

Meeting:	Cabinet
Meeting date:	17 March 2016
Title of report:	Health visiting and school nursing services: Direct award of contract for 2016/17
Report by:	Public health specialist

Classification

Open

Key decision

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates.

Notice has been served in accordance with Part 3, Section 10 (General Exception) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.

Wards affected

County-wide.

Purpose

To agree direct award in 2016/17 to Wye Valley NHS Trust (WVT) for school nursing and health visiting services to enable service redesign, tender and mobilisation following novation of contracts to the council.

Recommendations:

That:

- a) a contract for the health visiting service for a period of 12 months from 1 April 2016 to 31 March 2017 be directly awarded to the current provider, Wye Valley NHS Trust (WVT), at a value of £2,341,361 per annum;
- b) a contract for the school nursing service for a period of 12 months from 1 April 2016 to 31 March 2017 be directly awarded to the current provider, Wye Valley NHS Trust, with the council as an associate commissioner to the

Herefordshire Clinical Commissioning Group (CCG) contract as per existing arrangements, at a value of £513k per annum; and

- c) by virtue of this decision report an exemption to paragraph 4.6.13.2 of the council's contract procedure rules be approved.**

Alternative options

1. To allow the existing contracts to expire on 31 March 2016. This is not recommended as the service would lapse and the council would then have no means by which to provide associated statutory duties.
2. To retender the service in full. This is not recommended as there is not (and has not been since changing the contracts) sufficient time in which to undertake such a procurement process prior to 31 March 2016. In addition, the council needs to review the service specification and allow sufficient time to develop a new approach to delivery, which enables a more integrated model with existing services.
3. To award the contract for a shorter period, such as nine months to 31 December 2016. This is not recommended as this would not allow sufficient time to review and agree the specification and to complete the procurement exercise. In effect, this would require the council to retain the existing service specification, thereby losing the opportunity for the necessary redesign.

Reasons for recommendations

4. To allow sufficient time for a detailed commissioning approach to be developed and procurement to take place for an integrated health visiting and school nursing service to be delivered from 1 April 2017, as part of the wider delivery of the council's and children and young people's partnership strategy for early years and prevention.
5. The continuation of statutory services in their existing form (with some improvements) as a short term measure will allow time for further development work of an integrated early years approach, as part of a broader programme of work across children's wellbeing to align and integrate pathways including primary and community education, development and care.

Key considerations

6. Following a transfer of duties from NHS England, the council is responsible for the commissioning of the national universal healthy child programme (HCP), which includes health visiting and school nursing. Councils now have a responsibility to promote and protect health, tackle the causes of ill health and reduce health inequalities. Commissioning high quality public health services for those aged 0 to 19 years old, as part of the HCP, can help to achieve this.
7. The health visiting contract transferred from NHS England to the council in October 2015. Additional funding was allocated to provide a teenage parenting service where this was not currently commissioned, and also to provide a commissioning resource. This additional funding is held in public health reserves.
8. Following a range of minor adjustments in the scope and handling of the contract, the revised contract for 2016/17 will provide the following services (not exhaustive):

- to lead the universal, progressive HCP 0-5 years programme, which provides mandated child and family assessments, including antenatal, at new birth six to eight weeks and one and two years;
 - to improve capacity in communities, including through parenting programmes, and deliver preventative and additional services for vulnerable families and children to reduce inequalities;
 - to safeguard children and deliver health assessments for looked after children;
 - deliver a new teenage parenting service;
 - to deliver the 'six high impacts changes' and the public health outcomes, including promoting healthy weight, prevention and early identification of maternal mental health and disorganised attachment, improved immunisations rates and dental health, and reducing accidents.
9. Although it is recommended that a contract for the existing service be directly awarded to WVT, a range of contract changes are being negotiated with the provider, including:
- aligning the service to children centre reach areas and early years providers;
 - delivering timely robust performance metrics in line with local requirements;
 - developing a teenage parenting service;
 - improving the sharing of information with the council to identify and address local need.
10. The school nursing service transferred from NHS England to the council, as an associate to the existing CCG contract with WVT, in April 2013 at an annual contract value of £513k to provide the following services (not exhaustive):
- the universal progressive HCP 5-19 years programme;
 - the statutory national child measurement programme (NCMP);
 - to improve capacity in communities, including through parenting and healthy weight programmes, and delivery of preventative and additional services for vulnerable families and young people;
 - to safeguard children and young people, and reduce inequalities;
 - to work with all schools to understand and address need.
11. Although it is recommended that a contract for the existing service be directly awarded to WVT, contract changes are being negotiated with the provider and include:
- delivery of timely robust performance metrics in line with local requirements;
 - enhancement of the national child measurement programme assessment to improve dental health;
 - improvement of the sharing of information with the council to identify and address local need;

