



Mayor and Cabinet

Authority to negotiate with Lewisham & Greenwich Trust for the direct award of Specialist Sexual and Reproductive Health Services

Date: 9th March 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: Borough-wide

Contributors: Director of Public Health, Director of Integrated Commissioning

Outline and recommendations

Lewisham Council currently holds a contract for integrated sexual and reproductive health (SRH) services with Lewisham and Greenwich Trust to deliver a comprehensive set of SRH services for contraception, testing and treatment of sexually transmitted infections (STIs), including HIV testing and diagnosis.

This report seeks approval for a waiver of the Council's Contract Procedure Rules to enable commissioners to negotiate directly with Lewisham, Greenwich Trust (LGT). The contract would be for a period of 5 years commencing on 1st April 2023 at the maximum value of £2.45m per annum and £12,250,000 total contract value for the full 5 years.

Timeline of engagement and decision-making

COVID related contract extensions Part 1 – 24th March 2021

Request for Re-Procurement of Sexual Health Services Award Report – 9th February 2017

Request for Re-procurement of Sexual Health Services – 23rd November 2016

1. Summary

- 1.1 The Council commissions LGT to provide a comprehensive set of SRH services for contraception, testing and treatment of sexually transmitted infections (STIs), including HIV testing and diagnosis. In 2020 routine access to pre-exposure prophylaxis (PrEP) for those assessed to be at risk of contracting HIV was also launched in SRH clinics and a community pilot to increase PrEP uptake for underrepresented communities that will be referred into LGT clinical services.
- 1.2 The existing service model was commissioned and commenced in 2017 as a result of a London-wide collaboration on the transformation and reconfiguration of sexual health services across the Capital to support future affordability and sustainability of provision.
- 1.3 Commissioners within the London Borough of Lambeth are the lead authority for the commissioning of SRH services under the terms of a tripartite agreement. Lewisham, Lambeth, and Southwark Councils, along with most other London boroughs, signed up to a partnership arrangement managed by the City of London (Sexual Health London – SHL) via an Inter-Authority Agreement and this programme facilitates system wide reciprocal cross charging for (open access) SRH care.
- 1.4 Due to Covid-19, Commissioners sought authority to award a 1 year contract extension on the 24th March 2021 at a value for the total period estimated at £2,45M, that would run from April 1st 2022 to March 31st 2023 (Background papers).

2. Recommendations

- 2.1 It is recommended that Mayor & Cabinet authorise a waiver of the Council's Contract Procedure Rules and approve direct negotiation of a contract with Lewisham and Greenwich NHS Trust for a period of 3 years with the option to extend for up to 2 further years commencing on 1st April 2023 with the maximum contract value of £2,45M per annum and £12,250,000 total contract value the full 5 years.

3. Policy Context

- 3.1 Sexual Health is an important Public Health priority at both a national and local level and as such Lewisham's Health and Wellbeing Board identified sexual health as one of the 9 priorities for Lewisham. Lewisham continues to experience high demand and need for sexual health services reflected through high rates of teenage pregnancy, abortion and sexually transmitted infections. Contraception and sexual health services for diagnosis and treatment of STIs are currently commissioned from Lewisham and Greenwich NHS Trust (LGT).
- 3.2 The sexual health services commissioned jointly across LSL support the priority identified in the 2018-2022 Corporate Strategy "Delivering and defending : Health, Social Care and Support – Ensuring everyone receives the health, mental health, social care and support services they need".
- 3.3 Within LSL, our rates of HIV and STIs are the highest in England, and there are persistent inequalities in sexual and reproductive health, with young people, men who have sex with men (MSM) and black and minority communities suffering the greatest burden living in varying pockets of deprivation.
- 3.4 In response to these challenges, Lambeth, Southwark and Lewisham agreed a shared Sexual and Reproductive Health Strategy for 2019-2024. The Strategy has the following four pillars:
 - Healthy and fulfilling sexual relationships

