

North Somerset Council Decision

**Decision Of: Executive Member for Adult Services, Health and Housing
With Advice From: Director of Public Health & Regulatory
Services, Director of Corporate Services & S151 Officer & Head of Strategic
Procurement**



Directorate: Public Health & Regulatory Services

Decision No: PHRS048 2022/2023

Subject: Sexual Health Services Contract Extension to March 2025

Key decision: YES

Reason: Approval of the direct award of existing sexual health contracts for the period 2024-25 is above £500,000.

Background:

Local Authorities have been responsible for commissioning sexual health services as part of their mandated public health responsibilities since 2013.

In 2017, Bristol City Council, on behalf of Bristol, North Somerset, South Gloucestershire, and Bath & North East Somerset Council's, and Bristol, North Somerset and South Gloucestershire Clinical Commissioning Group (BNSSG CCG) jointly commissioned University Hospitals Bristol and Weston NHS Foundation Trust (UHBW NHS Trust) to fulfil this function. The service is called Unity Sexual Health Service and its role is to promote, improve and protect sexual health for the BNSSG population and reduce inequalities in that regard. This contract expires on 31st March 2024.

To complement the main Unity service, primary care providers (GPs and pharmacists) are also commissioned to deliver long-acting reversible contraception, emergency contraception, chlamydia screening and condoms.

The new national Sexual and Reproductive Health Strategy is now expected in 2022 – 2023. The new national service specification for Sexual Health, which is required to inform the local specification, is also expected in 2022 – 2023. The last specification was published in 2013. The new NHS procurement regulations, which will likely have a significant impact on these services is also expected during 2022 – 2023.

As of 1st July 2022, the BNSSG CCG has been replaced by the new BNSSG Integrated Care Board (BNSSG ICB). Commissioning is no longer a core function within the new arrangement, with the focus being on collaborative system working, performance and delivery. The system is in its infancy, and it will be some months before we will fully know the scope for a different system model for sexual health, as informed by the guidance documents outlined above.

Decision:

Approval is requested for the direct award of existing sexual health contracts with Unity Sexual Health Service, UHBW NHS Trust, for one year (1st April 2024 to 31st March 2025), at a total estimated annual cost of £1,142,540, pending the publication of national strategic planning and procurement guidance in 2022-23.

Reasons:

The key decision for approval of the direct award of existing sexual health contracts (above), is based on a) the understanding that the annual cost will be above the Council's £500,000 threshold; and b) to accommodate the publication of the new national Sexual and Reproductive Health Strategy, sexual health service specification and the introduction of the NHS Provider Selection Regime during 2022 – 23.

The intention was to recommission these services with a new start date of 1st April 2024, however, delay to expected publication of key guidance combined with the NHS reorganisation and establishment of the new BNSSG ICB have had a significant impact on our ability to proceed with the procurement process.

Extending the current contract for one year will ensure continuity of provision and that sexual health services are maintained at their current levels, providing stability within the system for residents, and allowing the Council and its partners additional time to plan for the future procurement process. It will enable the Council, together with its key partners, to deliver a collaborative approach to tackling health inequalities and improving health outcomes.

During the contract extension period, the service portfolio and day to day contract management will be maintained and continue to be overseen by the Health and Care team within the Public Health and Regulatory Services Directorate (PHRS).

Use of Exception: Due to the value of this direct award, the NSC Contract Standing Orders are not applicable. It has been agreed by all parties in the collaboration that we will be using Regulation 32 and Regulation 72 of the Public Contract Regulations 2015.

Options considered:

A direct award of the existing contract will extend the arrangements currently in place for 12 months and give time for the new guidance and regulations to be published. It does constitute a breach of the Council's procurement rules, however, to proceed with the procurement of a high value local contract outside of the expected national framework would risk the service being out of alignment with national requirements with potential serious financial and reputational consequences.

However, consultations have taken place with our partners, including Bristol and South Gloucestershire Council commissioners and the BNSSG ICB. Commissioning partners are in agreement that it is necessary to maintain current arrangements until 31st March 2025 to accommodate the new national guidance and regulations.

Financial implications:

The direct costs and funding arrangements associated with a) the Unity Sexual Health

Service, UHBW NHS Trust contract, and b) the Council's staff resources required to contract management these services are set out below.

Costs:

The Council's current financial commitment to the Unity Sexual Health Service, UHBW NHS Trust contract is £5,712,700 for the period 2017-2022, plus a two-year extension, of £1,142,540 pa, which totals £7,997,780. This request for approval of the direct award of the existing contract would therefore require an additional £1,142,540 in the financial year 2024-25.

Across the three BNSSG partners it is estimated that the Unity Sexual Health Service, UHBW NHS Trust contract direct award will cost c£8.4m for 2024-25. North Somerset Council's contribution is set out above, with the balance split across the other partner organisations.

