

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
SOCIAL SERVICES, HOUSING AND COMMUNITY SAFETY CABINET
BOARD

15TH DECEMBER

Report of Mr Chris Millis, Head of Education Development

Matter for Decision

Wards Affected:

All wards.

Substance Misuse Counselling Service - Western Bay
Area Planning Board

Purpose of the Report

1. To seek delegated authority to enter into a new contract with Platform for the delivery of a Substance Misuse Counselling Service ("Counselling Service") within the Western Bay region.
2. For information in accordance with Contract Procedure Rule 7.2 as to excluding the requirement for competitive tendering and directly award a contract to Platform for the delivery of a Counselling Service.

Executive Summary

Neath Port Talbot County Borough Council ("the Council") acts as the banker for the Western Bay Area Planning Board ("APB"), in respect of

Welsh Government Substance Misuse Action Fund money ("SMAF") and partner contributions from Swansea and the Council.

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 Counselling 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. The contract with Platform arising out of the tender exercise was for a term of one year and was subsequently rolled over, yearly, outside of contract. A further formal contract has been drawn up as between the Council and Platform, following Cabinet approval that formalised the arrangement and this was from 1 January 2021 to 31 March 2022 with an option to extend of 12 months.

The Counselling Service, funded through SMAF, has been evaluated, and the conclusion reached by the APB is that the service is needed, and that it is a valued service that meets the needs of the people who used it. The provision of the Counselling Service is of a specialised nature and is only carried out by Platform and there is no competition in the market, A direct award is necessary for continuity of the Counselling Service and achieves value for money as set out in this report.

This report seeks delegated authority to enter into a new contract with Platform and is for information in accordance with Contract Procedure Rule 7.2 as to excluding the requirement for competitive tendering and directly award a contract to Platform for the delivery of a Counselling Service.

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 (Substance Misuse Action Fund). The then named service provider, '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 and complex emotional issues that may have led to their use of

substances. The service supports up to 20 people at one time. This counselling, increases the likelihood that the service users will maintain abstinence and not need to come back into services.

The Counselling 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.

Following the tender exercise, the contract was awarded to Platform for 1 year, but has been rolling over since then and no formal contract drawn up.

The APB has evaluated this service and concluded that it is a valued service that meets the needs of the people that used it and there was no alternative, like for like, provision available in the area. The APB want the Counselling Service to continue, as without it, there would not be any trauma informed counselling services for people with substance use issues, which is inconsistent with the aim of reducing drug related deaths.

The Council then formalised the arrangement and entered into a contract for the Counselling Services from 1 January 2022 and is presently in the 12 month extension period of the contract and the term is to end on 31 March 2023.

For reasons that are outside of this report, but are detailed in the options appraisal, Platform could no longer perform the contract, redundancies were made at Platform and the Council made no payment for the service as a result of unavailability of counsellors.

A further options appraisal was undertaken by the APB this year which resulted in a recommendation to the APB to continue with the arrangement with Platform but to increase the value of the contract each year and also increase once again, the term of the contract.

The APB agreed to the recommendation and the new service commenced on the 6th June 2022, which was when the new Counsellor commenced in post.

The Area Planning Board is currently embarking on a Transformation Project, which will deliver a new fully integrated public health model for substance use services across the region, to include counselling provision. The contract detailed above and content of previous reports to Cabinet covered extensions in the arrangement with Platform on the

basis the tendering for the new model would be completed by the 31st March 2022. The tendering for a new model which relies upon actions being taking by the APB, has not been completed and as such we need to extend the arrangements with Platform once again.

Agreeing to extend the arrangement with Platform and to direct award it a new contract will allow the APB team to continue to regularise the arrangement and to benefit from experiencing the service running for a period of time (insofar as continuous improvement and knowledge building); this can be utilised in the future tender exercise, It would also allow for a specialist and key service to continue to be delivered. The level of risk to the Council has been assessed as being manageable.