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- Good reproductive health across the life course
 - High quality and innovative STI Testing and Treatment
 - Living well with HIV
- 3.5 Lambeth, Southwark and Lewisham (LSL) have been jointly commissioning sexual health services since April 2016. A specialist commissioning team, based at Lambeth Council, carries out a range of commissioning functions on behalf of the three boroughs, including overseeing a shared LSL Action Plan to deliver strategic needs assessments and cross-cutting projects to improve sexual and reproductive health across LSL. Progress to date includes the development of an enhanced Pharmacy Contraception Service, an online contraception tool and the introduction of the SXT Partner Notification tool across the three Hospital Trusts in LSL. Joint strategic needs assessments have been completed for Contraception, HIV prevention and the experience of living with HIV in LSL.
- 3.6 Lewisham recognised the need to also have a Local Action Plan to bring together local stakeholders in the borough to work collaboratively to improve sexual health outcomes for our residents across. Over the past three months we have engaged with representatives from: SRH Clinic Service Providers, Primary Care, YP Service, Education, Abortion Services, e-service, Council and Voluntary sector organisations working in and around sexual and reproductive health in Lewisham to develop the attached Action Plan.
- 3.7 This was an opportunity for us to get an understanding of local service developments and projects since the strategy was launched, to ask about service changes due to Covid-19, and to identify future projects and activity to improve SRH locally.
- 3.8 The Health and Social Care Act 2012 (“the Act”) introduced changes by way of a series of amendments to the National Health Service Act 2006. The Act gives local authorities a duty to take such steps as it considers appropriate to improve the health of the people in its area. In general terms, the Act confers on local authorities the function of improving public health and gives local authorities considerable scope to determine what actions it will take in pursuit of that general function. The recommendations within this report relate directly to the Council’s Corporate Strategy 2018-2022 priority: Delivering and defending: health, social care and support – Ensuring everyone receives the health, mental health, social care and support services they need.
- 3.9 The Lambeth, Southwark and Lewisham Sexual and Reproductive Health Strategy (2019-24) has a focus on reducing inequalities in sexual and reproductive health as one of its underlying principles and states that:
- “While we will continue to commission welcoming, accessible and non-discriminatory services, to reduce inequalities in sexual and reproductive health we also need to commission services aligned with the concept of proportionate universalism. This means that whilst we will maintain open access sexual and reproductive health services for all, we also need to tailor services to those with greater need in order to reduce the impact of poor sexual health in our communities.”
- 3.10 Secondary legislative provision, such as the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 require local authorities to provide certain public health services. The public health services which local authorities must provide are:
- National Child Measurement Programme
 - Health checks
 - Open access sexual health services
 - Public health advice service to Clinical Commissioning Groups

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4. Background

- 4.1 LSL together face some of the greatest sexual health challenges in England, with similarly young, mobile and diverse populations. Our rates of HIV and STIs are the highest in England, and there are persistent inequalities in sexual and reproductive health, with young people, men who have sex with men (MSM) and black and minority ethnic (BME) communities suffering the greatest burden.
- 4.2 In 2015/2016, largely due to the demand and significant growth in SRH clinical activity, driven by a young and increasingly diverse London population, and the complex nature of the cross charging arrangements for treatment, individual boroughs found it increasingly difficult to deal with the demand and costs of sexual health services independently of other London boroughs.
- 4.3 The London Sexual Health Transformation Programme (LSHTP) which was made up of all London Councils, was developed to explore the SRH pathways and the way in which SRH services provided treatment . The programme aims to transform sexual health service delivery and control costs within the system by three main means:
- “Channel shift” – where individuals with sexual health needs which can be met outside of clinic settings are moved online, or to pharmacies and GPs as appropriate.
 - Integrated sexual health tariff (ISHT)- changing the payment mechanism for sexual health services from a crude first and follow-up tariff and fixed contract price to a price for a pathway which has been robustly costed and tested
 - Reducing the number of open access clinics to manage increasing demand for services.
- 4.4 The London programme introduced the tariff, and broke down SRH treatment and interventions, with range of tariffs that reflected patient care. This changed the way local authorities pay for SRH services. It removed fixed contract value arrangement sex and reproductive health services, and replaced them with a sexual health tariff which can be cross charged between boroughs for all elements of the services delivered.
- 4.5 The Covid-19 pandemic has impacted on the way sexual health services are accessed and delivered. It has brought forward and accelerated some changes in the care pathways that were already anticipated, for example a move towards more digital service access routes and E-services.
- 4.6 In order to effectively recommission in this changing context, it is vital to understand the impact of these changes on current and future service users with a focus on access routes into services and handovers, referral pathways and the interfaces between services.
- 4.7 To support the Lewisham, Southwark and Lambeth (LSL) Programme of Change (Refer to Section 6 for more information on the Programme of Change), a key priority is to develop an active public and service user/patient engagement programme to inform service reconfiguration and contract renegotiations.

