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Report title: Procurement of the Substance Misuse Specialist Treatment and Recovery Service	
Report to: Cabinet	
Report author: Councillor John Spence, Cabinet Member for Adult Social Care and Health	
Date: 29 July 2021	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The Council has a responsibility to adopt a whole systems approach to support vulnerable people who are suffering the chaos of addiction and misuse of substances, to recover and go on to live meaningful / prosperous lives. To do this the Council has historically commissioned substance misuse, drug and alcohol, treatment and recovery services via the Public Health Grant. The contract for the delivery of the current substance misuse specialist prescribing service, an integral part of the wider treatment and recovery system, expires on 31 March 2022. A new service is needed to comply with the terms of the grant, and to ensure this element of the treatment system is available to residents, to enable them to work towards the restoration of stability in their lives.
- 1.2 As such, this contract represents a drive towards equality by enabling people to move out of positions of vulnerability and potential deprivation, illness and homelessness. With increasing adoption of a mixed ecology, there will be a positive but limited impact on climate change.

2. Recommendations

- 2.1 Agree to procure a contract for the provision of a substance misuse specialist treatment and recovery service for Essex residents suffering with drug and alcohol misuse using an open, single stage procurement procedure for a 7 year contract term commencing in April 2022.
- 2.2 Agree that the provision of this service over the 7-year term will have a maximum total expenditure of £30.3m based on an annual spend of circa £4.3m.

- 2.3 Agree that the service will be procured using an evaluation model based on 30% price and 70% quality, of which 10% of the quality score will relate to social value.
- 2.4 Agree that the Executive Director, Place and Public Health is authorised to agree the detailed evaluation model for the procurement.
- 2.5 Agree that the Cabinet Member for Adult Social Care and Health is authorised to award the contract to the successful bidder.

3. Summary of issue

Background

- 3.1 The Council has a responsibility to commission substance misuse, drug and alcohol treatment and recovery services via the Public Health Grant. The Council also has a responsibility to make sure that these services are reaching those who most need them and that they are adopting a whole systems approach to actively improve outcomes and reduce health inequalities for these people. The public health grant is ring-fenced for use on public health functions, and payment of the grant to the Council is subject to a number of conditions.
- 3.2 The Essex Substance Misuse Treatment and Recovery System is made up of a number of services that each play a part in supporting those suffering from alcohol and drug addiction or misuse. The system is designed to work cohesively and collaboratively to promote recovery in clients, working with the wider determinants of health including housing, education, employment, community engagement, as well as physical health factors. The success of the system has an additional impact through potentially reduced crime rates.
- 3.3 Community specialist medical prescribing services are a key part of the overall substance misuse treatment system in Essex that seeks to reduce dependence on illicit drugs and problematic alcohol use. The service provides evidence-based substitute medications for illicit street-based substances and interventions to support safe detoxification from drugs and alcohol to allow misusers to “wean off” their substance of choice and for drug misusers to stop potentially dangerous injecting behaviours.
- 3.4 The service plays an integral part in the wider treatment system and health services, providing clinical provision as part of a balanced approach to treatment and recovery. The service also works closely with primary care, and other non-medical providers, supporting them to engage with these complex clients, their families, and carers, to improve health outcomes and promote recovery.
- 3.5 Prior to 2015 and the current contract, there were two community prescribing services across Essex. However, from April 2013, the commissioning responsibility for all of these prescribing services transferred to Local Authorities as part of the transfer of Public Health services. The current contract created one unified service across Essex, as well as moving from maintenance

prescribing as a default approach, towards a model based on recovery and reducing reliance on specialist prescribing.

- 3.6 The current service has been performing well. Waiting times for first treatment interventions with a waiting time of 3 weeks or less were at 97.3% at the end of 19/20. Subsequent treatment interventions with a waiting time of 3 weeks or less were at 98.7%. Successful planned exits from treatment and transfers to other structured treatments (in the community or transferred in custody) were at 95.6% at the end of 19/20. Early figures show that performance has not been affected by the pandemic, with waiting times for first time intervention of 3 weeks or less being at 94% at the end of 20/21.
- 3.7 In 2017, Public Health England estimated the prevalence of opiate users in Essex to be around 4,374, and 4,091 for users of crack cocaine. Numbers in treatment have remained steady through the course of the current contract. We have, however, seen a dramatic increase in the numbers of opiate users in treatment and the service has had to flex to meet this demand. Whilst we do not have direct access to data from Primary care, we know from recent presentations and discussions from the CCGs, that demand has increased significantly in primary care and acute trusts during the pandemic. It is very probable that we will start to see this filter through to this service and an increase in demand.

