

HEALTH AND WELLBEING BOARD

9 DECEMBER 2014

Title: Procurement Strategy and Waiver for Public Health Services Contracts in Primary Care 2015/16

Report of the Corporate Director of Adult and Community Services

Open Report

For Decision

Wards Affected: All

Key Decision: Yes

Report Author:

Marion Gibbon – Interim Consultant in Public Health
Ekuba Edjah – Primary Care Management Officer

Contact Details:

Tel: 020 8227 3953/0785 068 3108
E-mail: marion.gibbon@lbbd.gov.uk

Sponsor:

Matthew Cole, Director of Public Health

Summary:

The current Public Health Primary Care contracts will expire on 31 March 2015. This waiver report seeks approval to waive the requirement to tender the contracts for these services and to continue commissioning services with the current providers for another 12 months starting from 1 April 2015 as there are exceptional circumstances why a procurement exercise cannot be undertaken at this stage.

This report also outlines the delivery and procurement strategy for the following Public Health Services contracts in Primary Care for 15/16:

- Health Checks (Mandatory Function for the Council since April 2013)
- Smoking Cessation (Tier 2) in General Practice and Pharmacies
- Chlamydia Screening in General Practices
- Long Acting Reversible Contraception in General Practices
- Sexual Health Services in Pharmacies (including Chlamydia Screening, Emergency Hormonal Contraception)
- Supervised Methadone Consumption in Pharmacies
- Shared Care in General Practices.

Recommendation(s)

The Health and Wellbeing Board is recommended to:

- Approve the strategy set out in this report for the procurement of the several public health contracts identified in sections 2.1 to 2.6
- Waive the requirement to conduct a competitive procurement exercise for the said contracts in accordance with Contract Rule 6.6.8.
- Delegate Authority to the Corporate Director of Adult and Community Services, in consultation with the Director of Public Health, Head of Legal Services and the Chief

Finance Officer to award the Public Health service contracts as set out in sections 2.1 to 2.6 of this report to the nominated General Practice and Pharmacy providers.

Reason(s)

- The outcomes of the decision from this report, affects the Council's ability to deliver on its priorities as set out in the Health and Wellbeing Strategy 2012-15: Smoking Cessation (Prevention Theme priority 1), Sexual Health (Protection Theme priority 5) and Substance Misuse (Prevention Theme priority 3) Health Check programme, which is a mandatory Council function (Prevention Theme priority 5).
- The General Practice and Pharmacy prevention programmes are key elements of an integrated health care approach to tackling the key priorities identified by the Health and Wellbeing Board and provide wider access to services.
- Requirements for the use of patient identifiable information and robust governance arrangements mean that third party providers are unable to provide services at this current time without significant changes to information governance and Caldicott requirements.

Further to this, the report assists in the delivery of the Council's vision and priorities, particularly the priority of 'enabling social responsibility'.

1. Introduction and Background

- 1.1 On 1 April 2013 the delivery of Public Health services was transferred to local authorities pursuant to the Health and Social Care Act 2012. At the same time Primary Care Trusts (PCTs) who until then managed contracts delivering public health outcomes ceased to exist.
- 1.2 Some of these services were legally 'novated' from the PCT to the Council, for delivery through General Practices and Pharmacies, during the 2013/14 financial year by a transfer order, under the Transfer Scheme enacted by the Secretary of State and were later commissioned as Council Public Health Contracts for the duration of 2014/15.
- 1.3 Contracts for the delivery of the services mentioned within this report are already in place with primary care providers.
- 1.4 This paper presents the Health and Wellbeing Board with the proposal to award the following Public Health Programmes contracts within the primary care setting from the 1st of April 2015 for a period of one year.
 - NHS Health Check Programme (mandated Council Public Health function)
 - Chlamydia Screening,
 - Smoking Cessation Level 2 Service,

- Contraceptive Intrauterine Devices (IUDs) and Contraceptive Implants,
- Pharmacy sexual health Service
- Shared Care in GP Practices (Drug Treatment Service)
- Supervised Consumption in Pharmacies (Drug Treatment Service)

1.5 There are also plans to begin a review of the procurement strategy for these services in order to establish the best procurement options beyond March 2016 for example, sub-contracting through larger specialist providers, competitive tender, private-public blend etc.

