

Agreement to vary the current contract for the children and young people's
Emotional Wellbeing and Mental Health Service (EWMHS)

Forward Plan reference number: FP/770/07/20

Report title: Agreement to vary the current contract for the children and young people's emotional wellbeing and mental health service (EWMHS)	
Report to: Councillor John Spence – Cabinet Member for Health and Adult Social Care	
Report author: Chris Martin, Director, Strategic Commissioning and Policy (Children and Families)	
Date: 03.08.2020	For: Cabinet Member Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1. The purpose of this report is to seek agreement to vary the jointly commissioned contract between ECC and its partners and the North East London NHS Foundation Trust (the "Contract") in order to extend its term and include additional services to enable the continuation of the delivery of the Emotional Wellbeing and Mental Health Service (EWMHS) to children and young people in Greater Essex.
- 1.2. The planned procurement has been delayed due to Partners in the Collaborative (being ECC, Southend-on-Sea Borough Council, Thurrock Council and seven Clinical Commissioning Groups) making decisions around their intended commissioning footprint and as a result of the global pandemic.

2. Recommendations

- 2.1. To agree to extend the term of the Contract to 31st March 2022 and to vary its scope to enable the continued delivery of the EWMHS service.
- 2.2. To agree that the Executive Director of Adult Social Care is authorised to agree the terms of the variation to the Contract.

3. Summary of issue

- 3.1. ECC and its Partners (the "Collaborative") commissioned the North East London NHS Foundation Trust ("NELFT") to deliver the EWMHS as an integrated Tier 2 (targeted) and Tier 3 (specialist) service. The service is intended to remove barriers between professionals and across service boundaries by the development of integrated care pathways and a seamless step-up and step-down from clinical services.

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- 3.2. EWMHS provides a single point of access which provides screening, directing and/or signposting for all referrals delivered by staff with a range of differing but complementary skills and competencies. It also offers advice and guidance, consultation and support to those referring including Education, Primary Care, Secondary Care, Social Care, voluntary/independent sector, young people and their families.
- 3.3. EWMHS is managed by a lead commissioning team, presently hosted by the West Essex CCG. This is overseen collectively by the Collaborative through a working group called the Collaborative Commissioning Forum which comprises senior officers from all 10 commissioning partners in the Collaborative. The total annual cost of the Contract is £14.3m to which ECC contributes £1.92m per annum. ECC is a signatory to the Contract but is only responsible under the Contract for its own financial contribution.
- 3.4. The Contract commenced on 1 November 2015 for an initial three years. A two-year extension clause was activated, and the Contract is due to end on 31 October 2020. The Contract now needs to be extended to enable the EWMHS to continue to be provided until the new solution is procured.
- 3.5. The EWMHS contributes towards the delivery of the following ECC priorities:
 - To keep vulnerable children safe and help them to live life to the full.
 - To improve the health of people living in Essex.
- 3.6. Through external and internal evaluations of delivery of the service so far, the following main areas of achievements were identified:
 - The collaborative approach addresses issues of equity, access, fragmentation, variability in outcomes and poor service users' experience;
 - EWMHS staff are working across the Tier 2/Tier 3 levels of need to support children and young people, reducing risk of leakage from the system and providing a better experience and outcomes for young people;
 - The volume of referrals has greatly increased (approximately 1,000 – 1,200 referrals per month which is likely to increase during and post this pandemic) and;
 - The introduction of a single point of access into EWMHS is the biggest achievement for the service, providing a direct entry point for clinical professionals, non-clinical professionals, young people and their families.
- 3.7. Following evaluation and feedback from people who use the service and the wider system in the past five years, the Collaborative wish to improve the service and outcomes by varying the Contract so as to integrate additional elements of work and services to be delivered using the model described above which were not included in the original procurement. These additional elements are necessary to ensure that all partners in the Collaborative discharge their statutory duties, deliver improvements and continue to support the service users in

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achieving their outcomes. A change in the contractor at this stage and in the light of the fact that the County's resources are focussed on fighting the global pandemic, would cause significant inconvenience and costs to the Partners involved and could not be made due to the level of integration and system co-delivery achieved in the past 5 years by NELFT.

3.8. As part of the proposed variation, all Partners in the Collaborative have agreed to align EWMHS and NHS associated contracts (listed below) to match the new end date of the EWMHS Contract:

- Managed by Lead Commissioner
 - EWMHS Core and Specialist Services (NELFT)
 - Southend and Essex Progressions Pilot (Core Assets)
 - Essex and Thurrock children and young people engagement (Reprezent)
- Managed by Thurrock Unitary
 - Thurrock Transition Pilot

4. Options

There are 4 Tiered services providing emotional wellbeing and mental health services to children and young people across Essex:

Tier 1: Universal services (e.g. early years, primary care, school nurse, schools)

Tier 2: Targeted services (e.g. youth offending teams, primary mental health workers, educational psychologists, school and voluntary third sector provider counselling)

Tier 3: Specialist services (community multidisciplinary teams (not provided exclusively by the NHS))

Tier 4: Highly specialist services (includes specialist assessments, day/ inpatient units and eating disorders)

The options are as follows:

Option	Pros	Cons
Option A Do nothing; the Contract ends on 31 st October 2020 There is no clear statutory duty for Local Authorities to commission and provide mental	<ul style="list-style-type: none"> • Allows ECC to gain independence and control to review and potentially re-direct funding (e.g. see Option C - ECC to commission their own CAMH service) • ECC could consider re-directing funding to 	<ul style="list-style-type: none"> • Costly – ECC will cease to be part of the Collaborative Commissioning Forum and would no longer benefit from the economies of scale achieved via the 10 commissioning partners