Service Redesign

- 3.8 The Essex Recovery Foundation (ERF) is a Charitable Incorporated Organisation that was set up to provide a community led commissioning approach for substance misuse services within Essex and to bring in new resources to the county. The ERF is co-run by the Recovery Advisory Committee (RAC) and a Board of Trustees. The RAC is made up of people from across Essex who are currently in recovery from drug and/or alcohol addiction and have been through the recovery services in Essex. The Council is working in partnership with both organisations to inform the design of the services for the good of service users in Essex.
- 3.9 Feedback on the service specification has been captured from the RAC through various collaborative sessions which has enabled the Council to consider the journey of the people using the service and make adjustments and improvements from recommendations from first-hand experience. The Council will continue to work with the ERF through the life of the new contract.
- 3.10 Engagement with the wider service network, including clinicians, providers and other stakeholders, has been continuous throughout the life of the current contract and has informed the new service specification.
- 3.11 The new specification will include:
- the current main community specialist medical prescribing services;

- vital roles in the community such as Alcohol Liaison nurses in all Essex based Hospitals and family practitioner roles supporting Social Care across the County;
- virtual, technological and community-based solutions to engagement with the service, all of which will enable greater reach while minimising the impact on the environment;
- a requirement to demonstrate through the life of the contract how the provider is working towards the Essex Climate Action agenda including a reduction in carbon footprint year on year and innovation as to how it can reduce its carbon impact, as well as contributing to the Council's ambitions to reach net-zero emissions.

The specification will no longer include the prison provision, which is now the responsibility of NHS England, which means that delivery will be focused solely in the community, although strong links will be made with the prison provision to enable smooth transition from custody to community services.

- 3.12 Key performance indicators are proposed to remain the same for the new contract as they are working well and the current service is achieving good outcomes. The current KPI's include such measures as number of clients receiving a physical health review, vaccinations against blood borne viruses and the distribution of naloxone, the lifesaving drug that can be administered to counteract an overdose. All of these measures will enable the service to adopt a whole person approach to treatment.
- 3.13 In 2019, Professor Dame Carol Black was appointed by the Home Office and the Department of Health and Social Care to lead a major review to examine the harm that drugs cause and look at prevention, treatment, and recovery (the Independent Review of Drugs). The Part 1 report was issued in September 2020 and provided an up to date analysis of the problem. Part 2, which includes recommended policy solutions, is with the government for reviewing and agreeing, and it is not currently known when that will be agreed. It is believed that the recommendations may include an increase of funding to drug treatment services, which, if adopted by the government, may enable services commissioned in Essex to meet increasing demand, rising costs of pharmaceuticals and expand the provision of the service.
- 3.14 Given the current levels of demand, there may, if volumes continue to increase in this way, be a need for additional funds to be added to the contract if such funds can be made available internally or available from government grants or similar. Any such increase to the contract value will be subject to separate governance in line with the value of any such proposal and will be subject to the variation being permitted by The Procurement Regulations 2015.

Proposed Procurement Process

- 3.15 An open, single stage procurement is proposed. The recommended evaluation weighting is 30% price and 70% quality (of which 10% of the quality score will assess social value aspects).

3.16 The rationale for a weighting of 30% for price is as follows:

- the current contract value was significantly reduced when retendered in 2015 and there is no intention to seek further savings from this provision. Providers will be required to make the most effective use of the resources available with a focus on building capacity, digital innovation and quality and not shrinking the provision in light of the evidenced increase in need and demand;
- cost modelling based on the current delivery model has indicated that it is unlikely that the minimum requirements can be delivered for less than the budgeted contract value, especially given the increase in the cost of some pharmaceuticals. A higher price weighting would be unlikely to deliver value for money as cost savings would come at the expense of quality of support delivered.

3.17 The rationale for a weighting of 70% for quality is as follows:

- the quality of the service is key, in terms of the support that is provided to vulnerable people. Value for money will be evidenced in improved outcomes for people, rather than in limited annual savings;
- the clinical nature of the contract requires adequate weighting in order to differentiate bids to a sufficient degree. Bidders will be required to be Care Quality Commission (CQC) registered;
- the contract offers a number of opportunities for increased social value and outcomes such as enjoying life into old age, connecting us to each other and the world, and therefore increasing opportunities to address wider determinants of health.

The RAC, as specialists in this area, will support the evaluation process and provide case study based questions that will provide a balanced measure of the social value and impact of the bidder's tenders.

3.18 The staff engaged in delivering the existing services are employed by external providers. The incoming and outgoing provider will need to manage the transfer of staff where necessary, in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE). The current provider will be expected to provide accurate TUPE information and prospective bidders will be expected to conduct their own due diligence to check the accuracy of the information provided.

4. Options

4.1. Option 1 (recommended): Procure the services with the current budget

This option enables us to meet the current needs of the service users in Essex and complies with the terms of the public health grant. The existing service has been working well. While there hasn't been price increase over this recent period, we are now looking to commission a service with a stronger emphasis on technological and community support. We believe we can achieve extended reach and will be joined up with the primary care sector and the wider treatment system to ensure a whole-system approach. We therefore believe a fixed price contract is worth pursuing to begin with but will be reviewing this and the level of demand carefully.

We are also expecting more government funding, as well as other opportunities to bring more money into the county through the ERF. If this is achieved, it can be directed into this area to support the service and any new demand. If this is not achieved, it would then be necessary to review, and potentially return for a new decision on additional funds under separate governance.

