



CABINET – 19 DECEMBER 2023

**INTERIM COMMISSIONING ARRANGEMENTS FOR SEXUAL
HEALTH SERVICES ACROSS LEICESTERSHIRE AND RUTLAND
FOR 2024/25**

REPORT OF THE DIRECTOR OF PUBLIC HEALTH

PART A

Purpose of the Report

1. The purpose of this report is to
 - (a) Advise the Cabinet of the outcome of the tender exercise for sexual health services
 - (b) Request approval to offer direct award contracts to provide an interim service for one year, to commence from 1 April 2024, for the provision of
 - i. the Integrated Sexual Health Service (ISHS)
 - ii. the Long Acting Reversible Contraception (LARC) Service

Recommendations

2. It is recommended that the Cabinet
 - (a) Notes the tender outcome, and approves the interim service plans to offer a direct award contract for one year, for the period 1 Apr 2024 - 31 Mar 2025, to
 - i. one provider for the continuation of the Integrated Sexual Health Service (ISHS) provision
 - ii. Multiple primary care providers to continue to deliver Long Acting Reversible Contraception (LARC) across Leicestershire and Rutland.

Reasons for Recommendation

3. The Council has a statutory responsibility to provide comprehensive open access sexual health services for the population.
4. The current contracts for the provision of sexual health services across Leicestershire and Rutland end on 31 March 2024.
5. A tender process was unsuccessful for the ISHS and LARC lots. A direct award contract for 12 months will allow for continued provision of a sexual health service whilst a retender process is undertaken.

Timetable for Decisions

6. If the Cabinet approval is given, activity required to direct award will commence shortly afterwards.
7. Organisations issued with a direct award will continue to deliver services from 1 April 2024, for one year.
8. Further procurement is planned for April 2024 to provide services on a long-term basis from 1 April 2025.

Policy Framework and Previous Decisions

9. The proposal is informed by the Leicestershire Sexual Health Strategy 2020-2023, enabling informed choice and accessible sexual and reproductive health services. This Strategy was approved by the Cabinet in June 2020.
10. In May 2023, the Cabinet considered a report detailing the outcome of the consultation on the proposed new model for sexual health services across Leicestershire and approved the final service model to proceed to the procurement stage.
11. The option to offer direct award is contained within Regulation 32 of the Public Contract Regulations 2015 – Use of the negotiated procedure without prior publication, which can be relied on where no tenders, or no suitable tenders, are received in response to a procurement.

Resource Implications

12. The services are funded from the ring fenced public health grant, which must be spent on Public Health functions. Sexual health services are a mandated service from the public health grant
13. The budget requirement for Leicestershire's service provision in 2024/25 will increase from £4,020,000, to £4,185,119. Further detail can be found in paragraph 34 of the report.
14. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the content of this report.

Circulation under the Local Issues Alert Procedure

15. This report has been circulated to all Members of the County Council.

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PART B

Background

16. The responsibilities for Sexual Health, Reproductive Health and HIV commissioning are detailed in Appendix A attached to this report.
17. Local authority commissioned sexual health services for Leicestershire and Rutland comprise of the Integrated Sexual Health Service (ISHS), and Community Based Services (CBS).

Integrated Sexual Health Service ISHS

18. The ISHS provides the following services:
 - contraceptive services
 - sexually transmitted infection testing and treatment
 - a specific young people's service
 - psychosexual counselling
 - outreach and health promotion
 - professional training
 - network management
 - sexual health leadership role across LLR
19. The service also currently provides online Sexual Health services as part of a subcontracting arrangement, although from April 2024 the online service will be contracted directly with the County Council.

Community Based Services (CBS)

20. Community Based Services include LARC (long-acting reversible contraception) provision provided by GPs, and EHC (emergency hormonal contraception) provided by pharmacies.

Post consultation model

21. The approved model for the tender was to
 - jointly commission sexual health services across Leicestershire and Rutland
 - commission the online sexual health services offer as a separate 'lot' from the ISH service
 - deliver a networked LARC service (or one provider) to deliver an equitable LARC service across Leicestershire and Rutland
 - continue with the existing model for EHC provision via pharmacies.

