



Agenda item: 4
Paper no: 1

Title of Report:	Approve the entering of a co-operation agreement between Surrey County Council and Surrey and Borders Partnership Trust for the delivery of an Integrated Substance Misuse Treatment Service for adults	
Status:	TO APPROVE	
Committee:	Surrey-wide Commissioning Committees-in-Common	Date: 25/09/2019
Venue:	Mandolay Hotel, 36-40 London Rd, Guildford, GU1 2AE	
Presented By:	Simon White, Interim Executive Director for Adult Social Care, Surrey County Council	
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Executive Summary:

Surrey County Council Public Health holds a contract with Surrey and Borders Partnership (SaBP) Foundation Trust for the provision of adult substance misuse services. This contract is due to expire on 31 March 2020. Since 1 April 2018, SaBP, Catalyst and Public Health have piloted an adult substance misuse treatment programme board as a vehicle through which this ‘vertically’ commissioned contract¹ has been managed.

Surrey County Council Public Health are proposing to enter in to a ‘horizontal’ co-operative agreement² in compliance with Regulation 12(7) of the Public Contract Regulations 2015 (PCR 2015) from 1 April 2020. The agreement would include the provision for adult’s substance misuse treatment to be delivered by SaBP in partnership with Surrey County Council.

Governance:

Conflict of Interest:	None identified	✓
Previous Reporting: (relevant committees/ forums this paper has)	Committee name: 1. Surrey Strategic Health and Care Commissioning Collaborative Meeting date: 19/07/19	

¹ Traditional ‘vertically’ commissioned contracts require the provider to manage risk independently and any efficiency savings within the budget are set aside to offset these risks. SCC would not usually have visibility of this and any rewards not deployed would be retained by the provider.

² Under a “horizontal” co-operation agreement SCC and SaBP would jointly manage risks and efficiencies, have visibility of a contingency fund and will propose a risk and reward share.

previously been presented to)	<p>Outcome: Noted</p> <p>2. Surrey Clinical Commissioning Groups Clinical and Planning meetings including: North West Surrey CCG, Guildford and Waverley CCG, East Surrey CCG, Surrey Heath CCG and Surrey Downs CCG</p> <p>Meeting dates: July & August 2019</p> <p>Outcome: Noted</p>	
Freedom of Information:	Open – no exemption applies. Part 1 paper suitable for publication.	✓

Decision Applicable to:

Decision applicable to the following partners of the Committees in Common:	NHS East Surrey CCG	
	NHS Guildford and Waverley CCG	
	NHS North West Surrey CCG	
	NHS North East Hants and Farnham CCG	
	NHS Surrey Downs CCG	
	NHS Surrey Heath CCG	
	Surrey County Council	✓

Recommendation(s):

The Surrey-wide Commissioning Committees in Common are asked to:

Confirm agreement for Surrey County Council and Surrey and Borders Partnership (SaBP) NHS Trust to enter into a proposed five-year co-operation agreement. After the initial five-year term, the co-operation agreement will automatically renew on an annual basis unless terminated. The agreement will be in compliance with Regulation 12(7) of the Public Contract Regulations 2015 (PCR 2015).

Reason for recommendation(s):

As a large two-tier county, Surrey requires a high level of clinical and quality capabilities to safely deliver complex substance misuse treatment to adult residents who reside across multiple locations.

The current lead provider of the integrated substance misuse treatment contract, SaBP, has improved access to treatment and the delivery of evidenced-based effective care pathways and recovery outcomes for Surrey residents. The existing provision benefits from extensive integration within existing Surrey health and social care systems, including co-location with a specialist Adult Social Care team offering considerable synergies to support positive outcomes for Surrey residents. This includes people with needs which reflect severe and multiple disadvantage, which include: neglect, abuse, bereavement and homelessness.

