

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **REGENERATION AND SUSTAINABLE DEVELOPMENT CABINET BOARD - 5th FEBRUARY 2021**

### **Report of the Head of Participation - Mr Christopher Millis**

#### **Matter for Decision**

#### **Wards Affected:**

All wards.

### **Proposal to extend the current service provided by the Primary Substance Abuse Liaison team (PSALT) - Western Bay Area Planning Board**

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

1. For information, regarding the establishment of a grant agreement in respect of an extension to the scale of Primary Substance Abuse Liaison Team (PSALT) service in the Western Bay region, having regard to rule 7.1.21 of the Contract procedure Rules whereby a grant agreement is excluded from the requirement for competitive tendering
2. To seek authority for the Head of Participation (Education, Leisure and Lifelong Learning) to enter into a grant agreement with the Amman Tawe Valley Medical Practice to extend the current service provided by the Primary Substance Abuse Liaison Team (PSALT) Primary Care Services.

## **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 this report seeks authority to the Head of Participation (Education, Leisure and Lifelong Learning) to enter into a grant agreement with the Amman Tawe Valley Medical Practice to extend the current service provided by the Primary Substance Abuse Liaison Team (PSALT) Primary Care Services.

Primary Substance Abuse Liaison Team (PSALT) is a substance misuse support project providing Primary Care Services on behalf of GPs and access to support workers, nurses and doctors. PSALT are proposing to deliver an additional 100 spaces of low threshold prescribing, based on the current delivery model in Swansea, to people who are who are stable, but continue to require long term opiate substitute treatment, across the whole of the Western Bay region.

For information, regarding the establishment of a grant agreement in respect of an extension to the scale of Primary Substance Abuse Liaison Team (PSALT) service in the Western Bay region, having regard to rule 7.1.21 of the Contract procedure Rules whereby a grant agreement is excluded from the requirement for competitive tendering

## **Background**

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 Western Bay APB invited substance misuse providers to submit proposals in respect of SMAF in accordance with its strategic priorities. PSALT responded with the proposal outlined below.

The Primary Substance Abuse Liaison Team (PSALT) is a substance misuse support project providing Primary Care Services on behalf of GPs and access to support workers, nurses and doctors. PSALT are

proposing to deliver an additional 100 spaces of low threshold prescribing, based on the current delivery model in Swansea, to people who are who are stable, but continue to require long term opiate substitute treatment, across the whole of the Western Bay region, at a cost of £55,000 per annum, plus one off set up costs of £2,500.

It is well documented that the current supply of Opiate Substitute Treatment (OST) services are not meeting the level of need among residents of Western Bay.

Increasing the capacity of OST services will help the ABP meet its objectives of:

- Reducing the risk of drug related overdoses.
- Providing parity of low threshold prescribing across the Western Bay region.

If the proposal is agreed, then PSALT can begin delivery of these additional spaces immediately, by increasing the hours of a part time worker.

This proposal was accepted by the Area Planning Board, and as such work has been underway to enact this decision.

However it is noted that the Area Planning Board is not a legal entity in its own right, so is not able to enter into contractual arrangements with Service Providers. As NPT CBC is the banker and lead, it would fall to NPTCBC to enter into such an agreement on behalf of the partnership. However in the absence of an appropriate agreement, NPTCBC is exposed to all the responsibilities and liabilities, if it enters into new or amends any contracts in respect of substance misuse services.

Work is currently on going with our legal advisors and partners to develop a Partnership Agreement that will enable risk to be shared amongst partners, and once this is in place NPT CBC can take the lead on any new contracts or changes to existing contracts without bearing all of the risk.

It had been hoped that the partnership agreement would be in place to enable the decision of the APB in respect of the contract to be enacted. But this has not been possible. An option appraisal was undertaken to

consider the options available in respect of enabling the extension of the PSALT contact whilst minimising the risk to NPTCBC.

An added complexity is that the current PSALT service is not currently commissioned directly by the APB; it forms part of the Health Board's Low Threshold Service. The existing funding allocated to PSALT (reoccurring annually) forms part of the overall Low Threshold Prescribing budget provided to SBUHB, which includes various other interventions provided by the HB. This is a legacy arrangement with SBUHB. Extending this arrangement was considered but would have placed an unacceptable degree of risk on NPTCBC in terms of procurement legislation, given the value of the contract.

Having reviewed the options, it is considered that entering into a grant agreement direct with Amman Tawe Valley medical practice enables the decision of the APB to be enacted, with the least risk to NPT

For information regarding the establishment of a grant agreement in respect of an extension to the scale of Primary Substance Abuse Liaison Team (PSALT) service in the Western Bay region, having regard to rule 7.1.21 of the Contract procedure Rules whereby a grant agreement is excluded from the requirement for competitive tendering, in that "a Council Grant to another organisation that contains no Services being performed back to the Council".

This type of arrangement is in place currently for another APB commissioned service, namely the Rapid Access Prescribing Service being delivered by G4S, and is working well. As such this course of action is considered appropriate.

It is acknowledged that there is less control over the provider through a grant agreement but appropriate service monitoring arrangements against agreed outcomes will be put into place on a quarterly basis and any issues will be reported to the APB. Officers are satisfied that PSALT can deliver the additional units.