2. Proposed Procurement Strategy for Public Health Programmes 2015/16

2.1 Health Check Programme (Mandatory Council function since April 2013)

The NHS Health Check programme has historically been delivered through General Practices and Pharmacies and invites adults aged 40-74 years, based on nationally pre-established eligibility criteria to a 5 yearly screening consultation to identify their risk of developing cardiovascular disease. The risk of developing cardiovascular diseases such as diabetes, dementia, high cholesterol and others is established and communicated to patients, along with identifying lifestyle behaviours that can exacerbate/mitigate this risk. Individuals identified as very high risk are referred to appropriate lifestyle intervention programmes and managed through primary care.

We currently contract with 40 general practices at an aggregate amount across (if 100% activity target met) equates annually to £306,000. Assuming annual targets are met, and based on the practices population, the maximum any individual general practice may expect to receive would be an approximate £19,000.

We currently contract with 10 Community Pharmacies at an aggregate amount across (assuming all 10 pharmacies achieve the set annual target) equates annually to £22,000. Individual pharmacies that meet their annual target can expect to earn approximately £2,200 per year. This payment does not include reimbursements for consumables utilised by the pharmacies during the Health Check.

The service was limited to 10 out of 38 Pharmacies, due to a limited number of Point of Care Testing Devices being available which are required for the delivery of the service through pharmacies. Increasing the number of contracted pharmacies would incur additional costs for the purchase of Point of Care Testing devices and associated consumables. This is currently being reviewed to increase the number of pharmacies.

The total cost of the Health Check Programme is £396,000 per annum which also includes £68,000 for Point of Care Testing Kit Quality Assurance scheme, Promotions and Training.

It is more likely than not, that the vast majority of General Practices, if not all, will express an interest in delivering this programme. A similar assumption can be made for the currently contracted pharmacies.

2.2 Primary care level 2 smoking cessation service (this service is in addition to the Council run specialist smoking service)

General Practices and Pharmacies have been delivering the level 2 smoking cessation service in Barking and Dagenham for over 10 years. The service involves face-to-face consultations with patients or services users that express a wish to quit smoking along with the provision of Nicotine Replacement Therapy (NRT) such that they are supported to quit smoking within 4 weeks. The service has previously achieved 65% successful quit rates for patients receiving the service.

The aggregate activity costs for activity delivered through primary care (general practices and pharmacies) amounts £83,000, based on providers achieving an aggregate of 1,000 smokers across the borough. (Currently 20 out of the 40 GP's in the borough carry out this service).

Associated prescribing costs for NRT delivered through community pharmacies amounts to £231,000 (Currently 32 out of 38 Pharmacies in the borough carry out this service).

The total cost of contracts in Primary Care for smoking cessation is £314,000 per annum (including cost of supplying NRT in pharmacy).

2.3 Intrauterine Devices (IUDs) and Contraceptive Implants (General Practice only)

Long Acting Reversible Contraception (LARC), which includes IUDs and Contraceptive Implants, provides an alternative to barrier and oral contraception and is less dependent on a patient's daily compliance. While LARCs can be accessed through sexual health clinics, it is most cost effective and easier to access if delivered through general practice.

This service is demand led making maximum contract values per provider difficult to estimate. However the current aggregated contract cost across the 26 current providers, based on 2012/13 and modelling data from 2013/14 is estimated to be £60,000 per annum.

2.4 Chlamydia Screening in General Practices

The programme aims to increase the number of 15-24 year olds screened for Chlamydia through General Practice to promote early identification and treatment. The current service is contracted with 27 general practices who carry out this service. Anticipated aggregate contract cost based on 2012/13 delivery is £20,000 per annum.

2.5 Pharmacy Sexual Health Service

Pharmacies have an important role to play in providing contraceptives, in particular, access for young people seeking Emergency Hormonal Contraception (EHC) and Chlamydia screening through community pharmacies. Currently we commission 21 pharmacies in the borough to provide this service. Anticipated contract cost based on 2012/13 activity is £200,000 per annum.

