

## **Committee: Cabinet**

**Date: 18<sup>th</sup> January 2021**

Wards: All Wards

## **Subject: Exemption report for Public Health commissioned services**

Lead officer: Hannah Doody – Director Community and Housing

Dr Dagmar Zeuner – Director of Public Health

Lead member: Cllr Rebecca Lanning, Cabinet Member for Adult Social Care and Public Health

Contact officers: Hilina Asrress – Senior Public Health Principal

[hilina.asrress@merton.gov.uk](mailto:hilina.asrress@merton.gov.uk)

Julia Groom – Consultant in Public Health

[julia.groom@merton.gov.uk](mailto:julia.groom@merton.gov.uk)

### **Exempt or confidential report**

The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information given in appendix 1 of this report and it is therefore exempt from publication:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information).

Members and officers are advised not to disclose the contents of this appendix.

---

### **Recommendations:**

- A. Cabinet to agree the exemption from Contract Standing Orders (CSO) to enable four Public Health commissioned service contracts (as described below) to be extended for 12 months (14 months for Befriending contract) plus the option to extend for a further 12 months. This requires:
  - B. Cabinet to agree for the services to be exempt from Contract Standing Order (CSO) 27 under the provisions of CSO 19 (Contracts above the upper threshold (£100,001)). Under CSO 27, this is an 'extension' of Contract not expressly allowed for within the Contract Notice and the Contract will be classified as a Direct Award, which requires agreement for which an Exemption must be sought.
  - C. Cabinet to approve within the 12 month extension period for the Children's Community Public Health service (contract no. 4), that a variation of the contract would take place, which would remodel the support provided for vulnerable young first-time mothers. This would mean the Family Nurse Partnership (FNP) programme would be stepped down and clients would transition into the new bespoke model to be delivered by the health visiting service. In the event of significant COVID-19 restrictions, Cabinet also agree flexibility, and in extremis, an option not to undertake this variation within the 12 months extension.
-

- D. Cabinet to agree to delegate authority to Hannah Doody, Director of Community & Housing to finalise and approve terms and conditions for the contract variation, within existing public health grant budget and compliant with mandatory public health duties.
- 

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 An exemption from CSOs is being sought to enable Merton Public Health to fulfil its ambition of achieving closer integration of community services by April 2022.
- 1.2 The expiry date of four existing community-based contracts are between January and March 2021 and it is our intention to extend these contracts until 31<sup>st</sup> March 2022 to maintain current service continuity with the aim of introducing a new integrated community services contract for Merton in April 2022.
- 1.3 Although confident that the project plan for developing the Integrated Community Services contract is workable, we are requesting 12 months plus the option of an additional 12 month extension to contracts (14 months plus an optional 12 months for the befriending service), to provide a safety net in case the impact of any future waves of COVID-19 affect the capacity of commissioners or providers over the coming months.
- 1.4 The four Public Health contracts included in this suite are:
- i. One You Merton (an Integrated Health Improvement Service, which provides stop smoking support and training of front-line staff), provided by Hounslow and Richmond Community Healthcare NHS Trust.
  - ii. NHS Health Checks (a mandated service providing health checks to adults between 40 and 74 years of age) provided by Merton GP Federation.
  - iii. Befriending (a service that works with older people who are socially isolated), provided by Age UK Merton.
  - iv. Children's Community Public Health Services which deliver the Healthy Child 0-19 programme (Health Visiting, School Nursing and Family Nurse Partnership), provided by Central London Community Healthcare NHS Trust. This forms part of the Community Health services contract commissioned jointly between LBM and SWL CCG. SWL CCG are lead commissioner and will be extending the contract on behalf of LBM as part of their main contract for community health services in Merton, following cabinet approval and using the NHS standard contract.

All providers are financially viable, shown by organisational credit checks, and services are delivering broadly in line with service specifications (with amendments due to current COVID-19 restrictions).

1.5 This Exemption request follows delays to the approach to develop an integrated community services contract, following significant market engagement in January 2020 and the impact of the COVID-19 pandemic on commissioners and providers.

1.6 Within the Children's Community Public Health Services contract (contract no. four), Cabinet approval is requested to vary the contract within the extension period to allow for changes in the support available to first time young vulnerable mothers. This will be informed by remodelling work with stakeholders and the service provider, to develop a more bespoke model to be delivered through the health visiting service. This change would mean the Family Nurse Partnership programme would be stepped down and clients would transition into the new bespoke model in 2021/22.

1.7 Apart from the extension of the contracts, there are no proposed changes to the One You Merton, NHS Health Checks or befriending service model; these will continue as a like for like service over the extension period.

