

**Report to:** Lead Member for Adult Social Care and Health

**Date of meeting:** 6 March 2024

**By:** Director of Public Health

**Title:** Re-procurement of Specialist Sexual Health Services

**Purpose:** To seek Lead Member approval of the proposed actions to secure the ongoing provision of the mandated Specialist Sexual Health Services

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## **RECOMMENDATIONS:**

*The Lead Member is recommended to:*

- 1. agree to extend of the existing contract with the current provider for six months (1 April 2024 to 30 September 2024) under provisions of Regulation 72 of the Public Contract Regulations 2015; and**
  - 2. agree the proposed approach as set out at paragraphs 2.5 to 2.9 to contract with a new service provider, from 1 October 2024.**
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## **1. Background**

1.1. As part of the conditions of the Public Health grant, Public Health are mandated to provide Specialist Sexual Health Services to the residents of East Sussex.

1.2. The Specialist Sexual Health Service contract was to be reprocured and due to be launched on 1 April 2024 as one of three lots working collaboratively with NHS England (NHSE) for HIV treatment and care and prison in-reach.

1.3. The total estimated contract value was £2.26m per annum with the opportunity for bidders to produce a separate 'set up costs' business case as part of the tender, paragraph 1.4 below sets out the rationale to allow a business case.

1.4. Due to revised Transfer of Undertakings (Protection of Employment) (TUPE) data being submitted by the current provider during the bid submission process, the Commissioner extended the tender closing date and offered bidders the opportunity to produce a separate 'set up costs' business case.

1.5. Despite the closing date extension, and ability to produce a 'set up costs' business case, two providers who had been requesting clarifications indicating they were submitting a tender, withdrew their intention to bid, indicating the TUPE data contributed to their withdrawal from the tender. The current tender received no bids.

## 2. Supporting information

2.1 Feedback from interested providers in this procurement cycle, confirming their decision not to bid includes:

Two NHS providers	Two non-NHS providers
<ul style="list-style-type: none"><li>• Revised TUPE data.</li><li>• Insufficient capacity or skills to write a tender.</li><li>• Aversion to risk of inflationary rises.</li><li>• Both stated they are open to a direct negotiation.</li></ul>	<ul style="list-style-type: none"><li>• Revised TUPE data.</li><li>• Insufficient capacity whilst undertaking other Sexual Health bids.</li><li>• Both stated open to a direct negotiation.</li></ul>

2.2 The current provider has shown no intention to bid for the new contract.

2.3 In light of no successful bid, Public Health are seeking to negotiate a contract with a preferred provider in accordance with procurement legislation.

2.4 Confirmation has been obtained from the current provider that they are willing to negotiate an extension to the current contract for a minimum of six months (if required). If agreed by the Lead Member, an extension of the current contract for 6 months can be explored with the current provider. An extension is likely to be required for continuation of services and ESCC will rely upon the provisions of Regulation 72 of the Public Contract Regulations 2015, to allow for such modification.

2.5 To determine how to procure the new contract, the Commissioner has considered three options:

- (a) contract with a non-NHS provider,
- (b) contract with an NHS provider; or
- (c) bring the contract in-house, setting up a dedicated team for the service.

2.6 An options appraisal has been undertaken, considering the viability and impact for each of these proposed options.

2.7 The preferred option is to approach a previously interested NHS organisation with a view to negotiating and implementing a new service contract.

2.8 It is unlikely that a new provider will be in place by April 2024, therefore it is likely that an extension to the current contract, will need to be obtained in accordance with point 2.4 above.

2.9 In the unlikely event that ESCC fails to negotiate a new contract with any of the interested providers, the Commissioner will explore the 'in house' management option further.

## 3. Conclusion and Reason for Recommendations

3.1 Public Health are mandated to provide Specialist Sexual Health Services to the residents of East Sussex. The existing contract is due to end on 31 March 2024 but, following an unsuccessful re-tendering process, a new service provider has not yet been identified. In order to maintain service provision, the existing contract needs to be extended with the current service provider for a period of six months.

3.2 After consideration of the options available, it is proposed that the most effective way of securing ongoing provision from 1 October 2024 is through a structured negotiation with a new NHS provider.

**DARRELL GALE**  
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Local Members

All

Background Documents

None