



**Executive**  
19 August 2013

**Report from the Acting Director of  
Adult Social Services**

For Action

Wards Affected:  
ALL

**Authority to Tender Public Health Contracts**

**1. Summary**

- 1.1 This report puts forward proposals to retender the existing public health service areas currently under contracts which were transferred from the NHS to the Council on 1<sup>st</sup> April 2013. The current 28 contracts have a combined value of £13.09 million and will expire as of 31 March 2014.
- 1.2 The majority of public health services can be retendered locally through a framework agreement. However for the sexual health and children's contracts there is an intention to liaise with the WLA to discuss alternative collaborative procurement options.
- 1.3 This report requests approval to invite tenders in respect of a framework agreement as required by Contract Standing Order 88 and 89.
- 1.4 The report outlines a timetable for the proposed procurement process including a description of the extensions which would be required on current contracts to allow sufficient time for officers to complete the retendering process.

**2. Recommendations**

That the Executive:

- 2.1 Notes the approach to procuring services as set out in paragraph 3.6 to 3.16 of the report to include the establishment of a framework agreement consisting of four lots in respect of substance misuse, sexual health services, children's services and community services.
- 2.2 Gives approval for the pre-tender considerations and the criteria to be used to evaluate tenders as set out in paragraph 4.1 of the report in respect of the framework agreement detailed in 2.1 above.

- 2.3 Gives approval to Officers to invite tenders in respect of the framework agreement detailed in 2.1 above and evaluate it in accordance with the approved evaluation criteria referred to in 2.2 above.
- 2.4 Notes Officers intention to explore the possibility of collaboratively procuring sexual health services and children's services through the West London Alliance.
- 2.5 Gives approval to the extension of current public health contracts for the duration and on the terms detailed in the table at paragraph 3.16.
- 2.6 Notes Officers intention to explore the possibility of collaboratively procuring LES services (excluding breast feeding) through the West London Alliance.
- 2.7 Where Officers wish to collaboratively procure the services referred to in 2.4 and 2.6 above through the West London Alliance and the proposed lead authority is not Brent Council, give approval to the collaborative procurement and exempt the procurement from the normal requirements of Brent's Contract Standing Orders in accordance with Contract Standing Order 85(c) and 84(a) on the basis that there are good operational reasons as set out in paragraphs 3.14 to 3.15.

### **3. Detail**

- 3.1 The majority of the ring-fenced £18.3 million public health budget is spent on contracts with NHS, private and third sector organisations that deliver public health services.
- 3.2 In December 2012 the Executive approved a report on the public health contract transfer from the NHS. Members agreed that the majority of public health contracts would be extended and transferred from the NHS to the Council so that services continue in 2013/14 in line with the previous arrangements.
- 3.3 In total there are currently 28 contracts with external providers. These contracts will come to an end as of 31<sup>st</sup> March 2014. This report outlines a proposed process to procure these contracts.
- 3.4 This procurement process will be an opportunity to increase value for money through:
  - rationalisation of contracts where possible (thus reducing overheads and transactional costs)
  - improving outcomes by re-focusing on prevention and early intervention
- 3.5 Currently, £13.09 million is spent on contracted public health services with another £245k spent on non-contracted services through the DAAT (Drug and Alcohol Action Team) partnership. The vast majority of the public health contracts could be retendered under framework agreements. However there are some agreements which are specific to GP or pharmacists and which could not be provided by other, non-clinical providers, for example the insertion of intrauterine contraceptive devices.

For the purpose of this report, the retendering of public health services will be discussed under the following three headings:

- A. Contracted services under a framework agreement
- B. Specific spot purchase agreements with GPs or pharmacists
- C. Non-contracted services

### **3.6 Framework agreement**

- 3.7 The vast majority of Public Health services can be retendered under a multi-provider framework agreement consisting of the following lots:

- Lot 1: Substance misuse
- Lot 2: Sexual health services
- Lot 3: Children's services
- Lot 4: Community services

The current combined value of the contracts for services included in these four lots is £12.49 million.