An award letter would have to be issued to Amman Tawe Medical Practice for the remainder of this financial year (from 1st March 2021), and for next financial year, but with a review in August 2021 which will enable clawback at the review period in August if the service has been unable to deliver the units, and a decision as to whether continuation of the project is appropriate for the remainder of the 21-22 financial year.

Therefore this report seeks authority to the Head of Participation (Education, Leisure and Lifelong Learning) to enter into a grant agreement with the Amman Tawe Valley Medical Practice to extend the current service provided by the Primary Substance Abuse Liaison Team (PSALT) Primary Care Services.

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. This extension will fall outside the timeline of this project.

### **Financial Impact**

The proposal contained in this report will utilise currently unallocated SMAF funding and will ensure that available resources in the area are used to meet the APB's strategic 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 1, has indicated that a more in-depth assessment is not required. A summary is included below.

If the proposal is agreed, it will increase the number of Individuals who will be able to access a service that they need to assist them on their road towards recovery from addiction to illegal substances. This proposal will therefore not have any negative impacts. The impacts will have a positive effect both for the Individuals who receive the service and for the wider community. The proposal will have a positive impact on reducing engagement in criminal activity and increasing engagement in education, training and employment.

## **Valleys Communities Impacts:**

If the proposal is agreed, it will increase the number of Individuals who will be able to access a service that they need to assist them on their road towards recovery from addiction to illegal substances across NPT

## **Workforce Impacts**

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

## **Legal Impacts**

The proposal contained in this report to extend the PSALT service and for the Council to enter into a grant agreement with Amman Tawe Valley Medical Practice is permitted by Rule 7.1.21 of the Council's Contract Procedure Rules without the need to carry out a competitive tender. The rule allows the Council an exclusion from the requirement to carry out a competitive tender where the grant is to another organisation and where the grant does not involve a service being performed back to the Council.

The proposal would not involve a service being performed back to the Council but a primary care service provided by PSALT on behalf of Amman Tawe Valley Medical Practice to people in the community and so it sits within Rule 7.1.21.

## **Considerations**

A grant agreement is not a legally binding contract and so cannot oblige Amman Tawe Valley Practice to deliver the service that it is proposed it will do via PSALT. The grant agreement can include terms on the use of the grant monies and these can be clawed back if not used or if misused according to the terms but the Council will not be afforded as much control as it would if the arrangement was set out in a contract, and this is a legal risk in so far as ensuring the proposed service is carried out.

Whether an arrangement constitutes a contract or grant agreement can also be determined by the court, even where the document intends to be and is titled 'Grant Agreement'. As the arrangement proposed does not intend to bind Amman Tawe Valley Practice to provide anything in return to the Council, on its face it will not amount to a contract but care should be taken on the drafting of any grant agreement. If the grant agreement is found to be a legally binding public contract, the Council could be in

breach of the Public Contract Regulations 2015 (the Regulations) as well as being in breach of its Contract Procedure Rules. A breach of the Regulations could result in the proposed arrangement being declared as ineffective and result in a claim via the courts for monetary loss or a claim for judicial review by an interested tenderer/ tenderers.

The PSALT service currently being provided on behalf of Amman Tawe Valley Medical Practice currently forms part of SBUHB's Health Board's Low Threshold Service and is a legacy arrangement with existing funding forming part of the Low Threshold Prescribing budget as further detailed in this report. The current arrangement with SBUHB can legally run alongside the proposed extension to the service, which is proposed as being an entirely separate arrangement.

In the shorter term, the proposal in this report can achieve provision of the extension to the service without the requirement to enter into a lengthy competitive tender but with some legal risk associated with the form of the arrangement and the absence of a partnership agreement.

## **Risk Management**

The Council could potentially be exposed to challenge from aggrieved providers where they allege any grant agreement is in fact a contract and they 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 or by alleging a breach of the Regulations.

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.

## **Crime and Disorder Impacts:**

Section 17 of the Crime and Disorder Act 1998 places a duty on the Council in the exercise of its functions to have “due regard to the likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent:

Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and

The misuse of drugs, alcohol and other substances in its area; and

Re-offending the area”

The impact of the proposal is expected to be positive, with some impact.

## **Consultation**

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

## **Recommendation**

1. To seek authority for the Head of Participation (Education, Leisure and Lifelong Learning) to enter into a grant agreement with the Amman Tawe Valley Medical Practice to extend the current service provided by the Primary Substance Abuse Liaison Team (PSALT) Primary Care Services, having regard to rule 7.1.21 of the Contract procedure Rules whereby a grant agreement is excluded from the requirement for competitive tendering.

## **Reasons for Proposed Decision**

To ensure the necessary arrangements can be put in place to enact a decision of the Area Planning Board, to meet identified needs in respect of Opiate Substitution Therapy.

## **Implementation of Decision**

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



## **Appendices**

IIA

### **List of Background Papers**

None

### **Officer Contact**

Mr Christopher Millis

Head of Participation (Education, Leisure and Lifelong Learning).

Tel: 01639 763226

Email: [c.d.millis@npt.gov.uk](mailto:c.d.millis@npt.gov.uk)

Mrs Claire Jones

Strategic Manager Partnerships & Community Cohesion

Tel: 01639 763193

Email: [s.c.jones@npt.gov.uk](mailto:s.c.jones@npt.gov.uk)