- refocusing on healthy weight, mental health and safeguarding young people in partnership with other agencies.
12. It is also proposed that an element of the funding in the public health reserve (see table 1 at paragraph 21 below) be allocated as a one-off contract variation in year, to transform the delivery of the healthy child programme through funding vital infrastructure and service improvements. This would be subject to contractual negotiation with the current provider.
- Mobile technologies to enable improved sharing of information and mobile working where this is absent (£60k). This would enable electronic records, workforce training and access to mobile phones and laptops.
 - Development of action learning sets with a clinical psychologist to improve confidence and competency of the public health nurses to manage complex cases (£10k).
 - Client resources, volunteer expenses and access to online health research and materials via the Institute of Health Visiting (iHV) (£5k).
 - Improvement of direct links with early years providers, to deliver improved dental health and healthy weight (£30k).
13. The two contracts with WVT, one for school nursing and one for health visiting, will have the same end date of 31 March 2017 as detailed above, to facilitate service re-design.
14. Awarding the contract directly to WVT will secure sufficient time to agree a new specification, which is highly reliant on the commitment and contributions from other council directorates and partner agencies. The approach needs to take account of shared outcomes and aligns to existing transformation programmes.
15. The procurement process, currently programmed to commence in July 2016, will be the subject of a further cabinet decision. See appendix 1 for the draft timelines for procurement.

Community impact

16. These services will support and contribute to:
- the council's priorities of keeping children and young people safe and giving them a great start in life and enabling residents to live safe, healthy and independent lives;
 - helping deliver the outcomes laid out in the children and young people's plan and the children's priority of the health and wellbeing strategy;
 - delivering improved public health outcomes in line with the council's corporate plan.
17. The services are designed to meet population health need as described in Understanding Herefordshire, the joint strategic needs assessment (JSNA). These programmes have the potential to reduce or manage demand on more intensive and acute services provided by other areas within the health and social care system. Some of this activity magnifies the ability of other service areas to address and impact on a range of public health objectives, as indicated in the public health outcomes framework. These services support the vision and approach set out in the health and wellbeing strategy, which aims to improve and protect the health of the people of Herefordshire. The programmes are designed to address inequalities in health as described in the director of public health annual report 2015.

Equality duty

18. The services shall comply with the Equality Duty 2010 (general duty) and the Public Sector Equality Duty (specific duty). This will be demonstrated in the development of the direct award contract specifications and other appropriate stages within the proposed procurement process.

Financial implications

19. The one off additional improvement work of £105k will be funded from a ring-fenced reserve for health visiting. If the improvements cannot be made, the funding will remain in the reserve.

20. The public health grant allocation for 2016/17 is £3,132k for health visitor services, school nursing and the national child measurement programme. This is ring-fenced in accordance with the grant conditions and improving public health outcomes and addressing inequalities. The cost of the recommended contract falls within this value.