2.6 Shared Care (substance misuse)

Shared care is an essential part of the management and treatment of drug misuse. The scheme is overseen by the Substance Misuse Strategy Team (Community Safety). Shared care comprises two schemes General Practice Shared Care and Pharmacy Supervised Consumption services.

The budget allocation for shared care as a whole is around £100,000 split across General Practice Shared Care and Pharmacy Supervised Consumption. Based on 2013-14 levels of activity general practice shared care is allocated £35,000 over 2014-15. Around 15 practices are in the scheme locally. Maximum payment per surgery is £244 per year for each service user seen. Practices which see patients from non-participating surgeries receive a maximum payment of £350 per service user annually.

The scheme should be delivered by local general practices based in Barking and Dagenham able to treat residents. As such, there is a lack of alternative providers beyond those already delivering the service. Furthermore, how general practice shared care develops beyond 2015-16 is dependent on the outcome of the re tender of specialist drug services planned at the end of 2014-15 and the ongoing requirements of the new drug treatment system to improve treatment outcomes for service users.

Based on 2013-14 levels of activity pharmacy shared care is allocated £65,000 over 2014-15. Pharmacists are paid per supervision of medication at £1.90 for methadone and £2.10 for sublingual medication such as buprenorphine. Future development of the supervised consumption scheme is dependent in part on the retendering of the specialist drug service and its ongoing requirements to improve treatment outcomes for service users.

2.7 Estimated Contract Value, including the value of any uplift or extension period

Overall the Public Health Service Contract value with Primary Care for 2015/16 is £1,090,000. Depending on the services delivered, individual contracts with each general practice could be worth up to an estimated value of £44,000. This estimate is based on a combination of information from previous activity for the demand led services and assuming practices are able to achieve 100% of their annual targets for the other services. However as general practices vary in the size of registered population they cater to, estimated contract values vary from as little as £6,500 for a smaller general practice, that delivers all services on offer, and achieves 100% of their targets, compared to as much as £44,000 to one of the larger general practices also delivering all services on offer and achieving 100% of their targets/expected delivery. Depending on the services delivered individual contracts with each community pharmacy could be worth up to an estimated value of £18,000. This estimate is based on a combination of information from previous activity for the demand led services and assuming providers are able to achieve 100% of their annual targets for the other services.

It is not feasible to accurately anticipate the exact contract value per provider (general practice or pharmacy) since the services within the contract are optional to providers and their choice of preferred services is not known until very near financial

year end when contracts are awarded. This is in addition to some of the services within the contract being demand led.

All spend will be monitored during the year through quarterly and monthly spend reports.

2.8 The contract delivery methodology and documentation to be adopted

Public Health Service contracts:

- a) NHS Health Checks: Providers invite patients registered with Barking and Dagenham General Practices or resident within the borough, based on specific eligibility criteria and verified through patient notes on clinical patient information systems to be screened for risk of cardiovascular disease. Health Checks are conducted within General Practice and Pharmacy premises, and results of health checks noted on the patients' clinical notes. General Practices will be paid quarterly, as per activity recorded on the clinical systems and queried through a commissioner database. Pharmacies are paid for monthly, based on invoices submitted to the Public Health Team. Practices and pharmacies are set annual targets and are performance monitored through quarterly meetings, and monthly data monitoring. Practice visits are held with poor performers in order to agree and implement actions plans for performance improvement.
- b) Smoking Cessation: Providers invite patients to join the smoking cessation programme either by selecting current smokers from the general practices' registered patient list and patient's clinical notes or through the sale of nicotine products in pharmacies. Patients are supported to quit through face-to-face support and provision of nicotine replacement therapy and are seen within the General Practice and/or Pharmacy setting. Providers are paid for the number of successful quitters achieved and pharmacies reimbursed for any nicotine replacement therapies provided. Payments to General Practice occur on a quarterly basis whilst pharmacies are paid on a monthly basis. Practices and pharmacies are set annual targets and are performance monitored through quarterly meetings, and monthly data monitoring. Practice visits are held with poor performers in order to agree and implement actions plans for performance improvement.
- c) Chlamydia Screening in General Practices and Pharmacy setting: the Chlamydia screening service is delivered in a similar manner in both general practices as well as pharmacies. Service users are recommended a screen for Chlamydia infection based on their sexual histories, taken opportunistically through another medical consultation or upon request by the service user themselves. Samples are then sent to a lab for testing, delivery of test results and partner notification in case of a positive result. General Practices as well as Pharmacies are paid on a quarterly basis upon receiving activity data for the respective time period. Practices and pharmacies are set annual targets and are performance monitored through quarterly meetings, and monthly data monitoring. Practice visits are held with poor performers in order to agree and implement actions plans for performance improvement.