In 2018 an Adult Substance Misuse Programme Board was established to develop an innovative adult integrated treatment model which includes a shared oversight and responsibility for:

- Delivery of treatment
- Performance outcomes

- Budget management, including establishment of open book accounting which has resulted in a more effective deployment of resources both within a reduced budget and managing any unexpected cost pressures

The delivery of the service has taken place against a backdrop of a significant reduction in budget: 24% savings were made from 2015/16 to 2018/19. Despite Surrey having the lowest Public Health allocation at £30 per head in England (2019/20), the Public Health England Spend and Outcome Tool (SPOT) identifies the current Surrey Substance Misuse treatment services as having a 'low spend but with better outcomes'. Provision is high quality, performs better or similarly to comparator local authorities and is well established with the population and key stakeholders.

Market engagement undertaken in July 2019 indicated that other providers had limited capability to deliver the clinical treatment elements of the specification and at the scale required in Surrey. They also do not benefit from SaBP's well established integration in to mental health, health, social care and the criminal justice system. It is also noted that the transfer of provision could not be achieved without the risk of disrupting the stability of the recovery journeys for Surrey residents.

Next Steps:

1. Dependent on approval by the Committees in Common, the final version of the co-operation agreement will be negotiated and signed off between Surrey and Borders Partnership Trust and Surrey County Council.
2. Surrey and Borders Partnership Trust will tender elements of the Tier 2 service on behalf of the partnership, currently being delivered by Catalyst.
3. The co-operative agreement would be effective from 1 April 2020.

Details:

1. The commissioning and provision of adult substance misuse services is a key element to the delivery of the Surrey Substance Misuse strategy. The strategy recognises the importance of prevention and early identification to address the cycle of drug misuse. Treatment has long been recognised and evidenced as effective, the strategy reflects the need for a fundamental shift towards focusing on long term recovery and supporting, often vulnerable, individuals to increase their motivation, capacity and opportunity.
2. The delivery of this system wide substance misuse strategy, which is due to be refreshed in 2020, is a key element of the Surrey Health and Well Being Strategy, published in 2019. It aligns to the delivery of the Surrey 2030 Community Vision, in particular the ambitions of:
 - Everyone lives healthy, active and fulfilling lives, and makes good choices about their wellbeing
 - Everyone gets the health and social care support and information they need at the right time and place
 - Communities are welcoming and supportive, especially of those most in need, and people feel able to contribute to community life
3. Each year approximately 3,000 people in Surrey seek support and treatment for alcohol and drug misuse. Their needs are primarily the dependent use of opiates (heroin), alcohol addiction and problematic use of other drugs. Access to treatment is available to those with complex needs i.e. coexisting mental health and substance misuse conditions, severe multiple disadvantage and safeguarding. This group may have less severe substance misuse issues but still require structured case management.
4. Conditions of the public health grant require each upper tier local authority to “...*have regard to the need to improve the take up of, and outcomes from, its drug and alcohol misuse treatment services...*” In practice this requires local authorities to commission an evidence-based and accessible treatment system which comprises of drug and alcohol treatment (including preventative and harm reduction approaches), effective pathways for those in the criminal justice system and recovery services.
5. In Surrey, the public health budget is under considerable pressure from a combination of below-target funding and national cuts to the public health grant. Ultimately, this means that in 2019/20, the overall budget available to spend on core public health programmes is 30% less than it was at the start of 2015/16. In order to achieve this saving, the substance misuse treatment budget has been reduced by 24% over the same time period.
6. Based on a comprehensive needs assessment and the need to minimise disruption to the recovery journeys of service users, the decision was made in 2017 to extend the provision of Substance Misuse treatment (Tiers 3 and 4) within the current terms of the contract and to modify that contract to include Tier 2 from April 2018. This enabled Surrey County Council to commission an integrated substance misuse service with seamless and safe pathways mitigating the impact of the reduced financial envelope available for these services. The ‘tiers’ of substance misuse provision are:

- Tier 2 – Low threshold substance misuse specialist interventions, i.e. provision of substance misuse-related information and advice, triage assessment, referral to structured drug treatment, brief psychosocial interventions, harm reduction interventions (including needle exchange) and aftercare
 - Tier 3 – Care planned interventions including substitute prescribing, i.e. methadone in opiate dependency, psychosocial interventions and recovery support, often provided in groups or 1 to 1 sessions with a specialist keyworker
 - Tier 4 – Access to inpatient detoxification
7. The integration of the Tiers 2, 3 & 4 substance misuse treatment by the service known as 'i-access' has primarily eased access to treatment, strengthened care pathways and improved outcomes for service users. The integration to one provider has improved access to treatment through the use of a single point of access whilst maintaining three primary hubs and 29 satellite clinics across Surrey.
 8. In order to mitigate as much as possible the risk to the stability of the system to service users, to continue to improve quality and to ensure access, a model of ongoing co-design was adopted. This was overseen by a Programme Board, established in 2017/18, consisting of experts, clinicians and commissioners from Public Health Surrey County Council, the current providers (Surrey and Borders Partnership Foundation Trust and Catalyst). This is supported by ongoing engagement with key partners including Clinical Commissioning Groups and partners in the Criminal Justice System. The objective of the Programme Board is to maintain a stable and high-quality substance misuse treatment system that provides the capacity to meet the needs of Surrey's residents within the budget envelope.
 9. There have not been any identified negative impacts to health and social care partners as a result of the integration. This is measured by a number of outcome measures, key performance indicators and patient feedback. For example, it is a national requirement and a local quality expectation that treatment for substance misuse begins within 21 days following a referral – the average 'wait' for Surrey is 14 days.
 10. The Public Health service at Surrey County Council recently underwent a Value for Money assessment review of the Public Health commissioned services. This was an assessment of current activities and future service options based on the recognised value for money criteria of: economy, efficiency and effectiveness, stakeholder value and strategic value (comprising a consideration of strategic alignment and contribution). The tool used is Chartered Institute of Public Finance and Accountancy (CIPFA) and APGM International accredited. The Surrey adult substance misuse commissioned services in Surrey were judged to offer 'value for money'. However, the process identified areas for further improvement which are currently being implemented. The review identified that the service is well aligned to the strategic values of SCC, particularly the 2030 Vision, and annual spend has consistently been within budget with robust mechanisms in place to forecast demand and budgetary pressures.

11. The health and social care landscape is evolving and developing in a way which supports an ongoing co-design approach. This reinforces Surrey's drive towards integrating provision and exploring new ways of commissioners and providers working in partnership to deliver improved standards of care. Co-design and continuous development have been central to provision during 2019/20 and the proposed arrangement beyond April 2020. Building on current delivery the proposed arrangement will include the incorporation of evolving evidence-based provision including, where appropriate, the use of digital technology. The proposed approach will also be flexible to incorporate and align with emerging models of working across the health and social care system such as family safeguarding, domestic abuse and mental health provision.
12. Given this context, Public Health are proposing a contract which satisfies all three conditions of Regulation 12(7) of the Public Contracts Regulations 2015, which is exempt from the usual requirements of competitive tendering. This arrangement may be entered into directly between the two or more public organisations involved.
13. The legislative conditions of Regulation 12(7) of the Public Contracts Regulations 2015 (PCR 2015) are set out in detail below:

(7) A contract concluded exclusively between two or more contracting authorities falls outside the scope of this Part where all of the following conditions are fulfilled:

- (a) the contract establishes or implements a co-operation between the participating contracting authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;*
- (b) the implementation of that co-operation is governed solely by considerations relating to the public interest; and*
- (c) the participating contracting authorities perform on the open market less than 20% of the activities concerned by the co-operation.*

14. In meeting the above requirements, Surrey County Council Legal Services has providing the following guidance:

*"The Council must be able to point to some feature of a given arrangement to **distinguish it from a simple contractual arrangement for one party to supply the other**. That is, it must be a true instance of 'horizontal' co-operation, as opposed to 'vertical' commissioning. That co-operative concept must underpin the whole arrangement; the Council must be making a contribution beyond merely providing payment for services. A **sharing or retention of risk, a co-design approach to service delivery or joint management arrangements** are all positive indicators that the proposed co-operation is not simply a commercial transaction."*

