Bath & North East Somerset Council		
DECISION MAKER:	**Single Member Decision** **Cllr Appleyard, Cabinet Member for Adult Services**	
DECISION DATE:	**On or after 13 March 2021 (for Single Member Decision)**	EXECUTIVE FORWARD PLAN REFERENCE: E 3270
TITLE:	Specialist mental health care and support for adults (18-64s)	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: 1. Equality Impact Assessment		

1 THE ISSUE

1.1 This report sets out the request for approval of the proposed commissioning of specialist services for adults with complex mental ill health aged 18-64 years through a Single Member Decision process.

2 RECOMMENDATION

The Cabinet Member is asked to;

2.1 Approve the proposed commissioning arrangements of the following specialist services for adults with complex mental ill health aged 18-64:

(1) Independence at home services (home / domiciliary care, outreach, floating support)

(2) Supported living (any scheme where housing, support and sometimes care services are provided as an integrated package)

(3) Specialist residential care homes

2.2 Delegate any annual decision-making regarding funding arrangements for this commission to the Director of Adult Social Care.

3 THE REPORT

3.1 Reason for the proposal

We acknowledge that we need to commission strategically to ensure effective stimulation and management of the market to meet individuals' needs. We must ensure we increase the supply of services that we need within B&NES and utilise the current full capacity available. We must ensure that the services we

commission take a person-centred outcome-focussed approach, enabling independence as far as possible.

It is critical that we get our approach right in terms of commissioning care and support for people with mental ill health in B&NES.

The health and social care systems in B&NES face a challenging time. We have significant budget pressures in delivering our statutory social care duties to support vulnerable residents. We must ensure that our most vulnerable young people are supported to live good lives and fulfil our Corporate Parent responsibilities. We must be able to continue to improve the quality of care and support, balanced against financial constraints. We also anticipate a surge in demand as a direct and indirect result of COVID19 19.

We must take a proactive and preventative approach, which looks to provide help sooner and before people experience crisis, to reduce the long term impact for people experiencing mental ill health and to support individuals and families to manage their mental health and wellbeing and to recover.

Our current arrangements do not enable us to manage the market effectively, and do not easily enable us to ensure we have the right care and support in place, at the right time.

Our recommendation is to undertake a procurement exercise in order to identify a partner (or more than one partner) to work with us (and each other) to develop a whole system approach to the commissioning of the services in scope. Our goal is to form a consortium.

3.2 Benefits

The benefits of the proposed approach for people are:

- Better, seamless, care and support – people will be able to move from 1 type of support to another with ease, retaining continuity of support
- Better client choice, closer to home through utilising all in-area capacity and by growing what we need
- A whole system approach will improve outcomes and experiences for people and their families, friends and carers – through thinking about what the whole of the system needs and thinking holistically about people's lives
- A reduction in the cost of care

The benefits for our providers are:

- A positive and strategic relationship with the Council and CCG where we design solutions together
- Financial stability through agreed and understood demand analysis (including future demand) and guaranteed volume of work
- Flexibility to work collaboratively with each other as no 1 provider holds the entire pathway of services

The benefits for the Council and CCG are:

- Delivering Council savings and ensuring better value for money
- Good supplier relationship management – we want to ensure good market management to ensure the best standards of care and support for people in B&NES
- Robust, agreed and fit for purpose contractual arrangements and good evidence of impact

3.3 Proposed procurement

There are several traditional procurements approaches, for example implementing a Framework, however we want to develop a consortium with our providers to enable us to design the service; and increase and stimulate the market together. We intend to take a phased approach as follows:

Phase 1 - we will establish the partnership, the service specification and the governance. Whilst this is a partnership, the Council will retain responsibility for the governance and delivering on the savings.

The principles remain of maximising independence, providing support closest to home, and limiting the reliance on high-cost care.

Phase 2 - starts with the commencement of a new contractual model. This methodology will result in a consortium approach; however, we recognise that we may be required to resort to traditional procurement methods.

3.4 We recommend a contract for 7 years, with an optional extension of 3 years, in order to work collaboratively on a long-term solution and provide stability for our providers. However, we do need to give consideration to the optimal contract length in relation to the financial envelope for the contract and risk. Therefore, we will look to agree the contract length with our providers during Phase 1 of the process. The contract will be in place at the start of Phase 2.

As the contract for this arrangement is likely to be of reasonable length, we will need to add in break clauses and performance management around non-delivery.

