

Report title: Re-commissioning Integrated Sexual and Reproductive Health Services

To: Health Committee

Meeting Date: December 3 2020

From: Director of Public Health

Electoral division(s): All

Forward Plan ref: 2020/040

Key decision: Yes

Outcome: The adoption of a Section 75 agreement to re-commission Integrated Sexual & Reproductive Health Services with the current provider which will ensure that the planned innovative service developments and required cost benefits are able to be achieved through implementation starting on the 1<sup>st</sup> April 2021.

Recommendation: The Health Committee is asked to support the following recommendations.

- a) The establishment of a Section 75 agreement for re-commissioning Integrated Sexual and Reproductive Health Services with the current provider, Cambridgeshire Community Services.
- b) A Section 75 agreement for a short period (to be agreed with commissioning partners) to allow the opportunity for a formal procurement when the COVID-19 challenges are reduced.

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## 1. Background

- 1.1 The Health Committee has previously approved the commissioning of integrated Sexual and Reproductive Health (SRH) Services by Cambridgeshire County Council (CCC) as a collaborative arrangement with Peterborough City Council (PCC), Cambridgeshire and Peterborough Clinical Commissioning Group (CCG) and NHS England (NHSE). This will result in **one** contract across the local authorities within a changing system and commissioning landscape.
- 1.2 The collaborative commissioning approach followed an invitation to CCC and other local commissioners of SRH services by Public Health England (PHE) to explore opportunities for alignment and collaborative commissioning of SRH services. The Health and Social Care Act 2013 established the current commissioning arrangements for sexual and reproductive health, which is divided between Local Authorities, Clinical Commissioning Groups (CCGs), and NHS England (NHSE). The objectives of the collaborative commissioning approach are to align sexual health and reproductive services to future proof, quality assure, optimise service pathways for service users realise system efficiencies and improve health outcomes. Support was secured from PCC, the CCG and NHSE and it was agreed that CCC should lead and hold the contract with the provider. A competitive procurement was scheduled to commence at the beginning of March 2020 with a new service commencing in October 2020.
- 1.3 Previously the Health Committee has supported the collaborative commissioning pilot and approved the following.
  - The establishment of a legal agreement between Cambridgeshire County Council (CCC) and Peterborough City Council (PCC) that assigns Cambridgeshire County Council as the lead commissioner;
  - The establishment of a Section 75 Agreement between CCC, NHS England and the Clinical Commissioning Group.
  - Change the initial proposed contract length from three years plus one, plus one to a three-year plus two, plus two contract giving a maximum contract length of seven years.
- 1.4 Due to the impact of COVID-19, the commission of integrated Sexual & Reproductive Health Service (SRH) across Cambridgeshire and Peterborough was paused between March and October 2020. The process has been re-established, and Public Health has secured support to ensure that this project progresses quickly in order to meet the requirement of new contract from the 1<sup>st</sup> April 2021. However, the short timeline created by the pause in the procurement process has created a number of issues. Consequently, an assessment of the procurement and contractual options for commissioning the service has been undertaken by the external organisation engaged to support this work.

## 2. Main Issues

- 2.1 SRH services are clinical and providers are usually NHS organisations. This was evidenced by the organisations that attended the bidders' event held in January 2020 prior to the

planned start of the procurement. NHS providers are currently facing substantial demands in meeting the challenges of the pandemic. Locally CCS will play key role in the COVID 19 vaccination programme. Other NHS providers will also be potentially supporting this programme in their areas. It is unlikely that the current provider CCS and other NHS organisations will have the capacity and focus to participate in a competitive tender.

