

## Summary Sheet

### Council Report

Cabinet and Commissioners' Decision Making Meeting – 11 July 2016

### Title

Continuation of Public Health Services

### Is this a Key Decision and has it been included on the Forward Plan?

Yes

### Strategic Director Approving Submission of the Report

Teresa Roche, Director of Public Health

### Report Author(s)

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### Ward(s) Affected

All

## 1. Summary

Public Health are requesting permission for exemptions under Standing Order 38 from the requirement to tender the contracts specified in the report and subsequent extensions to the contracts enabling these services to continue until a range of options have been explored and enacted. The contracts are due to expire on 31st March 2017.

The contracts requiring an exemption and extension are the public health services commissioned from Pharmacists and General Practitioners (GPs):

- Pharmacy supervised consumption of drugs prescribed as 'substitute medication' for opiate dependence. The annual contract value is circa £185,000.
- Pharmacy provision of needles and syringes for use by injecting drug users. The annual contract value is circa £45,000.
- Pharmacy provision of Emergency Hormonal Contraception (EHC). The annual contract value is circa £20,000.
- GP provision of contraceptive services, Intrauterine Contraceptive Device (IUCD) and sub dermal implants. The annual contract value is circa £176,000.
- GP provision of chlamydia screening. The annual contract value is circa £10,000.

- GP provision of 'Shared Care' for dependant alcohol and drug patients, the care package is shared between the GP and a consultant Psychiatrist. The annual contract value is circa £162,000.
- GP provision of Adult Alcohol screening which is targeted at specific health conditions. The annual contract value is circa £67,000.
- GP provision of NHS Health Checks Programme for those aged 40 to 74. The annual contract value is circa £200,000.

The report also asks Cabinet Members to agree an exemption from tender for the Specialist Drugs and Alcohol Midwifery Service currently provided by The Rotherham Hospitals NHS Foundation Trust (TRFT). The contract will then be extended until 31st March 2018. The annual contract value is £90,000.

The Public Health Services listed support the delivery of the Health and Wellbeing Strategy, Public Health indicators in the Corporate Plan and The Public Health Outcomes Framework. Furthermore, NHS Health Checks and Sexual Health services are a statutory Public Health function as specified within The Local Authorities (Public Health Functions and Entry to Premises by Local HealthWatch Representatives) Regulations 2012.

The List of appendices included provides service summaries for the contracts under consideration:

Appendix A: Detail of the Sexual Health Services.

Appendix B: Detail of the Drugs and Alcohol Treatment Services and Alcohol screening.

Appendix C: Detail of the NHS Health Checks Programme.

Appendix D: Detail of the Specialist Drugs and Alcohol Midwifery Services.

## **Recommendations**

Cabinet are being asked to agree the following recommendations:

- 1.1 That an exemption from the requirement to tender is granted for the following sexual health contracts, IUCD, sub dermal implants and chlamydia screening within General Practice and EHC within pharmacies for the current contract which expires on 31<sup>st</sup> March 2017.

Contracts will then be extended for one year ending 31<sup>st</sup> March 2018, during which time the new providers of the sexual health contract will have adopted the Primary Care Sexual Health Services.

See Appendix A.

- 1.2 That an exemption from the requirement to tender is granted for the contracts for the provision of drugs services: supervised consumption of methadone, needle exchange and Shared Care commissioned from GPs and pharmacies.

Contracts will then be extended for one year ending 31<sup>st</sup> March 2018 and incorporated into the tender exercise for the Secondary Care Substance Misuse Services.

See Appendix B.

- 1.3 That an exemption from the requirement to tender is granted for the Adult Alcohol Screening contract commissioned from GPs which expires on 31st March 2017.

Contracts will then be extended for one year ending 31st March 2018, enabling service reviews to take place.  
See Appendix B.

- 1.4 That an exemption from the requirement to tender is granted for the NHS Health Checks contract commissioned from GPs which expires on 31<sup>st</sup> March 2017.

Contracts will then be extended for one year ending 31st March 2018, enabling service reviews to take place.  
See Appendix C.

- 1.5 That an exemption from the requirement to tender is granted for the Specialist Drugs and Alcohol Midwifery service commissioned from TRFT.

The contract will be extended for one year ending 31st March 2018, when full review of specialist midwifery services commissioned by Public Health has been scheduled.  
See Appendix D.