A consortia structure is where a group of providers join to form an enterprise beyond the resources of any 1 member. The consortia are jointly and severally responsible for the performance of the contract, in which case all members will sign a contract. A consortium is not a legal entity by itself – the interests, rights and duties of the consortium are supported directly by the legal entities of the members of the consortium.

The formation of a consortium may take longer than other procurement methods such as block contracts and frameworks on a sector-by-sector basis. However, this approach will result in effective market management that benefits from co-production, is flexible, adaptable and ensures a meaningful pathway of support for people and partners alike.

3.5 Estimated contract value

The estimated value of the contract for financial year 2021/22 is £471,574.

This is not new or additional funding. It is a proportion of Council revenue funding that we would routinely be expecting to spend. This estimated value is for 8 months' worth of new packages only, due to time needed for procurement.

For people receiving existing packages of care and support, these will be reviewed annually as normal and will move to the new model as appropriate. This will create further savings not identified. The estimated value of new packages for full financial year 2021/22 is £707,361. Using this estimated value of new packages over 12 months (£707,361), and a recommended contract length of 7 (+3) years, the contract value for new packages is estimated to be £4,951,527, rising to £7,073,610 over the full 10 years (if demand remains as is).

A proportion of the costs are Section 117 health funded. This is not new or additional funding but health funding that we would routinely be expecting to spend.

The value of the Section 117 health funding of new packages for 8 months of 2021/22 is estimated at £40,932.

Currently some of this is included in the estimated value of the contract (£471,574) as the review of Section 117 packages is ongoing, in accordance with the B&NES Section 117 Funding Partnership Policy and Guidance.

Using the above estimated value of new packages over 12 months (£61,399), and a recommended contract length of 7 (+3) years, the contract value for the health funded element is estimated to be £429,793, rising to £613,990 over the full 10 years. Again, this is included in the contract value for new packages estimated to be £4,951,527, rising to £7,073,610 over the full 10 years (if demand remains as is).

3.6 Calculation of purchase costs – Council budgets

We currently spot purchase all packages and placements for the services included in this procurement from Local Authority budgets KGB70 (mental health Complex Intervention Team) and KLB60 (mental health Bath Under 65). This is revenue funding. Most of the funding is from KLB60 (at least 90% of the total spend).

The budget for 2021/22 was published and approved by Council on the 23rd February; this proposal will be managed within the approved budget limits after considering inflationary uplifts and savings proposals.

Our estimated 2021/22 spend on the services in scope for this procurement (all packages of care and support) will be in the region of £2.5m.

We have arrived at this estimation by calculating the proportion of spend across the services in scope during 2018/19 and 2019/20 and for the 2020/21 published forecast; and applying this to 2021/22 estimated budgets.

This proposal will save £73,325 in 21/22. Further savings will be achieved as we move existing packages into the new model.

Therefore, we plan to spend £2,426,675 in total during 2021/22 on these services.

During full financial year 2021/22, we anticipate we will need to procure the following new packages, with estimated value:

Type of care and support	New packages required full year 2021/22	Estimated value
Specialist Independence at Home	We estimate needing to procure a total of 4,144 hours for 13 people (6.25 hours per week, avg package length of 51 weeks)	Estimated value of £83,626 (avg spot purchase rate of £20.18 per hour)
Supported living	17 placements, each lasting on average 35 weeks	Estimated value of £305,235 (avg weekly cost £513 per week)
Specialist residential care	7 placements, average length of stay 1 year	Estimated value of £318,500 (avg weekly cost of £875 per week*)
Total estimated value of new packages for 2021/22 = £707,361		
Total estimated value of proposed procurement for 2021/22 = £471,574 (Estimated as 8 months' worth of new packages due to procurement timeframes) This is not new or additional funding but a proportion of Council funding that we would routinely be expecting to spend.		

Please note that the average weekly cost for specialist residential care is the estimated cost we have least confidence in, and further analysis is needed through our Fair Price of Care exercise which is underway and due to be agreed and published before we begin Phase 1.

Using the above estimated value of new packages over 12 months (£707,361), and a recommended contract length of 7 (+3) years, the contract value is estimated to be £4,951,527, rising to £7,073,610 over the full 10 years.

3.7 Calculation of purchase costs – health budgets

A proportion of the costs we spend on the packages in scope are Section 117 health funded. As per the Council purchase costs, this spend is already committed with current packages.

If we take into account the time needed for procurement, the value of the Section 117 health funding of new packages for 8 months of 2021/22 is estimated at £40,932.

