

**SURREY COUNTY COUNCIL**

**CABINET**

**DATE: 25 FEBRUARY 2014**

**REPORT OF: MRS LINDA KEMENY, CABINET MEMBER FOR SCHOOLS AND LEARNING**

**LEAD OFFICER: NICK WILSON, STRATEGIC DIRECTOR OF CHILDREN, SCHOOLS AND FAMILIES**

**LAURA LANGSTAFF, HEAD OF PROCUREMENT AND COMMISSIONING**

**SUBJECT: AWARD OF CONTRACTS FOR THE DELIVERY OF THERAPY SERVICES TO SURREY SCHOOLS**



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#### **SUMMARY OF ISSUE:**

At present, both Surrey County Council (SCC) and the National Health Service (NHS) in Surrey enter into contracts with providers of paediatric therapy services in Surrey to provide services to Surrey children with special educational needs and disabilities who attend Surrey schools.

The provider organisations are Virgin Care Services Limited (VCSL) and Central Surrey Health Limited (CSHL). The county council and the NHS in Surrey have agreed to move as soon as possible to a joint commissioning arrangement.

As the SCC contracts terminate on 31 March 2014 and the NHS contracts also terminate on 31 March 2017, April 2017 is the agreed date to commence joint commissioning.

This report recommends awarding new SCC contracts to cover the period 2014 – 2017 from which time the joint commissioning arrangement will be in place.

An annex containing financial information is contained in Part 2 of the agenda (item 20).

#### **RECOMMENDATIONS:**

It is recommended that:

1. New contracts are awarded until 2017 under newly agreed terms from 2014 with Virgin Care Services Limited (VCSL) and Central Surrey Health Limited (CSHL) a Surrey-based social enterprise, whilst joint commissioning arrangements are agreed with the NHS.
2. Milestones are agreed to enable early action to be taken before 2017 if a joint commissioning framework cannot be agreed with the NHS. These milestones will be measured and will inform the decision on whether this service should be re-tendered earlier than 2017. If a joint commissioning framework cannot be agreed with the NHS by April 2015, the service will be re-tendered and new contracts will

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be awarded from April 2016.

**REASON FOR RECOMMENDATIONS:**

Although commissioned by two organisations (Surrey County Council and the NHS), as far as the child or young person at Surrey's maintained Special Schools is concerned, they are accessing one service. If Surrey County Council (SCC) were to re-tender this service alone, it could potentially mean that two different providers would be going into the same school. This could cause disruption and dissatisfaction to our vulnerable service users.

Significant progress has been made with the NHS over the last six months, with agreement from the Health and Wellbeing Board to establish joint commissioning arrangements in Surrey for the delivery of paediatric therapies.

For joint commissioning to take place our contract arrangements with providers need to be aligned, therefore the recommendation is that new contracts should be awarded until 2017 in line with termination of NHS block contracts with the same providers.

This will enable SCC and the NHS to jointly commission the delivery of paediatric therapy services in Surrey providing single and equitable outcomes focused services for children and young people.

Tendering at this stage would not support the local authority's aim to agree joint commissioning arrangements with the NHS to deliver the paediatric therapy service in Surrey. The current shared commissioning arrangements for this service means that contracting with new providers may only add confusion and further dissatisfaction to our service users. By using the same providers as the NHS, SCC has been able to secure competitive rates for these services. Running a competitive process would not necessarily remove the existing contractors from the service delivery as it is likely that they would win the tenders or parts of the tenders.

Improving the management of the contract will still go ahead with the existing providers and it avoids the variable performance in services that is sometimes experienced by end-users when a new contractor mobilises at the start of a new contract.

**DETAILS:**

**Background**

1. SCC commissions a paediatric therapies service which comprises Speech and Language Therapy (SLT), Occupational Therapy (OT) and Specialist School Nursing (a small number of physiotherapy sessions are commissioned on an individual basis). SCC holds contracts with VCSL and CSHL to deliver this provision until 31 March 2014. Detailed financial information is set out in the Part 2 paper (item 20)

2. The NHS also commissions the same providers to deliver health-orientated therapies in the same geographical areas. This provision is delivered through the NHS block contracts. Through historical arrangements, the NHS is fully responsible for commissioning SLT in Surrey special schools for children with severe learning difficulties (SLD). There are joint arrangements in place between SCC and the NHS for SLT in the remaining maintained special schools. Each specialist centre attached to a mainstream school has a set amount of SLT funding allocated to it, paid directly to the provider to deliver SLT support to all pupils at the centre.
3. The current arrangements are unwieldy and we have received complaints from families and schools that access to provision is often inconsistent.

