

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **CABINET**

### **Report of the Assistant Chief Executive & Chief Digital Officer- Mrs Karen Jones**

10 December 2020

#### **Matter for Decision**

#### **Wards Affected:**

All wards.

### **Substance Misuse Counselling Service - Western Bay Area Planning Board**

#### **Purpose of the Report**

1. For information regarding the exclusion from the requirement for competition under the Contract Procedure Rules relating to the invitation of tenders (in accordance with rules 7 of the Contract Procedure Rules) in respect of an extension to the duration of the Substance Misuse Counselling Service at a reduced cost delivered by Plattform for the Western Bay region.
2. To seek authority for the Assistant Chief Executive & Chief Digital Officer to enter into an agreement with Plattform for the continued provision of this Counselling service at a reduced cost.

## **Executive Summary**

Neath Port Talbot County Borough Council ("the Council") acts as the banker for the Western Bay Area Planning Board, in respect of Welsh Government Substance Misuse Action Fund money (SMAF) and partner contributions from Swansea and NPT Councils.

The Area Planning Board was set up in 2010, but is not a legal entity in its own right, so is not able to enter into contractual arrangements with Service Providers. Therefore, when this service was procured, through a competitive tender exercise, in 2015, the Council became the lead for the contract, by default, as it is the banker. Agreeing to extend the duration of the service will enable the contractual arrangements to be regularised under NPTs Contract Procedure Rules. As the extension to the contract will be at a reduced cost, the risk to the Council, as lead, will be reduced. Agreement has been obtained from the Assistant Chief Executive & Chief Digital Officer to proceed on this basis.

The specialist substance misuse Counselling service, funded through SMAF, has been subject to a Strategic Evaluation, carried out in response to a request made by the Area Planning Board, to assess the ongoing appropriateness of the Counselling service, following concerns raised via contract monitoring processes. This evaluation concluded that the service is needed, as it is a valued service that can meet the needs of the people who used it, but that the level of funding awarded was not in proportion to the level of provision delivered in Neath Port Talbot and Swansea. The service has subsequently been re-costed and now represents value for money.

## **Background**

In 2015, Neath Port Talbot County Borough Council ("the Council") carried out a competitive tender exercise, on behalf of the Area Planning Board, for a Counselling service, using ring fenced SMAF. DASH were the only provider to submit a bid. This bid was assessed and met the requirements and DASH were subsequently awarded the tender. Due to a series of mergers, Platform now provide this service.

The specialist substance misuse Counselling service takes a trauma informed approach towards helping people to work through the underlying issues that may have led to their use of substances. This increases the

likelihood that they will maintain abstinence and not need to come back into services.

Initially the contract was awarded for 1 year, but has been rolling over since then. Agreeing to extend the duration of the contract will allow the APB team to regularise the contract, with the Council as lead. This will involve formalising the arrangement through agreeing written contractual terms and conditions to the provider. The level of risk to the Council has been assessed as being manageable as the revised contract is of a lesser value (£23,660 pa) than the original (£34,226 pa). Agreement has been obtained from the Assistant Chief Executive & Chief Digital Officer to proceed on this basis.

At the time when the service was tendered for, the Area Planning Board covered the ABMU HB footprint to include Bridgend. In the original tender, the provision was weighted towards Bridgend. This was because the DASH offices and drop-in service was based in that town. Individuals could therefore access the service directly. In Swansea Bay, Individuals access the service through a referral from other substance misuse services, if they are assessed as needing this service.

In 2019, the Health Board footprint changed to become Swansea Bay University Health Board and Bridgend became part of Cwm Taf Health Board. At this time, the APB carried out a disaggregation of SMAF funds, which was based on a formula 74% for Swansea Bay and 26% for Cwm Taf. The strategic evaluation identified that the funding split did not equate to the proportion of service delivered in each area. Platform has re-costed the service, so that there is a reduced level of funding, but the level of provision remains the same for the Swansea Bay region.

The strategic evaluation concluded that the service was a valued service that could meet the needs of the people that used it and there was no alternative, like for like, provision available in the area. Not extending the duration of the contract would leave a gap in the market for specialist trauma informed Counselling for people with substance misuse issues, which is inconsistent with the aim of reducing drug related deaths. The Area Planning Board therefore agreed to continue to fund this service.