Using the above estimated value of new packages over 12 months (£61,399), and a recommended contract length of 7 (+3) years, the contract value for the health funded element is estimated to be £429,793, rising to £613,990 over the full 10 years. This is not new or additional funding but a proportion of health funding that we would routinely be expecting to spend.

3.8 Desired outcomes

The long-term desired output from the proposed procurement is a consortium which will enable us to stimulate and manage the market more effectively.

This approach will achieve a flexible, and outcomes-focussed system where people can move seamlessly along a pathway to independent living and reduce cost.

The desired outcomes for people are those as agreed by the B&NES Mental Health Collaborative:

- Outcome 1: Individuals with mental health needs are better able to manage their lives, are more resilient, and more engaged with their communities
- Outcome 2: Individuals with mental health needs are engaged in meaningful activities, courses, volunteering and work / work like opportunities which match their skills, interests and lifestyles
- Outcome 3: Individuals with mental health needs feel safe and secure at home and in their community
- Outcome 4: More people are aware of, and receive, their right and entitlements as individuals detailed under the Family, Friends and Carer's and Mental Health & Wellbeing Charter

Commissioning a Consortium will create cooperation between providers and commissioners with a mutual obligation to act in a way that is ‘best for people’ and not necessarily best for individual organisations only. By having a single Agreement, all parties will work to the same outcomes and will be committed to the same success measures.

4 STATUTORY CONSIDERATIONS

4.1 Legal considerations

Compliance with the following statutes and related guidance is mandatory:

- Care Act 2014
- The Care and Support statutory guidance
- The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014
- The Care and Support (Preventing Needs for Care and Support) Regulations 2014
- Mental Health Act 1983

Consultation must be carried out adequately and we must be able to show, we have fulfilled our Public Sector Equality Duty in the absence of this there is a rick of challenge and/or Judicial Review.

The procurement of services must be acceptable and suitable to meet the identified needs, failure to ensure suitable provision may lead to complaints by people, risk of harm and possible legal challenge.

The contracts entered into must be robust, have clear enforcement and breach clauses including provision for mediation and appeal, provide the correct care

and support and we must be satisfied the provider can and will meet our standards or care and support. Failure to ensure suitable contracting arrangements will lead to a failure of the project and an inability to provide the services required. All contracts should be overseen by Legal and signed off before they are executed.

4.2 Statutory responsibilities

We have statutory responsibilities under the Care Act 2014 and related Statutory Guidance which includes the promotion of individual wellbeing and the promotion of diversity and quality in the provision of services.

4.3 Link to strategic objectives and organisational priorities

The recommended procurement is a key action in our draft strategic mental health commissioning intentions and will ensure good alignment with the transformation of community mental health services moving forwards (this is a key deliverable of the NHS Long-Term Plan).

The need for a new approach is reinforced by the B&NES Mental Health Review when local people told us they want better integrated services.

This is on the list of Council Commissioning Intentions.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 Financial implications – the proposed procurement is about commissioning strategically using revenue funding which we already spend on packages.

5.2 HR implications – there may potential for TUPE implications with providers, depending on the nature of the Consortium achieved, which wouldn't be in place until the start of Phase 2.

5.3 Property implications – these are as yet unknown but possible if the current providers where we spot purchase property-based services do not wish to be part of the process – then we would be looking to providers acquiring / renting necessary properties.

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

The risk assessment will be updated quarterly, as a minimum, in order to assess and mitigate any risks across the whole timeframe of the commissioning activity.

The contents of this report links to risk BSW 32 "Mental Health" which is already recorded upon the Corporate Risk Register. The description of this risk is that the emotional wellbeing and mental health of the population may be impacted during the COVID19 -19 period. General service need is anticipated to increase, with the requirement potentially spanning 5+ years, this includes a continued increase in rates of crisis and suicide rates.

The risk implications in relation to the proposed procurement and mitigating actions in place are as follows:

	Risk	Mitigating actions
1.	The procurement is not properly managed and resourced from the appropriate functions across the Council and therefore does not keep to timeframes or achieve the desired outcome for people.	A working group is already in existence to oversee the project and includes representation from Council functions including procurement, legal, communications, finance, adult social care and children's social care. We have applied to recruit a part-time commissioning support officer to support the project through procurement and Phase 1 from Better Care Fund monies.
2.	Not enough providers wish to be part of Phase 1 and therefore the system approach doesn't cover the whole system OR too many providers are part of Phase 1 and therefore a Consortium is difficult to achieve.	Depending on the number of providers continuing to work with us as we approach the end of Phase 1a, we will look to either re-open the opportunity to the market OR build in a further submission of detailed solutions to ensure we have the right services available.
3.	The results of the Fair Price of Care exercise results in a cost pressure for these services.	We will be publishing estimated costings for Year 1 and Year 2 as part of the procurement, using our current analysis. The first draft of the report for the Fair Price of Care Exercise for Supported Living and Independence at Home is due to be published 26th March 2021 and for Specialist Residential on the 23rd April 2021. This exercise will then be used to determine uplifts with the specialist providers for 2021/22. We will then review our anticipated spend for 2021/22 and build this into the contractual model's financial envelope for Phase 2 and beyond.
4.	We are unable to achieve a consortium and therefore must consider contracting with a lead partner who then sub-contracts to other organisations. It is possible (though we would not aim for this) that we will need to contract individually with each provider – this would signal we have not achieved a whole system approach to the fullest extent.	During Phase 1b we will start to engage with providers who have formed collaborative arrangements and will work to identify the preferred consortium of providers, based on their proposed solutions and fit with the specification. The model of delivery will be further refined with the preferred consortium of providers. The formation of a consortium is aspirational and will take longer than other procurement methods such as

	Risk	Mitigating actions
		block contracts and frameworks on a sector-by-sector basis. However, this approach means we will end up with a co-produced, flexible, adaptable and meaningful pathway of support for people and partners alike.
5.	A national provider who is not currently delivering services in our area wishes to deliver the whole system and thereby erodes our VCSE. This could equally be the case for a larger local VCSE provider.	We will mitigate this risk through continuous co-production with both local and national providers; and through robust procurement mechanisms which will ensure we only take providers through into Phase 1 who meet our minimum requirements.
6.	Tension within the VCSE and beyond mean that working as a partnership during Phase 1 to explore solutions and test ideas and options is not successful.	Providers will be expected to work with us, as a partnership during Phase 1 to explore solutions and test ideas and options. Phase 1 will be governed through a written Principles of Participation document that sets out the specific terms of the working relationship. During Phase 1 the process will be overseen and guided by the Commissioner and we will create a leadership team responsible for implementing a system that ensures the appropriate and proportionate checks and balances are in place to deliver all the services within the scope of this specification.
7.	Our current Section 75 agreements may not adequately cover mental health commissioning arrangements.	This low risk because the CCG would never put a Section 117 package in place – this is Council arrangements. This will be added to the outputs required for Phase 1.

7 EQUALITIES

7.1 An Equality Impact Assessment has been completed and is included as appendix 1. This has been reviewed by the Corporate Equalities Officer who noted that we have inserted data about services users, which we then analyse in section 3. Missing data is a factor in relation to some protected characteristics including ethnicity, religion and sexual orientation – we have acknowledged this and included it in our action plan.

Several issues have been identified as a result of the assessment:

Issues identified	Actions required	Progress milestones	Officer responsible	By when
Improved recording of	1) To raise as an issue for	1) Improved recording to	Lucy Kitchener	1) April 2021 for 1st

Issues identified	Actions required	Progress milestones	Officer responsible	By when
equalities data with specific reference to: • equalities profiles of staff teams • pregnancy and maternity • transgender • disability • sexual orientation • marriage and civil partnership • socio-economic disadvantage • rural communities	social work teams to improve recording where the system allows 2) To build into the design phase to capture recording of full equalities data however possible	be determined at quarterly intervals through review of EIA data for this cohort 2) To be included in the outputs for phase 1 and monitored quarterly thereafter		quarterly review of EIA 2) If draft procurement timeline is agreed, this will be included in the spec for publication of ITT by 15 March 2021
Accessible and representative co-production	Build this in as a pre-requisite for the design stage (Phase 1) to ensure all equalities groups are represented, as far as possible	Mapping of potential ways to achieve robust co-production to be undertaken by Commissioning Co-production during Phase 1 to be reported on to the governance group for the procurement, quarterly	Lucy Kitchener	Mapping by 1st April 2021 Quarterly reports to commence Q3 2021/22
The need for a clear and accessible communication strategy to notify individuals of any changes that will affect them during implementation and signposting to advice and support as necessary.	Communication strategy to be developed by the working group overseeing the project	Communication Strategy in place and all necessary information available for officers	Lucy Kitchener	Once procurement agreed – by 1st April 2021
The need to monitor impact on protected characteristics	Continue to look for, and mitigate, any negative impact through regular update of this EIA.	Regular update of the EIA, no less than quarterly.	Lucy Kitchener	EIA to be approved by 1st April 2021 and then reviewed quarterly.

