

Slough Borough Council

Report To:	Cabinet
Date:	16 th June 2025
Subject:	Contract Award Report: Children's Integrated Therapies Service Contract
Lead Member:	Cllr Puja Bedi, Lead Member for Children & Lifelong Learning
Chief Officer:	Sue Butcher – Executive Director of Children's Services
Contact Officer:	Neil Hoskinson – Director of Education.
Ward(s):	All
Key Decision:	YES
Exempt:	NO
Decision Subject To Call In:	YES
Appendices:	None.

1.0 Summary and Recommendations:

1.1 To seek agreement for the contract award of the East Berkshire Children's Integrated Therapies Service Contract for a 7-year contract term, starting with an initial period of five years and a further optional extension term of 2 years (5+2 years). The existing contract will end 30 June 2025. However, there will be a 3-month transition period from the old contract to the new contract. There will not impact on service provision during the transition period. Slough Borough Council will be a contract partner with NHS Frimley ICB, Bracknell Forest Council, the Royal Borough of Windsor and Maidenhead (RBWM) and Slough Borough Council.

The total estimated contract value including the extension period is £27,379,611 with an estimated annual contract value of £3,911,373.

1.2 Slough's contribution to the contract has an annual contract value of £417,803 this represents about 43 per cent of the contract value for Bracknell Forest and Royal Borough of Windsor and Maidenhead. The annual contract value for both Bracknell Forest and Royal Borough of Windsor and Maidenhead is approximately £534,787. The total annual contract value for the three local authorities is approximately £952,590.

1.3 Out of the three therapies; occupational therapy, physiotherapy speech and language therapy, the Special Educational Needs survey (SEN2) for 2023/4 shows that 47.2% of children in Slough primary schools have a primary need of Speech, Communications and Language Need (SLCN) against a national average of 35.3%. Children and young people requiring speech and language therapy fall under this category. For Bracknell Forest, the proportion was 26.8% and for the Royal Borough of Windsor and Maidenhead the proportion was 28.2% both are below the national average. Slough's contribution to the integrated therapies contract reflects the level of need cited in paragraph 1.2.

2.0 Recommendations:

Cabinet is recommended to:

- i. Approve the outcome of a Competitive Process in accordance with The Health Care Services (Provider Selection Regime) Regulations 2023 for the procurement of the East Berkshire Children's Integrated Therapies Service Contract;
- ii. Approve the award of the contract for East Berkshire Children's Integrated Therapies Service to the Berkshire Healthcare NHS Foundation Trust. The contract is due to commence from 1st July 2025. The contract will be for a period of 5 years, with an option to extend for a period of up to 24 months at a value of £417,803 per annum, and total contract value of £2,924,621 over the 7-year contract period.

3.0 Reason:

- 3.1 In accordance with Slough Borough Council's contract standing orders, due to the size of the contract being above £180,000, Cabinet are required to approve the contract award.
- 3.2 Bids were thoroughly reviewed by NHS Frimley ICB, Slough Borough Council, the Royal Borough of Windsor and Maidenhead (RBWM) and Bracknell Forest. Two bids were received, and both met the requirements of the specification. However, following the initial evaluation process, Frimley ICB appointed an independent Legal firm to review whether asking bidders a further question on their long-term sustainability would be necessary and proportionate as this is such a large and important contract. This approach was endorsed by the Legal firm and the additional question was sent to bidders. A moderation meeting for the additional sustainability question took place with key senior stakeholders evaluating responses. The additional Sustainability Question was Pass/Fail and one bidder's response resulted in a fail and they were therefore disqualified from the procurement process leaving one bidder for contract award. Inclusion of this further question caused a slight delay to the procurement timetable.
- 3.3 The procurement of the Integrated Therapies Service is required to meet the needs of children and young people (CYP) with Special Educational Needs and Disabilities (SEND) in line with the following Statutory Duties:
 - **Children's and Families Act 2014** – Joint commissioning arrangements for local authority and health commissioners, identification and assessment of children and young people with SEND, and completions of Education, Health and Care Plans (EHCPs).
 - **The SEND Code of Practice 2015** – Collaboration between education, health and social care services to provide support and providing high quality provision to meet the needs of children and young people with SEND.
 - **Equalities Act 2010** - Remove or minimise disadvantages, take steps to meet different needs, and encourage participation when it is disproportionately low.
- 3.4 The procurement of the Integrated Therapies Service is required to meet the needs of CYP with SEND in line with the following local strategies and plans:
 - Slough Borough Council's SEND Written Statement of Action (WSOA).
 - The Joint Strategic Needs Assessment
 - Slough Wellbeing Strategy (2021-2025)
 - Special Educational Needs and Disability Inclusion Strategy (2021–2024)

