

Brighton & Hove City Council

Health & Adult Social Care Sub Committee

Agenda Item 11

Subject: Public Health Community Nursing Contract Extension

Date of meeting: Adult Social Care and Health Sub Committee 13th June
2023

Report of: Rob Persey

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Wards affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The report asks for agreement to extend the current Public Health Community Nursing (PHCN) contract for one year to March 31st 2025
- 1.2 The PHCN contract comprises the city's health visiting and school nursing services. This report details the rationale for an extension of the current contract in order to provide continuity of service.

2. Recommendations

- 2.1 That the Committee agrees to extend the current Public Health Community Nursing Contract to March 2025 as detailed at paragraph 4.1

3. Context and background information

- 3.1 The PHCN contract is currently delivered by Sussex Community Foundation Trust (SCFT). Health Visiting teams are based in the City's Children's Centres/Family Hubs alongside Community Midwifery teams.
- 3.2 The Health Visiting service provides a three tier intervention model comprising a universal offer to all mothers, babies and their partners, early help for those that require some extra support and targeted support for vulnerable families with multiple and complex issues.
- 3.3 The School Nurse Team is based at Seaside View and provides health and wellbeing support to pupils in early years, primary, secondary and sixth form

settings and delivery of vision and hearing screening in primary schools alongside the National Child Measurement Programme.

Procurement history and contract value

- 3.4 This contract was advertised by way of a PIN notice in 2016, with a contract value of between £20,000,000 - £22,500,000. There were initially three interested parties in the contract but two organisations dropped out of the process and the contract was awarded to SCFT.
- 3.5 The initial contract with SCFT was a 3 + 2-year contract which started on the 1st April 2017. The contract was further extended by 1 year plus a further optional 1 year, based on satisfactory performance by SCFT from 2022 to 2024 as recommended by the Procurement Advisory Board and agreed by the Adult Social Care and Health Sub-committee. The terms of the extension include a contract variation which requires the Trust to use any underspend on salary costs to expand services or to repay such spend to the Council to be used to improve outcomes for babies, mothers and families supported by the Health Visiting and School Nursing services outside the Contract.
- 3.6 As the contract had been awarded as a Public Services Contract, in accordance with competition requirements, a PIN notice was issued in October 2022 to test the market and expressions of interest were received.
- 3.7 The current annual contract value is £4,860,945

4. Analysis and consideration of alternative options

Option 1 Recommended

A contract extension of 1 year to March 31st 2025.

- 4.1 It may be the case that an extension will allow for recommissioning to fall under the forthcoming [NHS Provider Selection Regime](#) procurement regulations as part of the [Health and Care Act 2022](#). There is no definitive timetable in place for the implementation of such a regime and regulations and proposals are likely to change. However, there is an expectation that the Selection Regime will provide a new procurement option that enables the continuation of a contract with an incumbent provider subject to performance, value for money and local decision making.
- 4.2 A direct award to a local NHS Trust would provide stability and continuity for the workforce, partner agencies such as the Family Hubs and children young people and families in the city. Any award would be subject to assurance around quality of delivery and performance.
- 4.3 A further extension to the current contract (as varied) may be permissible without competition if it is considered that the contract falls within the

derogation detailed in Regulation 12(7), as set out in the legal implications at section 8.

- 4.4 This option carries a potential risk of challenge from a market competitor because they will have anticipated the opportunity to bid for a new contract starting on the 1st April 2024 however, Legal has recommended mitigations to reduce the risk detailed at paragraph 8.4.
- 4.5 The provider has consistently performed significantly higher than the England average across the key performance indicators. (See Appendix 1)

Option 2

An open market tender under the current procurement regulations

- 4.6 This option removes the risk of legal challenge on the basis of a contract extension outside the original total contract value.
- 4.7 This option carries a significant risk to workforce recruitment and retention. A procurement process will create uncertainty for the NHS provider and is very likely to make recruitment and retention of the workforce much more challenging. There is a national crisis in recruitment to Health Visitor and School Nurse roles and this service has worked successfully to stabilise retention and successfully recruit. Any reduction in the qualified workforce would impact on the capacity and quality of the service.
- 4.8 The tender process will require considerable capacity from Public Health Commissioning, the Provider, Procurement and Legal.

Option 3

Develop a Section 75 agreement with the Provider to cover the activities set out in the current contract.

- 4.9 A Section 75 agreement as set out in the [National Health Service Act 2006](#) provides a mechanism for an NHS body and a Local Authority to enter into an agreement for the provision of a health service.
- 4.10 This will require a new Governance structure to be created along with a detailed agreement covering all aspects of the delivery and performance monitoring of the services.
- 4.11 The Legal mitigations detailed in paragraph 8.4 would also apply for this option.
- 4.12 This option provides for an integrated model of delivery in which performance and monitoring is through a shared governance structure as opposed to the commissioner/provider model.

- 4.13 This option would require additional capacity from Public Health commissioning, the Provider and Legal to enact and it is currently unclear how future legislation will impact on such arrangements.

