
Report to:	Cabinet	Date of Meeting:	3 rd July 2015
Subject:	Contract Extensions for Public Health Services	Wards Affected:	All Wards
Report of:	Director of Public Health		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	No – Rule 27 Consent Received
Exempt/Confidential	No		

Purpose/Summary

To report a breach of the Council's Contract Procedure Rules.

To seek approval from Cabinet to ensure ongoing service provision of key public health services for a further 12 months, with effect from the 1st April 2015, for the following contracts:

- Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
- Smoking Cessation Medicine Management IT system for NRT;
- NHS Health Checks

To seek permission to re-commission the NHS Health Checks contract.

To note that officers will be undertaking reviews as detailed in the report.

The cost of full 12 month extension to include the above current contracts would be £722,200. The individual breakdown is as follows:

- £300,000 aligned to NHS Health Checks. Each of the 52 individual contracts is less than £9000.
- £410,840 for smoking cessation services NRT, CHAMPIX. The providers are Sefton Pharmacies of which all 76 deliver this service. Each pharmacy is individually contracted.
- £11,360 for the Smoking Cessation Medicine Management IT system. The provider is Webstar. This system is also used for sexual health, substance misuse and Care at the Chemist for medicines management.

Recommendation(s)

Cabinet is asked to:

1. Note the breach of Contracts Procedure Rules Rule 1.2.8.
2. Grant a waiver of the Council's Contract Procedure Rules with respect to the

contracts for:

- a) Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
 - b) Smoking Cessation Medicine Management IT system for NRT;
 - c) NHS Health Checks
3. Note that the contracts for the Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2) and the Smoking Cessation Medicine Management IT system for NRT will be re-commissioned and procured as part of the previously authorised Integrated Wellness Service.
 4. Authorise the Head of Commissioning Support and Business Intelligence and the Interim Director of Public Health to commission the NHS Health Checks Service for 2016/17 immediately. Such commissioning to be the subject of a further report to the Cabinet Members for Health and Wellbeing and Regulatory, Compliance and Corporate Services to confirm the process, the timescale and any other pertinent information.
 5. To note that a preliminary review is being undertaken by officers (Head of Commissioning Support and Business Intelligence supported by colleagues in Public Health) as to how these particular contracts have been allowed to lapse, resulting in a breach of the Council's contract procedure rules. This review will be reported to the Leader of the Council and will inform the basis for a more comprehensive review.
 6. To note that a comprehensive review will be led by the Head of Commissioning Support and Business Intelligence and reported to the Cabinet Member Regulatory, Compliance and Corporate Services to map current contract procurement processes across the Council, practice against those current processes and to review as appropriate to improve confidence and assurance into the Council's contract procurement processes. Such a review is to be completed and reported to the Cabinet Member no later than 1 September 2015.
 7. Note that the proposal is a Key Decision but had not been included in the Council's Forward Plan of Key Decisions. Consequently, the Leader of the Council and the Chair of the Overview and Scrutiny Committee (Adult Social Care) had been consulted under Rule 27 of the Access to Information Procedure Rules of the Constitution, to the decision being made by the Cabinet as a matter of urgency on the basis that it was impracticable to defer the decision until the commencement of the next Forward Plan because the continued provision of mandatory public health services would cease in the event of a delayed decision.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being	√		
5	Children and Young People	√		
6	Creating Safe Communities	√		
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

Reasons for the Recommendation:

This is due to:

- Officers must comply with the Council's Contract Procedure Rules (Chapter 11 of the Constitution section H rule 129). Under the Contracts Procedure Rules contract extensions must be dealt with in line with Rule 1.2.8. Extension of contracts with a value below the applicable EU Spend threshold will require the written approval of the Cabinet Member following consideration of a written report from the Service Director setting out a justifying business case. Variations shall only be granted in exceptional circumstances if it can be established that this will achieve Best Value for the Council. Cabinet Member approval was not sought. Extending the contracts for these particular services in this way will not breach EU procurement rules.
- The current contractual arrangements expired on the 31st March 2015.
- The services covered by these contracts make an important contribution to improving public health outcomes particularly in relation to cardiovascular disease and cancer and are included in the Council's public health responsibilities as outlined in the Health and Social Care Act 2012. The NHS Health Checks contract is a mandatory public health service.
- A 12 month extension of this particular contract will ensure that the service continues to be delivered during 2015/16. A new service specification will be issued with the 2013 Public Health contract for the 15/16 contractual term. These services are delivered by NHS providers; predominantly through Sefton's 52 General Practitioners.