Insofar as competition, in 2020, when an in depth Strategic Evaluation was carried out of the service, examining in detail the extent to which it was meeting needs, this included a level of market analysis. 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 use 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 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

The proposal contained in this report includes an increase in the contract value of £16,340. However this will continue to be SMAF money, and so will not be from Council budget. 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 full Integrated Impact Assessment was carried out on the potential option to decommission this service in 2020. The conclusion of that

Assessment was that the decommissioning of this service would have a negative impact on a range of people with protected characteristics. The decommissioning of this service was not recommended, in favour of the level of provision being maintained. This remains the case, and is relied on here. The further options appraisal has highlighted that this is valued service, that meets people's needs, and to not recommission would leave people at risk, and be inconsistent with the aim of reducing drug related deaths. Therefore extending the service would have positive impacts.

Workforce Impacts

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

Legal Impacts

The Council pay Plattform for the delivery of this Counselling service, by virtue of it being the banker for the SMAF money on behalf of the Western Bay Area Planning Board and bears the risk on behalf of the APB. An APB Partnership agreement has been drawn up that, amongst others matters, provides a right of recovery by the Council in order to protect such risk however this partnership agreement has not yet been completed.

The new contract proposed to be entered into with Plattform is for a period of 21 months and so up to 31 March 2024 plus two optional 12 month extension periods.

The contract value for the proposed new contract is £154,500.00 net of VAT, broken down as £34,500.00 net of VAT for the first 9 months, followed by £40,000.00 net of VAT per year/12 months.

There is a risk that the proposed new contract will be determined to be an extension of the arrangements as between the Council and Plattform, which have been in place since 2015. Should this be the case, the total value since 2015 to Plattform will be roughly £327,481.

The proposed new contract with Plattform, even assuming it is an extension of the previous arrangement, does not exceed the UK Procurement thresholds under the Public Contract Regulations 2015 for a tender to be advertised.

The Counselling Services will fall under the light touch regime threshold of £663,540 net of VAT as set out at Regulation 5(1) (d) of the Public Contracts Regulations (2015) as a health, social or related service (CPV code 85312320)

The Council is still caught by the general and EU based principles of transparency, equal treatment, non-discrimination and proportionality, where 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' on the basis that the Counselling Services are in person.

In addition, the Council must comply with its internal Contract Procurement Rules (CPRs), which provides 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 £75,000 in value. This requirement involves an obligation to publish a notice on Sell2Wales (and in such advertising medium as the Authorised Officer has considered desirable).

Nevertheless CPR rule 7 allows for exclusions as to the requirement to competitively tender a contract and a direct award to a proposed provider can be made where, the execution of Works or the Provision of Services of a specialised nature which are carried out by only one Contractor (CPR 7.1.4).

Platform is the only provider in the market that provides specialist trauma informed counselling services for people with substance use issues, which can help people work through the complex emotional issues that lead to their substance misuse, thereby reducing the harms caused by this, as covered in the APB's options appraisal, attached. Continuation of this service is therefore consistent with the aim of reducing drug related deaths. Value for money would be obtained in awarding a new contract to Platform on the basis that the hourly rate has been assessed as being £6.00 per hour, which is below the usual rate for a counsellor. As such, the services are of a specialised nature and are carried out by Platform only and so this exclusion can be relied upon.

1 This report seeks the necessary delegated to enter into a new contract with Platform for the delivery of a Substance Misuse Counselling Service ("Counselling Service") within the Western Bay region, and is for information in accordance with Contract Procedure Rule 7.2 as to excluding the requirement for competitive tendering and directly award a contract to Platform for the delivery of a Counselling Service.

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 and in any case deemed to be outweighed by the need to continue to provide support to the Individuals, 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 be granted delegated authority to enter into a new contract with Platform for the delivery of a Substance Misuse Counselling Service within the Western Bay region for the time and cost set out in this report.
2. For information in accordance with Contract Procedure Rule 7.2 as to excluding the requirement for competitive tendering and directly award a contract to Platform for the delivery of a 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 use issues, in the Swansea Bay region and so as to ensure continuity of care.

Implementation of Decision

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

Appendices

None

List of Background Papers

None

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