

HEALTH AND WELLBEING BOARD

14 June 2022

Title:	Adult Emergency Duty Team service		
Report of Director Operation and Strategy in Adult Social Care			
Open Report		For Decision	
Wards Affected: All		Key Decision: Yes	
Report Author: Jill Williams, Shared Care, Public Health		Contact Details: Tel: 020 8227 2857 E-mail: jill.williams@lbbd.gov.uk	
Sponsor: Chris Bush. Commissioning Director for Care and Support			
Summary: To approve the S75 agreement between the North East London NHS Trust (NELFT) and the London Boroughs of Barking and Dagenham (LBBB), Havering (LBH), Redbridge (LBR) and Waltham Forest, to deliver the Adult Emergency Duty Team service ("AEDT") on behalf of Barking and Dagenham for three years – 1 April 2022 to 31 March 2025 ("the contract"). The lead borough is LBH. The total cost of the 3-year contract: £2,126,971.00 across the 4 participating boroughs. Year 1: £694,097.00 Year 2: £708,882.00 Year 3: £723,992.00 The cost for LBBB is: Year 1: £173,524.25 Year 2: £177,220.50 Year 3: £180,998.00 Total: £531,742.75			
Reason(s) This is a partnership arrangement under s 75 of the NHS Act 2006 to provide a specific health and social care service across LBBB, LBH, LBR and LBWF provided by the local NHS Trust NELFT for people experiencing crisis. The Care Act 2014 places a duty on local authorities in relation to the assessment of an individual's care needs, as well as the support needs of carers. The AEDT includes but is not restricted to the provision of assessments under the Mental Health Act Approved Mental Health Professionals. The service also provides urgent out-of-hours Health assessments for residents under the age of 18, in conjunction with the Children's Emergency Services. Given the function of the AEDT it aligns with the Council priorities of enabling social responsibility and growing together.			

Recommendation(s)

The Health and Wellbeing Board is recommended to agree:

1. The S75 agreement between NELFT and the London Boroughs of Barking and Dagenham, Havering, Redbridge and Waltham Forest, to deliver the Adult Emergency Duty Team service on behalf of Barking and Dagenham for three years from 1 April 2022 to 31 March 2025.
2. It is further recommended that a Waiver of the Rule 28.5 of the Contract Rule to give approval for direct award and for the commission of the emergency care provider on the basis that these are personalised services under Rule 5.1(d), which is a Partially Exempt Procurement of the Council's Contract Rules. This report seeks for this approval to be extended and trigger the option to extend these contracts for the duration of the extension period under the Contract.

Reason(s)

As above. This emergency out- of- hours service for people experiencing crisis is provided by the local NHS Trust (NELFT) to the 4 participating boroughs.

1. Introduction and Background

- 1.1 This paper concerns approval for a S75 for the provision of an AEDT service by NELFT in partnership with the LBH, LBR and LBWF.
- 1.2 The AEDT S 75 agreement has been in place across LBBD, LBH, LBR, LBWF and NELFT since at least 2018 for the pooling of functions and funding in respect of an out of hours emergency service for adult social care and mental health services. The LBH leads on the contract.
- 1.3 Previously, the contract was for 3 years 2018-21 with a one-year extension to 2022 due to ensure service continuity during the Covid pandemic.
- 1.4 The AEDT provides an emergency social care service outside of normal office hours, to deal with emergency situations that cannot wait until the next working day. The AEDT includes but is not restricted to the provision of Mental Health Act assessments by an Approved Mental Health Professional. The service also provides urgent out-of-hours Mental Health assessments for residents under the age of 18, in conjunction with the Children's EDT.
- 1.5 The current contract expired on 31 March 2022. **The AEDT service remains in operation.** A letter confirming LBBD's intention to remaining in the contract has been sent to the lead borough, signed by the Chris Bush Commissioning Director for Care and Support until the contract has been approved by the Health and Wellbeing Board.

2. Proposal and Issues

- 2.1 The contract is currently procured under a S75 arrangement with NELFT and three other London boroughs and the new contract would continue in this manner.
- 2.2 The existing contract expired 31st March 2022. This is a new contract agreement under Section 75 terms. It is a service which requires provision from a local NHS Trust.
- 2.3 The S75 terms allows for the pooling of functions and funding in respect of an out of hours emergency service for adult social care and mental health services.

3 Consultation

- 3.1 It is a service which requires provision from a local NHS Trust. This report recommends that we continue with the provider as there is no obvious alternative, together with our partner boroughs, to deliver the AEDT service.

4 Mandatory Implications

4.1 Joint Strategic Needs Assessment

N/A

4.2 Health and Wellbeing Strategy

N/A

4.3 Integration

N/A

4.4 Financial Implications

- 4.4.1 This report seeks approval to renew NELFT contract to provide emergency social care service outside of normal office hours on behalf of London Boroughs of Barking & Dagenham, Havering, Redbridge and Waltham Forest.
- 4.4.2 Estimated cost for three years is £2,126,971.00 and this will be split equally across the four partner boroughs. LBBB element is **£531,742.75** (year 1 £173,524.25, year 2 £177,220.50 and year 3 £180,998.000).
- 4.4.3 There is sufficient budget provision for this expenditure via the BCF. Any contract uplifts and variations will be contained within existing budget. Monitoring of this contract will be part of our monthly budget monitoring process and any identified risks will be reported accordingly for mitigation.

