

Cabinet

Report Title	Collaborative Working Agreement – Sandwell Public Health & Sandwell and West Birmingham NHS Trust
Date of Meeting	Wednesday, 10 September 2025
Report Author	Consultant in Public Health, Liann Brookes-Smith
Lead Officer	Frances Howie Interim Director Public Health
Lead Cabinet Member(s)	Cabinet Member for Adult Services, Health and Wellbeing: Jackie Taylor
Why is this a key decision?	1. Expenditure over £1 Million+ Yes. 2. Significant impact on 2 or more wards Yes.
Wards Affected	All (All Wards);
Identify exempt information and exemption category	3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information) and includes contemplated, as well as past or current activities. (Appendix 1 only)
Is the report urgent?	No
Reasons for urgency (only where applicable)	N/A
Appendices (if any)	1. Financial expenditure limits for new contract

1. Executive Summary

- 1.1 The report sets out proposals to negotiate and agree a new 'Collaborative Working Agreement' contract between Sandwell Council and Sandwell and West Birmingham NHS Trust for a range of public health services, whilst relying on a Common Law Contract position in the interim.

2. Recommendations

The Cabinet is recommended to:-

- 2.1 Delegate authority to the Director of Public Health in consultation with the Cabinet Member for Adult Services, Health and Wellbeing together with the Executive Director Finance and Transformation and the Monitoring Officer, Service Director - Governance to negotiate and enter into a 'Collaborative Working Agreement' contract with Sandwell West Birmingham NHS Trust on terms to be agreed for the provision of a range of public health services within the financial expenditure limits set out in Appendix 1 to this report.

3. Proposals – Reasons for the recommendations

- 3.1 A 'Collaboration Agreement' (the Contract) was first entered into by the Council and NHS Trust in 2016, effective from 01 October 2016. The Contract includes a range of community public health services, initially comprising –
 - 3.1.1 Health Visiting.
 - 3.1.2 Sexual Health Services.
 - 3.1.3 Best start in life Health visitors.
- 3.2 The Contract was entered into in accordance with authority granted through a Cabinet decision dated 23 March 2016 with an initial duration of 4 years with renewal due by 30 September 2021.
- 3.3 Cabinet approval was given on 9 December 2020 to renew the Contract, with the new Contract (existing terms and conditions) to take effect from 1 October 2021. A review of the Contract at that point identified the need for revision to mitigate the risk of external legal challenge: a temporary 4-month extension was therefore agreed to allow the necessary revisions to be made. The revised Contract took effect from 01 February 2022, with a duration of up to 4 years and 8 months.
- 3.4 Authorisation for the Contract provided for an initial 2-year and 8-month duration covering the period 01 February 2022 to 30 September 2024, with an option to extend for a further 2 years to cover the period 01 October 2024 to 30 September 2026. Authority to exercise the option to extend was delegated to the Director of Public Health.
- 3.5 A delegated decision was made by the Director of Public Health on 30 September 2024 to exercise the 2-year extension option. Concurrent with the decision being made to extend the Contract, the Director of Public Health was negotiating with the NHS Trust to vary the range of services covered. This resulted in a further report to Cabinet dated 16 October 2024, delegating authority to the Director of Public Health to –

- 3.5.1 Increase the budget for existing services specified within the Collaboration Agreement as detailed in that report.
 - 3.5.2 Vary the services specified within the Collaboration Agreement to include the Child Vision Screening service, additional Early Help administrative support, breastfeeding enhanced support and remove the infection control doctor contribution.
 - 3.5.3 Increase the Council's financial contribution under the Agreement in line with current inflation to a maximum of 10% of the contract value.
 - 3.5.4 Extend the Agreement for an additional 6-month period – beyond the current term, from 01 October 2026 until 31 March 2027.
- 3.6 The option to extend the Contract through the delegated decision of 30 September 2024 was not exercised in time, notwithstanding the in-principal agreement of both parties and extended ongoing negotiations over the future scope of services and financial costs moving forward.
- 3.7 Services have continued to be provided by the NHS Trust covered by the now expired Contract dating from 01 February 2022, relating to –
 - 3.7.1 Health Visiting;
 - 3.7.2 Sexual Health Services;
 - 3.7.3 Best Start in life Health visitors; and
 - 3.7.4 Health Protection Infection Control Doctor (ICD).
- 3.8 As both parties have continued to complete their obligations under the now expired Contract, the ongoing provision of services has become what is known as a Common Law Contract.
- 3.9 Delegated authority is sought for the Director of Public Health to continue negotiations with the NHS Trust and to reach agreement for the terms of a new 'Collaborative Working Agreement' contract.
- 3.10 Authority is sought for the new contract to cover some of the original services, comprising:
 - 3.10.1 Health Visiting;
 - 3.10.2 Best Start in life Health visitors;
 - 3.10.3 Breastfeeding support; and
 - 3.10.4 Sexual Health Services.
- 3.11 In addition, this report seeks authority to increase the provision of sexual health services and to extend the scope of services covered to include Child Vision Screening (previously in the school nursing contract) together with a range of programmes delivered within family hubs:

- 3.11.1 Infant feeding; and
- 3.11.2 Early help administration.
- 3.12 Provision for the Health Protection Infection Control Doctor will be removed through the new contract.

4. Alternative Options Considered

- 4.1 **Option 1: Continue and conclude negotiations for an expanded 'Collaborative Working Agreement' contract whilst relying on the current Common Law position.** The Council may seek to conclude negotiations at the earliest opportunity for a new 'Collaborative Working Agreement Contract', with authority delegated to the Director of Public Health to conclude this negotiation and enter into agreement. This would allow for a potential extension of the scope of services covered, whilst continuing to rely on the existing Common Law Contract position for the shortest period possible. This option is recommended and is the subject of this report.
- 4.2 **Option 2: Retender the Services immediately.** The Council could retender for the services through a competitive process. This option would require an extended period to complete the procurement process during which time the Common Law position would be relied upon, meaning that additional services and improvements could not be made. This option does not provide opportunity for the most efficient commissioning of services and therefore dismissed.

5. Consultation

- 5.1 Consultation with internal stakeholders remains ongoing to ensure the most effective model for service provision can be achieved.

6. Financial Implications

- 6.1 Details of the proposed expenditure limits for services proposed to be included within the new Contract are set out in the Exempt Appendix 1 to this report. These expenditure limits represent the ceiling value for each service against which the Director of Public Health through this report would be allocated delegated authority to negotiate and enter into agreement for, in consultation with the Executive Director Finance and Transformation and the Monitoring Officer, Service Director - Governance.

6. Legal and Governance Implications

- 6.1 The Council and NHS Trust did not complete the actions required to extend the Contract beyond 30 September 2024 prior to that date. The written Contract therefore expired. Whilst both parties expressed an intention to be bound by the expired Contract's obligations, they did not complete the

required actions in time or in a compliant form in time to take effect. The NHS Trust has continued to provide the services commissioned by the Council across the same suite of public health activity. The Council has accepted this continued provision.

- 6.2 It is reasonable to conclude that both parties accept each has obligations towards the other. That services have continued to be provided in the same form as before by the NHS Trust and accepted by the Council, it is reasonable to imply that the terms and conditions from the now expired Contract apply as a Common Law Contract. This then places a legal obligation on the Council, having received services under the Common Law Contract, to make payment.
- 6.3 In relation to the duration of the Common Law Contract, both parties had sought to exercise the option to extend the expired Contract for a period of up to 2-years commencing 01 October 2024. It is reasonable to imply that a Common Law Contract exists with a duration of up to 2-years with effect from 01 October 2024 and concluding 30 September 2026.
- 6.4 Delegating authority to the Director of Public Health to conclude negotiations and agree a new 'Collaborative Working Agreement' contract at the earliest opportunity will allow both parties to agree a revised scope of services and financial envelope, noting that whilst the Common Law Contract position continues until 30 September 2026 the replacement of this agreement with a new formal contract is required. Any contract once agreed will supersede the current Common Law Contract position.

