Medway Council
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CABINET

7 MARCH 2023

GATEWAY 1 PROCUREMENT COMMENCEMENT: INTEGRATED SEXUAL HEALTH SERVICE

Portfolio Holder: Councillor David Brake, Portfolio Holder for Adults' Services

Report from: James Williams, Director of Public Health

Report Author: Steve Chevis (Senior Public Health Manager: Vulnerable Adults)

Summary

This report seeks permission to commence the procurement of the Medway Integrated Sexual Health Service Contract.

Procurement Overview
Total Contract Value (estimated): £18.75 million (incl extension options)
Regulated Procurement: Yes
Proposed Contract Term: 5 Years and 6 Months + a 2-Year Extension Option

1. Background information

1.1. Budget and policy framework

1.1.1. Funding for the provision of a specialist sexual health comes from the Public Health Grant that is given to Local Authorities by Central Government.

1.1.2. The statutory responsibility is placed on Local Authorities under the Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013.

1.2. Background Information and Procurement Deliverables

1.2.1. It is a statutory responsibility of Local Authorities to provide sexual health services comprising of both genitourinary medicine, and sexual and reproductive health. When delivered as one service this is known as an Integrated Sexual Health Service (ISHS). Such services are

funded from the ring-fenced Public Health Grant and are overseen by the Director of Public Health.

1.2.2. The ISHS will deliver the following: services to prevent, detect and treat sexually transmitted infections; services to prevent unplanned pregnancy; clinical and outreach services to reduce barriers to access and stigmatisation.

1.2.3. Under the existing contract HIV treatment services were commissioned under a section 75 agreement with NHS England, but due to anticipated delegation of responsibility of HIV treatment to the Integrated Care Board (ICB) it is not proposed Medway renew the S75.

1.3. Parent Company Guarantee/Performance Bond required

1.3.1. A parent company guarantee will be sought where applicable.

2. Procurement dependencies and obligations

2.1. Project dependency

2.1.1. The procurement is standalone and has no dependency on any other project being procured.

2.2. Statutory/legal obligations

2.2.1. The Council has an obligation to provide a number of health service functions set out in section 2B of the NHS Act 2006 and the Local Authorities (Public Health functions and Entry to Premises by Local Healthwatch Representatives) Regulations. Part 2 section 6 relates to sexual health provision by the local authority.

2.2.2. Local Authorities have been statutorily responsible for commissioning and delivering public services for sexual health since 1st April 2013.

3. Business case

3.1. Procurement project outputs / outcomes

3.1.1. As part of the successful delivery of this procurement requirement, the following procurement project outputs / outcomes within the table below have been identified as key and will be monitored as part of the procurement project delivery process.

Pre-mobilisation			
Successful service not destabilised and no significant changes to staff vacancy rates	No. of providers engaging with competitive dialogue process Responses to staff consultation by provider Media and other interested party reaction	Procurement team, Public Health	Throughout the process
Innovation and value for money achieved – and can be delivered by prospective providers	No. providers engaging with competitive dialogue process Service specification will deliver post-mobilisation outcomes	Procurement Team, Public Health	Before publishing Invitation to Tender (ITT)
HIV treatment services (Commissioned by NHSE) will be aligned with ISHS	Level of engagement by NHSE commissioners to demonstrate collaborative working	Procurement Team, Public Health	Before publishing ITT
Post Mobilisation			
Reduction in Under 18 Conceptions	Continued decrease in teenage pregnancies as evidenced in national and regional statistics	Medway Public Health	Annually and on-going aiming to see a reduction in teenage pregnancies that match or exceed national and regional falls
Quick and reliable access to contraception	Increase in Long Acting Reversable Contraception	Medway Public Health, UKHSA	Quarterly monitoring of service activity and

	Increase in all forms of contraception Maintain or increase in Emergency Hormonal Contraception Reduction in termination of pregnancy (ICB Commissioned)		annual service report.
Reduction in the late diagnosis of HIV	Decrease in percentage of people diagnosed with a CD4 count of less than 350 cells cubic mm	Medway Public Health	Annually monitoring of late diagnosis and evaluation of interventions to reduce onward transmission
End HIV transmission by 2030	Reduction in new diagnoses while maintaining existing levels of testing Increase in uptake or pre-exposure prophylaxis	Medway Public Health, UKHSA	Quarterly monitoring of service activity Annual reduction in number of positive tests Annual increase in uptake of PrEP Elimination of new transmissions by 2030
Maintain or increase levels of STI testing, targeting those most at risk of sexual ill-health	Monitoring numbers of self-sampling kits requested Monitor STI testing in clinics Monitor positivity rates Monitor Partner notification rates Monitor demographics of	Medway Public Health, UKHSA	Quarterly monitoring of service activity Annual reduction in number of positive tests

