

Birmingham City Council

Report to Cabinet

25th July 2023



Subject: **SUBSTANCE MISUSE COMMISSIONING PROPOSALS**

Report of: **Dr Justin Varney**
Director for Public Health

Relevant Cabinet Member: **Cllr Mariam Khan - Health and Social**

Relevant O &S Chair(s): **Cllr Mick Brown - Health and Social Care**

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 011635/2023		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

- 1.1 The report is seeking approval to extend the current Substance Misuse contracts with Change, Grow, Live and Aquarius for a period of 12 months.
- 1.2 The report also includes a revised substance misuse commissioning timeline that ensures continued service delivery.

2 Recommendations

2.1 That Cabinet:

- 2.1.1 Approves the extension to the Substance Misuse contract with Change, Grow, Live for Adult Substance Misuse Treatment Service for a maximum period of 12 months (1st April 2024 to 31st March 2025).
- 2.1.2 Approves the extension to the Substance Misuse contract with Aquarius Action Projects (part of Richmond Fellowship Group) for the Young People's Substance Misuse Treatment Service for a maximum period of 12 months (1st April 2024 to 31st March 2025).
- 2.1.3 Delegates the approval of the Commissioning/Procurement Strategy and Contract Award for the future service provision for both Adult and Young People's Misuse Treatment Services post 31st March 2025 to the Cabinet Member for Health and Social Care.
- 2.1.4 Delegates authority to allocate the additional funding received as part of the Supplemental Substance Misuse Treatment and Recovery (SSMTR) Grant from the Office for Health Improvement and Disparities (OHID) to existing providers from 1st April 2023 to 31st March 2025 and any new yet to be announced OHID Grant Funding to the Cabinet Member for Health and Social Care. For information, the fully signed Memorandum of Understanding (MOU) confirming the funding allocation for 2023/24 and acceptance of Birmingham's Delivery Plan was received on 5th May 2023.
- 2.1.5 Authorises the City Solicitor (or their delegate) to conclude and enter into all legal documents to give effect to the above.

3 Background

- 3.1 The responsibility for commissioning Substance Misuse Services transferred to the Local Authority on the 1st April 2013. The provision of Substance Misuse Services is a condition of the Public Health Grant that is received into the Council. Under the Health and Social Care Act 2012 (HSC), local authorities have the duty to reduce health inequalities and improve the health of their local population by ensuring that there are public health services aimed at reducing drug and alcohol misuse and have regard to the need to improve the take up of, and outcomes from, its drug and alcohol misuse treatment services.
- 3.2 Currently the adult substance misuse treatment service is delivered by Change, Grow, Live (CGL) under a contract which commenced on 1st March 2015 and expires on the 31st March 2024 to support people in treatment across five locality hubs in Birmingham. The key commissioning intentions of the contract are:
 - Think Family; support families during the recovery process and reducing associated harms caused to children
 - A Single System with CGL as the Lead Provider
 - Focus on Recovery Outcomes

CGL work in a multi-agency partnership approach across the city to achieve treatment completion rates at or above the core city averages. Services provided through partnership include specific service elements focused on mental health, prison release, employment, criminal justice, blood-borne viruses, domestic abuse, acute sector, child protection and homelessness.

- 3.3 The Young People's service is delivered by Aquarius Action Projects (part of the Richmond Fellowship Group) under a contract which commenced on 1st October 2019 and expires on the 31st March 2024, supporting young people by providing a range of interventions to address their drug and alcohol use. The key commissioning intentions of the contract are to minimise the misuse of drugs, alcohol and tobacco & Reduce risk/vulnerabilities in a holistic approach. There are strong partnership arrangements to address criminal and sexual exploitation, homelessness, mental health, parental substance misuse and county lines. Aquarius staff are trained in Hidden Harm, Adverse Childhood Experiences and Contextual Safeguarding to ensure best practice to protect vulnerable children and young people.
- 3.4 The current substance misuse service contracts with Change, Grow, Live (Adults) and Aquarius (Young People) both expire on 31st March 2024.
- 3.5 Both contracts continue to perform successfully against required outputs and outcomes.
- 3.6 Nationally and locally, there is a significant amount of strategic direction required to confidently develop future Birmingham substance misuse services that can meet current and future priorities, these include:
 - The Dame Carol Black review (parts one and two were published February 2020 and July 2021 respectively); Part two made 32 recommendations for change across various national and local government departments and other organisations to improve the effectiveness of drug prevention and treatment services.
 - The publication in August 2022 of Commissioning Quality Standard: alcohol and drug services. This is guidance for local authorities to support in commissioning effective alcohol and drug treatment and recovery services.
 - From Harm to Hope: a 10-year drugs plan to cut crime and save lives for England (published December 2021) in response to the Dame Carol Black review. A main strand of which is the importance of developing local partnership working, including the Office of the Police and Crime Commissioner (OPCC), Criminal Justice (Police, Prisons, Probation) and the Integrated Care System (ICS).
 - Locally, the Triple Zero City Strategy, Needs Assessment and Needs Assessment Executive Summary were approved by BCC Cabinet on 21st March 2023.
- 3.7 In order to support the abovementioned strategic direction, in addition to the ring-fenced Public Health Grant, Birmingham are in receipt of a Supplemental Substance Misuse Treatment and Recovery (SSMTR) Grant from OHID. The purpose of the