7. Risks

- 7.1 Both parties face potential additional risk through reliance on a Common Law Contract position. However, case law, custom and practice establish sufficient precedence when combined with the terms and conditions of the previous contract to allow this arrangement to operate, subject to negotiation being prioritised to complete a new contract.
- 7.2 Financial risk of paying significant invoices without contractual coverage. However, these are lower due to the type of agreement that stands.
- 7.3 Mitigation:
 - 7.3.1 Regularising service provision through a formal contractual arrangement underpinning the agreement protects both parties, ensures robust governance and mitigates risk.
 - 7.3.2 Appropriate delegated authority and Cabinet approvals sought through this report will ensure appropriate governance arrangements are in place.

8. Equality and Diversity Implications (including the public sector equality duty)

- 8.1 All services in the agreement are key to reducing health inequalities and are universal with targeted elements for vulnerable populations.
- 8.2 Sexual Health: Ensures open-access provision irrespective of background, supporting protected characteristics, particularly age, gender, sexual orientation, race, and disability.
- 8.3 Health Visiting/ Best start: Safeguards provision for families with higher vulnerabilities, including those with SEND needs, poverty, and young parents.
- 8.4 An Equality Impact Assessment (EIA) was completed in 2024 to confirm continuation of equitable access and provision. Supports compliance with the Equality Act 2010 and Public Sector Equality Duty.

9. Other Relevant Implications

9.1 Health and Wellbeing:

- 9.1.1 Direct positive impact on population health outcomes through:
- 9.1.2 Delivery of mandated Healthy Child Programme 0-5 (Health Visiting)
- 9.1.3 Continuation of open-access sexual health services reducing STIs, unplanned pregnancies, and supporting early intervention.
- 9.1.4 Protects preventative services critical to reducing future demand on NHS and Council services.

9.2 Social Value:

- 9.2.1 Supports local NHS workforce, including apprenticeships, clinical placements, and employment stability.
- 9.2.2 Delivers wider system benefits through early intervention, reducing reliance on higher-cost acute services.
- 9.2.3 Indirectly contributes to local economy through continued NHS service provision in Sandwell, supporting families, supporting children and building a more integrated service going forward.

9.3 Corporate Parenting:

- 9.3.1 Health Visiting plays a critical role in safeguarding children, identifying vulnerabilities, and supporting families in care proceedings. Continuity of service ensures the Council meets its Corporate Parenting responsibilities through effective safeguarding and early help pathways.
- 9.3.2 Sexual Health services contribute to reducing teenage conceptions and supporting looked-after young people with access to confidential advice.

11. Background Documents

- 11.1 09 December 2020 Cabinet Meeting – Permission to extend the agreement
- 11.2 29 September 2021 Cabinet Meeting – Further approvals due to legal advice
- 11.3 16 October 2024 Cabinet meeting – Variation of the Collaboration Agreement with Sandwell and West Birmingham Hospitals NHS Trust

12. How does this deliver the objectives of the Strategic Themes?

- 12.1 The proposals set out in this report will help support delivery against the following strategic objectives:

- **Growing Up in Sandwell:** The Collaborative Agreement supports the delivery of the Healthy Child Programme 0–5 through health visiting services, giving children the best start in life. Early identification of developmental and safeguarding needs helps reduce long-term health inequalities and supports school readiness, ensuring every child has a strong foundation for learning and development. Investment in infant feeding and breastfeeding support further promotes healthy growth and parent-child bonding.
- **Living in Sandwell:** The agreement ensures the continued delivery of open-access sexual health services for residents of all ages, enabling people to make informed decisions about their health in a safe and confidential environment. These services play a vital role in safeguarding, promoting resilience, and helping individuals maintain control over their health and wellbeing, particularly in vulnerable or underserved communities.
- **Healthy in Sandwell:** Through the delivery of statutory public health services, Health Visiting and Sexual Health, the agreement contributes directly to improved health outcomes and reduced inequalities. It enables early intervention, prevention of more serious conditions, and ongoing support tailored to local needs. These services are integral to Sandwell's ambitions to create a healthier population and address longstanding health disparities.

To be completed if you do not need an Equality Impact Assessment.

Relevance Check

Service Area:

Service Lead

Date:

In what ways does this change have an impact on an outward facing service? How will the service feel different to your customers or potential customers?

N/A

If not, how does it impact on staff e.g. redundancies, pay grades, working conditions? Why are you confident that these staff changes will not affect the service that you provide?

N/A

Is a Customer Impact Assessment needed? No