	people accessing service		
Primary and secondary prevention are prioritised	Numbers engaging with harm reduction and prevention interventions Reduction of positive STI test results among groups with higher risk factors	Medway Public Health	Annual with quarterly monitoring of service activity.
Identification of safeguarding and referral to support services	Effective pathways in place between the service and: • Sexual Assault referral centres • Children Social care • Adult social care • IAPT • Rape Crisis Centres • Domestic Abuse services	Medway Public Health	Annual with quarterly monitoring of service activity.

3.2. Procurement project management

3.2.1. The management of this procurement process will be the responsibility of the Category Management team.

3.3. Post procurement contract management

3.3.1. The management of any subsequent contract will be the responsibility of the Health Improvement Programme Manager (Sexual Health and Substance Misuse).

3.3.2. To ensure the needs of the requirement are met and continuously fulfilled post award, the following KPIs will be included in the tender and will form part of any subsequent contract.

#	Title	Short Description	%/measurement criteria
1	Clinically safe practice	Service provision will adhere to British Association for Sexual Health and HIV, Faculty of Reproductive and National Institute for Clinical Excellence, and other relevant guidance	Annual site and service audit indicate adherence
2	Accessibility of clinician led services	Services are accessible in both time and location to the wide variety of service users; evidence-based outreach is empowering hard to reach groups to access universal and targeted services.	Demographic data indicates service user represent population, with higher attendances from those at greatest risk of sexual ill-health / contraceptive need. Numbers accessing out of area services does not increase.
3	Accessibility of self-sampling and self-managed care	Services offer clients with a range of services that do not require attendance at a clinic. These options are well designed, delivered and utilised	Numbers using self-managed care increase year on year.
4	LARC Provision	LARC prescribed and fitted in general practice, pharmacy, community settings and clinics increases	Numbers of LARC fitted increases in all settings increase year on year
5	User dependent contraception / contra-infection	Condom distribution scheme is accessible and well used. Emergency Oral Contraception and, Combined Oral Contraception/ Progesterone Only Pill starter packs are available and pathways are in place for other forms of contraception.	Numbers of people using condom distribution scheme increase year on year. Audit indicates effective pathways in place for EHC, COC and POP

6	Services for young people (YP)	Services for YP will be held in locations, at times and in a format young people prefer.	Patient and public engagement is clearly demonstrated to shape services for YP
7	Contextual Safeguarding	YP and vulnerable adults will be safeguarded with a view to all aspects of their lives, not just sexual health.	Numbers of referrals made for non-sexual health safeguarding issues increases year on year

4. Market conditions and procurement approach

4.1. Market Conditions

4.1.1. Advice was sought from other Local Authority sexual health commissioners, particularly those in the South East, who had recently undertaken a procurement exercise. The responses have informed the following section.

4.1.2. There are a limited number of providers in the market and many of these are based in NHS trusts. Historically Genitourinary Medicine (GUM) has been delivered from hospital sites, this creates a tendency to focus their attention on contracts that fall within their catchment area. Medway NHS Foundation Trust no longer have a GUM department.

4.1.3. Although third sector and private suppliers may deliver parts of a commissioned service, due to the clinical nature of these services there are very few examples where they are the lead provider with responsibility for the main contract. It is unlikely there will be new entrants to the market to deliver the full range of interventions.

4.1.4. One commissioner spoke of a failed procurement where initial interest was expressed by more than one provider but no bids were submitted. This resulted in their having to ask the incumbent to extend the existing contract. This has resulted in delays implementing service improvement and increased costs.

4.1.5. Another commissioner indicated that although over 100 clarification questions were submitted by several potential providers during their process only one provider, the incumbent, submitted a bid. Another indicated that although they did receive more than one bid, the final result was the reappointment of the incumbent despite the service underperforming.

4.1.6. The Kent sexual health service is delivered by two providers, with the county split East/West. Maidstone and Tunbridge Wells NHS

Foundation Trust deliver services in the West. The current Medway provider Kent Community Health NHS Foundation Trust deliver services in the East.