4.2. Option 2 (not recommended): Procure the services with a 3% increase on the current budget

Whilst this option would enable the service to meet the current needs of the service users and account for increasing demand on the service, increase in prescribed medication costs and general inflation costs, it will create a funding gap against current budgets as detailed in the financial implications of this report. As the Council cannot commit to this currently, the recommended option is to instead allow flexibility in the contract to increase the budget if possible as in option 1.

4.3. Option 3 (not recommended): Do nothing and let the current contract expire

The Council has a responsibility to commission drug and alcohol treatment and recovery services via the Public Health Grant. Should this contract not be reprocured, vital clinical services supporting a reduction in drug related deaths and harm will no longer exist and the remaining commissioned services will have their impact and effectiveness significantly reduced.

5. Links to Essex Vision

5.1. This report links to the following aims in the Essex Vision:

- Enjoy life into old age
- Strengthen communities through participation
- Develop our County sustainably
- Connect us to each other and the world

5.2. This links to the following strategic aims in the Organisational Plan:

- Enable inclusive economic growth
- Help people get the best start and age well
- Help create great places to grow up, live and work

In addition, this report meets the Council ambition for renewal, equality and ambition; in particular the service is designed to tackle health inequalities, helping people to level up and restore their quality of life. The addition of the Essex Recovery Foundation is a 'never been done before' venture that will enable Essex to deliver the best service it possibly can whilst putting us at the forefront of commissioning innovation and leading the way for others.

6. Issues for consideration

6.1. Financial implications

6.1.1. The 2021/22 Medium Term Resources Strategy (MTRS) includes provision for £4.3m, which is funded by the Public Health Grant. There are no increases currently assumed in the MTRS for future years.

6.1.2. The recommended option of proceeding with the procurement with an annual budget of £4.3m can be covered within the MTRS provision. However, without an annual increase this will potentially lead to a reduction in capacity given the current contract value has not been increased over the preceding 7 years. Opportunities to increase the new contract value will be considered if this is demonstrated by the successful provider and funding is available. This can either be funded by any additional funding that may come from the Dame Carol Black review or resources sought by the ERF.

6.1.3. Option 2 would be to proceed with procurement, indicating to the market an increase to the contract value by up to 3% per year after the first year. This will create a gap of the value of up to 3% over the contract term. The potential impact of a 3% increase is shown in the table below.

	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	TOTAL
Option 2	4,334,105	4,464,128	4,598,052	4,735,994	4,878,073	5,024,416	5,175,148	33,209,916
MTRS	4,334,105	4,334,105	4,334,105	4,334,105	4,334,105	4,334,105	4,334,105	30,338,735
Option 2 gap to MTRS	-	130,023	263,947	401,889	543,968	690,311	841,043	2,871,181

6.1.4. Option 3 of allowing the current contract to expire would release £4.3m for use in other public health activity, however Essex County Council have a responsibility to commission drug and alcohol treatment and recovery services from the Public Health grant. This will impact services available for which there is increasing demand.

6.2. Legal implications

6.2.1. The public health ring-fenced grant is made available by the Secretary of State for Health and Social Care (SOS) and is ring-fenced for use on public health functions. The SOS has attached conditions to the payment of the grant and forecasting and reporting is required. The grant must be used only for meeting eligible expenditure incurred or to be incurred by local authorities for the purposes of their public health functions as specified in section 73B(2) of the National Health Service Act 2006 ("the 2006 Act").

- 6.2.2. Pursuant to Section 2B of the 2006 Act, the Council must take such steps as it considers appropriate for improving the health of the people in its area. Steps that may be taken include providing services or facilities designed to promote healthy living whether by helping individuals to address behaviours that is detrimental to health or in any other way.
- 6.2.3. The Council is a contracting authority for the purposes of the Public Contracts Regulations 2015 (the Regulations). The value of the proposed contract is above the financial threshold (currently set at £663,540) and the nature of the service is one that falls under Schedule 3 of the Regulations. The procurement of these services must be undertaken in accordance with the light touch regime as set out in regulations 74 to 76 of the Regulations.
- 6.2.4. The proposed potential addition of funds to the contract value will need to be included in the contract opportunity when it is advertised and in the contract in clear, precise and unequivocal terms to comply with Regulation 72 of the Regulations as a permitted modification to the contract. If this cannot be done, the Council will need to consider if it can rely on any of the other provisions of Regulation 72 in order to modify the contract without a new procurement procedure.
- 6.2.5. Regulation 67 of the Regulations sets out how evaluation criteria are to be established. The Council must select evaluation criteria that will help it establish the most economically advantageous tender. Regulation 67 allows the Council to consider social aspects of a tender in assessing quality, provided that they are relevant and proportionate to the contract and linked to the subject matter of the contract.
- 6.2.6. It should be noted that this is a substantial service which is funded by external grant. The contract with the successful bidder will therefore contain a termination clause permitting the Council to end the contract in the event the external funding is withdrawn.

7. Equality and Diversity implications

- 7.1. The Public Sector Equality Duty applies when the Council is making decisions. The duty requires us to have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful;
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not;
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief,

gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 7.3. The equality impact assessments indicate that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8. List of appendices

- 8.1. Appendix A – Equality Impact Assessment

9. List of Background papers

None declared.