- Preparation for procurement of the NHS Health Checks programme from 2016/17 onwards is currently being considered. Discussion will be initiated with the Clinical Commissioning Groups (CCG's) to explore integrated commissioning opportunities which will strengthen clinical governance, training and contract management arrangements.
- Each of these services sits within the umbrella of the new Integrated Wellness Service previously agreed at Cabinet. The smoking services will be procured as part of the Integrated Wellness Service procurement process. As the most appropriate provider of the NHS Health Checks service it is possible that local GPs will continue to deliver the service and there is a desire to explore integrated commissioning arrangements with the Clinical Commissioning Groups (CCGs). This service will be commissioned and procured separately, whilst ensuring an effective route is implemented from and to the Integrated Wellness Service.

Alternative Options Considered and Rejected:

1) Procure a new service

Retendering is a protracted process which would result in cessation of key public health services in the interim. Furthermore, alternative providers are very limited. Following contract expiration providers have continued to deliver services from 1st April 2015. Commissioning arrangements for 2016/2017 are currently being developed. The smoking cessation contracts will be included in the Integrated Wellness Service tender and discussions will be initiated with the Clinical Commissioning Groups (CCGs) to explore integrated commissioning arrangements for the NHS Health Checks programme.

2) Cease service delivery

Within the Health and Social Care Act 2012 Local Authorities are required to provide NHS Health Checks which are a mandatory Public Health service. The implications of deciding not to procure replacement services would be:-

- A reputational and financial risk to the authority by the potential failure to perform its statutory duty to deliver these services. In addition to potential litigation the Public Health Grant may be compromised as this could constitute a failure to meet the grant conditions.

What will it cost and how will it be financed?

(A) Revenue Costs -

The cost of the contract extensions will be met from within the Public Health budget allocated for this purpose. The funding for this provision is included within the Annual Revenue Budget.

There would be no additional in year costs with regard to the Council extending the current contracts.

However, recognising the uncertainty of future funding, the renewed contract paperwork makes it clear that the price agreed for the contract is subject to the ongoing availability of sufficient funding. In the event that during the contract period

the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner such that the contract price remains within the funding available.

(B) Capital Costs - there are no capital costs for this report.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial

The cost of full 12 month extension to include all current contracts would be £722,200. Any contract extension is subject to the ongoing availability of sufficient funding and this is built into the contractual arrangements. In the event that during the contract period the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation.

Cessation and or break in these services may result in failure to meet the Public Health Grant conditions.

Legal

These services are included in the Health and Social Care Act 2012. NHS Health Checks are specifically identified as a mandatory service.

Officers must comply with the Council’s Contract Procedure Rules (Chapter 11 of the Constitution section H rule 129). Under the Contracts Procedure Rules contract extensions must be dealt with in line with Rule 1.2.8. The relevant rule reads “Extension of contracts with a value below the applicable EU Spend Threshold will require the written approval of the Cabinet Member following consideration of a written report from the Service Director setting out a justifying business case. Variations shall only be granted in exceptional circumstances if it can be established that this will achieve Best Value for the Council”.

Cabinet Member approval was not sought.

Breach of the Constitution has to be reported to Cabinet.

At the time of writing the report, no European Law consequences have been identified. Should this situation change, then the Council’s Monitoring Officer may need to prepare a report in accordance with Section 5 of the Local Government and Housing Act 1989.

Human Resources

None

Equality

- | | |
|---|-------------------------------------|
| 1. No Equality Implication | <input checked="" type="checkbox"/> |
| 2. Equality Implications identified and mitigated | <input type="checkbox"/> |

3. Equality Implication identified and risk remains	<input type="checkbox"/>
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Impact of the Proposals on Service Delivery:

Extension of current contracts will ensure that there is no break in service provision thereby mitigating the impact on service users.

Public Health have been working to ensure that the extension times have been reduced as much as possible to avoid unsettling providers and service users and to ensure that mandatory services continue to be delivered effectively.

What consultations have taken place on the proposals and when?

Consultation for the Integrated Wellness Service, which includes all of the contracts referred to in this report, involved the CCG's and other health providers.

The Head of Corporate Finance & ICT has been consulted and comments have been incorporated into the report (FD 3648/15)

The Head of Corporate Legal Services has been consulted and comments have been incorporated into this report (LD 2941/15)

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

Background Papers:

There are no background papers available for inspection.