- d) Sexual Health Services in Pharmacies i.e. provision of Emergency Hormonal Contraception (EHC): the contracted pharmacies are able to dispense EHC, only through operating under a Patient Group Directive (PGD) that requires named pharmacists to act within the clinical limitations and recommendations of the PGD as reviewed, updated and agreed regularly by a multidisciplinary team of specialists. Pharmacies dispense the EHC upon request of a service user and based on strict clinical criteria as outlined in the PGD and service specification documents. Supply is demand led and pharmacies are paid on a monthly basis upon the submission of an invoice.
- e) Long Acting Reversible Contraception (LARC): the service is demand led, and is delivered within General Practice premises. Only qualified staff are allowed to carry out procedures as per guidelines set out by the Faculty of Sexual and Reproductive Health. GPs are paid for the activity on a quarterly basis upon receipt of an invoice with activity details.
- f) Shared Care: This service involves joint working between local GP surgeries and the specialist drug service in relation to the management of stable drug users on substitute medication for opioid addiction with some provision for the treatment of prescription and over-the-counter addiction issues. Liaison worker/s, employed by the specialist drug service in Barking and Dagenham coordinate a service user's treatment while the prescribing GP holds medical responsibility. If necessary, the patient can be referred back to the specialist service if they require more intensive interventions. All service users seen in GP shared care are assessed as suitable for shared care and referred to the scheme by the specialist drug service. Around 15 surgeries are in the scheme locally. Maximum payment per surgery is £244 per year for each service user seen. Practices which see patients from non-participating surgeries receive a maximum payment of £350 per service user annually. The scheme should be delivered by local GPs based in Barking and Dagenham able to treat Barking and Dagenham residents.
- g) Supervised Consumption: This scheme supports people in treatment at the specialist drug service for opioid dependency who are prescribed 'substitute medication' (methadone, suboxone or buprenorphine) to assist recovery. Service users take their prescription from the specialist drug service to the pharmacy where they are dispensed medication on-site and observed taking it by the pharmacist. Pharmacists are paid per supervision of medication at £1.90 for methadone and £2.10 for sublingual medication such as buprenorphine. Supervised consumption is indicated for all new opioid dependent service users starting treatment at the specialist service and for those who are unable to manage their medication or who may divert it illegally. Supervised consumption services should be based near to where service users live and therefore should consist of local pharmacies

It is anticipated there will be circa 40 GP contracts and circa 38 Pharmacy contracts. The contract will be awarded on the Public Health Non Mandatory Services Contract.

2.9 Outcomes, savings and efficiencies expected as a consequence of awarding the proposed contract

The health topics addressed by the programmes above (Cardiovascular disease/diabetes detection, smoking, sexual health and contraception and substance misuse) are all outlined in the JSNA as areas where improvements need to be made in Barking and Dagenham in terms of early detection and reducing prevalence. The above programmes play a significant role in improving outcomes and reducing health inequalities across these key population health topics.

2.10 Criteria against which the tenderers are to be selected and contract is to be awarded

Health Checks – contracts will be offered to all 40 General Practices within the borough (Currently all general practices, provide this service and are trained to do so) and 10 out of 38 Pharmacies within the borough. Pharmacies have been limited to 10 due to limited availability of costly Point of Care Testing devices required to deliver the service outside of General Practices.)