Current contracts across the sexual health system, including clinics & e-services expire on 30 March 2023.

5. Current Service Provision

- 5.1 Lewisham Council currently holds a contract for integrated sexual and reproductive health (SRH) services with Lewisham and Greenwich Trust. The contract was awarded on 9th February 2017 for a period of 5 years from April 2017 until end of March 2022 (with an extension granted until March 31st 2023).

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- 5.2 The service provides a comprehensive set of SRH services for contraception, testing and treatment of sexually transmitted infections (STIs), including HIV testing and diagnosis. In 2020 routine access to pre-exposure prophylaxis (PrEP) for those assessed to be at risk of contracting HIV was also launched in SRH clinics and a community pilot to increase PrEP uptake for underrepresented communities that will be referred into LGT clinical services.
- 5.3 The current service model was commissioned as a result of London-wide collaboration on the transformation and reconfiguration of sexual health services across the capital to support future affordability and sustainability of provision. It supports open access for sexual health across London through the use of an integrated sexual health tariff (ISHT) and promotes the use of online services for asymptomatic STI testing activity to create additional clinical capacity to focus on complex demand.
- 5.4 Lewisham is part of pan-London reciprocal agreements through the London Sexual Health Transformation Programme which enable Lewisham residents to access services at other hospital trusts through other borough's contracts, and for residents of other boroughs to access services at Lewisham and Greenwich Trust through our contract, enabling patient choice and standardising service and costs across London.
- 5.5 The contract is a block based paid on tariff activity. Lewisham ISHT cost at LGT was £2,068 207 for 20/21, and projected costs for 21/22 are £2,427,214.

6. Programme of Change

- 6.1 The Covid-19 pandemic has impacted on the way sexual health services are accessed and delivered. It has brought forward and accelerated some changes in the care pathways that were already anticipated, for example a move towards more digital service access routes and E-services.
- 6.2 Due to this evolution of SRH services, LSL led by Lambeth Commissioners developed a workstream called the 'Programme of Change', which is reevaluating the SRH service offer, namely:
- Integrated sexual health services at GSTT, KCH and LGT
 - Sexual Health London - E Service
 - Primary care system interface and impacts e.g. LARC and Emergency Contraception.
- 6.3 Several changes were observed in sexual health services during Covid-19, specialist services found that overall activity reduced substantially in March to June 2020 for all three providers (GSTT, LGT, KCH), largely driven by reductions in STI testing. This resulted in a 'channel shift', where residents moved from clinics or other in person testing to the E Service.
- 6.4 Activity of the E service has increased steadily since April 2020 and continued to rise, even as clinic and other service activity resumed
- 6.5 The programme of change seeks to analyse activity and working in partnership with London boroughs, optimise service delivery based on offering choice, co-production with communities and key stakeholders.

7. Rationale for the Waiver

- 7.1 The recommended option for re-procuring sexual health services is via a waiver of the Council's Contract Procedure Rules to negotiate directly with LGT. The benefits and risks for this approach are described below.

