

# Report to Cabinet

**23 March 2022**

<b>Subject:</b>	Co-operative working for the provision of services from the Integrated Social Care and Health Centre
<b>Cabinet Member:</b>	Cabinet Member for Adults, Health & Social Care Cllr Suzanne Hartwell
<b>Director:</b>	Director for Adult Social Care Rashpal Bishop
<b>Key Decision:</b>	No
<b>Contact Officer:</b>	Sandwell Better Care Fund Programme Manager, Paul Moseley paul_moseley@sandwell.gov.uk

## 1 Recommendations

- 1.1 That approval be given to develop a Co-operative Working Agreement with Sandwell and West Birmingham Hospitals NHS Trust for the purpose of achieving shared objectives for social care and health through the delivery of integrated social care and health services.
- 1.2 That subject to 1.1 above and further consultations and detailed negotiations between the Council and Sandwell and West Birmingham Hospitals NHS Trust, the Director of Adult Social Care be authorised to award and enter into a contract with Sandwell and West Birmingham Hospitals NHS Trust for health-related services under the Co-operative Working Agreement on terms to be agreed with the Director of Adult Social Care.
- 1.3 That subject to 1.2 above, any contract should include a five-year review of the partnership framework with an annual review of services.



- 1.4 That the Director of Law & Governance be authorised to execute any documents necessary and within reasonable time 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.
- 1.5 That any necessary exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the course of action referred to in 1.2 and 1.3 above to proceed.

## 2 Reasons for Recommendations

- 2.1 SWBHT is the key provider trust for acute and community health services in Sandwell. It also currently provides public health services commissioned by the Council, which includes services jointly delivered through an existing Co-operative Working Agreement.
- 2.2 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 the 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. The opportunity to use this exemption allows the flexibility to include services other than those delivering prescribed health related functions and provides an approach that will support future developments and the integration of social care and health services.
- 2.3 The arrangements proposed in this report are predicated on the fact that the public procurement rules as set out in the Public Contracts Regulations 2015 are not designed to interfere with the freedom of public authorities to perform the public service tasks conferred on them by using



their own resources which includes the possibility of cooperation with other public authorities.

2.4 Legal advice from Bevan Brittan LLP supports the proposal for the Council to directly award a contract for services to Sandwell and West Birmingham Hospitals NHS Trust pursuant to establishing a Co-operative Working Agreement which relies on the exceptions set out in regulation 12(7) of the Public Contracts Regulations 2015.

2.5 Under this regulation direct contracts can be awarded between contracting authorities if the following conditions are met:

- the arrangement involves only contracting authorities, there is no participation of private capital;
- the character of the agreement is that of real co-operation aimed at the joint performance of a common task, as opposed to a normal public contract
- the cooperation is governed only by considerations relating to the public interest
- The contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation

2.6 The arrangement must:

- Involve only contracting authorities (broadly public bodies) i.e. not private or voluntary sector bodies
- Involve working together which may include some element of joint input into service delivery
- Concern the achievement of common objectives
- Be concerned with achievement of best value in service delivery
- Not simply involve the performance of a specified service by one party for the other in return for payment



2.7 The development of an approach for co-operative working between Sandwell and West Birmingham Hospitals NHS Trust and the Council at the Integrated Social Care and Health Centre will bring greater opportunities 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

2.8 Delivering high quality services supported by a commitment to continuous improvement is a key objective of this approach. Strong performance management will be a key component of the Co-operative Working Agreement. Joint management arrangements together with co-operation around data sharing and the monitoring and evaluation of services will ensure good quality of information to assure performance and drive service quality improvement. It is proposed that this is overseen and governed by a joint management structure that will operate at both strategic and operational levels.

2.9 Using provisions within the Public Contracts Regulations 2015 which allow direct contract awards where there is public to public co-operation between contracting authorities, it is proposed that the Director of Adult Social Care commences negotiations to prepare to enter into a contract with Sandwell and West Birmingham Hospitals NHS Trust for the provision of designated integrated social care and health services where there are mutual objectives. This will entail the preparation of a new formal agreement that details the nature of the co-operation, and the establishment of a joint governance structure.




2.10 The key benefits of this approach are that it enables:

- partnership and integrated working which are key to delivering high quality services;
- incentivisation of Key Performance Indicators;
- clear performance management of services;



- a structure within which to add or remove services as the co-operative working evolves.
- scope to include non-health-based services.
- efficiencies in transactional costs by having a single contract with an overarching governance structure and removing the periodic procurement rounds.