- 3.8 The grouping of services into these four lots will enable a tender process leading to the appointment of multiple providers to each of the lots on the framework. There will be service types under each lot which will allow bidders to compete for one or more services in each lot. Following on from the establishment of the framework agreement the Council would still have the flexibility to reconfigure services, if required, through a mini-competition process against any amended specification. This may well be pertinent to areas such as prevention services for sexual health where a review of current service provision is underway.
- 3.9 The table below lists the current services with current values which would be included under Lot 1 (substance misuse). A single line has been created for prevention services for young people as it intended to rationalise current contracts so that a single provider works with young people across the whole spectrum of risk-taking behaviour including alcohol, smoking, sexual health and substance misuse. Smoking cessation contracts with external providers have also been included in this lot for convenience, as they can be procured through a framework agreement and need not be limited to GP or pharmacy providers.

**Table: Substance Misuse (Lot 1)**

| <b>Service</b>  | <b>Current Provider</b>                                | <b>Annual Value</b>       |
|---|--|---------------------------|
| Cobbold Road - Substance Misuse Treatment and Recovery Service  | Addaction  | £620,000                  |
| Outreach and Engagement Team for substance misuse (including alcohol)   | CRI  | £540,000                  |
| Clinical prescribing service for substance misuse   | CNWL NHS Foundation Trust                              | £2,000,000                |
| Counselling and Day Programme   | EACH   | £270,000                  |
| Criminal Justice provider for substance misuse  | Westminster Drug Project                               | £780,000                  |
| Alcohol Brief Interventions Project   | Compass  | £160,000                  |
| Young Peoples Prevention Service (proposed new service)<br><br>Current contracts include: <ul style="list-style-type: none"> <li>• Young Peoples Substance misuse</li> <li>• Teenage Pregnancy – condom distribution</li> <li>• Sexual health development - work to increase provision and take up of sexual health services from GPs in Brent</li> <li>• Teenage Pregnancy - work with vulnerable young people to prevent teenage pregnancy</li> </ul> | Addaction<br><br>SHOC<br><br>SHOC<br><br>African Child | £472,537 (combined value) |
| Stop Smoking Service (External providers)   | GPs/ Pharmacists                                       | £368,000                  |
| Smoking Cessation Database for external providers   | Sonar  | £20,000                   |

- 3.10 The table below lists the current services which have been grouped under Lot 2 (Sexual health). It should be noted that the GUM services are open-access clinics provided by a number of NHS Trusts. In addition to the local HIV prevention work carried out by CHAT, Brent also makes a contribution to pan-London HIV prevention work commissioned through Lambeth which primarily focuses on men who have sex with men. The pan-London HIV service is not included in this lot as Brent does not commission this work directly.

**Table: Sexual health (Lot 2)**

| <b>Service</b>   | <b>Current Provider</b>  | <b>Annual Value</b> |
|--|--|---------------------|
| GUM services: genitourinary medicine clinics – testing, diagnosis and treatment of sexually transmitted infections   | Various local NHS Trusts including NWLH, Chelsea and Westminster, and Imperial | £4,350,000          |
| Contraceptive services - provided across 3 sites in Brent; Wembley Centre for Health and Care; Willesden Centre for Health and Care and Hillside Medical Centre. | CNWL NHS Foundation Trust  | £712,000            |
| Contraceptive services – facilities cost for above   |  | £169,000            |
| Chlamydia Screening -provision of the national chlamydia screening programme office which co-ordinates the local programme for Brent, Hillingdon and Harrow.     | NWL Hospitals  | £150,000            |
| Chlamydia testing – testing of samples by pathology laboratory   | Doctors Laboratory based at NWLH   | £80,000             |
| HIV prevention – Local prevention work focusing on Black African communities at high-risk of HIV   | CHAT   | £100,373            |
| Database to support pharmacists deliver Emergency Hormonal Contraception   | Sonar  | £4,700              |
| Condoms distribution - contract for web-based distribution and stock ordering system.  | Therapy Audit  | £500                |

- 3.11 The table below lists the current services which have been grouped under Children's services (Lot 3). This currently includes the school nursing contract but from 2015/16 will also include the health visiting contract which will transfer to the Council. As both of these services are recent introductions to the public health portfolio the intention is to conduct reviews for both of these services prior to drawing up new specifications with a greater focus on prevention.