## **2 DETAILS**

### **Background Information**

2.1 Closer integration between services in the community is a fundamental part of both national health and social care policy and local strategy with the aim of promoting health and wellbeing, reducing inequality and ensuring sustainability of the local system.

2.2 Our ambition is that community services move away from traditional models that are delivered within organisational boundaries, to a model that is personalised; starts with the needs of the individual and ensures care and support is delivered, as much as is possible, in the community.

2.3 The natural expiry dates of several community-based contracts in 2021 provided an opportunity for significant commissioning and transformation towards developing integrated community services for Merton residents. Commissioners across health and social care worked collaboratively to develop a shared vision, set of outcomes and a defined scope to commission integrated community services in Merton.

2.4 This approach and direction of travel was agreed by the Leaders Strategy Group (LSG) in early 2020 and regular updates provided to the Procurement Board including most recently, at its meetings on 15<sup>th</sup> September 2020 in February 2020.

2.5 Wider public engagement was carried out in January 2020 and was generally supportive. However, concerns were raised on the readiness of local providers to work collaboratively within the timescales. The project plan was also affected by the COVID-19 pandemic as the local health and social care system diverted resources to respond, so the original planned timelines are now undeliverable.

2.6 Many existing service contracts expire at the end of March 2021 and it is our intention, across the health and care system, to extend these contracts until 31<sup>st</sup> March 2022 to maintain current service continuity with the aim of introducing a new integrated community services contract for Merton in April 2022.

2.7 There are four Public Health contracts that do not have options for extension and we are now seeking approval for the modification of these, under Regulation 72 of the Public Contracts Regulations (PCR 2015) to extend them until 31<sup>st</sup> March 2022 plus the option of an additional 12 months.

2.8 Central London Community Healthcare NHS Trust (CLCH) currently provide a range of community health care services for adults and children across Merton, including Healthy Child 0-19 services (Health Visiting, School Nursing and Family Nurse Partnership). This contract was awarded following a joint CCG and LBM procurement exercise which took place in 2016 under NHS regulations. As highlighted in 1.3 -1.6, we are seeking approval to request SWL CCG to extend the contract with CLCH for an additional 12 months (plus an optional extension for a further 12 months). SWL CCG propose to do this initially via a new one-year contract in line with NHS guidance. This will enable us to offer service continuity to the residents of Merton ahead of introducing integrated community services in April 2022.

2.9. The Community and Housing Operational Procurement Group (OPG) discussed the proposals on 9th September 2020, where further SLLP input was suggested and consequently obtained. The full Procurement Board met on 15th September 2020 and further discussions took place. Further clarity of financial implications was requested, and these were given and approved. Due to the value and strategic importance of this proposal, the extension now requires Cabinet approval.

2.10 CLCH is a large NHS Community health services provider. The NHS is moving away from competition between providers and tendering approaches to commissioning. CLCH have raised concerns about the value of the contract across CCG and LA commissioned services, in light of this we are negotiating on delivery within the available financial envelope.

Please refer to Appendix 1 – *Public Health commissioned services contract details* (Exempt from Publication) for further details including contract providers and contract values.

#### **Changes to support for vulnerable first time young mothers (Contract no. 4)**

2.11 The current Family Nurse Partnership (FNP) programme is a licenced home visiting programme for vulnerable first time young mums and families delivered by Family Nurses.

2.12 The aim of building a bespoke model of support for vulnerable first time young mothers in Merton is to develop interventions which reflect local need and work with

and link into local services to support young mothers and their families. The process will aim to co-create a support model embedded within the health visiting service which will be more cost-effective and aligned with local strategies e.g. Early Help and other services in the borough.

2.13 The evidence for the impact of the Family Nurse Partnership (FNP) is mixed and it is expensive to deliver. Research suggests that other licenced models could deliver more impact but are also expensive to deliver. Other London boroughs have successfully developed more cost-effective bespoke models of support for young mothers and their families within their health visiting services.

2.14 Cabinet approval is requested to vary the contract within the extension period to allow for changes in the support available to first time young vulnerable mothers. This will be informed by remodelling work with stakeholders and the service provider, to develop a more bespoke model for Merton to be delivered through the health visiting service. This change would mean the Family Nurse Partnership programme would be stepped down and clients would transition into the new bespoke model. There are potential cost efficiencies which could be achieved with the change. There is a commitment that part of the cost efficiencies will be reinvested back into the service to support delivery of the new model. Cabinet approval is also requested that in the event of significant COVID-19 restrictions, and in extremis, there is an option not to undertake this variation within the 12 months extension.

2.15 The Integrated Children and Young People's Commissioning group discussed and agreed the approach around changes to the support provided for vulnerable first time young mothers on 18<sup>th</sup> August and 20<sup>th</sup> October 2020. The commissioning group is co-chaired by the Director of Children Schools and Families (CSF) and Director of Commissioning, SWL CCG, and includes the Director of Public Health.