Smoking Cessation – contracts offered to those General Practices and pharmacies with staff trained to required standards as smoking cessation advisors. Currently 20 out of 40 GP practices (with trained staff) and 32 out of 38 pharmacies hold a contract for the delivery of smoking cessation level-2 service.

Chlamydia Screening in general practices – contracts offered to all 40 General Practices within the borough (training is available free of cost) Currently 27 General Practices deliver this service within this borough.

Sexual Health in Pharmacies – contracts offered to Pharmacies whose pharmacist staff are trained to operate under the then current Patient Group Directive (PGD) for the supply of EHC. Currently 21 pharmacies deliver sexual health services within the borough.

Long Acting Reversible Contraception – contracts offered to all General Practices that have staff qualified/certified to perform the procedures in question. Currently 26 General Practices deliver these services within the borough.

GP Shared Care –The intention is to limit number of GP surgeries providing GP shared care to those existing practices (15) providing service during 2015-16 in order to maintain service continuity during the re tendering, implementation and early developmental phase of specialist drug services (on which the scheme critically depends) in the borough.

Pharmacy Supervised consumption – contracts offered to Pharmacies in the borough whose pharmacist staff are competent to deliver supervised consumption in partnership with drug treatment services.

2.11 How the procurement will address and implement the Council's Social Value policies

The procurement of these services from General Practices and Pharmacies will enable the council to fulfill its duties around improving the health of the local population.

Collectively the programmes aim to;

- Reduce the incidence of sexual health infections which can have long lasting adverse health impacts for residents.
- Prevent unplanned pregnancies, reduce the number of avoidable terminations of pregnancies and the avoid any possible associated adverse health and social impacts.
- Increase the uptake of healthier lifestyle such as quit smoking and increased physical activity and weight management to achieve greater healthier life expectancy, and reducing the prevalence of residents/patients living with long term conditions such as COPD or developing Lung Cancer.
- Establish residents'/patients' risk of developing long term and acute cardiovascular conditions such as diabetes and/or stroke therefore enabling residents'/patients' to make healthier choices to prevent adverse health event and positively impacting health inequalities within the borough.

2.12 Duration of the contract, including any options for extension.

1 Year from the 1st April 2015 to the 31st of March 2016.

2.13 Is the contract subject to the (EU) Public Contracts Regulations 2006? If Yes, and contract is for services, are they Part A or Part B Services

Yes, however as these services form part of the Part B services they are not subject to the full regime of the Public Contracts Regulations 2006.

2.14 Recommended procurement procedure and reasons for the recommendation.

The recommended procurement procedure is to waive the requirement for a tender and to award these contracts to providers within the primary care setting (general practices and pharmacies). The reasons are set out below as to why general practices and community pharmacies are considered the most suitable providers:

- General practice and pharmacies hold the necessary confidential and sensitive patient information necessary to obtain eligibility lists and associated cost-efficiencies within the service delivery pathway.
- Some of these services such as Long Acting Reversible Contraception can only be provided by medically trained staff.
- General practice and community pharmacies have the most suitable and universal geographical coverage of the borough in terms of accessible venues for patients and service users.
- The availability of clinical expertise within general practice and pharmacy setting in the event of an emergency or any associated health concerns.

These services do not form part of the standard offer of care within general practices and/or pharmacies and failure to provide these services within the borough will result in the loss of access to key public health interventions, consequently affecting the council's ability to achieve its priorities as set out in the Health and Wellbeing Strategy 2012-15.

Should the procurement strategy and waiver be approved, contracts will be awarded to all general practices and pharmacies that express an interest in delivering the service and that possess adequately qualified staff as per the service specifications and national guidance in order to deliver the services.

