Commissioning and Procurement Executive Committee – 14 March 2023

Subject:	Recommissioning of the Integrated Sexual Health Service
Corporate Director/ Director:	Catherine Underwood - People Lucy Hubber - Public Health
Portfolio Holder:	Cllr Linda Woodings – Adult Social Care and Health
Report author and contact details:	Roz Howie, Programme Director in Public Health Roz.howie@nottinghamcity.gov.uk
Other colleagues who have provided input:	Richard Bines – Solicitor, Contract and Commercial Team Jo Pettifor - Category Manager

Key Decision	**x** Yes ☐ No	**Subject to call-in**	**x** Yes ☐ No
Reasons: x Expenditure x Income ☐ Savings of £750,000 or more taking account of the overall impact of the decision		**x** Revenue ☐ Capital	
Significant impact on communities living or working in two or more wards in the City		**x** Yes ☐ No	
Type of expenditure:	**x** Revenue ☐ Capital		
Total value of the decision: £31,956,785 (Contract length 3+2+2)			
Wards affected: City-Wide			
Date of consultation with Portfolio Holder: 8 December 2022			

Relevant Council Plan Key Outcome:

Clean and Connected Communities	☐
Keeping Nottingham Working	☐
Carbon Neutral by 2028	☐
Safer Nottingham	x
Child-Friendly Nottingham	☐
Healthy and Inclusive	x
Keeping Nottingham Moving	☐
Improve the City Centre	☐
Better Housing	☐
Financial Stability	☐
Serving People Well	x

Summary of issues (including benefits to citizens/service users):

The World Health Organisation (WHO) defines sexual health as a state of physical, mental, and social well-being in relation to sexuality. It is not merely the absence of disease, dysfunction, or infirmity. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination, and violence.

Sexual health is an important area of public health. Most of the adult population of England are sexually active and access to quality sexual health services improves the health and wellbeing of both individuals and populations. The government in 2013 set out its ambitions for improving sexual health in its publication, a framework for sexual health improvement in England. In December 2021, the government published an action plan towards ending HIV transmission, AIDS and HIV-related deaths in England 2022 to 2025. The government is committed to improving sexual and reproductive health (SRH) in England, including access to SRH services, and will set out plans to do so.

Sexual health is not equally distributed within the population. Strong links exist between deprivation and STIs, teenage conceptions and abortions, with the highest burden borne by women, men who

have sex with men (MSM), trans community, young people, and people from ethnic minority backgrounds. Similarly, HIV infection in the UK disproportionately affects gay, bisexual and other MSM, and black African populations. Some groups at higher risk of poor sexual health face stigma and discrimination, which can influence their ability to access services. Despite the increased provision of remote and online services improving access for some, it should be recognised that some will be excluded or may be disadvantaged by these approaches (2020 data on internet access revealed 5% of the adult population of Great Britain had not used the internet in the last 3 months and 16% of the population does not use a smartphone for private use).

*O*ffering a *mixture of face-to-face* and *online services* is required to meet the needs of different population groups. Services and modes of delivery should be designed to meet the needs of local populations and work to reduce inequalities in both access and health outcomes.

The consequences of poor sexual health are preventable and include unplanned pregnancies, infections including HIV, cervical and other genital cancers, pelvic inflammatory disease and infertility, psychological consequences, stigma, and poorer educational, social, and economic opportunities. There are notable inequalities in access and outcomes in relation to SRH which must be addressed if meaningful improvements in population outcomes are to be achieved.

From April 2013, Local Authorities have been responsible for commissioning specialist integrated sexual health services (ISHs) including testing and treatment for sexually transmitted infections (STIs), the provision of HIV Prophylaxis (PrEP) and provision of the full range of contraception advice and provision.

it is recognised that the specialist ISHS is only part of a range of the provision that will need to be provided to meet the sexual health needs of the local population. Services delivered by primary care, third sector and community- based organisations form an essential part of any local sexual health system. Local Authority (LA), NHS England and Improvement (NHSE/I) and Integrated Care Board (ICB) commissioners are expected to work collaboratively to map service user pathways and plan services according to population need. The need for NHS organisations and local authorities to work more closely and to collaboratively commission SRH services was restated in the green paper Advancing Our Health: Prevention in the 2020s

Health and Wellbeing Boards will play a key role in ensuring that the services and care their communities receive is seamless. They will undertake a joint needs assessment (JSNA) to identify the current and future health and social care needs of the local community as well as local assets. Based on this they will develop Joint Health and wellbeing strategies (JHWBs) to agree their joint priorities for local action. Both JSNAs and JHWNs will inform the ICB, NHS and LA commissioning. Sexual Health has a clear role to play in improving health and reducing health inequalities and therefore must be considered.