(Implications completed by: Lawrence Quaye – Finance Business Partner)

4.5 Legal Implications

- 4.5.1 This report seeks to directly award the commissioning of the joint partnership s 75 Agreement with three other local authorities in the London area.
- 4.5.2 An agreement made under section 75 of National Health Services Act 2006 between LBBB as one of the local authorities and an NHS body in England, which can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.
- 4.5.3 The Care Act 2014 places a duty on local authorities in relation to the assessment of an individual's care needs, as well as the support needs of carers, and addresses subsequent eligibility for publicly funded assistance. One of the principles of the Care Act 2014 is empowerment to support vulnerable adults so they can confidently make their own decisions and give informed consent regarding their care.
- 4.5.4 The recommendations made in this Report is to select an option that enables the service to continue without a break in its delivery. Contracts with this provider is already in place and includes the option to extend. Emergency care services are often personalised contracts with Borough residents under Council Contract Rule 5.1(d), and partially Exempt procurement, it is not covered by PCR 2015.
- 4.5.5 It is recommended that a Waiver of the Rule 28.5 of the Contract Rule and to give approval for direct award and for the commission of the emergency care provider on the basis that these are personalised services under Rule 5.1(d), which is a Partially Exempt Procurement of the Council's Contract Rules. This report seeks for this approval to be extended and trigger the option to extend these contracts for the duration of the extension period under the Contract.
- 4.5.6 The proposed procurement strategy set out in this report is compliant with the requirements of LBBB's contract rules. Therefore, if the decision maker approves of the proposed procurement route, then the proposals set out in this report are legally permissible.

(Implications completed by: Lauren Van Arendonk, Commercial & Procurement Lawyer)

4.6 Risk Management

- 4.6.1 The biggest risk at this stage is service discontinuity as a result of the delay in signing off the contract. The service remains in operation. The lead borough (LBH) requested a letter from LBBB signed by the relevant Director to show our intention to commit to the contract in the interim period from 1 April 2022 until Health and Wellbeing Board sign-off post approval by the Health and Wellbeing Board. This letter has been sent signed off by the Commissioning Director for Care and Support, Chris Bush.

4.7 Patient / Service User Impact

- 4.7.1 Barking and Dagenham is a deprived borough with a diverse population. The challenges of deprivation, racism and discrimination have profound and damaging implications for mental health.¹ The ADET service is for individuals who require

¹ Mental Health Foundation [BAME and mental health | Mental Health Foundation](#)

additional specialist support, out of hours, within mental health or adult social care. It is vital that this provision continues seamlessly so that residents who require this service can be confident they will receive expert support in an accessible and timely way to keep all involved safe and to help reduce the impact of health inequalities across some of the most marginalised communities in LBB.

5. Non-mandatory Implications

5.1 Crime and Disorder

None

5.2 Safeguarding

5.2.1 The service is for adults who require additional specialist support during a period of crisis: without the service adults may be placed at increased safeguarding risk. The service also provides out-of-hours Mental Health assessments for residents under the age of 18, in conjunction with the Children's EDT. Its absence is therefore likely to increase safeguarding risk for children.

5.3 Property / Assets

None

5.4 Customer Impact

5.4.1 As discussed in sections 4.7.1 and 5.2.1.

5.5 Contractual Issues

5.5.1 The contract is a S75 arrangement under the NHS Act 2006.

5.6 Staffing issues

None

NOTE ON KEY DECISIONS

By law, councils have to publish a document detailing "Key Decisions" that are to be taken by the Cabinet, Health and Wellbeing Board, or other committees / persons / bodies that have executive functions.

The document, known as the Forward Plan, is required to be published 28 days before the date that the decisions are to be made. Key decisions are defined as:

(i) Those that form the **Council's budgetary and policy framework** (this is explained in more detail in the Council's Constitution)

(ii) Those that involve '**significant' spending or savings**

(iii) Those that have a **significant effect on the community**

In relation to (ii) above, Barking and Dagenham's **definition of 'significant' is spending** or savings of £200,000 or more that is not already provided for in the Council's Budget (the setting of the Budget is itself a Key Decision).

In relation to (iii) above, Barking and Dagenham has also extended this **definition** so that it relates to **any decision** that is likely to have a **significant impact on one or more ward** (the legislation refers to this aspect only being relevant where the impact is likely to be on two or more wards).

As part of the Council's commitment to open government it has extended the scope of this document (Forward Plan) so that it **includes all known issues, not just "Key Decisions"**, that are due to be considered by the decision-making body as far ahead as possible.