22. The new model consisted of the sexual health service provision being offered as 3 lots for tender.
 - Lot 1 - Integrated Sexual Health Service (ISHS)
 - Lot 2 - Online Sexual Health Services
 - Lot 3 - Long-Acting Reversible Contraception (LARC)
23. It was agreed that Emergency Hormonal Contraception provision would be procured later in the year alongside other pharmacy provisions. This procurement is currently being evaluated. The intention is to award to successful providers in December 2023, with a service commencement of 1 April 2024 as planned.

Procurement Update

24. The invitation to tender for sexual health services was published on 3 July 2023. On tender close, no bids had been received for Lot 1 Integrated Sexual Health Service ISHS, three bids had been received for Lot 2 Online Sexual Health Services and one bid received for Lot 3 Long Acting Reversible Contraception LARC.
25. The three bids received for Lot 2 Online Sexual Health Services were evaluated and all due diligence checks completed.
26. The successful organisation for lot 2 was SH:24, which currently provides services to Leicestershire and Rutland via a subcontracting agreement with the ISHS clinic provider. Securing this offer allows the provision of online sexual health services at a significantly lower tariff rate than the current rates under a subcontracting arrangement, therefore providing the best value option.
27. The one bid received for Lot 3 was also evaluated. However, following evaluation and due diligence checks, this bid was unsuccessful as it failed to meet the necessary requirements.
28. The successful procurement of Lot 2, and the unsuccessful procurement of Lot 1 and Lot 3 means the Council has not currently secured the full complement of sexual health services from 1 April 2024.
29. With the current contracts for these services ending on 31 March 2024, and a failed procurement for Lot 1 and Lot 3, an interim arrangement is required for 2024/25 while a longer-term offer is developed and procured.

Interim Provision for 2024/25

30. The preferred approach is to direct award to incumbent providers if an agreement can be reached between both parties. This allows maintenance of

a local service offer with little disruption, allowing a focus on the future procurement and long-term offer.

31. This approach will also allow continued oversight of service delivery, which will in turn provide greater reassurance for future bidders in terms of activity and budgets. This would be at risk if there was no dedicated service provision for Leicestershire and Rutland residents for 2024/25.

Lot 1 Integrated Sexual Health Service ISHS

32. Negotiations on a potential direct award and costings have taken place with the incumbent provider.
33. Indications from the incumbent provider are that they will require an increased budget to continue to deliver the service into 2024/25.
34. Rationale for the increased budget has been influenced by:
 - Activity levels for quarter 4 2022/23 which were received post-tender show that activity was higher than anticipated
 - Unsuccessful Lot 3 bid for LARC – the intention was to shift non-complex LARC activity to the Lot 3 service from the Lot 1 service. Due to an unsuccessful bid for the Lot 3 service, this planned shift will be difficult to achieve
 - the provider has indicated they will be unable to maintain clinic staffing levels or undertake workforce transformation on a reduced budget
35. The Leicestershire budget required for the incumbent provider to continue to offer this service for 2024/25 will be £2,493,119
36. Considerable work has been undertaken to enable this cost to be met. This includes cost projections and adjustment of budgets and discussions with the provider around the costing calculations and staffing allocation for the service.
37. The funding for this direct award agreement is for 2024/25 only. The longer term budget for the ISHS service will be recalculated in line with ongoing service calculations and considering some anticipated activity reductions particularly around the LARC offer.

Lot 3 Long Acting Reversible Contraception LARC

38. Post standstill, an engagement session was held with the incumbent LARC providers to outline the proposed long-term LARC offer and the potential for an interim direct award.
39. Barriers indicated which will need to be adjusted to facilitate a direct award are:
 - Block contract – unable to utilise block if paying individual providers, therefore will need to revert to activity based payment.

- Device costs to be paid separately as per current terms.
 - Increase in activity tariff rates – The block budget didn't allow providers to identify that the activity tariff rates had been increased. Activity based payment will now reflect a 12.5% increase in tariff rates for LARC fits.
40. Four federations (who represent over seventy GP surgeries) and three individual GP Surgeries indicated they would be interested in a direct award, allowing them to continue to deliver LARC in 2024/25.
41. The budget envelope for this service remains as per the 2023 tender.
42. Future plans are to continue to grow the community LARC provision and work towards the model agreed at the Cabinet in May 2023.