### **Progress since April 2012**

4. Last year, Cabinet agreed to issue a new twelve month contract for both providers from April 2013, whilst joint commissioning arrangements with the NHS could be agreed. During this period significant progress has been made in improving the current Paediatric Therapy Service and gaining commitment from the NHS through the Health and Wellbeing Board to establish joint commissioning arrangements.
5. SCC and the NHS have set up a joint therapy forum, commencing in February 2014. Health membership of the forum includes children's leads from the six clinical commissioning groups (CCG's) and the lead Children's Commissioner for Surrey CCG, and NHS England. SCC representation covers the 0-25 years age range and procurement. Health providers and families also sit on the forum. The aim of this forum is to agree joint commissioning intentions by April 2015.
6. The provision of paediatric therapies is now being managed under newly agreed terms and conditions to improve performance to which the current providers are responding positively. The service specifications have been updated since April 2013 to clearly define the service we are commissioning. Monitoring of provision takes place at a local level through the area education teams and providers are required to provide a range of monitoring reports to enable area education teams to monitor quality of provision and measure outcomes for service users. Please see the key performance indicators at Annex 4.
7. A jointly (SCC and NHS) sponsored review took place over the summer which focused on the development of a new service delivery model for Speech and Language. To support this work, a full needs analysis is currently being completed. This will support the work of the joint therapy forum that is being established.
8. Procurement has advised that re-tendering at this stage could add further dissatisfaction and confusion to service users. Contracting with the same providers as the NHS to deliver this service has enabled SCC to secure competitive rates. This is unlikely to be achieved if this service was tendered separately to the NHS commissioned service.
6. Our proposal is to award new contracts for existing services to VCSL and CSHL until 2017. This will enable us to jointly commission the paediatric therapy

service. Milestones have been established with criteria attached to enable early action to be taken if joint commissioning arrangements cannot be agreed. These milestones will be reviewed by the Schools and Learning Management Team on a quarterly basis and by the Procurement Review Group on an annual basis. An update paper will be submitted to Cabinet in April 2015. If key milestones are not met by April 2015, these services will be re-tendered with new contracts in place by April 2016.

#### **CONSULTATION:**

7. Consultation on the service has taken place with stakeholders both internally and externally, including:
- A review in which the core group included family, school, area education and procurement representation.
  - Visits to stakeholder groups including, families, therapists, schools and area teams as part of the RIE
  - Survey Monkey being sent to schools and parents as part of the RIE (see Annex 3)
  - Presentation at Family Voice Conference
  - Workshop held for internal stakeholders including AD for Schools and Learning, Area Education Officers, Finance and Procurement
  - Schools and Learning Management Team
  - Directorate Leadership Team
  - Survey for Speech and Language Communication Needs sent out to Parents/Carers and Practitioners to inform Needs Analysis (see Annex 3)
  - Briefing with Cabinet Member for Schools and Learning

#### **RISK MANAGEMENT AND IMPLICATIONS:**

<b>Risks</b>	<b>Risk Description</b>	<b>Mitigation Action</b>
Legal Risks	Advice sought, and the risk of potential challenge is low	Putting the needs of the children first is the best possible outcome for vulnerable people
Financial Risks	Alternative providers introduce new cost considerations	Transformational redesign of external service provision and in-house options beginning to have a positive effect
Reputational Risks	None	
Commercial Risks	None	

### **Financial and Value for Money Implications**

8. The proposal is to extend contracts for up to three years to provide service continuity while arrangements are put in place to commission jointly with NHS/CCGs. The extension is at current prices, revised terms and conditions have been negotiated to allow the service and outcomes to be managed more effectively
9. For 2014/15 costs are expected to increase from:
  - The full year effect for children who began receiving support from September 2013
  - New demands from children requiring support during the Financial Year 2014/15
  - The current costs of the contracts support children aged 4 -19. From September 2014, the new families bill (Children and Families Bill 2013) gives a statutory entitlement to 19 - 25 year olds with a statement. The new contracts with the providers will reflect this change.
10. There are possible savings to be made by including maternity leave cover in the new contracts, as SCC currently have to fund cost of cover;
11. The transfer of Special School Nursing planned in April 2015 to the NHS;
12. The planned transfer of therapy provision for non-statemented pupils to the NHS in April 2016.
13. Although Schools Forum has approved additional resources in 2014/15, the budget will remain under pressure. The contract award is at the existing price so it will not add to this pressure during the period of service redesign leading to potential joint commissioning with the NHS/CCGs. The financial implications of service redesign proposals will be fully evaluated.