Further direct costs to the Council associated with the one-year contract extension are acceptable and would be similar to those within the current year 2022-23, for example Member time; senior Public Health & Regulatory Services staff contract management time; Legal & Governance; Finance; and Procurement staff time.

Funding:

The current contract for the Unity Sexual Health Service, UHBW NHS Trust contract is funded by the Public Health ringfenced grant 2022-23. It is anticipated that this will continue during the contract extension period 2024-25.

Legal powers and implications:

Whilst Local Authorities have been responsible for commissioning sexual health services as part of their mandated public health functions since 2013, in keeping with the Health and Social Care Act 2012, these roles and responsibilities are in transition following the introduction of the Health and Care Act 2022. Sexual health is no exception, as anticipated guidance on the new national Sexual and Reproductive Health Strategy, sexual health service specification and the introduction of the NHS Provider Selection Regime during 2022-23 is awaited.

Given these circumstances, a change of provider could cause significant disruption, instability and inconvenience or substantial duplication of costs for the contracting authorities. Moreover, proceeding to reprocure without all the necessary information available would likely necessitate the award of a very short contract in order that a further re-procurement could be undertaken in due course, once that information was available. The significant inconvenience and duplication of costs that would result from running two procurement processes in quick succession in relation to the same service, it is likely that a short-term direct award is permissible in accordance with the Council's Standing Orders.

Climate change and environmental implications:

Key examples in this category appertaining to the current and future Sexual Health Services contract will be travel, transportation, and disposal of clinical waste and other equipment. In particular by ensuring efforts continue to be made to reduce the carbon footprint, such as: a) reducing the number of unnecessary patient/client journeys to clinics (by providing more services online); b) reductions in the number of frequent road transport deliveries for clinical supplies; and c) the appropriate collection and disposal of clinical (and non) clinical waste and

equipment. The new national guidance and regulations may provide opportunity for further climate and environment action within this contract.

Consultation:

Consultations have taken place with all BNSSG local authority commissioners and the BNSSG ICB. Partners agree that it is necessary to maintain current arrangements until 2025 to accommodate the new national guidance and regulations.

Risk management:

The current contract for the Unity Sexual Health Service, UHBW NHS Trust contract ends on 31 March 2024, there are currently no further extensions available within the contract. This contract would normally be tendered in compliance with the Council's own procurement rules as well as the Public Contracts Regulations 2015. However, the commissioners have identified a need to continue with the existing arrangement for a further 12 months.

It is recommended that the confirmation of partners' agreements to make a direct award for a further year is sought (via their own decision pathways) prior to the letting of the contract. This should include consideration and acceptance of any risks by all partners, in the event that the contract sum changes, as a result of any contract extension negotiations which may take place. Any increase in North Somerset Council's share of the costs will need to be funded from the Public Health Grant.

A VEAT (Voluntary Ex-Ante Transparency) Notice will be published announcing the Council's intention to extend the current contract of the incumbent provider, including the necessary reasons and justification for this decision.

There is a risk that the provider may not agree to the current contract value, a mitigation plan should be developed if this is the case, including expediting the re-tender. The contract should continue to be contract managed in line with the Council's Contract Management Framework and the re-commissioning should continue within the new timescales.

Equality implications:

Have you undertaken an Equality Impact Assessment? Yes

Corporate implications:

This request for the direct award of existing sexual health contracts is in keeping with the Council's priorities in the Corporate Plan 2020-24, i.e. 'a Council which empowers and cares about people,' with a 'focus on tackling inequalities and improving outcomes.'

Attention is drawn to the above sections regarding 'legal implications' and 'risk management', in particular the risks to the Council of undertaking a re-procurement exercise at this time, which may result in a change of provider which could cause significant disruption, inconvenience, or substantial duplication of costs for the contracting authority.

Appendices:

None

Background papers:

The current contract and specification are available on request. The Equality Impact Assessment is enclosed below.



Equality Impact
Assessment - SH exte

Signatories:

Decision maker(s):

A handwritten signature in black ink that reads "Mike Bell". The letters are cursive and somewhat stylized.

Signed:

Title: Executive Member for Adult Services, Health & Housing

Date: 20 January 2023

With advice from:

A handwritten signature in black ink that reads "Cherry". The signature is cursive and somewhat stylized.

Signed:

Title: Director of Public Health & Regulatory Services

Date: 19 January 2023

A handwritten signature in black ink that reads "Anuss". The signature is cursive and somewhat stylized.

Signed:

Title: Director of Corporate Services & S151 Officer

Date: 20 January 2023

Signed: 

Title: **Head of Strategic Procurement**

Date: 19 January 2023

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable:

- **Signatories:** updated to include S151 Officer
- **Use of exception used included:** Regulation 32 and Regulation 72 of the Public Contract Regulations 2015.