3 Options Appraisal

The following options have been considered and rejected;

- a) Do nothing: Current Contracts end on the 31st of March 2015. Not taking action would mean the services would cease to be offered to service users and residents. One of the services included within the contracts (NHS Health Checks) is a mandatory council function since April 2013).
- b) Develop a framework after competitive tender and ascertain whether there is another model for service provision at fixed costs. However, these services are used by population groups who perceive themselves to be healthy and so there is insufficient natural demand for this model to ensure value for money if block contracts are awarded.
- c) Competitive Tender: at this stage, the competitive tender process was considered and rejected for the following reasons:
 - Some of the services specifically Long-Acting Reversible contraception can only be delivered by medically trained staff. The Emergency Hormonal Contraception supplied through pharmacies can also be delivered only by trained pharmacists named on a legal document called Patient Group Directive.
 - GPs are legally the data controllers of patient data held on their clinical information systems. Current legislation, such as the Data Protection Act 1998, prevents other organisations from access to patient's information without explicit consent from the GPs and patients themselves. This information is crucial in delivering a cost-effective service and impacts the ability of providers establishing a valid list of patients eligible for each of the programmes. In addition to establishing eligible patient lists, providers are also required to follow up patients and record clinical data about potential diagnosis or clinical test results on to patient records. Delivery of the services through other providers without access to patient data that allows establishing and verifying patients' eligibility would be cost-inefficient as experience from within this and other London boroughs demonstrates. 3rd party providers would have to verify eligibility with GPs therefore duplicating

elements of the service and activity carried out on ineligible individuals is not considered for national data submissions for performance reporting.

- **Geographic locations:** Currently, local General Practices are situated borough wide, service localised populations and when full participation in programmes is achieved, a borough wide coverage of the relevant population can be expected. In contrast, commercial providers of services have not been able to demonstrate a similar standard and level of coverage. In order to replicate coverage obtained via General Practice, multiple providers may need to be contracted or in the case of a single provider multiple venues/sites are required, making activity levels at each site small and potentially financially unviable.
- **Clinical expertise:** GPs and Pharmacists also have the advantage of clinical expertise being available in the form of either doctors or nurses allowing service users access to clinical expertise in more than one specialty should the need arise. In contrast, commercial providers commonly specialise in limited areas, unless medically trained staff are involved. This has implications for any local integration strategies with the aim to make 'every patient contact count'.

The rationale outlined above also broadly applies to Community Pharmacists as current preferred providers of some Public Health Services. It is therefore recommended that the contracts are offered to Barking and Dagenham primary care providers (General Practices and Community Pharmacists) uncontested, waiving a full tender process.

4 Waiver

Approval is being sought to waive the requirements of the Contract Rules, specifically Clause 6.6.8 which relates to genuinely exceptional circumstances.

It is believed to be in the Council's best interest to issue the waiver due to no alternative satisfactory procurement option being available to commissioners at this stage apart from primary care providers (General Practice and Pharmacies) for the reasons identified in the above point 3 (b).

5 Equalities and other Customer Impact

Quality Public Health Services delivered through Primary Care are aimed to reduce health inequalities by decreasing health related disabilities and morbidity in the borough. They are aimed at all gender classifications, sexual orientations, religious and ethnic groups alike. Some of the programmes are targeted at younger age groups due to high disease prevalence and with the aim of making the programmes more cost and clinically effective however; this does not prevent other age groups from availing of similar services. A high number of service users are expected to be from high risk and vulnerable groups.

6 Recommendations to Health and Wellbeing Board

- Approve the strategy set out in this report for the procurement of the several public health contracts identified in sections 2.1 to 2.6.
- Waive the requirement to conduct a competitive procurement exercise for the said contracts in accordance with Contract Rule 6.6.8.
- Delegate Authority to the Corporate Director of Adult and Community Services, in consultation with the Director of Public Health and the Chief Finance Officer to award the Public Health service contracts as set out in sections 2.1 to 2.6 of this report to the nominated General Practice and Pharmacy providers

7. Consultation

In line with Council procedure the following have been consulted with:

- Councillor Worby Portfolio holder for Adult Social Care and Health
- Procurement Board
- Corporate Director for Adult and Community Services
- Group Manager Finance Adults and Community Services
- Legal Services
- Statutory Proper Officer – Director of Public Health

8. Mandatory Implications

8.1 Joint Strategic Needs Assessment (JSNA)

The JSNA has highlighted sexual health (especially HIV and teenage pregnancy), cardiovascular disease, COPD, cancer and drug and alcohol misuse as priority areas in need of improvement against the Public Health Outcomes Framework.