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- 7.2 Lewisham and Greenwich Trust are an established institution within the Integrated Care System (ICS). The approach of the ICS is to work collaboratively as commissioners and providers in the procurement and transformation of services, and protecting future sustainability is a key priority within this. Negotiating a contract with LGT would align with this approach and meet the needs of Lewisham's residents.
- 7.3 Based on previous commissioning of SRH Services across London, it is unlikely that other NHS Trusts would compete with LGT to bid for the contract. There would likely be a minimal number of competing bidders and these would likely be from non-NHS private providers or community interest companies.
- 7.4 The experience in other local authority areas is that moving to a non-NHS provider for SRH Services risks a high number of clinical and administrative staff leaving. Due to the speciality of the service provision, there is a risk this would destabilise our existing pathways and service delivery. In addition, a number of staff within the service could be less likely to TUPE to a non-NHS provider. NHS providers of these services in London are continually recruiting, which may be a more attractive option for transferring staff.
- 7.5 The option of insourcing SRH Services has been considered and is not recommended, due to the risk to the workforce and the lack of cost saving potential. The key points are below:
- As above, the risk of staff leaving due to the move to a non-NHS provider. The local authority would need to match NHS salaries and terms and conditions as far as possible, which would be costly. On-costs like pensions would be significantly higher than within the local authority.
 - The organisation would need to register with professional bodies/regulators in order to deliver clinical services and provide clinical supervision for staff. The organisation would need to acquire licences to deliver certain elements of the service, which are currently provided free of charge by the provider.
 - As above, the organisation would need to establish a new client record system that has connectivity to NHS records, and satisfies NHS information security, otherwise links with critical services (e.g. midwifery, A&E and primary care) would be lost. This would bring additional cost.
- 7.6 The service model and the approach to award of contract outlined in this document is aligned with that of Lambeth, Southwark, Lewisham and other London boroughs.
- 7.7 The approach of reprocurring sexual health services via a direct award will allow Lewisham to build on the successful groundwork done so far within both the London sexual health transformation programme and Southeast London programme. It will allow commissioners to work closely with clinicians and managers to further develop the specialist SRH services.
- 7.8 Should permission be granted for a single tender waiver commissioners will enter into contract negotiations with Lewisham and Greenwich NHS Trust to agree service specifications and prices. The service model will be built on the Integrated

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Sexual Health Tariff (ISHT).

- 7.9 It should be noted that the proposed Health and Care Bill 2021, will potentially change that way that health care services will be procured and will allow for the creation of new procurement measures for healthcare services, including 'public health services arranged by local government'.
- 7.10 With current procurement rules, there is an expectation that a competitive tender process is undertaken, that should be advertised, evaluated and awarded. This can create continual uncertainty and disruption among providers, impact service users and cause a reduction in those being engaged.
- 7.11 The proposed amendments to the Health and Care Bill would make it easier for the system to continue with existing service provision where the arrangements are working well and there is limited or no value in seeking an alternative provider, as this will allow commissioners and providers greater certainty and continuity of service provision to improve partnerships between providers and increase integration of services.
- 7.12 For many healthcare services, the speciality offered by some providers will be limited by the nature of the service and its interdependencies with other services. The proposed regime explicitly recognises this and makes it clear that such core services can be arranged without unnecessary competitive tendering.

8 Financial implications

- 8.1 The existing service contract with LGT are fully paid from the Public Health Grant and are included within sexual health commissioning budgets. The total proposed value for the service with LGT is estimated to be £2.45m per annum and £12.25m for the 5 year period from 1st March 2023.
- 8.2 Public Health England have now confirmed the grant will continue in 2022/23 financial year with a 2.8% increase. Even though there are some challenges next year as the rate of inflation is higher than the increase in grant funding, there will be sufficient funds available within the budget to cover this contract award.
- 8.3 Lewisham pays for integrated sexual health services delivered by LGT on a fixed block contract basis, with the value of the contracts determined by agreed activity baselines which are adjusted and negotiated annually and allow for 1% per annum population growth. Payments are made on a quarterly basis in arrears.
- 8.4 The contracts are held by the London Borough of Lewisham, whilst other local authorities pay a variable value according to activity coded against the Integrated Sexual Health Tariff (ISHT).
- 8.5 A formal tri-partite partnership agreement is held between Lewisham, Southwark and Lambeth boroughs, which designates Lambeth as the lead commissioner for the partnership.

9 Legal implications

- 9.1 The Council's Constitution contains requirements about how to procure and manage contracts. These are in the Contract Procedure Rules (Constitution Part IV), some of which are requirements based on the procurement Regulations (Public Contracts

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Regulations 2015 - “Regulations”) with which the Council must comply. The recommendation in the report is to waive the Council’s Contract Procedure Rules and negotiate directly with Lewisham and Greenwich NHS Trust.