Issues identified	Actions required	Progress milestones	Officer responsible	By when
Amendments resulting from co-production with people with lived experience, carers and families	Consider all feedback received through co-production and ensure a fair and consistent policy is maintained. To be governed through the Engagement Working Group.	Policy to be agreed and timeframes for making amendments and reporting back to those giving feedback adhered to.	Lucy Kitchener	Policy and timeframes to be in draft by 1st April 2021.

8 CLIMATE CHANGE

8.1 The goal of this planned procurement is to improve the health and wellbeing of the population of B&NES, particularly people with mental ill health whom we know are profoundly impacted by global environmental change. We will require our partners to reduce their environmental impact as part of the tender process and focus on sustainable healthcare.

9 OTHER OPTIONS CONSIDERED

9.1 Do nothing.

We have rejected this option because to take no course of action would mean we cannot achieve value for money; our contractual arrangements will remain unfit for purpose; pathways of care and support for people with mental ill health are unlikely to improve; and we will not be able to work with partners to create the shape of services needed in B&NES now and in the future.

9.2 Procure through a block and / or framework contractual arrangement.

We have rejected this option on the grounds that nothing substantial is likely to change for people, for providers or for the Council and CCG if we take a standard procurement approach. Our analysis shows that putting a framework in place for independence at home services will create a cost pressure for the local authority. We believe we need to do something different, in partnership with our providers, to achieve better outcomes in the long-term and our soft market testing with local and national providers indicate that they wish to take the approach we are recommending.

10 CONSULTATION

10.1 The following parties have been consulted in preparing this report:

- Councillor Rob Appleyard, Cabinet Member for Adult Services, who raised the following points, which have been reflected in the reports:
    - There is an advantage to taking a single focus and we must look to manage the service to ensure best standards

    - We must reduce out of area provision as far as possible
    - We must ensure that the risks and rewards are clearly articulated
    - We must ensure that we can accommodate any increase in demand and build in capacity for when it is needed

- Andy Rothery, Director Finance (S151 Officer)
- Michael Hewitt, Director – Legal and Democratic (Monitoring Officer)
- Touchpoint Working Group which includes colleagues from commissioning, data team, finance, Legal, Communications, Virgin Care, AWP and children's and adult's social care.
- Council's Contracts Panel - members raised the following points, which have all been amended / added to the proposed procurement:
    - This work will need to be properly managed and resourced from the appropriate functions across the Council
    - Add agreement of contract management arrangements to the outputs for Phase 1
    - Need to consider appropriate contract length and how we manage any risks around non-delivery during the lifetime of the contract using break clauses, performance management and recovery planning
    - Add who the lead commissioner is for the arrangement on behalf of Council and CCG (given the health funded Section 117 element of these packages)
    - Be as clear as possible on the financial envelope for this project
- Council's Strategic Leadership Team – members raised the following points, which have all been reflected in the reports:
    - Further work is needed to provide clarity on the governance arrangements for a consortium and this will need to be considered and agreed by the appropriate governance processes prior to new contractual arrangements in Phase 2
    - We must consider how to assess and set out the risks to the commission over the whole timeframe of Phase 1 and Phase 2
    - We must ensure that our most vulnerable young people are considered and supported appropriately and in accordance with our Corporate Parent responsibilities
- Senior Managers
    - Debbie Forward, Senior Commissioning Manager, Specialist Commissioning, B&NES Council & BSW CCG

- Lesley Hutchinson, Director of Adult Social Care, Complex and Specialist Commissioning, B&NES Council
- Corinne Edwards, B&NES Chief Operating Officer, NHS BSW CCG

- People with lived experience & carer representatives

  We have engaged with patient and carer representatives throughout the Touchpoint Projects to date and will continue to do so as we move into procurement, during the Design phase of the Consortium and beyond.

  People with lived experience and carers have had an opportunity to comment on the Project Initiation Documents and the draft specification for the proposed procurement. These have been shared and we have amended accordingly.

- Provider Market

  Soft market testing and engagement with the provider market locally has been undertaken, with several providers showing great enthusiasm and dedication to working with us to get this right. Approaches are also being made to national providers who do not currently have a local presence to ensure a breadth of engagement and to encourage a healthy marketplace.

  We want to improve how we engage stakeholders, so they become partners in how we design, commission and deliver services. We do this by planning for co-production for all pieces of work within the specialist commissioning team.

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Background papers	*None*
Please contact the report author if you need to access this report in an alternative format	