

Slough Borough Council

Report To:	Cabinet
Date:	18 th September 2023
Subject:	UPDATE: Re-commissioning of Berkshire East Specialist Integrated Sexual and Reproductive Health Service
Lead Member:	Cllr Anna Wright, Lead Member for Social Care and Public Health
Chief Officer:	Marc Gadsby, Executive Director People - Adults
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Ward(s):	All
Key Decision:	YES
Exempt:	Public with exempt appendices. The appendices are exempt under paragraph 3 and paragraph 5 of Schedule 12A of the Local Government Act 1972 because they contain confidential information relating to the financial and business affairs of Slough Borough Council and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
Decision Subject To Call In:	YES
Appendices (all exempt):	<u>Appendix 1: Contract Financial Information</u> <u>Appendix 2: Options Appraisal</u> <u>Appendix 3: Legal and Procurement Implications</u>

1. Summary and Recommendations

- 1.1 On the 17th April 2023, Cabinet approved recommendations regarding the re-procurement of the Berkshire East Specialist Integrated Sexual and Reproductive Health (SRH) Service.
- 1.2 Due to a number of commercial and market issues identified during the market engagement undertaken since April 2023 by the joint commissioning authorities, the joint commissioning authorities wish to enter into a short term contract for 2 years to undertake further, more robust, market engagement. This will enable the joint commissioning authorities to develop a longer term procurement strategy and process that will enable the procurement and award of a longer term, redesigned sexual and reproductive health service that better meets the future needs of the joint commissioning authorities and local communities. This strategy for the recommissioning process is likely to be impacted by the Provider Selection Regime (PSR) which is likely to be in place before July 2026 and is expected to offer increased flexibility to the joint commissioning authorities when arranging healthcare services.
- 1.3 The purpose of this report is to brief Cabinet on the work undertaken since the April 2023 Cabinet resolution to secure continuation of Specialist Integrated Sexual and Reproductive Health (SRH) services and to seek approval for the revised process needed to achieve this.

Recommendations:

Cabinet is recommended to.

- a) Approve a maximum if a two-year contract award from 1 July 2024 to an eligible provider of Specialist Integrated Sexual and Reproductive Health (SRH) service provision as an interim continuation of joint commissioning arrangements across Berkshire East.
- b) Delegate authority to the Executive Director People - Adults in consultation with the Executive Director of Finance and Commercial and the Lead Member for Social Care and Public Health, to sign all related legal and contractual documentation to enter into the interim contractual arrangement referred to at (a) above.
- c) Agree that Slough Borough Council in consultation with Bracknell Forest Council and the Royal Borough of Windsor and Maidenhead, commence procurement for future sexual and reproductive health services that better meet the future needs of local communities.

Reason:

- 1.4 The contract for the specialist SRH service for residents in the local authorities across Berkshire East is due to expire on the 30th June 2024.
- 1.5 The recommended approach agreed by all local authorities was to retender under the light touch regime of the Public Contracts Regulations 2015 (the Regulations). However for the reasons set out in Appendix 2, there is a need for a short term arrangement pending a longer term procurement process. Authority is sought to enter into a short term contract, maximum of 2 years, in accordance with the

confidential appendices and to commence procurement, led by Bracknell Forest Council, for a longer term solution to meet the needs of the local community.

Commissioner Review

Commissioners have reviewed this report and have no specific additional comments.

2. Report

Introductory paragraph

2.1 Background:

- 2.1.1 In England, SRH services are commissioned to reduce harm caused by sexually transmitted infections (STIs) and HIV and provide access to contraceptive advice and services. Services also act as safeguarding and supportive points of contact to help protect those experiencing or at risk of abuse and help people manage their sexual and reproductive wellbeing.
- 2.1.2 Responsibility for commissioning most SRH services is mandated to local authorities, although some SRH commissioning is held by NHS commissioners (Integrated Care Boards (ICBs) and NHS England).
- 2.1.3 Nationally most SRH service models deliver the bulk of the local authority commissioned elements through specialist SRH service providers. These providers have the facilities and staff mix needed to deliver services such as Genitourinary Medicine “GUM” (including diagnosis and treatment of sexually transmitted infections) and specialist elements of reproductive health care (RHC). These are intricately linked to wider structures and services that address SRH needs such as contraceptive services in primary care.
- 2.1.4 An effective specialist SRH service will assist the Council in its strategic commitments to deliver the best value for taxpayers and service users and helping residents live more independent, healthier, and safer lives.
- 2.1.5 The Council has commissioned its integrated specialist SRH services through joint arrangements in Berkshire for over ten years, the local authorities in the area commissioned a single provider through a joint commissioning process. Following the change in public health governance arrangements for Berkshire in 2019, this continued but, on a Berkshire East, and Berkshire West arrangement, mirroring the Clinical Commissioning Group geographies at the time. The current commissioning geography for the service is coterminous with the Berkshire East geographies of the Frimley Integrated Care Board boundaries.
- 2.1.6 The contract with the current specialist SRH provider has been in place since the 1st July 2019 and the contract is managed by the Berkshire East Shared Public Health team. The contract expires on the 30th June 2024. Despite efforts by officers, it has not been possible to procure a longer term contract to run from June 2024 and therefore it is recommended that a short term arrangement is entered into pending the longer term procurement strategy. This contract will be for a maximum term of 2 years.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 The specialist SRH service will be funded through use of Slough Borough Council's public health grant; this is appropriate and necessary since SRH services are one of a few prescribed functions for use of the public health grant money.
- 3.1.2 The proposed contract value is forecast based on maintaining the current contract value with a maximum uplift of 5% per annum or the Consumer Price Index (whichever is the lower of the two values at the time; i.e. 5% will be the maximum annual increase if the Consumer Price Index is higher than 5%).
- 3.1.3 The full details of the contract value (including total maximum value and Slough Borough Council's share) are included in Paper II as this includes commercially sensitive information.