- 2.2 It is not anticipated that the additional demands created by the pandemic upon all organisations will lessen prior to March 2021 and will continue probably for some time after. This will affect not only the appetite for organisations to bid but also it could possibly affect the quality of bids due organisational capacity and focus.
- 2.3 The current SRH contract with Cambridgeshire Community Services should have ended on the 30<sup>th</sup> September 2019. However, the preparations for the procurement took longer due to the necessity of having the formal support of all the commissioning organisations. The COVID pandemic then created another delay and consequently the contract has been extended a further 18 months to March 2020. Further extension of the contract would be for a minimum period of another 6 months making it a two-year extension, which is not the preferred legal option.
- 2.4 It is planned to secure savings from the re-commissioning of the SRH treatment services to contribute to the funding of the separate Prevention of Sexual Ill Health contract. The new Prevention of Sexual Ill Health Services contract commenced on October 1 2020 and the funding from re-commissioned SRH services will be required from April 2021.
- 2.5 In the context of these issues six options for re-commissioning integrated SRH services have been considered, assessed and scored against a set of risks and benefits criteria. Appendix I provides the detail of this assessment. In summary the options include:
1. Continuing the current contract.
  2. Negotiate a section 75 with the current provider CCS for 7 years as planned in the original Procurement.
  3. Negotiate a section 75 with the current provider, CCS, for a limited period (to be agreed with commissioning partners). This will cover the period until COVID 19 demands have decreased and ensure providers have the capacity to tender for the contract.
  4. Soft Market Test to determine approach.
  5. Formal procurement for a 2 years plus 1 contract.
  6. Formal procurement for a 7-year contract.
- 2.6 These options have all been scored using the weightings below. This helps in assessing the relative impacts of each of the options as well as recognising that not all risks and benefits carry the same level of impact.

The risk and benefits criteria are as follows.

#### Risks

- Risk of non-delivery by 1<sup>st</sup> April 2021. -5 points
- Financial or cost effectiveness impact. -4 points
- Destabilization of the current service. -3 points
- Focused on current COVID impact. -2 points

- Any other impact. -1 point for each

#### Benefits

- Delivery of an integrated SRH service by 1st April 2021. +5 points
- Reflects the post COVID-19 position. +4 points
- Financial and cost benefits impact. +3 points
- Certainty for staff and service users. +2 points
- Any other benefit. +1 point for each

2.7 The scores from undertaking this assessment are found in the Table 1 below, the breakdown of scores for each item is shown in brackets.

Table1: Scoring outcomes from the risks and benefits assessment.

Option	Risk Score	Benefit Score	Total
1.Continuing the current contract.	-8 (-1,-1,-4,-1,-1)	+7 (+2,+1,+4)	-1
2.Negotiate a section 75 with the current provider CCS for 7 years as planned in the original Procurement.	-7 (-4,-1,-2)	+11 (+1,+5,+3,+1,+1)	+4
3. Negotiate a section 75 with the current provider CCS that will cover the period until the COVID 19 demands have decreased.	-3 (-1,-1,-1)	+8 (+4,+2,+1,+1)	+5
4.Soft Market Test to determine approach.	-9 (-5,-2,-1,-1)	+6 (+1,+3,+1,+1)	-3
5. Formal procurement for a 2 years plus 1 contract.	-16 (-5,-1,-1,-1,-4,-1,-3)	+5 (+1,+4)	-11
6. Formal procurement for a 7-year contract.	-13 (-5,-1,-1,-1,-3,-2)	+6 (+1,+2,+3)	-7

2.8 The only options that had a positive score in the rankings (where the positive benefits outweigh the current risks) is the implementation of a Section 75 agreement with CCS, the current NHS provider of the services. (Options 2 and 3)

However, the option of securing a Section 75 for the shorter period then proceeding to a competitive procurement has some key advantages, summarised as follows.

- It will ensure that a new Service is established within 2021/22 timeline that reflects the vision for an integrated SRH service and new delivery model

- Create certainty for service users and staff within a difficult environment.
- Ensure that the two local authorities are able to achieve the financial savings that have been allocated to the prevention service.
- Allow the potential bidders within the wider market place an opportunity to develop bids that offer innovative service models when the COVID pressures become less acute.

### 3. Alignment with corporate priorities

#### 3.1 A good quality of life for everyone

The following bullet points set out details of implications identified by officers:

- Provision of high quality, integrated, flexible and innovative sexual and reproductive health services can better address the needs of service users by improving access to a range of services in one location.
- The encourage and support service users in choosing healthy lifestyles and providing high quality interventions that improve health outcomes for those most at risk of poor health outcomes

#### 3.2 Thriving places for people to live

The following bullet points set out details of implications identified by officers:

Access to good quality SRH services improves the health of the population and enables it contribute to efforts to improve opportunities for communities to thrive.