The existing Integrated Sexual Health Service (ISHS) was commissioned by Public Health in Nottinghamshire County and Nottingham City Councils as it was deemed that there were several benefits to this approach namely:

- improving patient experience
- driving efficiency
- improving local partnerships

A collaborative agreement was entered into between the two parties describing how the Councils will jointly work together and the roles and responsibilities of each partner organisation and to outline accountability arrangements, financial contributions, and dispute resolutions for the period April 2016-31 March 2024.

This will be the approach again for recommissioning of the services for the period 01 April 1 2024 –

31 March 2031. A second collaboration agreement has been drawn up between Partner Organisations.

Our aim, through our recommissioning programme, is to secure the provision of open access, comprehensive sexual health services which meet the current and future sexual health needs of all our population, whilst addressing avoidable health inequalities. Subject to CPEC we will commission an ISHS to be delivered from April 2024 onwards.

Exempt information: None

Recommendations:

1. To delegate authority to the Director of Public Health to enter into a second collaborative agreement with Nottinghamshire County Council for the recommissioning of ISHS's.

2. To delegate responsibility to the Director of Public Health to agree the service model for the commissioning of the integrated sexual health service against the entire budget available, through applying the insight and commissioning recommendations developed within the strategic commissioning review and in discussion with the relevant Portfolio Holder.

3. To delegate responsibility to the Director of Public Health to undertake a joint competitive procurement procedure to be led by Nottinghamshire County Council for tendering of, evaluation and selection and approval and awarding the contracts for the services listed below:

    - Comprehensive sexual health services including most contraceptive services and all prescribing costs, but excluding GP additionally provided contraception;

    - Sexually transmitted infections (STI) testing and treatment, chlamydia screening and HIV testing;

    - Sexual health aspects of psychosexual counselling;

    - Specialist services, including young people's sexual health, teenage pregnancy services, outreach, HIV prevention (through PreP pre-exposure prophylaxis), sexual health promotion, services in schools, colleges, and pharmacies.

4. To approve the spend from the ring-fenced Public Health Grant funding, conferred under s31 of the Local Government Act 2003, up to a total value of £31,956,785, on commissioned ISHS's for the period 01 April 2024 – 31 March 2031.

Reasons for Recommendations:

1) A collaborative agreement was entered into between the two parties describing how the Councils will jointly work together and the roles and responsibilities of each partner organisation and to outline accountability arrangements, financial contributions, and dispute resolutions for the period April 2016 - 31 March 2024.

   This will be the approach again for recommissioning of the services for the period 01 April 2024 – 31 March 2029. A second collaboration agreement has been drawn up between Partner Organisations (Recommendation 1).

2) All the funding for integrated sexual health services commissioned by Nottingham City Council sits under ring-fenced grant conditions (Public Health Grant), for which the Director of Public Health is accountable, and the resource must be stewarded in line with these conditions. The Director of Public Health is the appropriate designate for approving the commissioning model in line with clinical governance standards to meet population needs (Recommendation 2).

3) The current contract for integrated sexual health services ends March 2024, recommendation 3 and 4 refer to spend approvals and reflects the procurement timeline and process to enable the contract to be awarded within the deadline.

4) A commissioning review of sexual health services in Nottingham and Nottinghamshire has been undertaken. This included a joint needs assessment, a number or pre-market engagement events and reviews of procurement options and provider models. The procurement exercise for new services needs to be completed by autumn 2023, to allow for service mobilisation in 2023/24 with a view to starting April 2024. Spend approval is being sought for commissioned services under a 3, 2, 2, year contract.

5) An option appraisal was undertaken to determine the most appropriate procurement route (see background information section - papers) therefore competitive procurement procedure with negotiation under reg 29 of the PCR 2015 was determined to be the best option (Recommendation 3).

Background:

1) Good sexual health is an important part of physical, mental, and social well-being, requiring a positive approach to sexuality and sexual relationships. The Government has set out its ambitions for improving sexual health in the publication, *A Framework for Sexual Health Improvement in England*[1]*.*

2) Sexual health is not equally distributed within the population. Strong links exist between deprivation and STIs, teenage conceptions and abortions, with the highest burden borne by women, men who have sex with men (MSM), trans community, young people and black and minority ethnic groups.