grant is to facilitate improvements in the quality and capacity (as detailed in From Harm to Hope) of drug and alcohol treatment from 2022/23 to 2024/25. Birmingham's additional funding was £3,018,940 in 2022/23, £4,946,496 (£3.5M to CGL & £920k to Aquarius) in 2023/24 and £9,547,838 (indicative and to be confirmed, with at least £3.5M to CGL and £920k to Aquarius) in 2024/25 – approx. £17.5M in total. At this juncture OHID have not advised on the continuation of the SSMTR Grant post 31st March 2025.

- 3.8 As part of the SSMTR Grant, Birmingham City Council have a Memorandum of Understanding (MOU) with OHID which formalises the working relationship between both parties and the expectations from OHID in relation to the Grant payment. Delivery planning is already underway for how the indicative amount of £9,547,838 for 2024/25 will be best utilised and allocated, with CGL and Aquarius likely to be in receipt of at least £3.5M and £920k respectively. Funding for Aquarius and CGL is likely to increase in 2024/25 and the grant funding will also be utilised in order to increase workforce capacity within the Public Health Addictions and Commissioning Teams. As part of Delivery planning Public Health and Commissioners will assess other different initiatives to increase treatment capacity and could be delivered by other providers outside of CGL and Aquarius. There is an expectation from OHID that the Birmingham Delivery Plan is approved in Q4 2023/24.
- 3.9 Contract procurement midway through a 3-year government grant programme worth £17.5M is high risk to BCC both reputationally and financially. If both Substance Misuse Contracts are not extended by 1-year up until 31st March 2025 and the contracts are procured with a potential new service provider/s on 1st April 2024, BCC could not onboard a new provider/s and maintain the required levels of pace, acceleration and change in order to achieve the SSMTR Delivery Plan for 2024/25 and increase treatment capacity by at least 20% which puts £4.6M of additional SSMTR OHID grant funding for 2024/25 at risk which in turn would mean reduced opportunities to support citizens and achieve the ambitions set out in the Council's Triple Zero Strategy to reduce the impacts of drug and alcohol addiction.
- 3.10 Breach of Conditions and Recovery of Grant are detailed within the MOU and OHID are very clear that they may reduce, suspend, or withhold grant payments or require the repayment of the whole or any part of the grant monies paid if the recipient (BCC) fails to deliver the project in line with the proposal outlined within the Delivery Plan. To ensure that the procurement of both contracts does not put SSMTR grant funding for 2024/25 at risk, a 1-year extension of the existing Adults and Young People's Substance Misuse contracts will enable the Council to be confident of SSMTR Grant Delivery up to March 2025 with no financial risk as well as enabling both contracts to be procured in order for new contracts to be in place on 1st April 2025. The contract extensions will also allow BCC to include any future Grant Funding from OHID post 31st March 2025 to be factored into contract procurement which is detailed in the indicative implementation plan (Point 7.4.9).

4 Options considered and Recommended Proposal

- 4.1 Do Nothing – do not extend the current services, this would lead to a failure to provide services which are a condition of the Public Health Grant. This is not recommended.
- 4.2 Deliver the service in-house – this option is not viable as the Council does not have the capacity, resources or clinical knowledge and experience to deliver substance misuse services. This is not recommended.
- 4.3 Commission the market to deliver the outcomes within this financial year – as detailed in 3.8 – 3.10 and based upon the indicative implementation plan for the commissioning and procurement of both contracts (Point 7.4.9), if both contracts are procured with a potential new service provider/s on 1st April 2024, BCC could not onboard a new provider/s and maintain the required levels of pace, acceleration and change in order to achieve the SSMTR Delivery Plan for 2024/25. This is not recommended.
- 4.4 Extend both services for a period of 12 months (1st April 2024 to 31st March 2025) and procure in 2024/25 by the most appropriate route that best meets the needs of our most vulnerable citizens and delivers the best value for money.

The 2 routes that will be evaluated are:

- Open Procurement
- or
- Utilising the new NHS Provider Selection Regime (PSR)

The PSR is yet to be launched and we expect more clarity on timeframes for implementation from Government to be published shortly.