**Table: Children contracts (Lot 3)**

| <b>Service</b>                         | <b>Current Provider</b> | <b>Annual Value</b> |
|--|-------------------------|---------------------|
| School nursing contract                | Ealing ICO              | £1,474,000          |
| Health visitor contract (from 2015/16) | Ealing ICO              | £3,747,403          |

- 3.12 The table below lists the remaining contracts which have been bundled together under Community Services (Lot 4)

**Table: Community Services (Lot 4)**

| <b>Service</b>   | <b>Current Provider</b> | <b>Annual Value</b> |
|--|-------------------------|---------------------|
| Intensive Lifestyle Intervention – intensive lifestyle support delivered at local leisure centres for individuals identified as being at risk of developing diabetes | Ealing ICO              | £150,000            |
| Community weight management – offered to individuals who have been identified as obese by the Council's Health Checks programme.                                     | Slimming World          | £76,000             |

- 3.13 The above discussion outlines how these contracts might be re-tendered by Brent Council working independently of other boroughs; however there are also on-going discussions with the WLA on potential collaborative commissioning arrangements across North West London. These discussions are still at an early stage but there has been some initial interest from boroughs to work collaboratively on sexual health services and children's services in particular. Both of these areas include large NHS contracts where we share providers with other boroughs, for example our school nursing service is shared with both Harrow and Ealing.
- 3.14 Collaborative commissioning with other boroughs may be desirable in terms of both economies of scale, and also as it may provide greater leverage with providers to tailor contract specifications. However, the concern is that these WLA discussions are still at a very early stage and we can not be certain that the WLA will be able to deliver the re-procurement of contracts on a realistic timetable.
- 3.15 Therefore officers propose that the work with the WLA should be focused on the two areas which are of greatest potential benefit, namely sexual health (especially the large GUM and contraceptive services contract) and children's health. For both of these lots (2 and 3) it is proposed to extend current contracts for up to a further 10 months with a 6-month notice period. The extension will give the WLA up to eighteen months from now in which to agree a collaborative commissioning arrangement. Should the WLA not be able to deliver collaborative commissioning arrangements for these contracts over the next eighteen months, then the intention will be to call off the Framework for Lots 2 and 3 through the local framework agreement.
- 3.16 For substance misuse contracts (Lot 1) and community services contracts (Lot 4) it is proposed to proceed with the local framework agreement. Officers are recommending an extension of up to 6-months of these current contracts (with a 4-month notice period) to enable sufficient time to complete the procurement process. The following table below summarises the proposed process for each of the four lots:

|                               | Proposed Extension on current contracts | Proposed Notice Period on Extension | Process for retendering   |
|-------------------------------|---|-------------------------------------|---|
| Lot 1: Substance misuse       | Up to 6 months from 31 March 2014       | 4 months                            | Local framework agreement   |
| Lot 2: Sexual health services | Up to 10 months from 31 March 2014      | 6 months                            | Work with WLA on collaborative commissioning arrangement. However if unsuccessful the fall-back position is to use a local framework agreement. |
| Lot 3: Children's services    | Up to 10 months from 31 March 2014      | 6 months                            | Work with WLA on collaborative commissioning arrangement. However if unsuccessful the fall-back position is to use a local framework agreement. |
| Lot 4: Community services     | Up to 6 months from 31 March 2014       | 4 months                            | Local framework agreement   |

### **3.17 Spot Purchase Agreements with GPs and Pharmacists**

- 3.18 Local Enhanced Services ("LES") agreements are primary care contracts used to commission GPs or pharmacists to deliver services outside the scope of their core contracts. There are a number of inherited LES agreements with GP practices and pharmacists which will expire in March 2014 (see table at paragraph 3.20). For a number of these contracts there are clinical risk issues which mean specific services are best provided by locally registered GPs or pharmacists, for example the insertion of intrauterine contraceptive devices (IUCD) by GPs. For other agreements, at the moment, only GPs have access to the relevant Patient Identifiable Data (PID) required to deliver the service; this applies to both the NHS Health Checks LES and the breastfeeding LES. These issues currently limit the applicability of using a framework agreement for the retendering of these contracts.
- 3.19 Therefore officers propose to use either local Spot Purchase Agreements or to work collaboratively through the WLA to retender these contracts. However the latter option may not be feasible given that these contracts need to be retendered by

March 2014 as our understanding is that the Council can not extend LES agreements inherited from the NHS.