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1. Introduction/Background

- 1.1 The contracts referred to in this report expired on 31st March 2015. This has resulted in a constitutional breach which occurred as a result of both officer, and system, oversight, which was contributed to by changes in personnel, both within Public Health and Commissioning Support services. The specific circumstances and action required to prevent recurrence will be examined further by the reviews referred to below and in recommendations 5 and 6 of this report. In the interim providers have continued to deliver these services.
- 1.2 To address the above issues all public health contracts, which transferred during the transition to the Council, are currently being reviewed to specify the status of each contract irrespective of value. This is being done in conjunction with the Commissioning Support and Procurements team and as part of the wider review referred to in this report. The role of each team in the commissioning and procurement process is also being reviewed to ensure that any future oversight is eliminated.
- 1.3 These particular contracts were considered by Cabinet in January 2013 when it approved the extension of all public health contracts until 31st March 2014, as part of the transfer of Public Health from the NHS to the local authority. Cabinet considered these contracts again in December 2013 when it approved their further extension until 31st March 2015, to allow for the completion of a number of audits and reviews being undertaken. The preliminary review, outlined in paragraphs 1.2 and 6.1, will seek to understand what happened after that time.

2. Public Health Services

- 2.1 To ensure continued delivery of these services a 12 month contract extension is requested. The total cost of these three contracts is £722,200. The cost of the contract extensions will be met from within the Public Health budget allocated for this purpose. There would be no additional in year costs with regard to the Council extending the current contracts. The funding for this provision is included within the Annual Revenue Budget.
- 2.2 Local authorities have, since 1 April 2013, been responsible for improving the health of their local population and for public health services. Local authorities' statutory responsibilities for public health services are set out in the *Health and Social Care Act 2012*. Section 12 of the Act lists some of the steps to improve public health that local authorities and the Secretary of State are able to take, including:
- carrying out research into health improvement, providing information and advice (for example giving information to the public about healthy eating and exercise);
 - providing facilities for the prevention or treatment of illness (such as smoking cessation clinics);
 - providing financial incentives to encourage individuals to adopt healthier lifestyles (for instance by giving rewards to people for stopping smoking during pregnancy); and,

- providing assistance to help individuals minimise risks to health arising from their accommodation or environment (for example a local authority may wish to improve poor housing where this impacts on health).
- 2.3 There are specific duties and services outlined in Part 2 of the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (SI 2013/351) which describe the steps to be taken by local authorities in exercising their public health functions. Regulations 4 and 5 relate to the duties of local authorities to provide or make arrangements to provide for health checks for eligible people (depending upon age and health status).
- 2.4 The public health grant is provided to give local authorities the funding required to discharge these responsibilities.
- 2.5 The contracts referred to in this report relate to public health services described within the Health and Social Care Act 2012. These services have been delivered in Sefton, predominantly through primary care providers, including general practitioners and pharmacy. The contracts for these services expired on 31st March 2015. Cabinet is asked to approve a waiver to Contracts Procedure Rules and authorise a 12 month extension, with effect from the 1st April 2015, for the following contracts:
- Nicotine Replacement Treatment (NRT) and CHAMPIX medication for smoking cessation (intermediate smoking cessation service level 2)
 - Smoking Cessation Medicine Management IT system for NRT;
 - NHS Health Checks.
- 2.6 The extension to contracts will ensure that services continue to be delivered and that there is no cessation in the provision to service users.

3. Smoking Cessation in Pharmacy

- 3.1 Smoking is addictive with approximately 41,000 smokers in Sefton. Sefton smokers cost society an estimated £69million a year alone. Smoking is the leading cause of preventable death causing more preventable deaths nationally than obesity, alcohol, drugs, suicide, HIV and traffic accidents combined. Smoking prevalence is decreasing but smoking rates within our most deprived wards still remain high (29% in Linacre compared to 4.1% in Harrington) and smokers need and want help to quit. The recommended treatment model focuses on preventing relapse in the early stages of a quit attempt by providing treatments such as Nicotine Replacement Therapy (NRT) which acts by providing a 'clean' alternative source of nicotine that the smoker would have otherwise received from tobacco. The National Institute of Health and Care Excellence (NICE) advises that NRT and Champix should be recommended for use to stop smoking within the stop smoking service offer. These products have been rigorously evaluated and are extremely cost effective and efficacious.
- 3.2 The contracts referred to in this report support the delivery of the stop smoking service as they provide treatment for the clients accessing the stop

smoking support via Pharmacy. All 76 Pharmacies in Sefton provide this service and are individually contracted. This service includes provision of advice, screening and NRT prescribing. Within each contract there are three levels of service specification all of which include a combination of advice, screening and prescribing to varying levels of intervention. Pharmacies can choose to deliver one or all three levels of the service specification.