15. The governance structure for the existing pilot and the proposed co-operative agreement operates in a robust horizontal model where an adult substance misuse treatment partnership programme board undertakes a shared responsibility that directs, monitors and responds to treatment demands including:

- treatment strategy;
- delivery planning; and

- budget and risk management.
16. The Programme Board will be accountable in parallel to Surrey County Council Public Health and the Executive Board of SaBP. There will be regular oversight from the Surrey Substance Misuse Partnership and the Community Safety Board. The Surrey Substance Misuse Strategy will be reported as part of priority one of the Health and Well Being strategy to the Health and Well Being Board. This will include performance and alignment of the substance misuse treatment service.
17. In a co-operative arrangement the partners hold joint responsibility and accountability. For example since 2018 the financial risk has been managed in an open book accounting approach via the Programme Board. This facilitated the successful mitigation of the £220,000 Buprenorphine cost pressure within the annual budget; under a vertical contract SaBP would not be contractually required to share this information.

Consultation:

18. The development of the adult integrated substance misuse treatment included:

- 2017 Substance misuse key stakeholder concept day
- May-July 2018: Public consultation regarding the changes to the model of detoxification including four public meetings in locations across the county
- Public meetings held every six months
- Ongoing peer mentor involvement in service co-design
- Ongoing user consultation via a number of methods accounting for a range in accessibility

19. Engagement regarding the proposed co-operative agreement has included:

- Health Integration and Commissioning Select Committee: 8 March 2019 (see annex)
- Surrey Strategic Health and Care Commissioning Collaborative Meeting: 19 July 2019
- Clinical Commissioning Groups: Clinical and planning meetings: July and August 2019
- Cabinet Members: Sinead Mooney and Alison Griffiths ongoing briefings and visit to i-access substance misuse treatment service on 26 June 2019

Risk Management and Implications:

20. As this is a novel approach for Surrey County Council a full risk summary is provided below:

Risk	Mitigation
	Legal
See Part 2	See Part 2
Compliance with PCR reg. 12(7) requirements	In drafting the Co-operation agreement we will consider: <ul style="list-style-type: none"> • The nature of key clauses and how they should differ from a traditional contract • The allocation and balance of financial, reputational and service delivery risk

	<ul style="list-style-type: none"> How we will demonstrate that the partnership agreement is markedly different from a traditional SCC contract
See Part 2	See Part 2
Financial	
See Part 2	See Part 2
See Part 2	See Part 2
See Part 2	See Part 2
See Part 2	See Part 2
Term and Termination	
<p>5-year initial term which we will be unable to terminate for convenience.</p> <p>Thereafter the partnership agreement will renew automatically on an annual basis unless either party wishes to terminate.</p>	<p>Robust Joint Management Board to oversee performance, evolve service in response to emerging need and implement improvement plans where required.</p> <p>The option to terminate by agreement between both parties will always remain.</p> <p>Ongoing co-design will ensure the service specification evolves and is as fit for purpose in year 5 as it was in year 1.</p> <p>Like a contract, we will be able to terminate the partnership agreement for 'breach' of its terms within the first 5 years but unable to terminate for convenience. What constitutes a 'breach' is to be determined.</p>
Exit Arrangements. By delivering the service under a partnership agreement, there is a risk that SCC will become reliant on SaBP in the delivery of the service and that exit arrangements will be complex.	<p>Termination provisions will be built into the partnership agreement.</p> <p>SCC will ensure an exit plan is agreed with SaBP which will be reviewed periodically to ensure it is still relevant.</p>
Operational	
See Part 2	See Part 2
i-access is Surrey's only adult substance misuse treatment service so the services needs to be high quality and deliver the service individuals require to be successful.	The engagement with service users in the co-operative agreement will be critical and arrangements are being developed to ensure proper engagement and communications are in place.

