

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	11th November 2021	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3324
TITLE:	Virgin Care Contract Extension – Options Appraisal	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Attachment 1: Options Appraisal – main report including appendices Attachment 2: Dashboard – performance and activity Attachment 3: Executive summary Attachment 4: Presentation		

1 THE ISSUE

- 1.1 B&NES, Swindon & Wiltshire Clinical Commissioning Group (BSWCCG) Governing Body and B&NES Council, as joint commissioners, have requested a report setting out an options appraisal to help decide whether it wishes to extend the Virgin Care contract.
- 1.2 This is a seven year contract from 2017/18 to 2023/2024 with the option for BSWCCG and B&NES Council to extend the contract term by three years, taking the contract term to 2026/2027. Virgin Care would need to be notified of the decision to extend or not to extend the contract by no later than end of March 2022.
- 1.3 The original contract expiration date is the end of contract year seven and this point is deemed to be an ordinary exit date with the option to extend for a further three years.
- 1.4 If a decision were taken to exercise the option to extend the contract term the Co-ordinating Commissioner (B&NES Council) must give written notice to Virgin Care no later than 24 months prior to the original expiry date (end of year 5 2021/2022 – March 2022 latest date). The option to extend the contract term by three years can only be taken once.

- 1.5 There is no financial penalty to be incurred by commissioners if the decision is taken to not extend the contract term for the 3 year extension period. Initial dialogue with Virgin Care has identified their commitment to securing the 3 year extension term and their intention (at this stage) not to renegotiate the financial terms of the funding from BSWCCG and B&NES Council for the 3 year term. Virgin Care have also signified a willingness to explore the option for the removal of some identified services from the contract if the extension is approved (option 3).

2 RECOMMENDATION

Cabinet is asked to;

- 2.1 Approve Option 3 - Extend the contract term for the 3 year period (until 31st March 2027) but with identified services removed from block contract and/or improvement trajectories for identified services and delegate to Suzanne Westhead, Director Adult Social Care (DASS) in consultation with Cllr Born, Member for Adult Services authority to serve notice to extend the contract once assured that the total price for the contract as varied is agreed and affordable.
- 2.2 Note that an extra-ordinary B&NES, Swindon and Wiltshire Clinical Commissioning Group (BSWCCG) Governing Body meeting has been convened for a decision to be taken on 11th November 2021, to ensure a joint decision is taken in public on the same day, for the recommendation of Option 3 - Extend the contract term for the 3 year period (until 31st March 2027) but with identified services removed from block contract and/or improvement trajectories for identified services.
- 2.3 Note the following risks:
- Contractual deadline of 31st March 2022 to inform Virgin Care of the decision to extend the contract for the 3 year term or not – limited time for slippage in the decision making process.
 - Consideration of the current contractual interdependencies between health care and social care commissioning and service delivery. The Council and CCG have a long history of integrated commissioning arrangements with a number of services which have jointly agreed service specifications to deliver integrated services, for example reablement.
 - As joint commissioners both B&NES Council and BSWCCG must agree on the option that is decided upon – if an agreement cannot be reached this will cause further delay in the decision making process.

3 THE REPORT

- 3.1 The full contract extension options appraisal report gives a very detailed and comprehensive overview of the performance of Virgin Care since being awarded the prime provide contract for the delivery of integrated health care, social care and public health services for the B&NES locality since April 2017 to enable a decision to be reached on whether to extend the contract for the three year term or not.

- 3.2 The full report gives information on the original decision to award of the contract to Virgin Care, services that make up the contract, financial value and performance, service performance over the lifetime of the contract, services identified for development, quality and service user experience, priorities against Your Care Your Way, contracting and governance, legal position, response to COVID-19, horizon scanning, options appraisal and recommendation. Attached is a slide deck of performance an activity of services identified for development (section 6 in the main report).
- 3.3 At the back of the full options appraisal report there are a number of appendices which contains more detailed information on the different community services and sub contracted services that make up the contract, report references for quality and service user experience, detailed overview of contracting and governance arrangements for assurance and monitoring of the contract, Community Wellbeing Hub activity and progress update against transformation priorities of Your Care Your Way. The supporting appendices are on pages 46-63 of the main report.
- 3.4 In addition to the full report there is also a presentation and a supporting executive summary to provide a shorter overview of the main points of consideration in the options appraisal and rationale for the recommended option.
- 3.5 The joint recommendation from the CCG and the Council is Option 3 - Extend the contract term for the 3 year period (until 31st March 2027) but with the identified services set out above removed from block contract and/or improvement trajectory for identified services. The jointly agreed recommendation has been made based on the following rationale:
- Overall Virgin Care are a good provider and services have been delivered well to meet the needs of the B&NES population. Virgin Care recognise the services that require transformation to meet the needs of the system as an established strategic partner coupled with clear expectations from commissioners on rigorous performance reporting and escalation protocols with the senior leadership team in Virgin Care.
 - The system remains under considerable pressure from the impact of COVID-19, extending the contract term will limit disruption in the system allowing for focus on response and recovery.
 - This is a period of significant change for the NHS and social care systems with the embedding of new Integrated Care System and B&NES Integrated Care Alliance from April 2022 and focussing on a re-procurement process would distract from this.
 - Changes in Council leadership and Cabinet member responsibilities (elections in two years) will enable the Council to take a longer term view on how social care services are best delivered to meet the needs of the B&NES population
 - Virgin Care have by mutual agreement, been open to discussions regarding the potential to remove services from the main contract, giving greater ownership and emphasis to commissioners over statutory functions.