5. Community engagement and consultation

- 5.1 A Joint Strategic Needs Assessment will shortly be completed covering the population needs for the services in this contract and the links to wider family services and specialist health services.
A multi-agency JSNA steering group has guided the assessment and includes representatives from the Maternity Voices Partnership, Amaze and the Parent Carer Forum Friends Families and Travellers and service stakeholders.
- 5.2 As part of the that assessment parent and partner surveys were undertaken in the December – January 2023. Over 1000 parents responded to the health visiting survey and over 60 parents to the school nursing survey. The report of the survey returns will inform a refreshed specification at the point of re-contracting.
- 5.3 In 2022 Public Health teams across Sussex commissioned research into the needs of fathers in the early years using semi-structured interviews of over 50 fathers. This work continues to inform service delivery to parents.
- 5.4 The Public Health [Safe & Well at School Survey](#) is completed every two years by over 17,000 pupils and students from primary to sixth form college in the city. The last survey was conducted in November 2021 and analysis of the response to a wide range of questions inform understanding of the needs of school and college age children and young people and how the School Nursing service can support those needs

6. Conclusion

- 6.1 Officers recommend Option 1 as providing the best value for money and continuity of a quality service for families in the city.

7. Financial implications

- 7.1 The Public Health Community Nursing contract, which includes the delivery of health visiting and school nursing services, is funded within the ring-fenced Public Health grant (Health & Adult Social Care directorate).
- 7.2 The net budget for this contract in 2023/24 is £4.861m, which is in line with the current contract value. The Public Health grant allocation has not been confirmed for the financial year 2024/25 which may impact on the availability of funding, though it is anticipated that financial resources will be available to enable the commissioning of the services detailed above up to March 2025.

Name of finance officer consulted: Sophie Warburton Date consulted:
17/05/2023

8. Legal implications

- 8.1 The Public Contracts Regulations 2015 apply to the procurement and award of contracts above the relevant financial thresholds for services, supplies and works. However, there is an exemption from competition requirements under Regulation 12(7) where the contract establishes or implements a co-operation between contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives that they have in common (subject to certain conditions), known as the 'Hamburg Waste' exemption.
- 8.2 Counsel's advice has confirmed that the current contract, as varied will *probably* fall within this exemption and that, as a result, any further extension to 2025 would be allowed under the procurement regulations.
- 8.3 Moreover, should the Council decide to proceed with a s75 Agreement (Option 3), then Counsel is confident that this arrangement *will* fall within the Regulation 12(7) exemption.
- 8.4 However, in view of the additional expression of interest in response to the PIN notice, Counsel has advised that any decision not to proceed with a procurement process will likely lead to a risk of challenge. To reduce the risk of a potential challenge and of any such challenge being successful, Counsel recommends the publication of a VEAT (Voluntary Ex-Ante Transparency) Notice and the provision of information to the potential rival bidder, relating to the grounds for the decision not to proceed with a procurement process, in accordance with Regulation 55 of the PCR 2015.

Name of lawyer consulted: Pamela Milford Date consulted: 22/05/2023

9. Equalities implications

- 9.1 An Equalities Impact Assessment (EIA) has not been undertaken as the preferred option provides for continuity of service for the provider and for patients and their families. An EIA will be undertaken to inform the specification for the contract regardless of the procurement option chosen and will draw on the findings of the Healthy Child Programme JSNA completed for this contract. The JSNA includes a survey of parents and partners
- 9.2 The provider is working to the contract specification and will be expected to continue to deliver the three tier intervention approach in line with the national Healthy Child Programme.

10. Sustainability implications

- 10.1 Continuation of provider ensures that existing staff and buildings remain in their current locations within Brighton and Hove.

Over the life of the current contract, service delivery has maximised the benefits of co-location with Children's Centres/Family Hubs and community midwifery services. This ensures travel, for both staff and people using the service, is reduced and focused on community based delivery of appointments and groups.

Social Value and procurement implications

- 11.1 The contract provider is a locally based NHS trust delivering high quality care with qualified practitioners delivered in local communities alongside the Council's Family Hubs programme and in the city's schools and colleges.
- 11.2 The Health Visiting and School Nursing teams have many years of experience working the city and excellent relationships with partners in the Community & Voluntary Sector, specialist health services, the Maternity Voices Partnership and the Council.

Crime & disorder implications:

- 11.3 The Health Visiting service provides a connecting point for children and families in providing a universal offer. The Health Visiting teams have the skills and expertise to recognise when a child and/or parents and carers are struggling. This a critical safeguarding aspect of their role.
- 11.4 The School Nursing service in supporting pupil and student wellbeing contributes to more children and young people staying in school and college which is a protective factor in relation to criminal and sexual exploitation of children and young people.
- 11.5 Both services provide health input to safeguarding children and young people processes such as Child Protection conferences and social work Strategy Meetings.

Public health implications:

- 11.6 Public Health Community Nursing provides a key health service to children, young people and families in the city. This proposal provides for the best continuity and quality of that service in the short term and the widest range of options for commissioning and delivering a quality service that meets the needs of families in Brighton and Hove in the long term.

Supporting Documentation

Appendices

Appendix 1 Outline of Health Visiting and School Nursing Service delivery and Performance