- 3.20 However the view of officers is that one of these contracts, the breastfeeding LES, does not offer value for money. This is a data collection LES which was put in place by the PCT to collect data on the breastfeeding status of infants at their 6-8 week check with the GP. The cost of this LES (£106k) makes it unsustainable as a contract to simply to collect data. Therefore the intention is to explore alternative methods of capturing local breastfeeding data and not to continue commissioning this through primary care. The current LES contracts are detailed below:

| LES Agreement                    | Total value of contract | Provider             |
|----------------------------------|-------------------------|----------------------|
| Chlamydia screening              | £48,561                 | General Practices    |
| IUCD                             | £91,759                 | General Practices    |
| Emergency Hormonal Contraception | £9,570                  | Community Pharmacies |
| Breast Feeding                   | £106,000                | General Practices    |
| Health Checks                    | £275,000                | General Practices    |

- 3.21 Prior to retendering these contracts the intention is to carry out a bench-marking exercise to ensure value for money and to also engage with both the Local Medical and Local Pharmacy Committees who will be required to be informed of this process.

### 3.22 Non-contracted services

- 3.23 The table below sets out the current non-contracted services which are within the 2013/14 DAAT budget with a total value of £245k.

| Service                      | Description  | Provider           | Value (£k) |
|------------------------------|--|--------------------|------------|
| B3                           | Substance Misuse - Service User Group and Project worker and Weekend Service   | B3                 | £70,000    |
| Residential                  | Residential 12-week placements for problematic drug and alcohol clients who are unable to complete community-based treatment programmes. | Independent sector | £130,000   |
| Recovery Champion Training   | Substance Misuse - Support for training programmes to enable service users to be engaged in abstinence-based peer recovery programmes    | B3                 | £25,000    |
| Parents with Children Budget | Substance Misuse -Support for parents to engage in service   | B3 and others      | £20,000    |



3.24 B3 is a local grassroots service user group comprising of former substance misusers who have successfully completed a local recovery programme. The group provides effective support services to new substance misusers entering into recovery programmes. B3's contribution has been a key reason for the high completion rates of our treatment programmes in Brent (the highest in London). This group is moving to be formally constituted as a charity. However in its current format B3 does not have the capacity or experience to engage with a formal tender process. Therefore in order to enable the group to develop further as an organisation and in line with the Adult User Engagement Strategy officers are of a view that the current arrangements continue, albeit on a contractual basis, with a further review to take place in 2015/16.

3.25 Residential Rehabilitation programmes for substance misuse are spot purchased to provide 12-week programmes that are abstinence-based and aim to build in a range of social skills including personal health and well being and prevent relapse. These spot purchases are approved by a Quality Assurance Management (QAM) panel in Adult Social Services. Therefore officers are of a view that the current arrangements for these placements continue with a further review to take place in 2015/16.

#### 4. Pre-tender considerations

4.1 In accordance with Contract Standing Orders 89 and 90, pre-tender considerations have been set out below for the approval of the Executive.

| Reference | Requirement                                 | Response   |
|-----------|---|--|
| (i)       | The nature of the service.                  | Framework Agreement for Public Health Services. Lots to be included in the framework Agreement are as follows:<br>LOT 1: Substance misuse<br>LOT 2: Sexual health<br>LOT 3: Children<br>LOT 4: Community services  |
| (ii)      | The future estimated value of the contract. | The approximate values of the contracts to be awarded through the framework agreement is £64,978,052 over 4 years being £16,244,513 per annum*<br><br>*Note this includes the value of the Health Visiting contract which will transfer to the council in 2015/16.   |
| (iii)     | The contract term                           | The Framework Agreement will run for 4 years.  |
| (iv)      | The tender procedure to be adopted.         | A two stage restricted tender process in accordance with the Council's Standing Orders 96 (c).<br><br>As Social Care transactions are 'Part B Services', under the Public Contract Regulations 2006 ("the Regulations"); the Regulations apply only in part to the tender namely, (adoption of a technical specification and forwarding a Contract Award notice) |
| (v)       | Proposed timetable                          | Indicative dates are:<br><br>Adverts placed:-  |