4.1.7. During the height of the pandemic many NHS providers redeployed staff away from non-covid related activity and changed their methods of service delivery. Some commissioners state that there have been delays in returning their sexual health provision back to business as usual. This is likely to affect the providers willingness or ability to take on new contracts. The Medway provider (KCHFT) minimised disruption during the pandemic and has returned to a high level of service accessibility.

4.1.8. Medway took the decision to commission a fully integrated service in 2016 that included all aspects of the service. Some LAs retained responsibility for Condom distribution, Emergency contraception, contracts with general practice, and importantly the risk around 'out of area'[1] payments which can place significant burden on budgets. This was unusual but has proved very effective at maximising benefit for the residents while containing the budget. There is a strong possibility that other providers would be unwilling to take on that risk. The current Out of Area spend is approximately £194,075 while oncoming activity only realises £50,000 billable activity.

4.2. Procurement options

4.2.1. The following is a detailed list of options considered and analysed for this report

4.2.1.1. **Option 1 – Do nothing:** The contract will end in Sept 2023 and Medway will not have a Sexual Health service. The Council would be failing to meet its statutory obligation. Residents would have to attend services out of area and the Council would be billed by those areas where the activity took place. Unplanned pregnancy likely to increase due to difficulties accessing contraception. Sexually transmitted infections and HIV likely to increase due to the loss of prevention, detection, and treatment. These increases would place an additional burden on Social Care, Health, and other Medway services.

4.2.1.2. **Option 2 – Extend the current contract:** The service is performing well, well regarded by partner agencies, and delivering good value for money. There are no remaining

[1] Sexual health services are 'open access' meaning that people can go wherever they prefer. In the past this has meant a significant number of people seeking services in London and Kent, with the costs being paid by Medway. There is no way to directly control this spend and it can act as a perverse incentive to save money by the local provider. By incorporating Out of Area responsibility into the main ISHS contract the provider has an added incentive to make services as attractive as possible to residents and thereby minimise out of area costs. This has proved highly effective during the life of the contract albeit creating a cost pressure.

extensions built into the existing contract. Any extension would need to be authorised under Regulation 72 and could be for no longer than 3 years due to finance restrictions on the use of the regulation.

4.2.1.3. Regulation 72(b)(ii) is for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor would cause significant inconvenience or substantial duplication of costs for the contracting authority.

4.2.1.4. There are three tests to be addressed:

- Additional services that have become necessary;
- It would cause significant inconvenience for the contracting authority
- Does not exceed 50% of the original contract value

4.2.1.5. Test 1, Since the service specification was written in 2016 additional services have been added including preexposure Prophylaxis for HIV but the most significant changes have been online ordering of STI self-sampling kits, telephone triage, online consultations. These are all services that provide direct benefit to service users and Medway residents. With changes forced by the pandemic these services are no longer perceived as optional extras but are clearly expected by our residents and therefore necessary to core service delivery.

4.2.1.6. Test 2, the significant inconvenience is a destabilising of the existing well performing contract with some likelihood that there will be a failed procurement or a procurement where the incumbent is the only bidder. The inconvenience could extend to significant additional costs needed to make the contract attractive to a broader range of providers.

4.2.1.7. Test 3, the contract has been operational for 7 years and this proposal is for a further 1 or 2, therefore this test will pass if the annual value does not change significantly.

4.2.1.8. The use of Regulation 72(b)(ii) is currently untested and may be subject to challenge, but due to the limited number of potential providers and the market conditions highlighted above the risk is likely to be low, particularly if only a short extension were granted.

4.2.1.9. This option could be considered if the project timelines are deemed to be too short to adequately complete the procurement.

4.2.1.10. The provider selection regime could be considered for future commissioning cycles but is not currently available. Had PSR

(Provider Selection Regime) been available, and were delivered in the anticipated form, and became part of the council procurement policy it could have been considered as described in the proposals.

4.2.1.11. PSR should be followed by local authorities and combined authorities when arranging healthcare services as part of their public health functions.

4.2.1.12. Decision-making bodies will need to establish how best to follow the regime within their wider structural and governance arrangements.

4.2.1.13. PSR options include: Continuation of the existing arrangements; Identifying the most suitable provider; or Competitive procurement.

4.2.1.14. **Option 3 – Utilise a framework:** a national framework does exist for online ordering of STI self-sampling kits but not for wider services. The current provider negotiated better rates than the national framework could offer.