### **3 ALTERNATIVE OPTIONS**

3.1. Due to COVID-19 pandemic there is limited capacity of commissioning staff or providers to conduct a compliant procurement process for all these contracts before current contracts come to a natural end. Therefore, without the requested extension and exemption from CSOs, this may lead to a gap in services with detrimental impact on resident's health and well-being and well as a negative impact on the reputation of the council to carry out duties to deliver these services, some of which are nationally mandated services. Extending the current service provisions through a new one-year (plus optional 12 months) contract in line with NHS guidance is the best viable option.

3.2. The health and social care system is working to deliver services and minimise any negative impact for our residents in Merton as a priority. Therefore, commissioners have taken the decision to extend the timeline for introducing integrated community health and social care services in Merton to April 2022. These four contracts will be part of the integrated community services contract that will be put in place by April 2022 (April 2023 at the latest). This will follow a compliant procurement process and there will be an opportunity for providers to bid for these services in the near future and so there is a very limited risk of challenge to the extension of these contracts.

## **4 CONSULTATION UNDERTAKEN OR PROPOSED**

4.1. Consultation and engagement with stakeholders, clients and staff are planned to support development of the new bespoke model for supporting young vulnerable first time mothers. No other consultative processes are planned for the changes proposed, however during the development of integrated community health services for Merton, appropriate provider engagement, stakeholder engagement/consultation and public consultation will form part of the processes.

## **5 TIMETABLE**

5.1. Contracts are to be extended for a 12 month period from April 2021 (1<sup>st</sup> February 2020 for the befriending service) to March 2022 with the provision for a further 12 month extension.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

6.1. Financial information related to the value of the contracts are provided in Appendix 1. These are commissioned from the Public Health Grant.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

7.1 The Council is subject to legal requirements to ensure fair competition for all contracts irrespective of value, and is subject to obligations under the EU Treaty to ensure contracts are awarded having regard to the need to avoid any action that is discriminatory, improper or which distorts competition.

7.2 Public Health Merton is seeking approval to extend four current contracts. As per the main body of this report, the contracts do not provide for further extension beyond their individual terms originally agreed and the need to extend these contracts is to secure continuity of service whilst the Council works towards integrated community health services with partners and providers. Indeed the main body of the report suggests that the re-procurement process for the services as originally planned has been delayed by the COVID -19 pandemic (the onset and implications of which the Council could not have reasonably foreseen or had in its contemplation at the time of awarding the contracts) necessitating extension of the contracts.

7.3 Under the current Procurement Regulations (PCR 2015), modifications/variations of contracts such as the ones proposed in this report may unless provided for under PCR 2015 trigger a new procurement process.

7.4 PCR 2015 sets out instances where the modification of a contract does not trigger a new procurement activity. The Council may in this instance rely on Regulation 72 (1) (e) of PCR 2015 to extend the terms of the contracts because the modifications, irrespective of value, are not substantial. That is to say, the modifications do not change the substance of the services to be delivered or extend their scope or change the economic balance of the contracts in favour of the contractors in a manner which

was not provided for in the initial contracts or indeed fall under any of the other provisions set out in Regulation 72 (1) (8).

7.5. Given the nature of the contracts and the individual values of each extension, it is deemed low risk with regards to supplier challenge.

7.6 The Council must take note that in spite of the safe haven provided under Regulation 72(1)(e), every modification of contract carries a potential risk of challenge. To mitigate the risk in this particular case, it is imperative that the Council maintains a clear audit trail of the justification for the extensions and the decision-making process and has in place a robust timetable for the procurement of replacement services to ensure that new contracts are awarded before the end of the extension periods.

7.7 The Council is also required to comply with its own Contract Standing Order Orders and an exemption is required under CSO 27 as the existing contracts and contract notices did not allow for the proposed extensions/variation. The exemption is sought on the basis of Appendix 2 B (b), that this is for extreme urgency that was not attributable or foreseen by the Council due to Covid.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

8.1 The services have been designed as part of approaches to tackle health inequalities in the borough and the inequities in terms of access. These services provide early identification of needs with appropriate support and referral for children and young people as well as supporting residents to lead healthy lifestyles, prevent ill health and reduce social isolation. These are important components of the approach to integrated community health services.

8.2 There are not expected to be any human rights issues from the programmes.

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1. N/A

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. Emerging risk will be identified and managed/mitigated through Task and Finish groups

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- APPENDIX 1 – EXEMPT FROM PUBLICATION - Public Health commissioned services contract details

**12 BACKGROUND PAPERS**

12.1. N/A