### **Section 151 Officer Commentary**

14. The proposal is to extend existing contracts at current prices to enable longer term service redesign, including joint commissioning with the NHS/CCGs. One of the aims of the service redesign will be to reduce the pressure on the therapy budget in the medium term.

### **Legal Implications – Monitoring Officer**

15. The Authority currently provides for children with special educational needs in accordance with the Education Act 1996 (as amended) and associated regulation. In accordance with that legislation the Authority has a duty to maintain statements of special needs and to provide the special educational provision set out in those statements. That provision can include paediatric therapies. The statutory position will shortly change when the Children's and Families Bill 2013 is enacted. This is likely to be in March 2014. At that point the duty to provide paediatric therapies will be shared with Health and as such the Authority will need to put in place new arrangements to secure the necessary provision.

These Services are classified as Part B Services under the Public Contracts Regulations 2006. Therefore they are not subject to a full tendering regime for procurement. As it is proposed that the existing Contracts are extended for 3 years, there is a risk that the Authority could be challenged for not going through a full tendering process. However, the risk of such a challenge in the circumstances is considered low, and the risk of a successful challenge is even lower.

#### **Equalities and Diversity**

16. The proposal for this contract will be to deliver Therapy Services to children and young people of school age with a statement of Special Educational Needs (4 yrs – 19 yrs).
17. The 12 month contracts currently do not deliver Therapy Services to those in education aged 16-25.. The new Children and Families Bill will introduce new legislation from September 2014, which means 19-25 yr olds with an Education, Care and Health plan will have the same statutory entitlements to educational provision as children and young people, therefore any future contracts will need to reflect this.
18. The proposal is for 36 month contracts, in order for an alternative model of delivery to be developed over the next 18 months. Any new models of delivery will reflect the changes in legislation in the Children and Families Bill 2013.
19. An EIA was approved in advance of being submitted to Cabinet at the appropriate level of management in accordance with equalities processes in the Directorate, and was completed with no adverse findings (Please see Annex 1).
20. In Surrey, there are 5395 (Jan 2013) children and young people with Statements of Special Educational Need (SEN). Where a child has a statement, Surrey County Council has a statutory responsibility to ensure that whatever support is detailed in Part 2/3 of the statement is provided for.

#### **Corporate Parenting/Looked After Children implications**

21. There are currently children and young people who are Looked After under Section 20 of the Children Act 1989 (as amended by the Children and Young Persons Act. 2008) who use the therapy services. Awarding new contracts to the existing providers will continue to support positive outcomes for Looked After children in Surrey.
22. The new service model will be used across Surrey schools and will enable early identification and screening of needs and early access to the services. Children and young people who are looked after will also benefit from the robust evidenced based assessment structure that will be focused on achieving outcomes for the child.

#### **Safeguarding responsibilities for vulnerable children and adults implications**

23. SCC and the NHS jointly commission the specialist school nursing service for Surrey maintained Special Schools for children with SLD. This arrangement is currently being reviewed with the intention that the responsibility for commissioning this service will be the full responsibility of the NHS. If this service were re-tendered before these new arrangements are agreed, there is a risk of

de-stabilising the current service and putting children and young people with complex needs who are currently at the SLD schools at risk.

- 24. If the SLT and OT service were re-tendered in isolation to the NHS, there is an additional safeguarding implication to all children with SEN who may have to be seen by two different providers.

**Public Health implications**

The new contract terms and specification will improve the current service levels and have a positive impact on the population group that currently use public health services.

**WHAT HAPPENS NEXT:**

Please see Annex 2 – key milestones and criteria

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**Contact Officer:**

Timothy Phillips, Category Specialist, 020 8541 7967.

**Consulted:**

SEN Tribunal officers; Area Education Officers; Area SEN Managers; Area Head of Child Psychology; Heads of Additional and Special Education Needs; Assistant Director for Schools and Learning; Paediatric Services Contract Manager; Head of Procurement; Provision and Partnership Development Manager (SEN).

**Annexes:**

- 1. Equality Impact Assessment
- 2. Milestones and Criteria
- 3. Consultation
- 4. KPIs

**Sources/background papers:** None

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