The Pharmacy elements are noted in the Pharmaceutical Needs Assessment (PNA). The refreshed PNA is being published on 1 April 2015.

8.2 Health and Wellbeing Strategy

The Health and Wellbeing Strategy identifies these areas as key programmes for our delivery to improve life expectancy in the borough. These interventions will be included in the refresh of the Health and Wellbeing Strategy 2016-18.

8.3 Integration

One of the outcomes we want to achieve for our Joint Health and Wellbeing Strategy is to improve health and wellbeing outcomes through integrated services. The report's

recommendations are underpinned for the need for effective integration of services and partnership working.

8.5 **Corporate Procurement**

Implications completed by: Claudette Rose, Category Manager, Public Health

Services in GP Practices

The programmes will be procured from the Borough's GPs and Pharmacies on a voluntary take up basis. GPs will be offered contracts and will be contractually committed to deliver an agreed number of Health Checks on an annual basis, and monitored monthly.

GP's and Pharmacies will be contracted utilising the Public Health Non Mandatory Services Contract that has been reviewed by the Council's Legal Team. This series of contracts is being let for a period of one year in order for Public Health to review the market place and consider alternative options e.g. Public and Private blend.

Due to the value and Part B nature of this contract a formal invitation to tender including an advert would be required however due to the nature of the service being procured a Waiver is being sought to waive the required Contract rules. A Waiver would be sought on the grounds contained in Contract Rules 6.6.8 that there are other circumstances which are genuinely exceptional. The reason for this is GP's are best placed to deliver these services currently in an immature market with limited private and voluntary sector providers exists

Services in Community Pharmacies

Services will be procured from the Borough's Pharmacy's on a voluntary take up basis. Pharmacy's will be offered Contracts via the Public Health Team and will be contractually committed to deliver to an agreed service level.

Pharmacies will be contracted utilising the Public Health Non Mandatory Services Contract that has been reviewed and agreed by the Council's Legal Team. This contract is being let for a period of one year in order for Public Health to review the market place and consider alternative options e.g. Public and Private blend.

Due to the value and Part B nature of this contract a three documented quote process would be required however due to the specialist nature of the service being procured a Waiver is being sought to waive the required Contract rules.

A Waiver would be sought on the ground contained in Contract Rule 6.6.8 that there are other circumstances which are genuinely exceptional. The reasons for this are that the borough's Pharmacy's are best placed to deliver these specialist services. Currently an immature market with limited private and voluntary sector providers exists.

8.6 **Financial Implications**

Implications completed by: Roger Hampson, Group Manager Finance – Adults and Community Services

This report seeks authority to enter into contracts for Public Health services in Primary Care up to March 2016, and to waive the requirements of the Contract Rules, for the reasons set out in the report. A review of the procurement strategy for these services will be undertaken to establish the best procurement options beyond March 2016.

The total of anticipated contract costs is £1,090,000 in 2015/16 as set out in the table below and is within the available budget:

Health Check Programme	£396,000
Smoking Cessation Level 2 Service	£314,000
Long Acting Reversible Contraception (Contraceptive Implants and Intrauterine Devices)	£60,000
Chlamydia Screening	£20,000
Pharmacy Sexual Health Service	£200,000
Shared Care	£35,000
Pharmacy Supervised Consumption	£65,000

8.7. Legal Implications

Implications completed by: Eldred Taylor-Camara, Legal Group Manager

- 8.7.1 This report is asking that the Health and Wellbeing Board (HWB) waives the requirement, under the Council's Contract Rules, to tender the contracts and approve the procurement strategies referred to in this report.
- 8.7.2 The report proposes that the contracts being procured should be awarded directly to GP's and Community Pharmacies without subjecting them to competition. The report further requests that a waiver be granted of the requirements to subject the procurements to competition on the ground that there are exceptional reasons why these contracts cannot be so procured. The several reasons advanced and relied on for this are stated in paragraphs 2.14 and 4c of the report.
- 8.7.3 The services referred to are classified as a Part B services under the Public Contract Regulations 2006 (the "Regulations") and are therefore not subject to the full tendering requirements of the Regulations. However the Council still has a legal obligation to comply with the relevant provisions of the Council's Contract Rules and with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in conducting the procurement exercise.
- 8.7.4 The EU Treaty Principles require contracting authorities such as the Council, to apply the principles of equal treatment, non-discrimination and transparency in conducting its procurements. This means that the Council must ensure that it establishes a level-playing field in which all prospective bidders, whether in the public sector and private sector, are given an equal opportunity to bid for Council contracts, provided they meet and satisfy the Council's qualifying criteria. It also means that the Council's procurement policies and criteria and the way they are implemented, are transparent and accessible to all, so that every prospective bidder knows what to