4.0 Commissioner Review / Comments

This report is outside the scope for pre-publication commissioner review; please check the [Commissioners' instruction 5 to CLT to sign off papers](#) for further details.

5.0 Background:

- 5.1 A competitive tender as the sole commissioner: The Integrated Therapies Service must be commissioned jointly by Slough Borough Council and NHS Frimley ICB, as stated in the SEND Code of practice (2015). SBC and NHS Frimley ICB could commission this service jointly without RBWM and Bracknell Forest Council. However, the same provider currently provides the same services across East Berkshire. Under Section 10 of the Children Act 2004 and Section 75 of the National Health Service Act 2006 local authorities and ICBs have a statutory duty to consider the extent to which children and young people's needs could be met more effectively through integrating services and aligning or pooling budgets in order to offer greater value for money, improve outcomes and/or better integrate services for children and young people with SEN or disabilities.
- 5.2 A joint commissioning exercise with a Local Authority partner as the lead commissioner: NHS Frimley ICB is the largest financial contributor to the service. The three Local Authorities are much smaller partners and due to resourcing challenges, neither Slough Borough, RBWM or Bracknell Forest Council were able to act as lead commissioner for this project due resourcing and capacity issues.
- 5.3 Spot purchasing without a contractual arrangement has associated risks: Best value for money is unlikely to be achieved. The SEND Code of practice states that SBC and NHS Frimley ICB must jointly commission a service and publish this in the local offer. Spot purchased services do not comply with Code of Practice and there is a risk that SBC would be subject to legal challenge.

The Integrated Therapies service has been procured under the Provider Selection Regulations (PSR) 2023 and is subject to the related legislation. It is Above Threshold. The Council has engaged the NHS Frimley ICB to act as our agent via a valid Inter Authority Agreement, therefore the ICB has conducted a Competitive Process under the PSR on the Council's behalf.

Integrated Therapies form a clinical service within the scope of the Provider PSR, and the ICB has broadly adhered to the requirements of the Competitive Process, therefore this has been a compliant route to market.

Following initial evaluation, the ICB did identify that further clarification of the bids was needed regarding their financial sustainability. The ICB rightly conducted this under formal legal advice and support, and in compliance with the strictures of the PSR. Therefore, it can be confirmed that the contract has been compliantly procured.

The evaluation was conducted in line with the competition criteria, including subsequent details released within the clarification, and that Tenderer A was the highest scoring bidder. It is recommended that the award to Tenderer A as the preferred provider be approved.

The ICB should be monitored to confirm that they are conducting the agreed activities on the Council's behalf.

6.0 Supporting Information:

- 6.1 The new contract will specify that any uplift requests will be jointly considered and agreed by the four Commissioning Partners, taking into consideration the annual budget setting exercise for each contract partner, with Frimley ICB leading negotiations. The Provider can notify the Commissioning partners of any proposed request in the level of fees for the following financial year, giving a minimum of three

months for consideration of the request. Requests should be received between 1st March – 30th April. Uplift provisions will be covered by the High Needs Budget.

- 6.2 NHS Frimley ICB and Local Authorities across East Berkshire: Royal Borough of Windsor and Maidenhead (RBWM); Bracknell Forest and Slough, pooled service budgets to jointly develop a new specification and re-design the model of delivery under a single contract for Children and Young Peoples Therapy Services.

