

Bath & North East Somerset Council			
MEETING/ DECISION MAKER:	Cllr Alison Born, Cabinet Member for Adult Services		
MEETING/ DECISION DATE:	On or after 17th July 2023	EXECUTIVE FORWARD PLAN REFERENCE:	
		E	3469
TITLE:	Community Services Transformation Programme – Update on Contract Arrangements for 2024/25		
WARD:	All		
AN OPEN PUBLIC ITEM			
List of attachments to this report:			
Equalities Impact Assessment Community Services Transformation Programme – Contracting Arrangements 2024/25 June 2023			

1. THE ISSUE

1.1. Ensuring the safe transfer of Public Health and sub-contracted Community Partner delivered services for an interim period of one year at the end of the existing contractual arrangement with HCRG Care Group on the 31st March 2024.

2. RECOMMENDATION

2.1. The Cabinet Member for Adult Services is asked to endorse the proposal for an interim arrangement for commissioning of the Community Health Contract, Public Health and Community Partners with the ICB as Coordinating Commissioner and the Council as Co-Commissioner for a one-year period from 1st April 2024. Services commissioned are to be delivered within approved policy and budget frameworks subject to approval of the ICB in July 23.

2.2. The Cabinet Member for Adult Services notes the intention of the ICB to continue the existing provision of services with HCRG Care Group for a 1-year period from 1st April 2024 to 31st March 2025, subject to formal ICB approval in July 23.

3. THE REPORT

- 1.1. Bath and North East Somerset Council (B&NES) and the Integrated Care Board (ICB) made a decision not to extend the HCRG Care Group contract for the three-year extension term in May 2022 (Non-extension Decision Ref: E3362). The Council completed a detailed options appraisal, and a decision was taken to transfer Adult Social Care (ASC) to B&NES Council (Transfer Decision Ref: E3393). The Council has been working with HCRG Care Group to ensure the safe transfer of adult social care services as of 1st April 2024. This will involve the transfer of c.281 staff into the Council to deliver Statutory Adult Social Work and Adults with Learning Disabilities and their Families services.
- 1.1. The Integrated Care Board (ICB) is considering how to ensure the safe transfer of adult and children's community health services and to allow sufficient time to undertake a complete service review and redesign. It is proposed that the ICB secure a series of interim contracts for Community Services with the existing providers: HCRG Care Group (B&NES and Wiltshire); Great Western Hospital; Wiltshire Health and Care; and Oxford Health. This will cover all age Health services across the Bath and North East Somerset, Swindon, and Wiltshire (BSW) areas. These would take effect from 1st April 2024 to 31st March 2025 in the form of a new interim contractual arrangement for 1 year and follows the legal advice provided to the BSW ICB.
- 1.2. The transfer of social care staff will take place at the end of March 2023 as planned, but the change to the ICB procurement timetable has affected B&NES Council's timing of the procurement of Public Health and Community Partner delivered services (these services are currently delivered or subcontracted by HCRG Care Group on behalf of the Council until 31st March 2024). Aligning with the interim arrangements proposed for a one-year contractual arrangement with HCRG Care Group would allow the Council to retain alignment of interdependent Public Health and ICB Children's and Adult's Health and Care services. This approach would also reduce the risks to Community Partners who have expressed concerns about decisions that have to be made by the end of Summer 2023 to mitigate organisational impacts.
- 1.3. The proposed new interim contractual arrangement upholds the non-extension decision taken on 26th May 2022 by B&NES Cabinet (Ref: E3362), and the Clinical Commissioning Group (CCG) Governing Body (now the ICB) to not exercise the option to extend the Integrated Community Services contract between B&NES Council, the ICB and HCRG Care Group as this contract terminates on 31st March 2024.
- 1.4. Inclusion in the interim arrangement is proposed for Public Health Services and services delivered by Community Partners.

- 1.5. The inclusion of the sub-contracted services, delivered by Community Partners ensures that they are treated equitably and there is no misalignment in the re-provision of sub-contracted services across BSW during this period. Under the interim arrangement the ICB would be the Coordinating Commissioner for sub-contracted services as well as Public Health services, with B&NES as Co-Commissioner.
- 1.6. The interim arrangement would involve B&NES continuing to fund Public Health services and services delivered by Community Partners, along with the continuation of the contributions towards Health Services to the ICB, with a total annual value of £12.8m.
- 1.7. The transfer of the directly delivered services of Adult Social Care (ASC) is unaffected and continues to be progressed (see Programme 1: Section 2).

