of the current arrangement and the potential to improve healthcare pathways and achieve shared strategic objectives to improve the health and wellbeing of Sandwell residents may be lost.

## **7 STRATEGIC RESOURCE IMPLICATIONS**

- 7.1 The Council's contribution to the co-operative arrangement for public health services will be met through existing public health staff. There is therefore no budget pressure created by this proposal in relation to additional staffing. The proposals contain no changes to staff terms and conditions.
- 7.2 The cost of public health services to be subject to this arrangement, will be met from the ring-fenced government funded Public Health Grant, which for 2020/21 is £24.9m.
- 7.3 There is a risk (which is currently assessed as red in the council's strategic risk register) that if the financial settlements for future years are not adequate then it will not be possible to maintain the services at the current levels of provision. The value of the services to be provided within the contract will therefore need to be agreed on an annual basis and provision will be made for this in the contract.
- 7.4 There are currently no known implications for the council's material asset.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 Under section 2B of the National Health Service Act 2006 as amended, the local authority must take steps as it considers appropriate for improving the health of people living in its area.
- 8.2 Under the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 as amended, the local authority must, as far as reasonably practicable, provide or make arrangements to secure the provision of, amongst other things, a universal health visitor service, and sexual health services.

- 8.3 Under various enabling legislation, including Section 1 of the Local Government (Contracts) Act 1997, the local authority has power to enter into contracts for the purposes of or in connection with the discharge of its functions. Contracts would need to be awarded in accordance with the local authority's Procurement and Contract Procedure Rules and the Public Contracts Regulations 2015.
- 8.4 Contracts would need to be awarded in accordance with the local authority's Procurement Contract Procedure Rules which would generally require competition for contracts of the value in question. An exemption to the council's Procurement and Contract Procedure Rules is required for a direct award.
- 8.5 Under regulation 12(7) of the Public Contracts Regulations 2015, the local authority may enter into a contract without competition where the contract is with another contracting authority (public body) and establishes or implements co-operation with the aim of ensuring that public services the authorities have to perform are provided with a view to achieving objectives they have in common and are governed solely by considerations relating to the public interest.
- 8.6 Detailed external legal advice has been taken from Bevan Brittan in relation to application of regulation 12(7) to this contract and the issuing of a VEAT notice to mitigate any risk. They have carried out a legal analysis of the contract and are of the view that, on balance, it is more likely than not that the envisaged arrangements would be found to comply with regulation 12(7). A key reason for their conclusion is that both the Council and the Trust take a key role (through the Co-operative Working Management Board) in the strategic direction of the services for the mutual benefit of both organisations and with a view to fulfilling their joint aims – as evidenced through the Joint Health Plan. Also, in relation to the VEAT notice, Bevan Brittan would lean towards the Council publishing a VEAT notice covering the entire contract and all co-operative working arrangements. This will confirm to the market what is likely to become known in any event and should help the Council to manage the risks and the costs of any potential challenge before the arrangements are entered into.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 An initial equality screening has been undertaken and no adverse impact on protected groups has been identified.



## **10 DATA PROTECTION IMPACT ASSESSMENT**

- 10.1 A Data Protection Impact Assessment is not required as the proposals do not include processing of data that is likely to result in a high risk to the rights and freedoms of individuals. There is no sharing of personal or sensitive data between SWBHT and the council.
- 10.2 There is an Information Sharing Protocol in place as part of the co-operative working arrangement. This will be reviewed and updated for 2021. If the need to share data arises within any of the services within this contract the protocol will be followed to ensure this is undertaken and managed in a lawful way.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

- 11.1 There are no considerations in relation to crime and disorder from the proposals within this report.
- 11.2 A risk assessment in relation to the proposals in this report has been completed. Except for that noted at paragraph 7.3, no significant risks have been identified.

## **12 SUSTAINABILITY OF PROPOSALS**

- 12.1 Co-operative working is a commitment to achieve shared outcomes and as such is about how the two organisations work together. The services within the contract are funded from the Public Health budget and the financial commitments for these have been made in line with budget planning (see section 7 above).

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

- 13.1 Community health and well-being is the underpinning objective for co-operative working. It aims to improve health and social care outcomes for the Sandwell population, specifically focussed on achieving public health outcomes.

## **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

- 14.1 There are no implications in this report for council asset management, land or property.

## **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 15.1 This report presents a proposal for the council to continue with the co-operative working arrangement with SWBHT and, under regulation 12(7) of the Public Contracts Regulations 2015, to make a direct contract award for the services detailed in table 1 for a period of five years from 1 October 2021 to 30 September 2026, with an initial period of three years from 1 October 2021 to 30 September 2024 and an option to extend for a further two years to 30 September 2026.
- 15.2 To manage essential variations to services within the contract it is recommended that provision is made to make variations to the contract up to a maximum of 10% of the contract value.
- 15.3 It is proposed that a VEAT notice be published to alert the market to the council's intentions to make a direct contract award to mitigate the risk of interested parties objecting to the use of regulation 12(7).
- 15.4 It is considered that co-operative working supports the achievement of shared strategic objectives for the health and wellbeing of Sandwell residents and is in pursuance of objectives in the public interest

## **16 BACKGROUND PAPERS**

- 16.1 None

**Lisa McNally**  
**Director - Public Health**