The service review was undertaken because of:

- Inconsistency and inequity of service provision
- Excessive waiting lists
- Non-compliance of statutory duties against requirements around Special Educational Needs and Disabilities (SEND)

The prime objective of the new contracts to build a strong universal offer focused on early identification and support at the most inequitable areas and highest need areas of service. A graduated response approach to support the addition of Targeted and Specialist Intervention and improve outcomes for Children and Young People and their families is integral to the new contract.

NHS Frimley ICB led the procurement process to deliver a robust and transparent procurement. A five-year contract, with an optional extension of up to a further two years (5+2) was designed by NHS Frimley ICB and the three Local Authority partners to meet the needs of Children and Young People across East Berkshire.

- 6.3 The Frimley ICB Commissioner decided on the Provider Selection Regulations (PSR) Competitive Process as an approach to the procurement process. This route was used to allow the partnership to competitively test the market for best value, innovation, access, sustainability, and social value. The SCW (NHS) procurement team supported the project in the management of conflicts throughout the process. In line with national guidance Managing Conflicts of Interest in the NHS – NHS England June 2017 conflicts of interest were given a high priority within the procurement. The tender documentation was issued to bidders on 09 August 2024 with a deadline of 30 September 2024 which included the Selection Questionnaire (SQ) and the Invitation to Tender (ITT). 2 bidders responded to the ITT.
- 6.4 The initial evaluation panel, chaired by a member of the NHS South, Central & West Commissioning Support Unit Procurement Team consisted of subject matter experts from NHS Frimley ICB and Local Authorities across East Berkshire: Royal Borough of Windsor and Maidenhead; Bracknell Forest and Slough.
- 6.5 Following the initial Evaluation panel, in November 2024 Frimley ICB appointed Capsticks LLP as during the evaluation process, Frimley ICB came to the realisation that a question regarding the long-term sustainability of the bidders was necessary and proportionate in such a large and important contract.

The ICB had a duty to secure the needs of the service users and test value for money as part of key criteria – the ICB considered it reasonable and proportionate to ask a further question on the long-term sustainability of the bidders noting the term of the contract. This approach was approved by Capsticks LLP.

The ICB as Lead Commissioner communicated to bidders on 18 December 2024 to rewind the Invitation to Tender (ITT) stage in accordance with Regulation 15 of The Health Care Services (Provider Selection Regime) Regulations 2023.

A moderation meeting for the additional sustainability question was held virtually via MS Teams on 24 December 2024, chaired by SCW Procurement. The panel who had not been

part of the original evaluation panel consisted of subject matter experts from NHS Frimley ICB and Royal Borough of Windsor and Maidenhead (RBWM).

The overall evaluation criteria and weightings of the scored questions as set out in the ITT were not affected by the introduction of the additional question as the Sustainability Question was Pass/Fail. One bidder's response resulted in a fail and they were disqualified from the procurement process leaving one bidder for contract award.

6.6 Contract mobilisation phase:

Contract Award Recommendation Report (CARR) issued to Authorities for sign off	03 January 2025
Deadline for sign off	14 February 2025
Publish Outcome Letters / Intention to Award	17 February 2025
Standstill Period Ends	Midnight 28 February 2025
Award	03 March 2025
Service Starts	01 July 2025

6.7 There were no representations are received during the standstill period.

7.0 Implications of the Recommendation

7.1 The Integrated Therapies service will benefit all children and young people requiring with occupational therapy, physiotherapy, speech and language therapy. The new service will use a three-tiered approach to support children and young people as follows:

- Universal offer;
- Targeted offer; and
- Specialist offer.

7.2 The tiered approach will ensure that early support is available through the universal offer. One the benefits will be to reduce waiting times for therapies. There is a particular focus on ensuring that vulnerable children and young people have access to the service, this includes children and young people who might not be in school. This takes account of the following cohorts of children and young people such as those who are electively home educated and those who are educated other than at school.

8.0 Consultation and other considerations

Legal Advice

8.1 The comments of Procurement must be noted. It must be confirmed that an appropriate contract has been entered into by NHS Frimley ICB.