2. STATUTORY CONSIDERATIONS

PROGRAMME 1: ADULT SOCIAL CARE REDESIGN AND COMMUNITY PARTNERS

- 2.1. The preferred option for ASC services is to transfer services to the Council in line with the standard operating model. This decision was presented as a Strategic Outline Business Case (SOC) and ratified by B&NES Cabinet on 10th November 2022 with work progressing on the further business case process (see Decision Reference E3393).
- 2.2. The three Community Partners who deliver sub-contracted services to support the Adults with Learning Disabilities and their Families Service would be included, along with all Community Partners within the interim arrangement.
- 2.3. The continuation of the existing service provision through an interim arrangement would provide a further year for the Council to deliver the service review and redesign for Community Partners, while enabling the Council to concentrate fully on the transfer of ASC services back to the Council by 1st April 2024. This will ensure the safe landing of the community care service provision for the residents of B&NES.

PROGRAMME 2: PUBLIC HEALTH

- 2.4. Public Health (Programme 2) includes the following services:

Service Line	Delivery (Prime/Sub-Contract)
Public Health Nursing Services	Prime directly delivered
Substance Misuse Services	Sub-Contract
Wellness Services	Prime directly delivered and some Sub-Contracts
NHS Health Checks	Predominantly Sub-Contract
Sexual Health Services	Sub-Contract
Children's Community Equipment	Sub-Contract

2.5. Public Health services that are provided through sub-contract arrangements delivered by Community Partners will remain within the interim arrangement as described above.

2.6. Public Health services directly delivered by the Prime (Public Health Nursing and Wellness), have undergone further exploration of the following two options:

- Remove from the ICB's proposed interim arrangement and the Council undertake a separate procurement to secure a new Council contract from 1 April 2024
- Services are part of the interim arrangement between ICB and HCRG Care Group for 2024/25

The outcome and recommendations are that both services are part of the proposed interim arrangements for 2024/25. This is because the threats and weaknesses of removing the commissioning of these services and procuring separately in 2023/24 are too great in comparison to the opportunities and strengths that such an approach would bring to our population.

PROGRAMME 3: INTEGRATED COMMUNITY BASED HEALTH SERVICES

2.7. The contractual arrangements for services which are currently in place across BSW necessitate that the scope of the Programme covers both adult and children's community health services. The ICB-led Programme 3 is designed to maximise the opportunity for transformation in the way these services are delivered and for partners to operate in a highly collaborative manner to address the specific needs of each area's own population through a place-based approach.

2.8. The ICB is not in a position to deliver the required planning and procurement actions to achieve the ambition for new and transformative contractual arrangements to be in place by April 2024, this is due to a number of reasons including the complexity of the proposed programme and the multi-partner approach required.

2.9. Continuation of service provision for a period of 12 months (13.5 months for GWH to provide consistency in end dates across the contracts) will allow sufficient time for a full business case process and procurement to be undertaken and a safe transition to new provider(s) to be achieved. This approach is important to ensure safe services, clinical effectiveness and/or patient experience during the period of transition into the new arrangements.

2.10. The ICB intention is to conclude negotiations around the interim contractual arrangements as rapidly as possible to ensure that a decision can be proposed to the ICB Board at its July 2023 meeting.

- 2.11. Impact on Quality: The approach will ensure continuity and quality of service is maintained.
- 2.12. Impact on Finance: The ICB is assuming that the existing annual planning assumptions are considered for 2024/25 and no cost pressures have been assumed.

3. RESOURCE IMPLICATIONS

- 1.1. The ICB as the Coordinating Commissioner will hold overarching responsibility for contract management and performance reporting for the duration of the interim arrangement. B&NES will be working with the ICB to agree a contract monitoring structure that ensures appropriate and robust governance is in place across the commissioning organisations to effectively manage the delivery of the services included within the new contractual arrangement.
- 1.2. The funding from the Council for the 1-year new contract arrangement will be from within existing ASC and Public Health budgets. The funding from the ICB will be from within the existing ICB budget for Community Services. The expectation from both the Council and the ICB is that the funding envelope for the new 1-year contract will therefore remain the same. The Council and the ICB will continue to work together, and if there are any implications of the proposed contract award (financial or otherwise), will use the existing policy and budget mechanisms to work through this jointly. The recommended course of action is subject to the financial contribution from the ICB and the contract remaining within the current scope of services and funding available.
- 1.3. The time provided by the interim arrangement will be used by the Council to work to ensure it is ready for the procurement requirements and to allocate resource to ensure the project teams are in place to effectively support the procurement of services delivered by Community Partners as of April 2025.
- 1.4. As there is already an existing governance structure in place for management and monitoring of the existing HCRG Care Group contract in B&NES, it is not expected that there will be any specific additional resource implication associated with the governance for the interim arrangement, over and above those identified in Section 8 to ensure that an appropriate Section 75/Collaboration Agreement is in place.
- 1.5. The Council has been advised that it will hold some procurement risk for the interim contractual arrangement to HCRG Care Group (alongside the ICB). However, both the Council's and the ICB's legal advisers have identified that this risk is low, and this is mitigated by both the proposed approach, and the short timescale of the interim contractual arrangement.