expect and will have equal access to the same information and documentation as other bidders.

- 8.7.5 The above principles are embedded in the Council's Contract Rules. Accordingly, the Contract Rules require officers (where appropriate and depending on the Contract Value of each contract), to advertise and subject procurements to open competition by inviting tender bids or quotes from all prospective bidders. The Contract Rules require contracts with a value of £50,000 or more to be advertised and opened to tender. Contracts with a value of between £5,000 and less than £50,000 need not be tendered, but must be open to competition by inviting at least three quotes from providers.
- 8.7.6 Contract Rules also provide for Cabinet/HWB or Chief Officers (as may be appropriate) to waive the requirement to tender or obtain quotes for contracts on any one of several grounds set out in Contract Rule 6.6.8, including the ground that there are "genuinely exceptional circumstances" why a competitive procurement exercise should not be conducted. Each ground is however subject to the proviso that the appropriate decision-maker considers that no satisfactory alternative is available and it is in the Council's overall interests. Contract Rules also provide that waivers must not be used to avoid the administrative inconvenience of a tender process.
- 8.7.7 It is noted that the maximum estimated Contract Value for each GP contract would be in the region of £44,000 and £18,000 for a pharmacy. Therefore the individual contracts being of relatively low value and below the threshold requiring advertisement and tendering, would not need to be tendered. Three quotes would however need to be obtained for each contract unless a waiver is granted, and the EU Principles of equality, non-discrimination and transparency would need to be observed.
- 8.7.8 Contract Rule 6.3 provides that in instances where the value of a contract is over £500,000 a waiver of the Council's tender requirements must be obtained from Cabinet/ Health and Well Being Board. Whilst the maximum estimated Contract Value for each contract would be below the relevant threshold, it is noted that the total value of the procurement for all these contracts is estimated to be in the region of £1,090,000. Given the contracts to be procured form part of a package and are to be procured in one procurement exercise, it is appropriate that approval of the proposed procurement strategy and decision whether to grant a waiver, be made by the Health and Well Being Board.
- 8.7.9 In considering whether to agree the recommendations set out above in this report, the Health and Well Being Board needs to satisfy itself that the reasons provided and grounds stated by officers are satisfactory i.e. that the reasons set out in paragraphs 2.14 and 4c are exceptional thereby warranting non-compliance with the requirement to open the procurements to open competition and that the Board is therefore satisfied that no satisfactory alternative is available and it is in the Council's overall interests to grant the waiver.

8.8 Risk Management

There is a risk of the chosen providers not delivering to target, therefore resulting in lower than planned activity levels. A dedicated post within the Public Health team will monitor and review performance in order to maintain an acceptable level of activity. It is also anticipated that a review of the services will be conducted before the summer of 2015 to establish the best procurement options beyond March 2016, for example sub-contracting through other specialist providers. Competitive tender, private-public blend etc.

Some of the services outlined above specifically target young people between the ages of 13 and 24 years with the aim of improving their sexual health, and providing them with access to necessary contraception services to reduce risky behaviour and consequentially the occurrence of sexually transmitted infection amongst individuals of this age group. All providers of this service are also in particular required to be trained in Level-3 Safeguarding Children

9. Supporting Documentation

- Barking and Dagenham's Community Strategy 2013-1016
- Joint Strategic Needs assessment
- Joint Health and Wellbeing Strategy
- Public Health Commissioning Priorities 2014/15
- Pharmaceutical Needs Assessment

10. List of Appendices

None.