The Area Planning Board is currently embarking on a Transformation Project, which will deliver a new fully integrated public health model for substance misuse services across the region, to include Counselling

provision. The proposal is to extend the contract period up to the end of 2021/22, with the option to extend for an additional 12 months, should the tendering for the new model not be completed by the 31st March 2022.

The Council's constitution provides for the rules relating to procurement, through its Contract Procurement Rules (CPR). Rule 11 of the CPR relates to the invitation of tenders and Rule 5 relates to the exclusion from requirements of competition. This report seeks authority in accordance with Rule 5.2 to suspend Contracts Procedure Rules relating to the invitation of tenders (Rule 11), to extend the duration of Platform's existing contract, with a the level of funding reduced, but level of provision maintained.

During the Strategic Evaluation of this service, a level of market analysis was carried out. There were no other Providers identified during this evaluation, in the Western Bay Region and across to the Cwm Taff region, who could deliver this service. Platform deliver the service through experienced Counsellors, who are trained in specialist trauma based therapy for people with substance misuse and co-occurring mental health issues. Platform are a specialist mental health service provider, who have counselling provision and experience incorporated in their organisation, which operates across Wales.

The Council continues to receive SMAF money on an annual basis, with an element of ring fenced money that has to be spent on Counselling provision, as prescribed by Welsh Government. The funding has remained relatively constant for the past 7 years and, in the main, services are rolled over on an annual basis.

## **Financial Impact**

As the proposal contained in this report includes a reduction in the contract value, this will result in SMAF money being released to be invested in other Area Planning Board priorities. The operational lead for the APB will continue to liaise closely with colleagues in finance to ensure that the contract is affordable within budgetary constraints of the SMAF grant.

## **Integrated Impact Assessment**

A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

The first stage assessment, attached at Appendix A, has indicated that a more in-depth assessment is not required. A summary is included below.

A full impact assessment (second stage) is not required. This is because this initiative will extend the duration of a contract, at a reduced cost, to provide specialists, trauma informed, Counselling service, for people who have substance use issues and need to access counselling to work through the complex emotional issues that can lead to their misuse of substances, which is provided by Platform. Although the level of funding invested in the service will be reduced, there will be no reduction in the level of provision. This initiative will therefore allow the service to continue to operate at its current level, so there will be no impact.

### **Valleys Communities Impacts:**

There are no implications.

### **Workforce Impacts**

The proposals contained in this report have no Council workforce implications.

### **Legal Impacts**

The Council has not historically had a formal written contract with Platform for the delivery of this service, though a contract existed as NPT pay Platform for the delivery of the service, by virtue of it being the banker for the SMAF money on behalf of the Western Bay Area Planning Board. The contractual arrangements between the Council and the provider will be formalised through a written agreement which will set out the terms and conditions in relation to the delivery of the service.

This arrangement is considered to be a direct award of the contract to Platform and therefore has procurement implications. The contract with Platform does not exceed the thresholds under the Public Contract Regulations 2015 for a tender to be advertised via the Official Journal of the European Union. However, even though the requirement to competitively tender the agreement by way of a European based tender is not applicable, the Council is still caught by the general obligations of transparency, equal treatment, non-discrimination and proportionality, that derive from the Treaty on the Functioning of the European Union (TFEU) when an agreement is of 'certain cross border interest'.

What these principles imply, in practice, is that the contract should be transparently awarded in a non-discriminatory way. The simplest way to demonstrate compliance would be by going through a procurement exercise compliant with the principles outlined above.

However, it is considered that the subject matter of this contract is unlikely to have 'cross border interest'.

In addition, the Council must comply with its internal Contract Procurement Rules (CPRs), which provide that the Council must usually put a contract of this value out to open tender.

Rule 11 of the CPR require a competitive tender process for contracts which exceed £25,000 in value. This requirement involves an obligation to advertise the contract.

The total value of the contract is £53,235, therefore it exceeds the threshold set in the CPRs requiring an advertised tender process.

However Rule 7.1.4 provides an exclusion to the requirement for competition where the contract is for the provision of services of a specialised nature which are carried out by only one Contractor. Newlink were the only organisation who submitted a bid to provide this service when it was previously tendered. Since that time, Newlink have merged with Platform, who are a specialist mental health service.