8.2 Financial Implications

8.2.1 The Council was an associate commissioner to the procurement led by NHS Frimley ICB. The Royal Borough of Windsor and Maidenhead and Bracknell Forest were also associate commissioners.

8.2.2 The NHS South, Central and West Commissioning Support Unit's procurement team supported the project in the management of conflicts throughout the process. In line with national guidance *Managing Conflicts of Interest in the NHS – NHS England June 2017* conflicts of interest were given a high priority within the procurement, with 'conflicts of interest' a standing item at project group meetings.

8.2.3 The contract is charged to the High Needs Block within the Dedicated Schools Grant, which is under pressure and overspent in 2024/25 by £3.24m. The Council has entered into a safety valve agreement with the DfE and officer are in discussion with the ministry over the

pressures that we are incurring. It is therefore important that commissioned services are efficient and effectively procured and managed.

8.2.4 Based on current demand, there is sufficient budget for SALT services of £434,187. Last year spend on this area was £467,451 with Berkshire Healthcare NHS Trust and included additional spot purchases. There is an understanding that integrating these together will lead to a reduction in the use of spot purchases and will therefore lead to cost savings going forward. .

8.2.5 In line with many NHS contracts the winning bidder submitted a fixed 5 year price bid as follows

Initial 5 Year Contract Term

Year 1	Year 2	Year 3	Year 4	Year 5	Total
£3,911,373	£3,911,373	£3,911,373	£3,911,373	£3,911,373	£19,556,865

Whilst fixed price tenders ensure that the risk of inflation related to costs is transferred to the provider, as time progresses this may become a risk to the quality of the service being delivered and will need to be monitored.

8.2.6 Any future cost increases on this contract due to demand or agreed price uplifts will need to be balanced by additional savings within the High Needs Block in line with agreements on the implementation of the Safety Valve agreement.

8.3 Procurement

This report relates to a cross-authority tender led by NHS Frimley ICB, providing services for Bracknell Forest Council, the Royal Borough of Windsor and Maidenhead and Slough Borough Council. Although the procurement was not carried out by SBC the expenditure of the Slough share of the contract will be approximately £3m over the seven-year life of the contract. Cabinet approval is therefore required. The procurement followed a compliant process carried out under the Provider Selection Regulations 2023.

9.0 Legal implications

5.1.1 As per the main body of this report this procurement was undertaken, as described in this report, in accordance with Regulation 11 of The Health Care Services (Provider Selection Regime) Regulations 2023 (PSRs 2023)

5.1.2 Under PSRs 2023 the prescribed procedure and mandatory requirements for procuring under the Competitive Process are summarised below:

- i) Advertising: The publication of a contract notice (CN);
- ii) Conducting the procurement in conformance with the information provided in the CN and the published selection criteria taking into account the key criteria and applying the basic selection criteria;
- ii) Time limits imposed by Contracting Authorities on suppliers in accordance with the PSRs 2023.

5.1.3 The procurement process, as described, is compliant with PSRs 2023, the UK public sector procurement principles and the Council's Contract Procedure Rules.

5.1.4 The Council must maintain an audit trail documenting the procurement process undertaken and how the award decision was arrived at.

5.1.5 Once awarded, the Council should enter into a written contract with the other party and record the contract in the Contract Register. The Council will also need to publish the award of the contract in accordance with Regulation 11 of the PSRs 2023.

5.1.6 It is important to note that HB Public Law has not reviewed nor commented on the appropriateness of the contract, specification, or tender documents for this procurement, as the process has been led by NHS Frimley ICB.

10.0 Equality implications

10.1 An Equalities Impact Screening was completed at the outset of the procurement, as part of the Strategic Procurement Plan. The screening determined that a full Equality Impact Assessment was not required. Contract monitoring will be utilised throughout the contract to ensure there is a robust Equality and Diversity approach taken by providers.

11.0 Health & wellbeing considerations

11.1 As part of the specification, expected health outcomes for children and young people are detailed.

12.0 Background Papers

None