#### 3.3 The best start for Cambridgeshire's children

The following bullet points set out details of implications identified by officers:

- The provision of accessible different SRH services can promote the sexual and reproductive health of Cambridgeshire's children and young people through the prevention and treatment of sexually transmitted infections and unintended pregnancies.

#### 3.4 Net zero carbon emissions for Cambridgeshire by 2050

The following bullet points set out details of implications identified by officers:

- The provision of a range of services in one location will reduce travel to different service locations.

### 4. Significant Implications

#### 4.1 Resource Implications

The following bullet points set out details of significant implications identified by officers:

- Due to the impact of COVID-19 the market that may normally exist to deliver alternatives to the current provider is limited in its ability to respond effectively to a formal procurement at this time, as such progressing with formal procurement options will not lead to the most effective use of the Council resources
- The current contract does not take account of the investment in prevention that the County Council has undertaken, therefore if it is extended the extension period will necessitate expenditure at this continued higher rate
- The impact of COVID-19 has meant that a greater number of services are delivered remotely building in time to ensure that this is reflected appropriately in the specifications and negotiated via a Section 75 will ensure that this is fully represented in the final contractual agreement

#### 4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

The following bullet points set out details of significant implications identified by officers:

- Any implications for procurement/contractual/Council contract procedure rules will be considered with the appropriate officers from these Departments and where necessary presented to the Health Committee before proceeding.

#### 4.3 Statutory, Legal and Risk Implications

The following bullet points set out details of significant implications identified by officers:

- This grant (in pursuant of the Local government Act 2003) can be used for both revenue and capital purposes to provide local authorities in England with the funding required to discharge the public health functions,
- Any legal or risk implications will be considered with the appropriate officers from these Departments and where necessary presented to the Health Committee before proceeding.

#### 4.4 Equality and Diversity Implications

The following bullet points set out details of significant implications identified by officers:

- The new SRH service aims to ensure that access to all services is improved for everyone and will be seek to address any inequalities.

#### 4.5 Engagement and Communications Implications

The following bullet points set out details of significant implications identified by officers:

- There has been consultation with service users and with community groups to ensure that the new service specifications reflect their needs.

#### 4.6 Localism and Local Member Involvement

The following bullet points set out details of significant implications identified by officers:

- The services will reflect the particular needs of the different areas in Cambridgeshire

#### 4.7 Public Health Implications

The following bullet points set out details of significant implications identified by officers:

- The new service will improve sexual and reproductive health outcomes for residents through ensuring prompt access to different services that will contribute decreasing the spread of sexually transmitted infections and unintended pregnancies.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Stephen Howarth

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes

Name of Officer: Gus de Silva

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact? Yes

Name of Officer: Liz Robin

Have any engagement and communication implications been cleared by Communications? Yes

Name of Officer: Matthew Hall

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Liz Robin

Have any Public Health implications been cleared by Public Health? Yes

Name of Officer: Liz Robin

#### 5.1 Source documents

None

## APPENDIX 1

### Risks and Benefits of the different procurement and contractual option for re-commissioning SRH Services

#### 1. Extend the current contract

This option would seek to continue the current arrangements with the current provider(CCS) in order to buy time to fully work through a formal procurement option.

The risks and benefits of this approach are;

##### Risks

- This would not provide the opportunity to move to the vision of an integrated service for SRH.
- There is little legal clarity on the basis for extensions of contracts due to COVID impact.
- There would need to be full analysis of the appropriate length of time for extension that could be clearly justified.
- Will still require resources to support procurement options in the short to medium term.

##### Benefits

- Assuming the current provider agrees this would provide certainty for staff and service users in the short to medium term.
- It delays the need for decisions around procurement, which can be time consuming and complex.
- It may provide an opportunity to fully prepare for a formal procurement later when there is less COVID-19 disruption.

#### 2. **Negotiate a Section 75 agreement with current provider (CCS) commencing April 1 2021 for a 7-year contract.**

This option would seek to negotiate a Section 75 agreement with the current NHS provider in line with the agreed service specifications that were developed for the original procurement of the new Service.

The risks and benefits of this approach are;

##### Risks

- This does not provide an opportunity to test the market which may lead to an impact on cost effectiveness in the longer term.
- There may be challenge from interested other parties who would have been expecting to bid within a formal procurement.
- Decisions made now are reflective of the impact of COVID. This may not be indicative of the long-term environment.