The strategic evaluation of the service that was carried out in July 2020 included an element of market analysis and stakeholder engagement. There were no other Providers identified during this evaluation, in the Western Bay Region and across to the Cwm Taff region, who could

deliver this service. Therefore it appears Platform are the only contractor available who could deliver this particular specialist service.

Rule 7.2 provides that Contracts let under rule 7.1.4 shall be reported to Council for information in accordance with the Report to Council for Information Under Contract Procedure Rule 7.2 promptly or as soon as practicably possible after commitment. The rule 7.2 report is appended for information.

## **Risk Management**

The Council could potentially be exposed to challenge from aggrieved providers who have not had an opportunity to bid for a contract such as this. They may wish to challenge this by Judicial Review of the Council's decision.

Any challenge could involve both the cancellation of current contractual arrangements and/or the threat of a financial penalty determined by the Courts.

It would be contended that the risk of this is considered to be low due to the absence of other possible providers on the market and the intention to carry out a wider tender exercise in the next 2 years. In any case any risk is deemed to be outweighed by the need to continue to provide support to the service users, as they have specific needs that have to be met.

The Council's defence of any such challenge would be strong as the constitution allows for the action proposed.

## **Consultation**

There is no requirement under the Constitution for external consultation on this item.

## **Recommendations**

1. To note the exclusion of the requirement for competition under the Contract Procurement Rules relating to the invitation of tenders (Rule 11 of the Contract Procedure Rules) in respect of an extension to the provision of specialist, trauma informed, Counselling service, by Platform, to individuals with substance misuse issues.

2. To grant authority to the Assistant Chief Executive & Chief Digital Officer to enter into an agreement with Platform for the continued provision of this Specialist Counselling Service.

### **Reasons for Proposed Decision**

To ensure the necessary arrangements can continue to be put in place for the provision of specialist, trauma informed, Counselling, for Individuals with substance misuse issues, in the Swansea Bay region.

### **Implementation of Decision**

The decision is proposed for implementation after the three day call in period.

### **Appendices**

A - Impact Assessment - First Stage

B - Report to Council to report for information the fact that contracts have been let under rule 7.1.1 – 7.1.23

### **List of Background Papers**

Strategic Evaluation - Specialist Counselling Service

### **Officer Contact**

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## Appendix A: Impact Assessment - First Stage

Initiative description and summary:

This Impact Assessment considers the potential impact of extending the duration of a contract, at a reduced cost, to provide specialists, trauma informed, Counselling service, for people who have substance use issues and need to access counselling to work through the complex emotional issues that can lead to their misuse of substances, which is provided by Platform.

Contract Monitoring identified issues with the number of people being supported by this service. Following from this, a more detailed strategic evaluation was carried out, which identified that the level of service provided in Western Bay did not equate to the level of funding being invested in it. This situation had arisen as a result of the transfer, in 2019, of Bridgend County Borough, where the service was based, over to the Cwm Taf region.

In order to address the disproportionate level of provision, the Commissioning Finance and Performance Sub-Group of the Western Bay Area Planning Board agreed to reduce the level of funding invested in the service. A new contract needs to be issued, to allow the service to continue to be delivered, at a reduced cost, but not at a reduced level of provision.

Service Area: Partnerships and Community Cohension (Western Bay Area Planning Board)

Directorate: Chief Executives

Does the initiative affect:

	Yes	No
Service users		X
Staff		X
Wider community		X
Internal administrative process only	X	

Does the initiative impact on people because of their:

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/How might it impact?
Age		X				<p>The initiative will reduce the level of funding invested in the Substance Misuse Counselling service, but it will not affect the number of people that the service can support.</p> <p>This is a generic service that is not targeted at any specific group. The service is equally accessible to everyone who needs to access Counselling to help them work through and overcome complex emotional issues that may have led to their misuse of substances, regardless of whether they have any protected characteristics or not.</p> <p>The evaluation of the service concluded that:</p> <p>The service is able to meet the needs of the people referred to it, i.e. to help them work through the complex emotional issues that lead to their substance misuse, thereby reducing the harm caused by this.</p>

There was no evidence available in relation to the level of demand for the service to support any decision to increase the level of provision.