Financial and 'Value for Money' Implications:

- It is likely that the Public Health service will need to deliver further savings in future years in order to contribute towards SCC's overall financial sustainability. The envelope proposed for the start of the partnership agreement cannot therefore be considered to be fixed over the five-year term.
- The new proposed partnership agreement will enable complete transparency of the costs of service delivery through an open book accounting approach. This will

maximise opportunities for efficient management of the contract budget. Cost pressures can be identified at the earliest opportunity so remedial action can be agreed within the partnership to mitigate pressures. The approach will also enhance the ability to identify and secure any areas for cost reductions or efficiencies.

23. See Part 2.

Section 151 Officer Commentary:

24. Surrey County Council faces a very serious financial situation whereby there are still substantial savings to be delivered in the current financial year and identified for future years to achieve a sustainable budget.
25. The proposed new partnership agreement would enable the delivery of substance misuse services within the available budget envelope for 2020/21. The agreement also offers opportunities to maximise the efficiency of service delivery through an open book accounting approach. However, as an untested contractual approach not previously used by Surrey County Council that would commit the Council for the next five years, the Committee need to recognise the risk that costs could increase as the agreement also exposes the Council to potential cost pressures that would normally be covered by a standard contractual approach.

Legal Implications – Monitoring Officer:

26. Surrey County Council is responsible for public health provision within its area by virtue of the National Health Service Act 2006 (as amended). In addition to its specific duties in relation to public health, Surrey County Council is under a general duty in Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The new commissioning approach proposed in this paper is intended to meet this requirement.
28. The public sector equality duty contained in Section 149 of the Equality Act 2010 applies to the decision to be made by the Committee in this report. This duty requires the Committee to have due regard to the need to advance equality of opportunity for people with protected characteristics, foster good relations between such groups, and eliminate any unlawful discrimination. These matters were reviewed as part of an equality impact assessment (EIA) and the outcomes are summarised in the Equalities and Diversity section below. The Committee's attention is specifically drawn to the EIA, including both the positive and negative outcomes identified.
29. A co-operation between two 'contracting authorities' under Regulation 12(7) of the Public Contracts Regulations 2015 is proposed in this report. The legislative requirements and some guidance on interpreting these is set out in paragraph 1.1 of this report. Legal Services has been involved in the development of the proposals and provided advice on the parameters of a lawful co-operation. Legal Services will continue to be involved in negotiations with SaBP to ensure that all the requirements are satisfied for a contract award under Regulation 12(7) to go ahead.
30. The Committee will note that the co-operation arrangement will materially differ from a standard commissioning contract. For example, Surrey County Council will retain more financial risk than normal but will gain considerably more involvement in the planning of service delivery.
31. In taking this decision, the Committee will need to be mindful of its fiduciary duties to Surrey residents to ensure Surrey County Council maintains a balanced budget in the exercise of its functions.

Equalities and Diversity:

- 32. The EIA for the proposed development of Substance Misuse Treatment Services is attached as Annex 1.

Other Implications:

- 33. The potential implications for the following priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Corporate Parenting/ Looked After Children Implications:

- 34. Not applicable.

Safeguarding Responsibilities for Vulnerable Children and Adults Implications:

- 35. The terms and conditions of contract will stipulate that the provider will comply with the Council's Safeguarding Adults and Children's Multi-Agency procedures, any legislative requirements, guidelines and good practice as recommended by the Council. This will be monitored and measured through the contractual arrangements.

Environmental Sustainability Implications

- 36. Not applicable.

Public Health Implications:

- 37. Substance misuse treatment supports people to make positive changes and benefit from changes in their health throughout their life.
- 38. Protects Surrey residents from communicable diseases.
- 39. Develops partnerships and collaboration within and between local organisations to drive effective integration of health and social care.

Annexes:

Annex 1 – Equality Impact Assessment

Annex 2 – Health, Integration and Commissioning Select Committee report from March 2019, which provides a more detailed description of the integration of adult substance misuse services.