|      |                                     |   |
|------|-------------------------------------|---|
|      |                                     | <p>27.08.13</p> <p>Expressions of interest (Pre-Qualification Questionnaire) returned: -<br/>30.09.13</p> <p>Shortlist drawn up in accordance with pre-determined minimum standards as to financial standing and technical competence:-<br/>30.10.13</p> <p>Invite to tender:-<br/>01.11.13</p> <p>Deadline for tender submissions:-<br/>26.11.13</p> <p>Panel evaluation:-<br/>20.12.13</p> <p>Executive approval:-<br/>February 2014 (pending Executive date)</p> <p>Framework Agreement start date:<br/>01/03/14</p>   |
| (vi) | The evaluation criteria and process | <p><u>Stage 1: pre-qualification stage</u></p> <p>Shortlists would be drawn up in accordance with the Council's Contract Management Guidelines by a pre-qualification questionnaire (PQQ).</p> <p>The pre-qualification would test the capacity and capability of potential bidders as well as potential bidder eligibility to take part in the Procurement. This would include the following:</p> <ul style="list-style-type: none"> <li>• Subcontracting/consortia arrangements</li> <li>• Professional conduct</li> <li>• Economic and financial standing</li> <li>• Insurance</li> <li>• Resources</li> <li>• Quality assurance</li> <li>• Equality</li> <li>• Environmental</li> <li>• Sustainability</li> <li>• Clinical Governance</li> <li>• Carbon policy</li> <li>• Business continuity</li> <li>• Previous experience and references</li> </ul> <p>The outcome of this stage would be a list of pre-qualified bidders for the Procurement and a short-list of bidders to be invited to tender.</p> <p><u>Stage 2: Invitation to Tender (ITT)</u></p> <p>For those that would be selected by Stage 1 there will</p> |

|        |  |   |
|--------|--|---|
|        |  | <p>follow an Invitation to Tender (ITT) stage.</p> <p>Tenders will be evaluated on the basis of the most economically advantageous tender using the following criteria.</p> <p>1. Quality</p> <p>Quality will consist of 60% of the evaluation weightings. The quality assessment will be evaluated using the following criteria:</p> <ul style="list-style-type: none"> <li>• Ability to run effective and safe services</li> <li>• Patient satisfaction</li> <li>• Working together to secure best outcomes for health</li> </ul> <p>2. Price</p> <p>Price will consist of 40% of the evaluation weightings assessed through the application of a formula that underpins a proportional scoring which will award the maximum of 40% to the lowest priced tender</p> |
| (vii)  | Any business risks associated with entering the contract | No specific business risks are considered to be associated with agreeing the recommendations in this report.  |
| (viii) | The Council's Best Value duties                          | This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.  |
| (ix)   | Any staffing implications                                | See sections 8 below  |
| (x)    | The relevant financial, legal and other considerations   | See sections 5, 6, 7 8 and 9 below  |

## 5. Legal Implications

- 5.1 The Health and Social Care Act 2012 conferred powers on local authorities with respect to Public Health and other health related functions. From 1 April 2013, local authorities became responsible for the commissioning of public health services.
- 5.2 Officers wish to procure a framework agreement from which the majority of public health will be called off. The estimated value of the framework agreement over its 4 year term is in excess of £64 million and therefore the procurement and award of this framework agreement is subject to the Council's Contract Standing Orders and Financial Regulations in respect of High Value contracts.
- 5.3 The provision of public health services are classified as Part B Services under the Public Contracts Regulations 2006 ("EU Procurement Regulations") and as such are not subject to the full application of the EU Procurement Regulations (save that there must be a technical specification contained in the contract documents and on award of contract the Council must issue a Contract Award Notice in the OJEU within 48

days of award). The services are however, subject to the overriding EU Treaty principles of equality of treatment, fairness and transparency in the award of contracts.

