

Bath & North East Somerset Council

MEETING:	Council
MEETING DATE:	26 October 2012
TITLE:	Statutory Transfer and Extension of Public Health Contracts
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
None	

1 THE ISSUE

- 1.1 A range of Public Health functions will transfer from the NHS to the Local Authority on 1 April 2013, together with a ring-fenced budget and relevant staff. As part of that transfer, a series of contracts for services commissioned by the Director of Public Health will become a Council responsibility.
- 1.2 A significant number of contracts and Service Level Agreements are due to expire on 31st March 2013 and this paper proposes a way of ensuring continuity of services through the transition. There is insufficient time and capacity for the Council to renew these contracts once the financial allocation is confirmed in December and so the paper proposes arrangements for the scrutiny and where appropriate extension of relevant contracts, for a maximum period of 12 months.

2 RECOMMENDATION

Council is asked to agree that:

- 2.1 Approval in principle is given to proceed with an extension of relevant current contracts for up to 12 months from 31st March 2013 and an endorsement of the remaining contracts which have expiry dates beyond 31st March 2013 on terms and conditions to be agreed, subject to appropriate officer scrutiny and in the light of confirmation of the relevant ring-fenced national funding allocation.
- 2.2 The Chief Executive, in consultation with the Monitoring Officer and Chief Financial Officer and following an appropriate officer analysis of risks, is authorised to approve specific contractual commitments (including contract extensions as described) from 1st April 2013 to ensure continuity of services.

3 FINANCIAL IMPLICATIONS

- 3.1 Current information from the Department of Health gives a date of 14th December 2012 for publication of the financial allocation for Public Health. The Council's new Public Health responsibilities will need to be delivered within the ring-fenced budget received.
- 3.2 The contracts are currently fully funded from recurring budgets in the PCT. On the basis of commitments made by the Department of Health, planning assumptions have proceeded based on there being no reduction in the overall funding level when the funding transfers to the Council.

4 THE REPORT

Overview

- 4.1 From April 2013 local authorities will have a duty to improve the health of the people in their area and will have responsibility for commissioning appropriate public health services. In Bath and North East Somerset, most of these services are currently commissioned by the PCT and accordingly the Council will either
 - take ownership of relevant existing public health service contracts that have an expiry date beyond 1 April 2013 or
 - be responsible for commissioning public health services to commence from 1 April 2013.
- 4.2 The transfer of pre-existing arrangements for public health services will be made through a 'transfer scheme' as set out in the Health and Social Care Act 2012. This will transfer the contract obligations and liabilities from the current commissioning arrangements to the Council.
- 4.3 A Public Health Transition Group, which includes senior officer representation from the Council and PCT, is overseeing the process of a successful transition of services into the Council by 1st April 2013 and a key part of the work relates to contracts for services currently commissioned by public health through the PCT. The Public Health Transition Group is seeking to identify and address the contract arrangements and reach agreement on related issues. These are explained below.

Timing, and Contract Extensions and Terms

- 4.4 The Public Health team and the PCT have some 57 contracts/ agreements in place, or being formalised for the transfer, with a value of £6,598,082. The expiry date for the vast majority of these contracts is 31st March 2013 and a decision will need to be taken on the most appropriate approach. The expectation as set out in the guidance on transition is that public health services will not be disrupted by the transfer and that contracts will therefore continue, so it should be expected that contracts will be extended.
- 4.5 The proposed approach would be to work with the current providers to agree to continue to run the current services for a short extended period of 12 months.

- 4.6 In this instance, the Council would be requesting the existing parties to the contract to amend the existing contract duration beyond 1 April 2013. Current guidance is that any request for an extension to duration of the existing contract must be made by the PCT to their SHA/Regional Director, and this is being clarified. An extended contract would be transferred to the Council under the statutory transfer scheme arrangements, though the terms and conditions of the extension need to be agreed.
- 4.7 For this approach, the Council will need to be able to make a case to support the decision to extend the contract. The rationale for this decision includes:
- Wanting to ensure continuity of service for service users and to manage the impact of transition on services locally.
 - Insufficient time and capacity to re-tender for existing services prior to March 31st 2013.
 - To allow the Council time to develop alternative plans and timescales for commissioning/ procuring services in the future after the transition arrangement expires based on need and financial position.
- 4.8 Those few contracts for public health services whose duration already extends beyond 1 April 2013 are mostly “block” contracts with NHS providers (see below) and will be transferred under a transfer scheme. The Council will take on the responsibility of managing the contracts within the terms set out in the agreements. The Council will also need to recognise and endorse these commitments.
- 4.9 Once the transferred contracts expire, local authorities will commission services from providers in a manner which ensures delivery of high quality public health services and which supports continuity, integration and easy access to services.