### **Background Papers**

Commissioning Stop Smoking Support in Pregnancy. Approved by Cabinet 6<sup>th</sup> November 2013.

Public Health Proposals for Re-commissioning Public Health Services agreed by SLT 24<sup>th</sup> November 2015 and ratified by Commissioner Manzie's decision making meeting on the 14<sup>th</sup> December 2015.

Public Health response to stakeholder consultation on the Future of Drugs and Alcohol Services was published on 7th March 2016.

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None.

### **Council Approval Required**

Yes.

### **Exempt from the Press and Public**

The appendices are exempted as they contain sensitive business information as defined under Paragraph 3 of Schedule 12A to the Local Government Act 1972.

## **Title**

Continuation of Public Health Services

### **1 Recommendations**

- 1.1 That an exemption from the requirement to tender is granted for the following sexual health contracts, IUCD, sub dermal implants and chlamydia screening within General Practice and EHC within Pharmacies for the current contract which expires on 31<sup>st</sup> March 2017.

Contracts will then be extended for one year ending 31st March 2018, during which time the new Providers of the Sexual Health contract will have adopted the Primary Care Sexual Health Services.

See Appendix A.

- 1.2 That an exemption from the requirement to tender is granted for the contracts for the provision of drugs services: supervised consumption of methadone, needle exchange and Shared Care commissioned from GPs and Pharmacies.

Contracts will then be extended for one year ending 31st March 2018 and incorporated into the tender exercise for secondary care substance misuse.

See Appendix B.

- 1.3 That an exemption from the requirement to tender is granted for the Adult Alcohol Screening contract commissioned from GPs which expires on 31st March 2017.

Contracts will then be extended for one year ending 31st March 2018, enabling service reviews to take place.

See Appendix B.

- 1.4 That an exemption from the requirement to tender is granted for the NHS Health Checks contract commissioned from GPs which expires on 31st March 2017.

Contracts will then be extended be extended for one year ending 31st March 2018, enabling service reviews to take place.

See Appendix C.

- 1.5 That an exemption from the requirement to tender is granted for the Specialist Drugs and Alcohol Midwifery Service commissioned from TRFT.

The contract will be extended for one year ending 31st March 2018, when full review of Specialist Midwifery Services commissioned by Public Health has been scheduled.

See Appendix D.

### **2. Background**

- 2.1 Public Health transferred into RMBC in April 2013, bringing across from the Rotherham Primary Care Trust (PCT) a mixture of contracts which had been competitively tendered and internal NHS contracts. Most of the NHS services have not been tendered as they were part of the structure of the organisation. Public Health commission a number of services that promote and protect the health of the

local population. These services were part of the Public Health transfer to RMBC in 2012/13 and have been part of the local delivery to the Rotherham population for over 5 years prior to the transfer. Public Health has continued to manage these contracts.

Identifying alternative providers for these services typically requires working with the NHS to review the whole 'care pathway' rather than a simple retender exercise.

- 2.2 Public Health have started this review work on the main contracts for Sexual Health, Drugs and Alcohol and 0-19s Child Health programme areas and these are now out to tender (May 2016). These reviews have enabled a range of options for the GP and pharmacy contracts to be developed which are outlined in the body of the report.

The details of the review outcomes for Sexual Health, Pharmacy based Drug Services and the Specialist Drugs and Alcohol Midwifery are contained within the relevant appendices A to D.

### **3. Key Issues**

- 3.1 Public Health transferred into RMBC in April 2013, bringing across from the Primary Care Trust (PCT) several contracts the majority being internal NHS contracts. When they were in the NHS they were part of the wider NHS contract and so did not have a formal end date.
- 3.2 Most local authorities have embarked on redesigning and tendering public health services, some did this on transfer to local authorities. In the main, services were novated at the point of transfer. Although the public health function and funding novated to RMBC, the contracts were left with the CCG for 2 years as partnership agreements, with RMBC signing the contracts as a co-commissioner. This arrangement ended in March 2015 when the 3 year rolling contracts with the providers had a break and the contracts then became between RMBC and the respective providers.
- 3.3 Since moving into RMBC, Public Health have developed a robust performance and contract management process and in the majority of cases the services contract value has been reviewed. The benchmarking data and cost profiles against our statistical neighbours are specified in the relevant appendices.
- 3.4 The Specialist Midwifery Service is commissioned from TRFT. The stop smoking element was exempted from tender by Cabinet on the 6th November 2013. The drugs and alcohol element was market tested during 2015, no other providers were interested at that point in time. The proposal is to extend the contract and incorporate the Specialist Drugs and Alcohol Midwifery Service into the wider contract.