9.2 Contract Procedure Rules anticipate that a competitive process will usually be carried out. Where such a process is not to be followed, an exemption from Contract Procedure Rules is to be sought. That is the purpose of this report. The Rules say that an exemption can only be given in exceptional or unforeseen circumstances. When consideration is to be given to whether an exemption should be given, the following matters should be considered:

- the nature of the market for the services to be provided has been investigated and is such that the proposed approach is justifiable; or the contract is for services that are required in circumstances of extreme urgency; or there are other circumstances which are genuinely exceptional;
- it is in the Council’s overall interest; and
- there is no breach of legislation.

9.3 The rationale for a waiver for the Council’s Contract Procedure Rules is set out in section 7 of this report. It is for Mayor and Cabinet to be satisfied after considering this report whether a waiver under one of the exceptions set out in paragraph 9.2 above (paragraph 18.3 of the CPR) is justified.

9.4 This is a key decision and must be included in the Key Decision Plan.

9.5 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

9.6 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

9.7 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>.

9.8 The Equality and Human Rights Commission (EHRC) has previously issued five guides

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for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty.

9.9 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

10 Equalities implications

- 10.1 A specific EAA has not been undertaken, although prior to the commencement of the existing contracts, an Equalities Analysis Assessment was undertaken at a London level by officers leading the London Sexual Health Programme .
- 10.2 This demonstrated positive impacts in maintaining access to STI testing and treatment to ensure that key outcomes can be met, especially for those most at risk of poor sexual health - young people, black African and black Caribbean communities, and men who have sex with men (MSM).
- 10.3 Public health priorities for sexual and reproductive services include increasing STI testing amongst young people, MSM, black African and black Caribbean communities; increasing HIV testing amongst MSM and black African communities; reducing late diagnosis of HIV; and increasing access to contraception and, in particular, long-acting, reversible contraception (LARC) to reduce teenage conceptions, abortions and repeat abortions. Climate change and environmental implications

11 Crime and disorder implications

- 11.1 Sexual health clinics provide services for people with a range of lifestyles and circumstances and include those who may be vulnerable or at risk.
- 11.2 Both acute LGT and the wider partnership have effective adult and child safeguarding policies in place to identify and support such individuals.
- 11.3 Service provision and pathways to a range of relevant support services are in place for those who engage in risky sexual behaviours, those who are using alcohol and drugs, those who have experienced sexual violence, coercion, or intimate partner violence.

12 Health and wellbeing implications

- 12.1 The proposal supports delivery of Lewisham's Health and Wellbeing strategy by promoting and maintaining access to open access sexual health services. This is essential given the borough has higher rates of poor sexual health, harmful drug and alcohol use and HIV prevalence in comparison to London averages.
- 12.2 These commissioned services support the Council's strategic objectives for sexual health and the achievement of declared outcomes for population health and reducing health inequalities as outlined in priorities contained in the LSL Sexual and Reproductive Health Strategy 2019-24 and sexual health related Joint Strategic Needs Assessments (JSNAs).

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13 Social Value implications

- 13.1 The Public Services (Social Value) Act 2012 requires that when the Council is procuring services above the EU threshold it must consider, before commencing a procurement process, how the procurement might improve the social, economic and environmental wellbeing of the area. It must also consider how the procurement might be conducted so as to secure that improvement. The matters to be considered must only be those relevant to the services to be procured; and it must be proportionate in all the circumstances to take those matters into account. These requirements are part of the Council's Constitution (Part IV.I Contract Procedure Rules).
- 13.2 The Council's Sustainable Procurement Code of Practice will be applied to this contract. This sets out various social, environmental and economic considerations to be applied. The purpose is to ensure that products and services are sourced and produced responsibly; to maximise resource and energy efficiency in the manufacturing and supply of goods and services in order to minimise environmental impacts; and to deliver outstanding value for money over the entire lifetime of the contract.
- 13.3 In addition, the service will ensure minimum pay rates in line with prevailing London Living Wage (LLW) or above where applicable.

14 Background papers

- 14.1 COVID-19 Related Extensions by Directorate Report - 2nd March 2021



COVID-19
Extensions - Commu

- 14.2 Request for Re-procurement of Sexual Health Services



ED report Sexual
Health procurement

- 14.5 Request for Re-Procurement of Sexual Health Services Award Report



Sexual Health
award report FINAL

15 Glossary



glossary
standard.pdf

- 15.1

16 Report author(s) and contact

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