

Executive Decision Taken under Cabinet Delegated Authority

Subject:	Co-operative Working Agreement with Sandwell and West Birmingham Hospitals NHS Trust
Director:	Director of Public Health Lisa McNally
Date of Decision:	11/01/2022
Delegation Reference:	Cabinet Meeting 29 th September 2021 and 9 th December 2020
Contact Officer:	Consultant in Public Health Liann Brookes-Smith

1 Recommendations

- 1.1 That the Director of Public Health be authorised to award and enter into a contract with Sandwell and West Birmingham Hospitals NHS Trust (SWBHT), on terms to be agreed with the Director of Public Health for the provision under the Cooperative Working Agreement to commence on 1 February 2022 for a period of 2 years and 8 months to 30 Sept 2024 with the option to extend up to a further two years.
- 1.2 That the Director- Monitoring Officer be authorised to execute any documents necessary to give effect to the proposals in recommendation 1.1 for the provision under the Co-operative working Agreement with Sandwell and West Birmingham Hospitals NHS Trust.

2 Reasons for Recommendations



- 2.1 To enact a Cabinet Decision taken on 9th December 2020, which required an extension on 29th September 2021 to continue to enter into a Co-operative Working Agreement with Sandwell and West Birmingham Hospitals NHS Trust
- 2.2 To agree to a contract in order to establish a collaborative arrangement, jointing creating, planning, actioning the services under the agreement and working on an at-cost- basis to create the quality and best value provision.

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

	<p>Best start in life for children and young people The best possible health underpins a child’s or young person’s ability to fulfil their potential as they grow up. Ensuring children have the best start if the aim of the 0-5 programme.</p>
	<p>People live well and age well The service will contribute to improving a wide range of outcomes. The national specification for 0-19 Healthy Child Programme, the sexual health programme and the Health protection services all ensure the best outcomes for the population.</p>

4 Context and Key Issues

- 4.1 Following Cabinet approval on 9th December 2020, the contract was due to be renewed on the 1st October 2021. The contract was reviewed by Bevan Brittain and deemed the language in the agreement vulnerable to legal challenge externally.
- 4.2 The contact was extended 4 months following cabinet agreement on 29th September 2021 and the new contact to start 1st February 2022.
- 4.3 The agreement has already ran for 5 years with Sandwell and West Birmingham Hospitals NHS Trust therefore there will be no disruption when the new contract commences.



5 Alternative Options

5.1 The only option would be to return to a tendering process which, as already agreed by the cabinet, would not be in the best interest of the services included within the agreement.

6 Implications

Resources:	6.1 Expenditure is funded by the ring-fenced Public Health Grant. The overall budget for Public Health Services from 2022/23 and onwards is uncertain. In the event of any reduction in the Public Health Budget, a review of the contract values may be required to ensure that the costs of the service are able to be met from the Public Health Budget allocation.		
	Service	Annual Value	Description
	0-5 Services	Extension: £1,596,025 Then £4,788,075 in the first 10 months. Up to £6,384,100 per yr	This includes the Health Visiting Service, The Best Start Service (intensive home visiting programme) for vulnerable families and breastfeeding support services.
Sexual Health Services	Extension: £500,000 Then £1,500,000 in the first 10 months.	Integrated Sexual Health Services including Domiciliary Care.	



			Up to £2,000,000 per yr	
		Infection Prevention Service	Extension: £10,750 Then £32,250 for the first 10 months. Up to £43,000 per yr	Consultation and support on infection control
	6.2	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.		
	6.3	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.		
	6.4	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.		
Legal and Governance:	6.5	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.		
	6.6	Under regulation 12(7) of the Public Contracts Regulations 2015, the local authority may enter		



	<p>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>6.7 Following a fresh review the team at Bevan Brittain believe the contract is now more robust if anyone wished to challenge the arrangement.</p>
Risk:	<p>6.8 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>
Equality:	<p>6.9 An initial equality screening has been undertaken and no adverse impact on protected groups has been identified.</p>
Health and Wellbeing:	<p>6.10 This is a health and wellbeing service that will contribute to a wide range of outcomes for the population of Sandwell (see section 3).</p>
Social Value	<p>6.11 The work of the co-operative agreement is jointly overseen at Board level to draw back to the social value of all programmes of work.</p>



7. Appendices

List appendices

8. Background Papers

Cabinet Report from 9th December 2020

Cabinet Minutes from 29th September 2021

In accordance with the authority delegated to Chief Officers to act on matters within the authority delegated to them under Part 3 of the Council's Constitution, I intend to take the action(s) recommended above.

I do/~~do not~~ have an interest to declare in this matter

Director of Public Health, Lisa McNally



Date 11/01/2022