Disability	X	As above
Gender Reassignment	X	As above
Marriage/Civil Partnership	X	As above
Pregnancy/Maternity	X	As above
Race	X	As above
Religion/Belief	X	As above
Sex	X	As above
Sexual orientation	X	As above

Does the initiative impact on:

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence used) / How might it impact?
People's opportunities to use the Welsh language		X				This is not a service aimed at promoting the Welsh Language and none of the people who have used, to date, have been Welsh speakers.
Treating the Welsh language no less favourably than English		X				As above

Does the initiative impact on biodiversity:

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence) / How might it impact?
To maintain and enhance biodiversity		X				This initiative relates to reducing the level of funding, but not the level of provision, of a specialist substance misuse counselling service. This has no impact on biodiversity.
To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc.		X				As above.

Does the initiative embrace the sustainable development principle (5 ways of working):

	Yes	No	Details
Long term - how the initiative supports the long term well-being of people	X		Continuing to fund the service at the same level of provision, but with reduced costs, will enable it to continue to provide specialist, trauma informed, counselling, to people who have substance use issues and need to access counselling to work through the complex emotional issues that can lead to their misuse of substances. By overcoming the underlying causes that have led to their misuse of substances, people who receive the service are more likely to be able to remain in control of, or free from, their substance misuse issues.
Integration - how the initiative impacts upon our wellbeing objectives	X		As above.
Involvement - how people have been involved in developing the initiative	X		A strategic evaluation has been carried out, on the request of the Western Bay Area Planning Board, which has included engagement with the service Provider, existing Service Users and partner agencies. Stakeholder feedback, from Service Users and partner agencies) suggested that this is a good quality and valued service.

<p>Collaboration - how we have worked with other services/organisations to find shared sustainable solutions</p>	<p>X</p>	<p>The decision to reduce costs was made by the Commissioning, Finance and Performance Sub-Group of the APB and subsequently endorsed by the APB. Partners on both of these boards include: South Wales Police; Swansea Bay University Health Board, Police and Crim Commissioner, City and County of Swansea and Neath Port Talbot Councils, Mid and West Wales Fire Service, the National Probation Service and Welsh Government.</p>
<p>Prevention - how the initiative will prevent problems occurring or getting worse</p>	<p>X</p>	<p>The service can prevent problems getting worse for people who access it by helping people to work through the complex emotional issues that can lead to their misuse of substances. By overcoming the underlying causes that have led to their misuse of substances, people who receive the service are more likely to be able to remain in control of, or free from, their use of substances.</p>

7. Declaration - based on above assessment (tick as appropriate):

A full impact assessment (second stage) is not required

X

Reasons for this conclusion

This initiative will extend the duration of a contract, at a reduced cost, to provide specialists, trauma informed, Counselling service, for people who have substance use issues and need to access counselling to work through the complex emotional issues that can lead to their misuse of substances, which is provided by Plattform. Although the level of funding invested in the service will be reduced, there will be no reduction in the level of provision. This initiative will therefore allow the service to continue to operate at its current level, so there will be no impact.

A full impact assessment (second stage) is required

Reasons for this conclusion

	Name	Position	Signature	Date
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Completed by Erica Barrett Contract Monitoring Officer

Signed off by Karen Jones Head of Service/Director

## Appendix B: Report to the Council Under CPR 7.2



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

### Report to Council

In accordance with rule 7.2 of the Contract Procedure Rules (the Rules)

To report for information the fact that contracts have been let under rule 7.1.1 – 7.1.23

Department Chief Executives

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Contractor: Platform

Description of works/service/goods:

Provision of specialist, trauma informed, counselling services, to 13 people at any one time, who need support to work through the underlying complex emotional issues that lead to their misuse of substances. The service is provided across the Western Bay Region and is funded via the Substance Misuse Action Fund provided to the Western Bay Area Planning Board (APB) by Welsh Government.