4. RISK MANAGEMENT

4.1. The key risks identified for B&NES are:

Key Risk	Mitigation
Service delivery costs must align with existing budgets.	B&NES is working closely with the ICB to ensure the cost of the interim arrangements remains within the existing budgetary envelopes.
12-month delay to the strategic transformation of services.	The proposal allows a further 12 months to review and assess the optimal long term transformational strategies.
Fair apportionment of any shared costs.	This will form a part of the contractual negotiation between both B&NES Council and the ICB with HCRG Care Group.
Procurement risk around the interim arrangement.	Legal guidance has been sought to mitigate against any potential procurement risks as far as possible for the duration of the interim arrangement.

LEGAL ADVICE

4.2. The proposal has been informed by the receipt of relevant legal advice provided to the ICB, focussed on the risks of the proposed interim arrangements and the mitigated actions that are being taken to address these risks. Whilst the ICB advice is subject to legal privilege, key officers in the Council who sit on relevant ICB forums have had the opportunity to review the advice provided.

4.3. B&NES has sought independent legal advice around the proposed interim contractual arrangement. This has identified that all services that would be delegated to the ICB would need to be included within a Section 75 Agreement. However, where services are to be jointly commissioned (which is the expectation), they could be covered by either a Section 75 or a Collaboration Agreement. This should reflect the funding arrangements, including details on risk sharing around under/over spend on any pooled funds, visibility around financial performance reporting and will identify the payment arrangements (some services are block payments and others are activity based).

4.4. Under the legislation in the Health and Care Act 2022 the ICB has the power to arrange for the provision of such services or facilities as it considers appropriate for the purposes of the health service that relate to securing improvement:

(a) in the physical and mental health of the people for whom it has responsibility, or

(b) in the prevention, diagnosis and treatment of illness in those people.

This enables the ICB to act as Coordinating Commissioner to secure the interim contractual arrangement, with B&NES Council as Co-Commissioner.

7. EQUALITIES

- 1.1. The impact on health inequalities and duties to those with protected characteristics under equalities legislation has also been considered and documented in fulfilment of the legal duties in these areas (see attached: Equalities Impact Assessment Community Services Transformation Programme – Contracting Arrangements 2024/25 June 2023).
- 1.2. No specific EIA issues have been raised as a result of the impact assessment carried out for the proposed new contract arrangement for 2024-2025 because the contract award does not change the service offer to residents.
- 1.3. Proportionate EIA's will review requirements in more detail within the Outline Business Case process for the Autumn 2023 decision on the procurement of services from 2025 onwards. The Council will complete EIA's for ASC Transfer, Community Partners and Public Health. The ICB will complete the EIA for Community Health services.

8. CLIMATE CHANGE

- 1.4. No changes are expected to the impact of the proposed new contractual arrangement for 2024-2025 on climate change as the contract award continues the existing service delivery arrangements for Public Health and Community Partner delivered services.

9. OTHER OPTIONS CONSIDERED

- 1.1. Consideration has been given around proceeding with B&NES Council's original timeline for the procurement of Public Health and Community Partner delivered services for 31st April 2024 as the council has made significant progress towards preferred delivery options for these services. However, as these have direct interdependencies with the ICB's community health services (Programme 3) and due to the timescales involved, alignment with the ICB's interim contractual arrangement is the preferred option.

10. CONSULTATION

- 10.1 An interim contractual arrangement that resembles as closely as possible the services included in the current integrated contract should not result in any significant change to the structure and arrangements of the service provision nor the scope of services provided and therefore is not expected to require further public engagement.
- 10.2 There is now a requirement for the ICB to enter into formal consultations with HCRG Care Group to determine the terms of the interim contractual arrangement, in which B&NES will be Co-Commissioner.

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Background papers	<ul style="list-style-type: none">• Non-extension Decision Reference E3362 26th May 2022• Decision Reference E3393 10th November 2022 These are available for inspection on B&NES Council website
Please contact the report author if you need to access this report in an alternative format	