### **4. Options considered and recommended proposal**

Options relating to all contracts referred to in this report are:

- 4.1 Extend the contracts for a 6 month period to allow a robust commissioning process to take place, mitigating the risk of challenge by issuing a Prior Information Notice.

The impact of a 6 month timescale would cause significant pressures in terms of undertaking consultations, market engagement and testing exercises. This timescale may not allow sufficient time for a rigorous process. This option is not recommended.

- 4.2 Extend the contracts for 12 months from 31<sup>st</sup> March 2017 to 1st April 2018 to allow a robust commissioning process to take place, mitigating the risk of challenge by issuing a Prior Information Notice.

The impact of a 12 month timescale would allow for the necessary processes involved to be conducted within the appropriate timescales. This option is recommended.

## **5. Consultation**

- 5.1 The market testing and consultation events held for the Integrated Sexual Health service in December 2015 and the 0-19 Child Health Services in April 2016 have included a range of national and local stakeholders and other service providers to consider options.

A consultation event is scheduled for Drugs and Alcohol Treatment Service; this will be part of the review in autumn 2016.

- 5.2 The Sexual Health Service market testing and consultation event considered the option to include GP and pharmacy provision as part of a whole system tender where one provider subcontracts to these smaller providers and manages the clinical governance for the entire system. This was felt to be best practice going forward and is now included in the tender. The Sexual Health tender will be awarded in September 2016.

The provider will then be expected to undertake a consultation with existing providers prior to taking over the Primary Care Contracts. This will require notice to be given to all relevant Primary Care providers in relation to the change of commissioner.

The Primary Care Contracts for Sexual Health would need to be extended for up to one year when they expire on 31<sup>st</sup> March 2017, to allow for this change in commissioning arrangements to occur. It is expected this would be completed by 31<sup>st</sup> March 2018.

- 5.3 The stakeholder consultation on the future Drugs and Alcohol Recovery Services and GP Provision Drug Users was conducted in autumn 2015 and the outcome published in March 2016.

There was clear support in the responses to maintain services for drug users with GPs in 'shared care'. The option going forward will be to consider including shared care as an essential element of the model that will be tendered in 2017-2018.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 If this report is approved, work will commence immediately to ensure a continued delivery of the services in the interim period and seamless transition to the future providers.

- 6.2 As part of this plan, a communications strategy will be developed with a clear timeline for notifications and implementation. Indications of extensions and intentions and processes for retendering would be given to all service providers.
- 6.3 The sexual health tender will be awarded in September 2016. The provider will then be expected to take over contracts within primary care. This will require notice to be given to all relevant primary care providers in relation to the change of commissioner.

## **7. Financial and Procurement Implications**

- 7.1 The services were offered to all GP practices and Pharmacies as Local Enhanced Services, supplements to their core NHS contracts and have continued on this basis
- 7.2 The total values of the current contracts stated in Section 1 is £955,000, based on 2016/17 budgets. These public health contracts have in the main been novated from the NHS on transfer to the Council and therefore not been subject to a competitive tender exercise to determine best value. These services are also predominately paid as 'items of service' and therefore demand led.
- 7.3 Available benchmarking data including detailing the costs per item of service and comparisons with other areas are contained in the attached appendices. Overall this shows a mixed picture where Rotherham is typically spending below Yorkshire and Humberside average for health checks and above average cost in respect of Substance Misuse (Alcohol). Exact comparisons are difficult due to the variation in services between areas. The spending profiles of our statistical neighbours outlined in the Public Health England Spend and Outcome Tool (SPOT) provides some useful benchmarking data.
- 7.4 There is no comparable data from our statistical neighbours in respect of the Shared Care Scheme for drug users as the Rotherham scheme is unique and was recognised as best practice at the time it was established. This scheme has been reviewed and the payments to GPs reduced by 50 per cent in 2014.
- 7.5 It is therefore appropriate that these existing contracts are initially extended for one year to allow services to be reviewed in order to achieve best value, especially where resources are reducing in respect of the Public Health grant funding.