Conclusion

43. The successful procurement of Lot 2, and the unsuccessful procurement of Lot 1 and Lot 3 means the Council has not currently secured the full complement of sexual health services from 1 April 2024. A direct award for Lot 1 and Lot 3 will provide an interim service while adjustments are made to the procurement in line with market feedback.

Long term options and feedback received

44. Following receipt of no bids for Lot 1, feedback was sought from all organisations that did not bid but had expressed an interest in these lots, this included the incumbent providers.

Lot 1 Integrated Sexual Health Service ISHS

45. key areas highlighted as concerns were mainly related to the financial envelope and associated costs linked to
- TUPE (employee information provided by the incumbent provider didn't allow accurate cost modelling to be undertaken)
 - The requirement to utilise the funding to move away from a city centric model.
 - Lotting of services reduces providers' ability to achieve economies of scale
46. It was also indicated that the procurement and mobilisation timelines were challenging and although achievable presented additional challenges to the above comments regarding finances

Lot 3 Long Acting Reversible Contraception LARC.

47. indications fed back on the barriers to the success of this lot are listed below:

- **Cost modelling** – Perception that aims for growth in service are not aligned to the budget available
- **Block Contract** – It was felt that this would hinder growth of the service
- **Single Provider goal** – unachievable for the organisations currently delivering the service

48. For Lots 1 and 3, provider feedback will be reviewed, and mitigations are being developed to address the issues raised and ensure a successful future procurement exercise for the long-term offer. These plans will be presented to the Public Health Departmental Management Team for approval in January 2024.

Equality Implications

49. An Equality Impact Assessment has been completed for the proposed service model (attached as Appendix B to this report).
50. If a direct award is not approved, this will negatively impact identified equality groups.

Human Rights Implications

51. There are potential implications for sexual and reproductive health rights, with regard to limiting access to services and education.

Partnership Working and Associated Issues

52. The proposal to jointly commission sexual health services with Rutland Council was agreed by Rutland Council's Cabinet on 12 January 2023.
53. Sexual Health Services operate within a complex landscape for both commissioners and service providers. Continued engagement with partners in the production and delivery of the new model is therefore essential.

Risk Assessment

54. A detailed risk assessment has been undertaken as part of the recommissioning project and a risk log is being kept and monitored by the Sexual Health Services Recommissioning Group which reports into the Public Health Departmental Management Team.
55. There is a risk of legal challenge under the Public Contract Regulations 2015 from aggrieved potential bidders in relation to the proposed direct awards. This risk is considered to be low and can be mitigated as we have engaged with those providers who expressed an interest in the opportunities when tendered. The outcome of the engagement has been positive. Potential bidders will have the opportunity to bid when the services are retendered in

the new year. The aim is that the new procurement will address, as far as possible, the concerns raised by these parties which deterred them bidding previously.

56. In January 2024, it is intended by the Department of Health and Social Care that the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) will be in place. If so, the direct awards may need to be made under these Regulations. We expect that this would reduce the risk of legal challenge further, as the PSRs do not contain a specific option for legal challenge and contain compliant processes for contracting authorities to make direct awards.

Background Papers

Report to the Cabinet - Recommissioning of Sexual Health Services – Outcome of Consultation And Proposed New Model – 26 May 2023 -

<https://politics.leics.gov.uk/documents/s176357/Recommissioning%20of%20Sexual%20Health%20Services%20FINAL.pdf>

Report to the Health Overview and Scrutiny Committee - Recommissioning of sexual health services - 18 January 2023

<https://bit.ly/3WaPyHT>

Report to the Cabinet – Recommissioning of Sexual Health Services – Proposal for consultation– 16 December 2022

<https://bit.ly/3LO3p1G>

Report to the Cabinet - Leicestershire Sexual Health Strategy (2020-2023) – 23 June 2020

<https://bit.ly/3VFp3sp>

Appendices

Appendix A – Overview of commissioning responsibilities

Appendix B - Equality Impact Assessment (EIA)

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