21. Table 1: Summary of Contracts

	Committed contracts	2016/17
1	Health visitor contract)	£2,341,361
2	School nursing contract	£513,000

Legal implications

22. Background

- The obligation on the Council to conduct a public competition (whether a tender or similar competition) under the Public Contracts Regulations 2015 only arises if the value of the contract £589,148. The Council cannot waive this requirement for contracts above this value.
- The obligation on the Council to conduct a public tender under its own contract procedure rules arises where the value of the contract exceeds £50,000. However, if the value of the contract is above that figure, but below the Public Contracts Regulations threshold above, the Council has the power to grant an exemption for the requirement of a tender 'in exceptional circumstances' (clause 4.6.1.18). There is no exhaustive list of what constitutes 'exceptional circumstances' for this purpose.

23. For the proposed health visitors contract

- The value is clearly comfortably above the £590,148 threshold.
- Therefore, the Council would be in breach of the Public Contracts Regulations if it made this direct award without some kind of public competition.

- It is a matter of risk assessment whether the Council proceeds to directly award this contract in these circumstances.
- Given the Council is working towards a further procurement to commence from 1st April 2017, the risk of a challenge to this direct award is very small. We are likely to be told to conduct a public competition, which we appear to be busy doing anyway. With this in mind, there would be little practical benefit for any other interested provider to bring legal action against the Council.
- The risks of directly awarding the contract are probably lower than the risks of **not** doing so. Not awarding the contract puts the Council at risk of being in breach of its statutory obligations to provide this service. The consequences of this breach would appear more significant than the breach of the procurement regulations.

24. School nursing contract

- The value of this contract appears below the threshold requiring a public contract under the Regulations.
- Therefore, the Council has the power under section 4.6.18 to exempt a requirement for a tender if there are exceptional circumstances to justify it.
- This report demonstrates there are exceptional circumstances to justify the exemption. In particular, the Council has an urgent need to have a contract in place to enable it to meet its statutory duties from 1st April 2016.

25. Council officers are expected to work with Procurement and Legal Services to draft and agree the contractual terms on which these contracts are to be awarded. A proposed draft contract has been prepared, pending this decision.

Risk management

Risk	Mitigating actions
Ongoing funding reductions in local councils including reductions to public health ring-fencing shall require year on year cost efficiencies.	<ul style="list-style-type: none"> • Commissioners to ensure that efficiencies communicated in the contract • Commissioners to assure quality and workforce competencies • Commissioners continue to work with providers and partners to deliver more effective and efficient ways of working • Ensure that the effective use of technology is a key contractual component • Flexibility in the contract to enable amendments to the contract value.
New opportunities and/or challenges, and national public sector directives arise during the development of the service specification which adversely impact on the timelines for procurement.	<ul style="list-style-type: none"> • Robust project management and agreed strategy • Ensure engagement of partners in the specification development and future direction of the services • Communicate plans and progress • Risk management.

Further information on the subject of this report is available from
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Failure to commission or provide mandated or statutory public health services including services to improve the health of the population and the NCMP would leave the council open to legal challenge from providers and service users.	<ul style="list-style-type: none"> To recommend the continuation of the service contracts as stated.
Delays in undertaking a programme of procurement for these services could expose the council to a challenge.	<ul style="list-style-type: none"> To ensure that any service redesign meets the agreed timelines and has access to robust project management.
Current negotiations relating to vital infrastructure changes are one off payments which will be agreed in year and are therefore time limited variations to the contract. These changes may not be agreed by WVT and this reduces their ability to share information with partners and improve service user experience.	<ul style="list-style-type: none"> The funding allocated for vital infrastructure changes may not be used and may need to be allocated as savings due to other public health commitments The new tender exercise will build in requirements to deliver these vital infrastructure changes in 17/18.
If the council funds new technologies in year, the council may not be able to transfer this asset to a new provider in the future due to data protection regulations.	<ul style="list-style-type: none"> The one off payment for technologies would enable the organisation to commence vital infrastructure changes and train the staff to enable the sharing of information and improved service user experience.

Consultees

26. The CGG has been consulted and has agreed the decision to award a new contract to WVT for school nursing and for the council to remain as an associate to this contract.

Appendices

Appendix 1: Draft procurement timeline.

Background papers

None identified.