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<p>health services for children. However, there is non-statutory guidance stating Local Authorities and CCGs ought to work together to provide early help and joined up targeted and specialist mental health needs.</p>	<p>earlier interventions (however we'll be fracturing a partnership and leaving more complex cases vulnerable)</p>	<ul style="list-style-type: none"> • Risk of challenge and reputational damage with all 7 CCGs, Thurrock and Southend local authorities • Risk of adverse outcomes for children and young people in Mid, North, West and South Essex especially those who are supported by EWMHS at the time of the end of contract • Risk of children and young people not having access to an integrated Tier 2/Tier 3 service. • Risk of children and young people's emotional and mental health needs deteriorating and escalating to Tier 4. • No single point of access to information, advice, guidance and consultations for Essex residents, schools, professionals and community/voluntary sector providers • Risk of escalating costs (e.g. spot purchasing services as insufficient time to go through procurement, increased demand on A&E, Safeguarding, increasing demand on children and adult services) • Splitting the current arrangements into 3 would allow Southend and Thurrock more autonomy, however, this would be detrimental to the economies of scale which arise from a single contract
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<p>Option B (Preferred option)</p> <p>Agree to vary the Contract up until 1st April 2022</p>	<ul style="list-style-type: none"> • Continuity of support for ECC's children and young people who are accessing EWMHS as at 31st October 2020 • Summary of what the current Service provides: <ul style="list-style-type: none"> ○ A consistent Essex-wide emotional wellbeing and mental health service ○ A much-needed Single Point of Access to information, advice, guidance and signposts to most relevant services (step up and step down) ○ Consultation and joint working with professionals ○ An integrated Tier 2/ Tier 3 services • Opportunity to continue to develop the current service beyond 31st October 2020 until a procurement process has been concluded and a new CAMHS contract is in place 1st April 2022 • Opportunity to continue to work collaboratively with all 7 CCGs and Thurrock and Southend local authorities. 	<p>There are no disadvantages in pursuing this option</p>
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<p>Option C</p> <p>The Contract ends on 31 October 2020 and ECC commission their own EWMHS</p>	<ul style="list-style-type: none"> • Allows for more independence and control for ECC • Opportunity to consider developing in-house provision (e.g. mental health co-ordinators, educational psychologists etc.) 	<ul style="list-style-type: none"> • Costly – ECC will not be able to benefit from the economies of scale achieved via the 10 commissioning partners • Disjointed provision - ECC will need to create a tier 2 service which will reintroduce the barriers previously removed in 2015 • Gap in access to a tier 3 service for Essex children and young people in Essex • Risk of damage to partnership relations • Risk of adverse outcomes for children and young people
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5. Next steps

- 5.1. The Lead Commissioning Team will undertake the legal work needed to implement the variation of the Contract.
- 5.2 ECC will continue to develop the new Child and Adolescent Mental Health Service model with the Collaborative and prepare papers requesting approval to procure the new contract to present to Cabinet in the Autumn.

6. Issues for consideration

6.1 Financial implications

- a) The cost of the contract with NELFT for 2020/21 is £14.1m per annum which **ECC** contributes **£1.92m per annum** and is commensurate with the 2020/21 budget. The remaining parties within the “Collaborative” including; Southend and Thurrock Local Authorities and the CCG’s contribute the balance. The cost of varying the contract to ECC will be £2.75m in quantum; **£798,000** in 2020/21 and **£1.95m** in 2021/22. The 2021/22 cost is reflected in the Medium-Term Resources Strategy.
- b) If the current arrangements with the “collaborative” and NELFT ceased on 31st October ECC would need to commission their own CAMH service thereby creating risk that economies of scale achieved through the current arrangement would be lost and exposing ECC to greater financial cost. The prior model of providing a CAMH service which ceased in 2015/16 required

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ECC to invest just over £2m annually. The annual cost of EWMHS for 2020/21 is £1.92m whilst also delivering the benefits as outlined in para. 3.6.

6.2 Legal implications

- 6.2.1 Each partner in the Collaborative is a signatory to the Contract and is responsible for their own financial contribution.
- 6.2.2 The Partners wish to vary the Contract so as to integrate additional elements of work and services which were not included in the original procurement relying on Regulation 72(b) of the Procurement Regulations. The Partners maintain that a change in the contractor at this stage, and in the light of the resources currently being focused on fighting the global pandemic, would cause significant inconvenience and costs to the Partners involved. Even if this was not the case, it is considered that any change in contractor could not be made due to the level of integration and system co-delivery achieved under the Contract to date. In order to rely on this regulation, the proposed variation should not exceed 50% of the value of the original contract. It is also possible that a court may not uphold this view.
- 6.2.3 The Partners are parties to a Collaboration Agreement in the form prescribed by NHS England which underpins the commissioning of the Contract. The Collaboration Agreement does not need to be varied as its terms already provide for an extension.
- 6.2.4 There is no delegation of functions between the Partners or pooled fund and therefore there is no requirement to enter into a partnership agreement pursuant to s75 of the National Health Service Act 2006.

7. Equality and Diversity implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes 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).

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

8. List of appendices

Equality Impact Assessment

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor John Spence, Cabinet Member for Health and Adult Social Care	07.09.20

In consultation with:

Role	Date
Councillor Louise McKinlay, Cabinet Member for Children and Families	07.09.20
Helen Lincoln, Executive Director for Children and Families	06.08.20
Nick Presmeg, Executive Director for Adult Social Care	03.09.20
Executive Director for Finance and Technology (S151 Officer)	14.8.20
Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	27.8.20
Katie Bray on behalf of Paul Turner	