3.2 Legal implications

- 3.2.1 The procurement of Sexual and Reproductive Health Services enables Slough Borough Council to meet the following Public Health statutory duties under the Health and Social Care Act 2013: The mandatory provision of Open Access Sexual and Reproductive Health services by all Local Authorities – Health and Social Care Act 2013.
- 3.2.2 As this service falls under the light touch regime, the joint commissioning authorities have more flexibility and under Regulation 76(8) PCR they may take into account any relevant considerations in relation to the award of contracts, including the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, the specific needs of different categories of users, including disadvantaged and vulnerable groups, the involvement and empowerment of users, and innovation. In addition, the new Provider Selection Regime (PSR) is expected to come into force before July 2026 which is expected to offer increased flexibility for the procurement of healthcare services.
- 3.2.3 The full legal implications are contained in Exempt Appendix 3.

3.3 Risk management implications

- 3.3.1 There is a risk of legal challenge to the procurement process or any contract award. The likelihood of such a risk is low, due to the prior market engagement that has been carried out, and procurement and legal advice has been followed which will mitigate the risk of any challenge.

3.4 Environmental implications

- 3.4.1 During the procurement process, potential suppliers will be requested to provide a copy of their environmental impact assessment and impact management measures.
- 3.4.2. Environmental Impact Management Measures
 - i. Carbon emissions from staff travelling will be minimised due to work being delivered on site, and with staff in a fixed base.

- ii. Recruitment is centred on specialist provision, but where possible will be locally resident.
- iii. Hazardous Waste management, including i.e., sharps and clinical waste will be the responsibility of the provider and the process for undertaking this will be a part of the model along with requested information on process during the tender. (Other services such as pathology etc. will also be considered).
- iv. Infection control policies and procedures. Staff will be required to be trained in infection control not least to manage local outbreaks of STIs and infectious disease and its management.
- v. Office and equipment waste management – this will be considered as part of the management process and requests will be made to ascertain the corporate policy on waste, disposal, management, and carbon footprint both of the service and the organisation as a whole.

3.5 Equality implications

- 3.5.1 The Council has a duty under The Equality Act 2010 to have due regard to need for equality of opportunity and fostering good relations between protected groups and other groups.
- 3.5.2 The Health Needs Assessment has been drafted and identifies Slough has relatively higher need with respect to both engaging the population in STI testing and contraception to improve SRH outcomes. In particular and across Berkshire East, people from certain ethnic minority populations have poorer SRH related health outcomes and these have been included in the new specialist SRH service specification to ensure services are targeted to the needs of the subgroups within these populations, based on an engagement strategy that is to form part of the public health approach.
- 3.5.3 People with a learning disability and children and young people have been identified as priority groups who will require more targeted intervention than the previous service specification identified. The process to secure a new contract by 1st July 2024 will require the provider to work with commissioners to demonstrate change, monitoring, and response to the needs of these population characteristics.

3.6 Procurement implications

- 3.6.1 As set out under the legal implications section of this report and Exempt Appendix 3.

3.7 Workforce implications

- 3.7.1 Staffing– including TUPE

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) will apply as a matter of law with a service provision change, where certain conditions are satisfied.

The mobilisation phase will give an incoming provider time to complete TUPE for any employees of an outgoing provider wishing to transfer to a new provider. Where TUPE does not apply, the mobilisation phase allows sufficient time for recruiting and training new (or and existing) staff.

3.7.2 There is no anticipated impact for staff employed by any of the Berkshire East local authorities.

3.7.3 Employee liability information about the employees of the current specialist SRH provider will be sought for inclusion in the tender pack, in line with legal advice provided.

3.8 ***Property implications***

3.8.1 Not applicable.

4 **Background Papers**

[Cabinet Report template 2022.23 \(slough.gov.uk\)](https://www.slough.gov.uk/cabinet-reports/cabinet-report-template-2022-23)