   Similarly, human immunodeficiency virus (HIV) infection in the UK disproportionately affects MSM and Black African populations.

3) Some groups at higher risk of poor sexual health face stigma and discrimination, which can influence their ability to access services. Despite the increased provision of remote and online services improving access for some, it should be recognised that this is not the case for everyone, and that some will be excluded or may be disadvantaged by these approaches.

4) It is nationally recognised that there are several vulnerable groups however, in many cases there has been little systematic assessment of their sexual health needs in national research, and we may not even have a clear idea of the number of people affected locally (for example, the number of people involved in sex work).

5) Sexually transmitted infections (STIs) can seriously affect the health of those affected. Unless treated promptly, STIs can cause long-term physical complications in women, including pelvic inflammatory disease, ectopic pregnancy and infertility and increased risk of adverse pregnancy outcomes such as miscarriage and preterm delivery.

6) In men, complications can include genital cancers, infertility, and urinary problems. Syphilis can also cause cardiovascular and neurological damage. The costs to the health system are also high, with treatment costs (excluding HIV) estimated at £620 million in the UK in 2011.

7) The most diagnosed STI in England is chlamydia (49%) followed by gonorrhoea (13%), first episode of genital warts (13%), and first episode of genital herpes (8%). There have

been large increases in gonorrhoea nationally in recent years, with smaller increases in chlamydia, syphilis, and genital herpes.

8) Teenage pregnancy is both a cause and consequence of inequalities in education and health for young parents and their children. Babies born to mothers under 20 years consistently have a higher rate of stillbirth, infant mortality, and low birthweight than average, though the difference fluctuates from year to year due to relatively small numbers.

Local Context and Evidence Base:

1) A health needs assessment has been undertaken (this can be produced on request) – City specific information is summarised below.

2) Nottingham City is a young, vibrant, and diverse city. It has high levels of deprivation. It is ranked 11th most deprived district out of 317 districts in England by the Index of Multiple Deprivation, which considers a range of domains of deprivation – income, employment, education, health, crime, barriers to housing and services and living environment.

3) Nottingham can be divided into small geographical areas of roughly the same population size to enable comparisons to other areas locally and nationally – these are known as Lower Super Output Areas (LSOAs). More than half of Nottingham's LSOAs (104 of 182) fall within the 20% most deprived areas across all of England. This means that 54% of Nottingham residents live in one of the 20% most deprived LSOAs in England. There is only one ward in Nottingham City which does not contain a single LSOA in the most deprived 20%.

4) Nottingham City's Joint Health and Wellbeing Strategy (2022-2025) sets out our shared vision, principles, and priorities for action over the next three years to improve health and wellbeing and reduce health inequalities across Nottingham City - Nottingham City Joint Health and Wellbeing Strategy 2022-25.pdf (nottinghamcity.gov.uk)

Sexually Transmitted Infections (STI)

1) Chlamydia testing and detection is consistently at or above the national average in Nottingham. Nottingham has a Gonorrhoea rate higher than the England average and is 27th highest out of 149 local authority areas in 2021. This is the focus of ongoing work for the local authority and UKHSA.

2) In Nottingham (2020), the STI testing rate is 6059.2 per 100,000. This has consistently been above the England rate but has been decreasing since 2017. Nottingham is 3rd out of 16 similar local authorities (like Derby and Leicester). This high rate may be due to higher proportions of young adults (students and others) and of Men Who Have Sex with Men (MSM) and other groups who use services and are frequently tested.

3) One marker of ongoing risky sexual behaviour is having more than one STI diagnosis over a period longer than 12 months apart. Around 8 to 10% of people diagnosed with an STI in ISHS will receive more than one STI diagnosis over a period longer than 12 months. Groups at higher risk of this included young people aged 20 to 24, homosexual men, the most deprived quintile, and some ethnic groups. This population is at high risk and a focus for health promotion to reduce health consequences and demand on services.

4) Nottingham is ranked 16 out of 16 amongst comparable neighbours and 133 out of 149 local authorities for HIV diagnoses. In Nottingham, 17 people aged 15 years and above were diagnosed with HIV in 2020. The prevalence of diagnosed HIV per 1,000 people

aged 15 to 59 years in 2020 was 2.3, like the rate of 2.3 in England. In terms of prevalence, Nottingham was 56th highest out of 148 local authorities.

5) From 2018 to 2020, the percentage of HIV diagnoses at a late stage of infection (CD4 count ≤350 cells/mm3 within 3 months of diagnosis) was 35.1%. Compared to the England average a higher proportion of these were amongst heterosexual males.