## **8. Legal Implications**

- 8.1 Standing Order 38 provides that a particular contract/or contracts can be exempted from the requirement to tender provided that value for money and compliance with the law can be demonstrated. This report seeks exemptions from the requirement to tender for the specified services for the reasons stated above to enable the continuation of the contracts scheduled in the appendices.
- 8.2 Agreeing exemption until alternative models are identified reduces the risk of challenge to the Council and enables extensions to be sought for existing contracts.

## **9. Human Resources Implications**

- 9.1 There are no direct HR implications arising from this report, however, if as part of the review the providers of services change, there may be an impact on staff employed by TRFT. Steps will be taken to mitigate the impact through close work with partners. Consideration during the tendering process will need to be given to potential TUPE implications if and when they arise.
- 9.2 The continued provision of public health services does support the local health economy, the GP and pharmacy sectors which serve the Rotherham public to maintain and increase their skills in these areas; in turn this supports the CCG agenda of recruiting and retaining an able workforce in primary care.

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 These services provide access to services in all of Rotherham's communities with easy access to services for younger people in terms of contraception and access to needle and syringe exchange. This will be maintained in any new service provision.

## **11 Equalities and Human Rights Implications**

- 11.1 Equalities and human rights implications are incorporated into the Council's procurement processes. Compliance with best practice procurement ensures these requirements are achieved.

## **12. Implications for Partners and Other Directorates**

- 12.1 Rotherham CCG is the main commissioner of midwifery services. Public Health would want to inform the CCG of any decision that would impact on this small element of service.
- 12.2 With regard to GP and pharmacy provision, the CCG and NHS England are the main commissioners of these services. Public Health would want continue to involve them in future service modelling.

## **13. Risks and Mitigation**

- 13.1 There has been a need to consider risk of legal challenge from service providers within the market place who believe they are able to deliver these services.
- 13.2 Rotherham MBC Standing Order 38.7 states no exemptions can be granted which would result in a breach of European Union or domestic law. In the case of these contracts, the "Light Touch" procurement limit for health services is £589,158 for the term of the agreement. However, the risk could be mitigated for those contracts that will be tendered by placing a Prior Information Notice (PIN) making known Rotherham MBC's intentions of the planned procurements.

This approach would be particularly relevant for general practice contracts, needle exchange and EHC within pharmacy.

- 13.3 For contracts not being tendered, the new EU Remedies Directive provides for the publication of a "Voluntary Ex-Ante Transparency Notice" (VEAT) where a



contracting authority deems that a contract does not require prior publication of a contract notice in the European Journal (OJEU - Official Journal of the European Union).

In completing the VEAT notice Rotherham MBC must give sufficient information as to the justification for direct award of a contract without OJEU advertising and observe a minimum 14 day standstill period before the contract is awarded. This allows providers the opportunity to challenge the decision of Rotherham MBC and obtain pre-contractual remedies should a challenge be upheld. The advantage to Rotherham MBC is that the penalty of mandatory ineffectiveness does not apply in the event of a challenge to a contract awarded after the standstill period has elapsed.

This approach would be particularly relevant for the Pharmacy Supervised Consumption Service and Specialist Drugs and Alcohol Midwifery Service.

#### **14. Accountable Officer(s)**

Teresa Roche, Director of Public Health  
Anne Charlesworth, Public Health Commissioning & Quality Manager,

Approvals Obtained from:

Strategic Director of Finance and Corporate Services  
Mark Scarrott, Finance Manager (01709 822007)

Director of Legal Services  
Ian Gledhill, Principal Officer, (01709 824501)

Head of Procurement  
Helen Chambers Interim Corporate Procurement Manager, (01709 823661)

Human Resources  
Odette Stringwell, HR Business Partner, (01709 334176)

The report appendices are exempt and not published on the Council's website.

Appendix A: Detail of the Sexual Health Services.

Appendix B: Detail of the Drugs and Alcohol Treatment Services and Alcohol Screening.

Appendix C: Detail of the NHS Health Checks Programme.

Appendix D: Detail of the Specialist Drugs and Alcohol Midwifery Services.