- 5.4 Once the tendering process for the framework is concluded, Officers will report back to the Executive in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.5 For the reasons detailed in paragraph 3.6 to 3.8 the recommended approach is to extend the majority of contracts expiring by 31 March 2014 for the periods specified in the table at paragraph 3.16. This will enable a structured approach to the calling off of contracts from the framework agreement. Contracts to be extended are currently subject to the NHS terms and conditions of contract with minor standard council terms such as with regard to payment in arrears and the introduction of break clauses. It is proposed that these extended contracts will remain on the same terms and conditions subject to the introduction of a break clause of revised duration as detailed in the table at paragraph 3.16.
- 5.6 As detailed at paragraphs 3.13 to 3.15, Officers wish to liaise with the WLA regarding the possibility of procuring collaboratively sexual health services, Children's services and successor arrangements to LES agreements with GPs and pharmacists. Should such collaborative arrangements be preferred to the alternatives set out in the report, approval is sought to enter into such collaborative procurement arrangements. Under Contract Standing Orders 85(c) such collaborative procurements need to be tendered in accordance with Brent Standing Orders and Financial Regulations, unless the Executive grants an exemption in accordance with Standing Order 84(a). A request for an exemption under Standing Order 84(a) can be approved by the Executive where there are good operational and / or financial reasons.

## **6. Finance Implications**

- 6.1 On 10 January 2013, the public health grants for 2013/14 and 2014/15 were announced. Brent has been allocated £18.334m in 2013/14 and £18.848 in 2014/15. These are ring fenced grants to be spent on public health services for the local population of Brent which have been made under Section 31 of the Local Government Act 2003.
- 6.2 The public health grant allocation is ring fenced at present, however it is anticipated that the ring fence will be lifted post 2014/15. The council has not been advised what the grant allocation will be after 2014/15 and this needs to be taken into consideration when awarding any contracts for period longer than 1 year.

- 6.3 Whilst a lot of work has been undertaken between the Primary Care Trust and the authority to understand current public health spends, there is still a concern that two services areas are entirely demand-lead (sexual health and health checks) and current spend accounts for 25% of the total budget. This remains a risk to the council and is being closely monitored.

## **7. Diversity Implications**

- 7.1 The Council will need to comply with the Equality Act 2010 in the provision of Public Health Services. Where it is proposed to change any service then an Equalities Assessment will be carried out to identify the impact on any particular group and the mitigating steps that need to be taken before a final decision is made on implementation.

## **8. Staffing/Accommodation Implications**

- 8.1 The services are currently provided by a number of external contractors and there are no implications for Council staff or accommodation arising from the tendering of the framework or arrangements with GPs and pharmacists.
- 8.2 It is anticipated that if contracts are subsequently called off from the framework agreement and an external contractor other than the incumbent is successful, then the Transfer of Employment (Protection of Employment) Regulations 2006, ("TUPE") is likely to apply so as to transfer from the current to the new contractor those employees of the current contractor who spend all or most of their working time on the activities taken over by the new contractor.

## **9. Public Services (Social Value) Act 2012**

- 9.1 Since 31st January 2013, the council, in common with all public authorities subject to the EU Regulations, has been under a duty pursuant to the Public Services (Social Value) Act 2012 to consider how the services being procured might improve the economic, social and environmental well-being of its area; and how, in conducting the procurement process, the Council might act with a view to securing that improvement; and whether the council should undertake consultation. This duty applies to the procurement of the proposed contract as Part B Services over the threshold for application of the EU Regulations are subject to the requirements of the Public Services (Social Value) Act 2012.
- 9.2 The services being procured have as their primary aim improving the social and economic well being of some of the most disadvantaged groups in Brent. Users are regularly consulted to ensure the services meet their needs and the views of users will be taken into account in procuring services.

- 9.3 There is a limited market for the delivery of these services; however, officers will endeavour to describe the scope of service in such a way as to further meet the requirements of the Act during the procurement process

Contact Officers:

Imran Choudhury

Consultant Public Health Medicine

Tel: 020 8937 1980

Email: [Imran.choudhury@brent.gov.uk](mailto:Imran.choudhury@brent.gov.uk)

Andy Brown

Head of Substance Misuse

Tel: 020 8937 6342

Email: [Andy.brown@brent.gov.uk](mailto:Andy.brown@brent.gov.uk)

PHIL PORTER

Acting Director Adult Social Services