4.2.1.15. **Option 4 – Open market procurement:** An open market procurement using the competitive dialogue procedure would enable the market to be tested and a service specification informed by the interested providers would be drafted. As the PSR is not available it is recommended that this Option 4 is undertaken to procure the new contract. It is appreciated that the timescales are tight for a competitive dialogue process and there is a risk that a new contract date of 1st October 2023 may be difficult to achieve. This time pressure could be compounded by the local elections and the pre-election period affecting governance. However, the pre-qualification process will give a strong indication of the number of providers likely to bid and should a failed tender look likely an alternative process can be explored.

4.3. Procurement process proposed

4.3.1. A Competitive Dialogue Procedure is proposed as set out in Option 4 (4.2.1.15.) above.

4.3.2. A Selection Questionnaire (SQ) would be used to enable potential providers to express their interest and pre-qualify and thereby commit to the Competitive Dialogue (CD) process. This process allows the Council to enter into dialogue with suppliers to build the specification and find a solution that meets the needs of organisations when the procurement process is ongoing. CD has been used successfully in other council procurements such as 0-19 Integrate Children's Contract and Domestic Abuse Services. The dialogue stage could start immediately after the SQs have been evaluated. A maximum of two rounds of competitive dialogue would be needed to conduct the

dialogue with potential providers. The service specification would then be written collaboratively with providers ensuring KPIs are achievable within the budget, timescales and other available resources. An invitation to submit final tenders would then be issued to pre-qualified providers requesting final offers.

4.3.3. A Provisional timetable is outlined below:

- Advertise & issue SQ 8 Mar 2023
- Return of SQs - 7 Apr 2023
- SQ Evaluation – 14 April
- Complete dialogue with pre-qualified providers by 16 May 2023
- Issue invitation to submit final offer (ISFO) – return of tenders 19 June 2023
- Evaluation of Final Offers inc Presentation – by 10 July 2023
- Gateway 3 – Procurement Board & Cabinet – Aug / Sept 2023
- Issue Award letters (subject to 10-day standstill period) – 6 Sept 2023
- Conclude Award – 19 Sept 2023
- Mobilisation – 19 Sept 2023
- Service start – 1 Oct 2023

4.3.4. The tender would be a parallel process with NHSE and potential providers would need to commit to delivering the ISHS and HIV Treatment, albeit under separate contracts.

4.3.5. The CD process, although resource demanding, would give an early indication of the interest from the market. It will also attract only those who are serious bidders as the SQ is a fairly significant piece of work for potential providers.

4.3.6. The procurement does risk destabilising the service as the provider will be re-tasked with bid writing as well as service delivery. Staff may look to move to other nursing or healthcare roles which appear to be more stable i.e.one that is not subject to regular retendering. It is hoped that the competitive dialogue would mitigate against some of that risk.

4.3.7. The procurement process would need to be conducted in parallel with NHSE for the Adult HIV Treatment service to prevent service fragmentation.

4.3.8. It is recommended that the contract length be a 66-month term with the option to extend for 2 further 12-month periods by mutual agreement. This is comparable to the current contract and has provided good levels of service improvement and stability.

4.4. Evaluation criteria

4.4.1. It is proposed that an 80% quality and a 20% price ratio is used. Sexual Health is funded through the ringfenced public health grant

and is a mandated service. During the life of the existing contract the service has been reduced to meet existing budget pressures created by out of area activity which was underfunded at the current contract award, an increased uptake in online self-sampling and other costs associated with service delivery. Should bidders perceive additional pressure to further reduce the budget it is likely they would be approaching the Council for additional funding or be proposing service reduction as the cost-of-living crisis bites further.

4.4.2. Whilst not finalised at this stage and therefore subject to change, officers propose to evaluate bidders against the following quality criteria within the tender.

#	Question	Weighting (%)	Purpose
	Detail the service model and specific elements achievable within the budget.	25%	Understand, evaluate and record the service design and impact anticipated on the residents of Medway
	Safeguarding children and vulnerable adults	10%	Understand, evaluate and record how well embedded safeguarding and contextual safeguarding are to the service. Evaluators will be looking for evidence that the service will contribute positively towards efforts to improve Care Quality Commission (CQC) / Joint Targeted Area Inspection (JTAI) / and recommendations from safeguarding boards.
	Stakeholders, partners and the rationale behind the partnerships	5%	Understand and evaluate which partners the provider will be working with and whether they have correctly identified the strengths and benefits of collaborative working.
	Staffing structure	5%	Understand, evaluate and record proposed staffing structure and costs
	Patient and Public Engagement leading to service improvement	5%	Understand, evaluate and record the methods used to improve services.
	Service delivery locations and rationale	5%	Evaluate and record sites being used as spoke clinics. Each clinic should have a purpose and rationale.
	Out of Area activity	5%	Ensure local services are as accessible as possible, that