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

	<p>People live well and age well</p> <p>Improvement in the quality of life for people leaving hospital with short-term reablement or therapy needs, enabling them to feel confident to live well at home.</p>
	<p>Strong resilient communities</p> <p>Positive effects on the quality of life of family and carers following discharge from hospital, enabling people to feel supported and to live independently in their communities after a short period of reablement and/or therapy support.</p>
	<p>A strong and inclusive economy</p> <p>The Integrated Social Care and Health Centre will provide employment opportunities for local people whilst establishing a valuable community asset which is owned and operated by the Council.</p>

### 4 Context and Key Issues

4.1 At its meeting on 29th March 2018, the Sandwell Health and Wellbeing Board gave its agreement and support to formally scope-up the long-term options to provide bed-based integrated social care and health provision in Sandwell. This was in response to three main strategic challenges: to help deliver sustainable progress on Delayed Transfers of Care (DToc) performance; provide more effective step-up/hospital avoidance services; and aim to commission a minimum required level of short-term, bed-based reablement and therapy provision throughout the year to smooth out seasonal variations in demand.



- 4.2 In December 2018, February 2019 and November 2019 Cabinet approved the development of an Integrated Social Care and Health Centre and the staffing model required for the service.
- 4.3 Cabinet approval was obtained in March 2020 for the Council to proceed with the completion of an Integrated Social Care and Health Centre building at the Knowle site in Rowley Regis. The facility is expected to open in July 2022.
- 4.4 The primary purpose of the Integrated Social Care and Health Centre is to provide bed-based reablement and therapy services to people who have either been discharged from hospital or for whom the Centre will provide an opportunity to avoid admission to hospital.
- 4.5 This report sets out a proposed approach to co-operative working between The Borough Council Of Sandwell and Sandwell and West Birmingham Hospitals NHS Trust for the purposes of delivering integrated, people-centred services from the Centre.

## 5 Alternative Options

- 5.1 The only alternative option would be to defer to a tendering process which for the reasons set out in paragraphs 2.1 to 2.5 would not be in the best interest of the services.

## 6 Implications

<b>Resources:</b>	The capital costs of the build were agreed at the Cabinet meeting of 18 March 2020 and the ongoing revenue costs for operating Knowle will be confirmed in a future Cabinet report. The resources required to support the development of the Co-operative Working Agreement will be funded from the Better Care Fund at a current estimated cost of £10,000 plus VAT
<b>Legal and Governance</b>	Contracts would need to be awarded in accordance with the local authority's Procurement and Contract Procedure Rules which would generally require competition for



	<p>contracts of the value in question and an exemption to the Council's Procurement and Contract Procedure Rules would be required for 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>It is considered that proposals of the nature outlined in this report are likely to fall within the scope of Regulation 12(7) of the Public Contracts Regulations 2015.</p>
<p><b>Risk:</b></p>	<p>A detailed assessment of risks as been undertaken and no significant risks have been identified. The risk assessment is included as Appendix A to this report. Detailed external legal advice has been taken from Bevan Brittan LLP in relation to application of regulation 12(7) of the Public Contracts Regulations 2015 to this proposal. Bevan Brittan LLP further advised that a Voluntary Ex Ante Transparency (VEAT) notice should not be necessary to mitigate the risk of challenge in this case. They have carried out a legal analysis of the proposals and are of the view that, on balance, it is likely that the proposed arrangements would be found to comply with regulation 12(7) of the Public Contracts Regulations 2015.</p>
<p><b>Equality:</b></p>	<p>An initial equality screening has been undertaken and no adverse impact on protected groups has been identified</p>



<b>Health and Wellbeing:</b>	This is a health and wellbeing service that will contribute to a wide range of outcomes for the population of Sandwell (see section 4).
<b>Social Value:</b>	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

## 7. Appendices

### Appendix A – Risk Assessment



ICC\_\_Risk\_Register\_  
Template.xlsx

### Appendix B – Equality Impact Assessment



EIA\_Template -  
Knowle.doc

## 8. Background Papers

Cabinet reports from December 2018, February 2019, November 2019 and March 2020.

Health and Wellbeing Board report from March 2018