- 3.3 Webstar provide a medicines management IT system which supports the delivery of the stop smoking service. This system is also used for sexual health, substance misuse and Care at the Chemist for medicines management by the Clinical Commissioning Groups in pharmacies, the Integrated Sexual Health Services in Sefton (ISIS) and Lifeline.
- 3.4 The current provision is performing well, is meeting targets and has a good geographical coverage across the borough. Providing a 12 month contract would allow for market stability.
- 3.5 The cost of full 12 month extension to these contracts would be £422,200.

4. NHS Health Checks

- 4.1 The NHS Health Check programme is a mandatory public health service for adults in England which aims to prevent heart disease, stroke, diabetes, kidney disease and certain types of dementia. Everyone between the ages of 40 and 74, who has not already been diagnosed with one of these conditions or have certain risk factors, will be invited (once every five years) to have a check to assess their risk of heart disease, stroke, kidney disease and diabetes and will be given support and advice to help them reduce or manage that risk.
- 4.2 NHS bodies were instructed to begin offering Health Checks in 2009 and Sefton has commissioned and worked in partnership with all Sefton GP Practices, since this time, to invite those eligible to be screened every five years. Public Health continues to work in partnership with the CCG's through a joint Cardiovascular Disease Strategy Group and the Local Medical Committee to help improve uptake and implement best practices. In April 2013 the NHS Health Check became a mandated public health service in England.
- 4.3 The national service specification for NHS Health Checks includes a number of requirements for the call and recall of individuals for screening and clinical tests composite as part of the Check. Historically GP's have provided this service, ensuring good geographic coverage, access to patient data and opportunity for opportunistic screening to ensure optimum take up of the programme.
- 4.4 The cost of full 12 month extension to this contract would be £300,000.

5. Future Commissioning Arrangements

- 5.1 The smoking services referred to in this report are included within the remodelled Integrated Wellness Service (IWS), which was approved by

Cabinet in January 2015, as such the smoking cessation contracts will be included as part of the retendering process which is already underway. New contractual arrangements will be in place for 2016/2017.

- 5.2 Whilst part of the IWS pathway, as the most appropriate provider of the NHS Health Checks service it is possible that local GPs will continue to deliver this service and there is a desire to explore integrated commissioning arrangements with the Clinical Commissioning Groups (CCGs). The NHS Health Checks Programme will not be tendered as part of the Integrated Wellness Service commissioning process. To ensure that a new contract is in place for the NHS Health Checks Programme in April 2016 the commissioning process will be initiated subject to Cabinet approval. This will ensure that contractual arrangements are in place for 2016/17 and ongoing service provision safeguarded. A commissioning plan will be developed and presented to the Cabinet Member for Health and Wellbeing outlining the process which will include a review of the programme efficiency and efficacy to ensure value for money and best outcomes for service users. Discussion will also be initiated with the Clinical Commissioning Groups (CCG's) to explore longer term integrated commissioning opportunities to enhance clinical governance, training and contract management arrangements.
- 5.3 The financial position regarding the Public Health Grant may change. Recognising the uncertainty of future funding, the contracts will be clear that the price agreed for the contract is subject to the ongoing availability of sufficient funding and that in the event that during the contract period the Local Authority does not have sufficient funds to cover the price of the contract the Contractor will develop and agree a contract variation with the Commissioner such that the contract price remains within the funding available.

6. Reviews

- 6.1 In order to fully understand how these particular contracts have been allowed to lapse, resulting in a breach of the Council's contract procedure rules, and prevent future recurrence, a preliminary review is being undertaken by officers (Head of Commissioning Support and Business Intelligence supported by colleagues in Public Health) This review will outline what has happened in these cases; the lessons to be learnt; any immediate actions to be taken; and will further inform the scope and timescale for the more comprehensive review referred to below. The preliminary review will be reported to the Leader of the Council by 6th July 2015.
- 6.2 In order to prevent similar breaches in respect of other contract procurements and to improve confidence and assurance in the Council's contract procurement processes, a comprehensive review will be led by the Head of Commissioning Support and Business Intelligence. Whilst the scope of this review will be further informed by the preliminary review referred to above, it will include reviewing the information held in relation to contracts and commissioned services; mapping current contract procurement processes across the Council; assessing practice against those current processes; and

identifying necessary improvements to ensure assurance in our contract procurement processes. This comprehensive review will be completed and reported to the Cabinet Member Regulatory, Compliance and Corporate Services by 1st September 2015