			OOA activity is correctly reimbursed through a clear process that is adequately staffed.
	Integration with HIV treatment service	5%	Understand, evaluate and record how the service will be integrated with the separately contracted HIV Treatment Services.
	Presentation	10%	Meet key staff and drill down into the service model, delivery and risks. Parallel presentation will be given to young people's representatives.
	Social Value	5%	Using selected TOMS criteria
		Total=80%	

5. Consultation

5.1. Regular feedback is obtained from service users and reported via quarterly contract review meetings.

5.2. Primary research with stakeholders as part of sexual health need assessment written in late 2022.

5.3. Consultation with sexual health commissioners to assess market conditions.

5.4. Consultation with Category Management regarding competitive dialogue process, timelines and risk.

5.5. Use of competitive dialogue will provide further consultation opportunities with providers.

6. Risk management

Risk	**Description**	**Action to avoid or mitigate risk**	**Risk rating**
NHS England	HIV treatment integration with ISHS is at risk due to re-commissioning	Discussions and project planning are in place to deliver a joint re-commissioning.	C2
Destabilisation of service	Re-commissioning may destabilise a service that is performing well and innovation introduced during the life of the contract lost	Competitive Dialogue will be used to fully engage with potential providers to inform the service	C2

Risk	Description	Action to avoid or mitigate risk	Risk rating
		specification that builds on existing good practice	
Mobilisation	Should unforeseen issues arise, mobilisation may need to be extended due to the short time between contract award and contract go live dates.	Process will be monitored throughout, and mitigation put in place at all stages to address emerging issues.	C2

Likelihood	Impact:
A Very high B High C Significant D Low E Very low F Almost impossible	1 Catastrophic (Showstopper) 2 Critical 3 Marginal 4 Negligible

7. Service implications

7.1. Financial Implications

7.1.1. The procurement requirement and its associated delivery as per the recommendations will be funded as revenue from the Public Health Grant.

7.2. Legal implications

7.2.1. The statutory basis for this service is set out at paragraph 2.2. above.

7.2.2. Under the Council's contract procedure rules the proposed procurement is High Risk, the process set out in this report meets the requirements for such procurements.

7.2.3. Medway Council has the power under the Local Government (Contracts) Act 1997 and the Localism Act 2011 to enter into contracts in connection with the performance of its functions.

7.3. TUPE implications

7.3.1. TUPE applies to this requirement.

7.4. Procurement implications

7.4.1. The proposal is to use the Competitive Dialogue procedure. Whilst this may achieve the outcomes required the timelines for procurement are tight so rigid adherence to timelines will be required.

7.5. ICT Implications

7.5.1. There are no ICT implications.

8. Social, economic and environmental considerations

8.1. The broad area Social Values the procurement would seek are:

- Social: Healthier, Safer and more Resilient Communities.
- Jobs: Promote local skills and Employment

9. Recommendation

9.1. The Cabinet is recommended to approve the procurement of an integrated sexual health service (in parallel with NHSE for Adult HIV treatment contract) as per the preferred option identified in paragraph 4.3.1.

10. Suggested reasons for decision

10.1. A competitive dialogue process will enable Public Health and Category Management to identify risks within the procurement at the earliest opportunity. It will engage with providers who will be expected to design the service for, or less than the maximum budget value. The dialogue will mean that providers are involved in the process, and it is likely to reduce the destabilising the re-procurement will bring.

10.2. The competitive dialogue is likely to maximise value and impact for money. This is because provider will know what is achievable and where priority should be placed.

10.3. Although time scales are short it is possible to will be possible from a Public Health perspective to complete the process.

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Appendices

None

Background Papers

Sexual Health Needs Assessment, January 2023
https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=67985

A Framework for Sexual Health Improvement in England, 2013
https://www.gov.uk/government/publications/a-framework-for-sexual-health-improvement-in-england

Commissioning Sexual Health services and interventions: Best practice guidance for local authorities, 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/144184/Sexual_Health_best_practice_guidance_for_local_authorities_with_IRB.pdf