### Benefits

- Establishment of integrated SRH service with the opportunity to develop a phased roll out and for further development of the changes to Service delivery as a response to the pandemic.
- Greater certainty for staff and service users for the full term of the procurement (5+2 years).
- Opportunity to drive savings and developments with a provider who understands the local landscape and impact of COVID-19.
- Continued use of the existing estate.
- No requirement for resources to support further procurement within the medium term.

3. Negotiate a Section 75 agreement with the current provider (CCS) that will cover the period until the COVID 19 demands have decreased; followed by a formal procurement.

This option would seek to negotiate a Section 75 agreement with the current NHS provider over a shorter timescale to allow for a formal procurement in 2023 with service implementation in April 2024.

The risks and benefits of this approach are;

### Risks

- The current provider (CCS) may be resistant to agreeing to a shorter contract length.
- There may be a small risk of challenge from other providers. However, this could be mitigated by setting out at the start, a clear programme for the procurement.
- Procurement resources would still be required now and in the medium-term.

### Benefits

- Provides some immediate security for staff and service users.
- Provides an opportunity to ensure that formal procurement approaches are properly resourced and have adequate time to run.
- It allows for a potential extended impact of the current COVID situation and provides greater clarity on longer-term considerations.
- Enables testing of the market through procurement to determine when it is more likely to be able to respond in an innovative way.

4. Soft Market Test to determine approach

This option would plan to undertake a soft market test to determine the appetite within the market to respond to a formal procurement and have a new service in place by 1 April 2021

The risks and benefits of this approach are;

### Risks

- This approach holds a significant risk of non-delivery on the 1st April 2021 due to the legally required timelines for formal procurement and TUPE should the soft market test suggest an appetite for procurement
- The responses to this test will be reflective of the current impact of COVID-19 and therefore may not give a realistic perspective on the market at other times.
- Undertaking a soft market test may commit to undertaking formal procurement if it suggests a market is available. This may not be achievable within current timescales.
- Resources required across all stakeholder organisations to support formal procurement if that is suggested outcome

### Benefits

- It allows the market to respond to opportunity
- May offer opportunity to negotiate better cost effectiveness within final option
- Offers complete clarity on the approach taken
- Leads to a final agreement of a contract for expected full term (3+2+2 years)

## 5. Undertake a formal procurement (2+1 year years)

This option would seek to undertake a formal procurement for a shortened initial term in order to allow the opportunity to undertake another procurement when the longer-term impact of COVID-19 is understood

The risks and benefits of this approach are;

### Risks

- This approach holds a significant risk of non-delivery on 1 April 2021 due to the legally required timelines for formal procurement and TUPE.
- Resources will be required across all stakeholder organisations to support formal procurement.
- There is risk of challenge by bidders around compressed timelines.
- A shorter contract length may not attract many bids.
- A shorter contract length may have higher costs.
- The current estate sits with the current provider (CCS) and 3 years may not be long enough to change this or find alternatives
- Resources will be required again in medium-term to rerun the procurement
- There could be a destabilisation of service for both staff and service users within a challenged environment

### Benefits

- Provides an opportunity to try and derive an innovative offering from the market
- Provides an opportunity to adapt requirements and re-run procurement once the COVID-19 impact has lessened

6. Undertake a formal procurement (7-year contract)

This option would undertake a full procurement approach with the intention of implementing the full service change on 1 April 2021

The risks and benefits of this approach are;

Risks

- This approach holds a significant risk of non-delivery on 1 April 2021 due to the legally required timelines for formal procurement and TUPE.
- Resources required across all stakeholder organisations to support formal procurement will be required.
- There is a risk of challenge by bidders around compressed timelines
- The current provider (CCS) may not agree to continue current service beyond contract end date to allow for implementation if required
- The risk of destabilisation of service for both staff and service users within a challenged environment
- Decisions made now are reflective of the impact of COVID. This may not be indicative of the long-term environment

Benefits

- Provides an opportunity to try and secure an innovative offering from the market
- The establishment of an integrated SRH service for the full term of 3+2+2 years.
- It may offer an opportunity to negotiate better cost