Primary Care Contracts

- 4.10 The traditional route for commissioning public health work from primary care services (GPs, dentists and pharmacists) is through a mechanism known as a Locally Enhanced Service (LES). These are in effect ‘additions’ to the national contracts that the NHS holds for the core work of these service providers. A number of public health services commissioned through LES contracts have been mapped to transfer from the PCT to the Council in April 2013.
- 4.11 The LES route is not available to Local Authorities however for new contracts commencing after 1 April 2013, as this mechanism is restricted for use by the NHS Commissioning Board only. The Council is therefore likely to need to establish a new form of contract with primary care providers to deliver public health services such as work to reduce smoking.
- 4.12 It is proposed therefore to seek to extend for a further twelve months those relevant LESs that are currently due to expire on March 31st 2013, to give the Council time to establish new contracts where required.
- 4.13 The final arrangements for contracting either directly from the Council or via an arrangement with the Clinical Commissioning Group still needs to be explored and agreed.

Contracts with the Council

4.14 There are currently 13 separate contracts for public health services between the PCT and the Council. It is proposed that the contractual arrangements are simplified to mirror other existing inter-departmental arrangements within the Council.

Contracts with Sirona

4.15 The PCT also has 11 public health agreements/contracts with Sirona. Some are included in the block contract and some are additional non-recurring agreements. Agreement will be needed on the most appropriate future arrangements given that the Council already has its own form of agreements in place for services provided by Sirona.

Contracts with the NHS

4.16 The final grouping of contracts is for public health services provided by NHS organisations such as the RUH. These are currently commissioned by the PCT on an annual basis and the commissioning round for 13 /14 will be completed by March 31st 2013. We need to clarify and agree how the Public Health specifications are included and monitored as part of a block contract with the CCG or if they should be separate Council contracts.

5 RISK MANAGEMENT

5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance. This is also guided by the national contract stocktake process. Key identified risks are that:

- There is a risk to the Council of either committing to contracts without knowing the allocation, or failing to ensure that key services are maintained, unless these arrangements are agreed for extension of contracts, as the next full Council meeting is not until 17th January 2013.
- The ring-fenced funding allocation for public health may not cover the historic level of contract costs, and plans would need to be developed so that contractual commitments past 31st March 2013 do not exceed the allocation. This will be part of the officer scrutiny process and contractual commitments will only be made within the funding allocation received.

6 EQUALITIES

6.1 An EIA has not been completed as the transfer scheme is a legal requirement and therefore not an option. The recommendations propose to maintain continuity of current services for a further year to ensure that there are no resulting equalities issues resulting from transition.

In the event that the financial allocation is insufficient we would conduct an equalities impact assessment on any proposed contract and service reductions.

7 CONSULTATION

7.1 Cabinet Members

The transfer scheme is a legal requirement and therefore does not require wider consultation. A wider communications process has been implemented to inform stakeholders, partners and contract providers about the planned changes.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 It is acknowledged that resource commitments are a Full Council decision. As indicated earlier however, the national financial allocations will only be confirmed on 14th December and decisions on contract extension cannot wait until after the Council meeting on 17th January. As most contracts will be extended if agreement is reached as proposed, the Christmas and New Year period is key if the Council is to be able to assume responsibility for contracts from 1st April 2013.

9 ADVICE SOUGHT

9.1 *The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.*

Contact person	<i>Mike Bowden, Divisional Director, Service Development</i>
Background papers	<i>Guidance on the Transfer of Public Health Responsibilities to Local Authorities</i>
Please contact the report author if you need to access this report in an alternative format	