It will replace current Procurement Regulations for services that are in scope: Health Services as defined in section 1(1) of the National Health Service Act 2006 (Substance Misuse services are within scope)

Directly provided to individuals

Arranged by certain select organisations – these include Local and Combined Authorities

An Open Procurement will allow the indicative implementation plan (Point 7.4.9) for the commissioning and procurement to be enacted. This is the recommended proposal.

5 Consultation

- 5.1 The Public Health Senior Management Team (PHSMT) and the Drug & Alcohol Improvement Support Team (Office for Health Improvement and Disparities - Department of Health and Social Care) have been briefed on the contents of this report and are supportive of the recommendations within this report.

6 Risk Management

- 6.1 The policy has been developed through a robust project management programme that includes the management and identification of risks that are tracked as part of the project delivery.
- 6.2 To minimise the risk of possible challenge from the market a Voluntary Ante Ex-Transparency Notice (VEAT) would be issued to the market to inform them of the decision and proposed timeline for the future commissioning/procurement.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposals contribute to strategic priorities and outcomes in the BCC Corporate Plan 2022 to 2026:

- A Prosperous Birmingham: The Drug and Alcohol Individual Placement Support (IPS) Programme delivered by CGL provides targeted help to people receiving substance support and who want to gain employment.
- An Inclusive Birmingham: Some people experience multiple and complex needs, with drug and/or alcohol addiction co-occurring with a range of health inequalities such as mental ill health, homelessness and rough sleeping and contact with the criminal justice system. Young people receive targeted help as early as possible to support them with issues associated with their own substance misuse or substance misuse of those that they live with. The service helps to empower young people and teaches them coping strategies to keep themselves safe and reduce risky behaviours.
- A Safe Birmingham: Both services contribute to multi-agency safeguarding partnerships and have a clear focus upon preventing and tackling homelessness.
- A Healthy Birmingham: Both services contribute towards tackling health inequalities and supporting mental health, the substance misuse workforce in Birmingham are able to address the trauma and mental health problems which can underpin a lot of drug addiction.

7.2 Legal Implications

7.2.1 The Health and Social Care Act 2012 and associated regulations transferred the responsibility for public health from the NHS to local authorities from April 2013. Drugs and alcohol services are not mandatory public health services as defined by the relevant legislation (Health and Social Care Act, 2012), but are in the relevant circular describing appropriate public health services (LAC(DH) (2013)3). Several key indicators in the Public Health Outcome

Framework relate to these areas and it is likely that they will be assessed in terms of performance.

7.2.2 The Children Act 1989 requires the Council to safeguard and promote the welfare of children within their area. The Act also requires the Council to facilitate the provision by others of services, and to make such arrangements as it sees fit for any person to act on their behalf in the provision of any such service.

7.2.3 The Health and Social Care Act 2012 and associated regulations transferred the responsibility for public health from the NHS to local authorities from April 2013. Drugs and alcohol services are not mandatory public health services, but the local authority has the power to provide community-based services to those with alcohol and drugs misuse problems who meet the eligibility criteria for those services.

7.3 Financial Implications

7.3.1 The cost of the 1-year proposed extension to the two (2) Substance Misuse Contracts will be funded through the ring-fenced Public Health Grant that is received by the Council. There is no additional funding required from the Council to support the extensions of the contracts.

7.3.2 Young People's Substance Misuse contract – service provided by Aquarius Action Projects, the cost of the extension period of 12 months is £649,445. This value is for delivery of the core contract funded by the Public Health ring-fenced Grant and does not include the additional OHID SSMTR Grant funding of £920k confirmed for 2023/24 and £920k indicative for 2024/25.

7.3.3 Adults Substance Misuse contract – service provided by Change, Grow, Live (CGL), the cost of the extension period of 12 months is £15,591,144. This value is for delivery of the core contract funded by the Public Health ring-fenced Grant and does not include the additional OHID SSMTR Grant funding of £3.5M confirmed for 2023/24 and £3.5M indicative for 2024/25.

7.3.4 For information, State Aid and the subsequent obligations does not apply to the SSMTR Grant.

7.4 Procurement Implications

7.4.1 There is no remaining delegated provision to extend the current contracts, as the original extension has been utilised.

7.4.2 Regulation 72. (1) of the Public Contract Regulations provides that "Contracts and framework agreements may be modified without a new procurement procedure...in any of the following cases...(b) for additional works, services or supplies by the original contractor that have become necessary and were not included in the initial procurement, where a change of contractor... (ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority, provided that any increase in price does not exceed 50% of the value of the original contract." The value of the original contract

includes any options to extend that were provided for at the point of advertising the original contract.

