

# Report to Cabinet

**29 September 2021**

<b>Subject:</b>	Co-operative Working with Sandwell and West Birmingham Hospitals NHS Trust
<b>Cabinet Member:</b>	Cabinet Member for Adults, Social Care and Health – Cllr Suzanne Hartwell
<b>Director:</b>	Director of Public Health,
<b>Key Decision:</b>	Yes
<b>Contact Officer:</b>	Liann Brookes-Smith, Public Health Liann_Brookesmith@sandwell.gov.uk

## 1 Recommendations

- 1.1 That the Director of Public Health be authorised to extend the Co-operative Working Agreement for Public Health Services with Sandwell and West Birmingham Hospitals NHS Trust by 4 months on the same terms and conditions for the period 1 October 2021 to 31 January 2022.
- 1.2 That in connection with 1.1 above, to approve the cost of the extension to the Co-operative Working Agreement for Public Health Services with Sandwell and West Birmingham Hospitals NHS Trust, which totals approximately £2,709,670.
- 1.3 That with reference to Minute No. 117/20 taken by the Cabinet on 9 December 2020 in relation to the term of the new Co-operative Working Agreement, this now be reduced by 4 months as a means of offsetting the costs of the extension.



- 1.4 That the decision taken by the Cabinet on 9 December 2020 in relation to the new contract (see Minute No. 117/20), the term of the contract be amended for an initial period of 2 years 8 months, namely from 1 February 2021 to 30 September 2024 (reduced from three years) with an option to extend for a further two years to 30 September 2026.
- 1.5 That the Director of Law and Governance & Monitoring Officer, in consultation with the Director of Public Health, be authorised to approve variations up to a maximum of 10% of the contract value, should they be necessary.
- 1.6 That the Director of Law and Governance & Monitoring Officer be authorised to execute any documentation necessary to enable the above recommendations to be implemented.
- 1.7 That subject to approval of recommendations above, any necessary exemptions to the Council's Procurement and Contract Procedure Rules be approved to enable the course of action to proceed.

## 2 Reasons for Recommendations

- 2.1 The reason for the recommendations are to strengthen the governance around the Co-operative Working Agreement with Sandwell and West Birmingham Hospitals NHS Trust (SWBH). In particular, in relation to Regulation 12(7) of the Public Contracts Regulations 2015.
- 2.2 By extending the current agreement and reducing the duration of the new agreement by the same time period, the Council and SWBH would gain an opportunity to strengthen the governance around the new agreement without any impact on patients, services or budgets.



### 3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people The services in the agreement are health visiting and support for teenage parents supporting the development of Sandwell's children
	People live well and age well The agreement includes sexual health services supporting the community to receive support and treatment.
	Strong resilient communities
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell

### 4 Context and Key Issues

4.1 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.

4.2 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 on a collaborative arrangement, and without competition, where public services are provided with the aim of achieving common objectives between the public sector contracting parties.



- 4.3 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.
- 4.4 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.
- 4.5 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); however, there is a need to elaborate the collaborative arrangements in the new Co-operative Working Agreement for Public Health Services. The extension period of 4 months to the existing contract will enable this to be undertaken.
- 4.6 The governance of the Co-operative Working Agreement would continue and monitored compliance with Public Contracts Regulations 2015, regulation 12(7) and the value and impact of Co-operative Working.
- 4.7 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 has been updated for 2021.
- 4.8 Following the proposed extension, the contract will be for four years and 8 months. An initial period of 2 years 8 months from 1 Feb 2022 to 30 September 2024, and an option to extend for a further two years to 30 September 2026.



Table 1: Anticipated cost for the 4-month extension of current contract

Service	4-month Extension
0-5 Services	£2,128,022.33
Sexual Health Services	£567,648.00
Infection Prevention Service	£14,000.00
Total	£2,709,670

Costs have been estimated with SWBH on a reimbursement basis as per the requirements of section 12 (7) of the Public Contract Regulations 2015 and therefore could change in delivery of the services.

Table 2: Estimated changes in cost due to 4-month extension

Service	5 yr contract (2021 - 2026) (3yr +2yr)	4yr 8 m contract (2022-2026) (2yr 8m +2yr)	4m Extension Current (2017-2021) Contract	Extension plus new contract Total
0-5 Services	£31,920,500	£29,792,467	£2,128,022	£31,920,489
Sexual Health Services*	£10,000,000*	£9,333,333*	£567,648	£9,900,981*
Infection Prevention Service	£215,000	£200,667	£14,000	£214,667.00
Total	£42,135,500	£39,326,467	£2,709,670	£42,036,137

\* Sexual health services will always include contingency to cover a predicted range of performance, financial saving from the 4-month extension is based on current tariff and 2020/21 activity.

4.9 Note that the cost of a 4-month extension in the current Co-operative Working Agreement followed by the new 4 year 8 month contract, is estimated to generate a £344 decrease in cost compared to starting the new Co-operative Working Agreement for the five year period from 1<sup>st</sup> October 2021.



## THE CURRENT POSITION

- 4.10 The Co-operative Working Arrangement is operational however the contract ends on 30 September 2021.
- 4.11 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).
- 4.12 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.
- 4.13 The Joint Public Health Plan has been updated for 2021.

## CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 4.14 Sandwell and West Birmingham Hospitals NHS Trust have been consulted and are in support of this proposal. There is no direct consultation with service users or wider stakeholders required as no change is being proposed to the service.
- 4.15 However, when and where necessary consultations are undertaken as required for individual services that are delivered through the Co-operative Working Agreement.

## 5 Alternative Options

- 5.1 The council could consider the procurement of the services in question; however that is likely to result in less co-ordinated, efficient and cost effective services being delivered. The collaborative approach with the NHS Trust ensure greater proficiencies and enables both public sector bodies to achieve more effectively key objectives.



<b>Resources:</b>	All financial changes have been negated.
<b>Legal and Governance:</b>	<p>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.</p> <p>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.</p> <p>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.</p> <p>Following a fresh review the team at Bevan Brittain have advise bolstering the contract in respect to the above.</p>
<b>Risk:</b>	The process of the extension is to permit further risk aversion by strengthening the co-operative contract.



<b>Equality:</b>	There are no equality implications.
<b>Health and Wellbeing:</b>	There are no health and wellbeing implications.
<b>Social Value</b>	There are no social value implications.

## 7. Appendices

7.1 None

## 8. Background Papers

8.1 None