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Contract Period: There is currently an informal arrangement in place with Platform for this service. The arrangement has been in place since 2015, the value of the service is £34,226 and is led by NPT CBC as the banker for the funding. The proposal is that a new contract is issued to regularise the existing arrangement. The new contract will commence on

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## Annex 2

1st January 2021 to 31st March 2022 (15 months)  
with option to extend for 12 months

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Total Contract Value:	£23,660 per annum (£29,575 for 15 months / £53,235 for 27 months)
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Details of exception relied upon (relevant rule: 7.1.4: provision of services of a specialist nature which are carried out by only one contractor):

Reasons for relying upon the particular exception:

No other Providers that could deliver this service have been identified

Neath Port Talbot Council went out to Tender for this service, on behalf of the Western Bay Area Planning Board for Substance Misuse Services, in 2015. Newlink were the only organisation who submitted a bid to provide this service. Since that time, Newlink have merged with Platform, who are a specialist mental health service provider and who have advised of their interest in specialising in substance misuse counselling.

The strategic evaluation of the service that was carried out in July 2020 included an element of market analysis and stakeholder engagement. There were no other Providers identified during this evaluation, in the Western Bay Region and across to the Cwm Taff region, who could deliver this service.

A wider market engagement exercise, outside of the Western Bay and Cwm Taff Regions, could be undertaken, though this would be resource intensive. If other Providers were identified from outside the region, we may have difficulties obtaining the necessary quality assurances, as they would be unknown to us.

The value of the contract is below the threshold that requires a competitive process, in accordance with the Council's Corporate Procurement Rules

The Council's Corporate Procurement Rules state that contracts valued at over £75,000 are required to be procured through a competitive tender process. This is also the default position for

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## Annex 2

contracts valued between £25,000 and £75,000. However, in this case, undertaking the tender process on sell2wales would be inappropriate in the interests of efficient management, because of the resources that would be required to carry out a tender. This case may therefore proceed by ensuring that value for money is obtained for the Council.

The value of this contract, should it run for 27 months (which would be the maximum) would be £53,235. It is anticipated, however, that the Western Bay Area Planning Board may be in a position to go out to tender for all of its contracts by the end of 2022. Therefore, a contract for 15 months (remainder of 2020/21 and all of 2021/22) will be entered into, with the option to extend for another year. The value of a 15 months contract is £29,575.

As no other potential Providers were identified, it will be difficult to obtain 3 quotes to compare costs. The process of obtaining 3 quotes may also raise expectations when we have already completed a process that provides us with the assurances that the service we currently commission is a good quality service that presents value for money (this will be further outlined below).

The service will be subject to a wider tender exercise that will be carried out in the coming 2 years.

The Western Bay Area Planning Board, which provides funding for this service to be delivered across Swansea and Neath Port Talbot, is in the process of developing a Commissioning Model, which will be used to go out to tender for all substance misuse services. It is anticipated that this will occur within the next 2 years.

3. This service presents value for money.

Value for money was examined during a strategic evaluation of the service. An issue was identified with cross subsidising a service outside of the Western Bay area. As a result, Platform were invited to submit revised costings for the service. The costs are detailed in the section above. This works out to be around £60 per Counselling session. This proposal will maintain the existing level of provision for a reduced cost.

These sessions will be delivered by Counsellors who are specialist in trauma based therapy for people with substance use issues, which

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requires additional training on top of what a more generic counsellor would receive, training which is extensive and expensive and does not form part of a standard Counsellors training package. Specialist Counsellors can charge upwards of £85 in the private sector for each counselling sessions.

This existing service is a good quality and valued service.

Feedback obtained from service users and stakeholders during the evaluation was very positive about the existing service. Feedback was obtained from those who used the service and those agencies who referred people to and joint worked with this service. 100% of service users surveyed said that the service met or exceeded their expectations.

Maintaining the same provider would ensure continuity of care.

People who use this service may require counselling over a prolonged period of time. Retaining the current Provider would ensure that the people who use it can remain with the same Counsellor. The funding that goes towards this service pays for less than 50% of 2 qualified Counsellors, employed by Platform. It is possible that these Counsellors would not transfer over to any new Provider. TUPE (Transfer of Undertakings (Protection of Employment) negotiations requires that employees must transfer under TUPE if they spend more than 50% of their time on the transferring service.

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Signatory of Authorised Officer:                      Karen Jones

Designation: Assistant Chief Executive & Chief Digital Officer

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