- A re-procurement process would require significant capacity from both the Council and CCG and incur one off costs of approximately £965,000 and will require an approved funding source for both Council and CCG.
- There is no guarantee that another provider would, in the current climate be able to mobilise and run the contract within the current budget envelope which may result in further additional increased costs for the Council and CCG, additional costs of pension contributions could be considerable in this area when transferring into NHS or Local Authority. These costs will need to be planned for, deferring such decisions could result in a greater deficit in the future.
- Virgin Care have signalled that they will not renegotiate the existing financial terms of the contract for the remainder of the contract term if the extension term is granted. Potentially appointing a new provider would incur mobilisation costs and the baseline value of the contract could be higher. These costs will need to be planned for, deferring such decisions could result in a greater deficit in the future.
- Analysis of the market indicates there are very few providers who have the necessary experience of delivering integrated health care and social care services.
- Given the current system pressure due to the impact of COVID-19 it will be challenging at this time for any new provider to respond to a procurement process of this size and complexity.
- This approach allows the CCG and Council to wait for the final legislative changes on procurement and consider its future approach.

4 STATUTORY CONSIDERATIONS

- 4.1 The original Your Care Your Way Full Business Case November 2016 sets out how the procurement and decision making process for contract award to Virgin Care met legal and statutory duties.
- 4.2 The decision to extend for the three year term or not is a contractual requirement that must be completed prior to end March 2022.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The full options appraisal with associated disbenefits and benefits is in section 13 of the main report. Contained in the disbenefits and benefits of each option are the identified risks of each option. Contained in the disbenefits and benefits of each option are identified resource implications of each option.
- 5.2 The rationale for the joint recommendation of Option 3 - Extend the contract term for the 3 year period (until 2026/27) but with the identified services set out above removed from block contract and/or improvement trajectory for identified services, clearly outlines the consideration of resource implications within the recommendation to Cabinet and CCG Governing Body.

5.3 Virgin Care's original bid planned for overspends in the early years of the contract as a result of investment in transformation to support ongoing investment into the services, increasing demand and the annual efficiency requirement for

services of 1%. In 2017/18 the contract was £1.2 million overspent, in 2018/19 £1.4 million overspent and in 2019/20 £0.7 million overspent. Virgin Care absorbed these costs and anticipated that a balanced position would be achieved in 2020/21 but a contract underspend of £0.3 million for 2020/21 has been confirmed. A balanced position for 2021/22 contract year is currently being forecast by Virgin Care (reported at the August 2021 Finance and Information Group meeting).

5.4 The current contract value, Year 5, 2021-22 is £54,548m, the funding for which is split CCG £28,147m, Council £21,930m and Better Care Fund £4,471m. The Council funding is fixed with cost increases managed through Virgin Care's savings plans. The CCG and Better Care funding is subject to NHS annual uplifts applicable to provider contracts.

5.5 The employers National Insurance increase of 1.25% to fund the Government pledge of £36bn investment into Health and Social Care will have a financial impact on the contract. For the NHS element of the contract this increase will be fully funded as inflationary uplift as the funding will be passed down the NHS funding line from the department to the provider. For the Council element of the contract this is being planned for as a potential cost pressure for a pay inflation change that have been nationally mandated and we are awaiting further clarity on the implications for social care and public health.

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.

6.2 The full options appraisal with associated disbenefits and benefits is in section 13 of the main report. Contained in the disbenefits and benefits of each option are the identified risks of each option.

6.3 The rationale for the joint recommendation of Option 3 - Extend the contract term for the 3 year period (until 2026/27) but with the identified services set out above removed from block contract and/or improvement trajectory for identified services, clearly outlines the consideration of associated risks.

7 EQUALITIES

7.1 As with all contracts Virgin Care are monitored in terms of their compliance with equalities requirements. Further details can be provided if required.

7.2 The original Your Care Your Way Full Business Case November 2016 sets out how the procurement and decision making process for contract award to Virgin Care met legal and statutory duties.

8 CLIMATE CHANGE

8.1 The Council has declared a climate emergency and has resolved to enable carbon neutrality in B&NES by 2030. Virgin Care as part of the transformation of the service are putting in place mechanisms to reduce the impact of climate change such as mobile working, the integrated care record, multi-disciplinary teams and also multi-agency hubs; the Community Wellbeing Hub is a clear example of this.

9 OTHER OPTIONS CONSIDERED

9.1 The full options appraisal with associated disbenefits and benefits is in section 13 of the main report. This sets out the 3 options that have been considered and a supporting rationale for the recommendation of option 3.

9.2 The options appraised include:

Option 1: Extend the contract term for the 3 year period (until 2026/27)

Option 2: Do not extend the contract for the 3 year extension period and re-commission both community health care, social care and public health services

Option 3: Extend the contract term for the 3 year period (until 2026/27) but with identified services removed from block contract (i.e. CHC return to CCG and ASC safeguarding return to Council) and/or improvement trajectory for identified services.

10 CONSULTATION

10.1 As a joint report between B&NES Council and BSWCCG there has been extensive consultation and development of the options appraisal between the organisations as joint commissioners to produce the full report with supporting appendices and attachments to the main report.

10.2 The Virgin Care Contract Extension Options Appraisal has been discussed at the following informal meetings:

B&NES Locality Senior Leadership Team on 13th July 2021 & 14th September 2021

BSWCCG At Scale Commissioning Committee on 19th August 2021

B&NES Locality Commissioning Group on 2nd September 2021

BSWCCG Governing Body 16th September 2021 & 21st October 2021

B&NES Council SLT 6th October 2021

Contact person	<i>Claire Thorogood – Head of Contracting and Performance and Suzanne Westhead – Director of Adult Social Services</i>
Background papers	<i>N/A</i>
Please contact the report author if you need to access this report in an alternative format	