- 7.4.3 In accordance with the Council's new Procurement and Contract Governance Rules, the Waiver Procedure guidelines have been followed. This has enabled the recommendation for the extension of this contract to be brought to Cabinet. The Waiver Form is included at Appendix 4.
- 7.4.4 The Adult Substance Misuse contract was for a maximum 7 years (5 years plus an option to extend for a further 2 years) and commenced with CGL on 1st March 2015, expiring on the 28th February 2020. The option to extend for 2 years was taken up under delegated approval and then the contract was further extended for 2 years (1 year +1 year) via Cabinet approval. The original 7-year contract value was £111,012,657 and the contract value of this extension combined with previous (1 year + 1 year) contract extensions does not exceed the 50% threshold detailed under 7.4.2.
- 7.4.5 The Young People's Substance Misuse contract was for a maximum of 4 years (2 years with an option to extend for a further 2 years) commenced with Aquarius Action Projects on 1st October 2019 and expired on 30th September 2021. Following this, only 18 months of the 2-year option to extend was taken up under delegated approval, and then a further 1 year extension via Cabinet approval. The original 4-year contract value was £2,692,000 and the contract value of this extension combined with the previous contract extension does not exceed the 50% threshold detailed under 7.4.2.
- 7.4.6 Therefore, this circumstance complies with Regulation 72(1)(b)(ii) as set out above, the costs of the extension as detailed in this report do not exceed the 50% tolerance. As set out in points 3.8 – 3.10 above, there is a significant amount of risk in relation to the SSMTR Grant.
- 7.4.7 In addition, a Voluntary Ante Ex-Transparency Notice (VEAT) will be issued to the market to inform them of the decision and proposed timeline for the future commissioning/procurement.
- 7.4.8 In parallel with the proposal to extend current contract arrangements for a further 12 months to the 31st March 2025, consideration has been given to ensuring continuity of delivery of current services.
- 7.4.9 An indicative implementation plan for the commissioning and procurement of both substance misuse services is detailed below to demonstrate that this can be completed in the proposed contract extension period:

Activity	Proposed Dates
Procurement Strategy approved via Delegated Authority	September 2023
Service Specification developed with citizens and experts by experience	Oct 2023 - Jan 2024
ITT and specification development	March – May 2024

Tender published to the market	June - July 2024
Evaluation Period	August 2024
Contract Award approved/awarded	October 2024
Mobilisation period	October - March 2024
Contracts Start	1 st April 2025

7.4.10 The procurement proposal in order for new contracts to be in place by 1st April 2025 is via the open tender route to market or by utilising the new Provider Selection Regime (PSR) detailed under 4.4.

7.4.11 It is proposed that contract award for both Adults and Young People's substance misuse services be delegated to the Cabinet Member for Health and Social Care and the Director of Public Health to enable procurement to be achieved within the advised timeline above.

7.4.12 The contracts will continue to be managed by the Public Health Commissioning Team within the Adult Social Care Directorate. As part of ongoing contract management both providers will be required to update their Social Value Action Plan to include new targets for their plan for a further year of service delivery.

7.5 Human Resources Implications

7.5.1 None

7.6 Public Sector Equality Duty

7.6.1 See **Appendix 2** Equality Impact Assessment (EQUA899)

7.6.2 The requirements of Standing Order No. 9 in respect of the Council's Equal Opportunities Policy are incorporated in the contract for those services proposed to be extended.

7.6.3 The requirements of the Equality Act 2010 are specifically included in the contract to ensure compliance with the Act.

7.7 Environmental and Sustainability Implications

7.7.1 Attached as Appendix 8.3.

8 Appendices

8.1 **Appendix 1** – Cabinet Report - Substance Misuse Commissioning Proposals 28th June 2022

8.2 **Appendix 2** - Equality Impact Assessment (EQUA899)

8.3 **Appendix 3** – Environment and Sustainability Assessment

8.4 **Appendix 4** – Tender Waiver

9. Background Documents

The following publicly available documents have been used or referred to in the drafting of this report:

- 9.1 Dame Carol Black's independent report - Review of drugs: phase one report, 2020
<https://www.gov.uk/government/publications/review-of-drugs-phase-one-report>
- 9.2 Dame Carol Black's independent report - Review of drugs: phase two report, 2021
<https://www.gov.uk/government/publications/review-of-drugs-phase-two-report>
- 9.3 From harm to hope: A 10-year drugs plan to cut crime and save lives, 2022
<https://www.gov.uk/government/publications/from-harm-to-hope-a-10-year-drugs-plan-to-cut-crime-and-save-lives>
- 9.4 Triple Zero Drug and Alcohol Strategy
[Triple Zero City Strategy | Birmingham City Council](#)