6) New STI diagnoses remained constant in Nottingham from 2016 until they spiked in 2019, followed by a significant drop in 2020 because of COVID-19. Further work is needed relating to the drop in STI tests undertaken in ISHS because of COVID-19, particularly to understand how much this has been compensated by online testing and the appropriate balance between online and face-to-face services in the future.

7) Amongst people attending ISHS, the likelihood of being tested for STIs varied by age, sex, ethnicity and sexuality. Some of this variation is likely to reflect differences in underlying risk, but further work is needed to understand why Black African people were less likely to be tested than other ethnic groups. Further work is also needed to understand why people where ethnicity and sexuality were not recorded had particularly low rates of testing.

Teenage Pregnancy and Contraception

1) In 2020, the under-18s conception rate per 1,000 females aged 15 to 17 years in Nottingham was 19.3, worse than the rate of 13 per 1,000 in England. Nottingham ranks 17th highest within England for the under-18s conception rates. Nottingham has significantly reduced the gap in under 18 pregnancies since 2006.

2) The total number of abortions in Nottingham in 2020 was 1,488. The total abortion rate per 1,000 female population aged 15 to 44 years was 18.0, like the rate in England of 18.9 per 1,000. The rank (out of 149 UTLAs/UAs) within England for the total abortion rate was 92nd highest.

3) Of those women under 25 years the rate was 19.7/1000 in 2020 which was above the England rate of 17.6. Nottingham has been around the England rate since 2014 but is deteriorating.

4) Whilst teenage pregnancy levels have dropped significantly, the impact on families and services are still high. There are still areas within Nottingham where the under18s conception rate is significantly higher than the England average.

5) In both Nottingham and Nottinghamshire, the total abortion rate, the rate in over 25s and abortions under 10 weeks are equal to or better than national average but latest trends are increasing for both.

6) Nottinghamshire is consistently higher than the England average for under 25 abortions after a birth. This may be an indicator of need for improved access to contraception after giving birth.

Long-Acting Reversible Contraception (LARC)

1) There appears to be a relationship between proximity to the current integrated sexual health hubs and rates of prescribing (closer = higher), but this is not a universal trend and there are likely to be multiple factors involved.

2) It is important for future provision to be adaptable to changing local circumstances and

support the local system in increasing availability of LARC.

Emergency Hormonal Contraception (EHC)

1) Provision of EHC by community pharmacies has not yet returned to pre-pandemic levels. There are multiple reasons for this which deserve further investigation and further analysis is required to collate EHC.

Commissioning Landscape

1) The sexual health system is complex, involving different organisations that commission various aspects of sexual health services. Since April 2013, local authorities have been responsible for commissioning a comprehensive (contraception and STI testing), open access sexual health service with costs met from the ring-fenced public health grant. Other elements of sexual health services are commissioned by Clinical Commissioning Groups and NHS England.

2) Previously Integrated sexual health services have been procured and commissioned jointly with Nottinghamshire County Council. This is the approach we are taking again whilst ensuring that services provided meet the needs of the populations we serve.

3) Currently the service provider in the south of the county and Nottingham City is jointly commissioned by City and County Council Public Health. In addition to this both Public Health in the city and the county invest in additional on-line sexual health services however this provision has evolved over time and the service offer currently differs between the two local authorities. There are additional targeted services commissioned separately by both Las.

4) The drivers for recommissioning sexual health services include

- Provision of a comprehensive, open access sexual health services is a mandatory responsibility of LAs and the current contract is due to expire 31st March 2024.

- How people want to access health services has changed as has the provision of access to remote/online sexual health services e.g. access to STI testing and commissioners are seeking a service that is accessible and acceptable to residents. This may require a revised service model to the current hub and spoke model that is in place across City and County.

- There are known inequalities in sexual health in the population and yet the currently sexual health services are designed to be open access (available to all and anyone seeking to use them). Following review and needs assessment it might transpire that these two things are not compatible and may require a different model of service provision to be put in place in order to address the needs of the population and the demand for sexual health service provision (consultation, testing and treatment/intervention).

- Whilst good progress has been made locally on improving some outcomes such as reduction in teenage pregnancies and improvement in Chlamydia detection rate, other population measures have worsened (such as gonorrhoea diagnosis rate). Please note metrics do differ between the city and the county populations. However nationally STI rates are increasing.

- The current sexual health strategic plan is based on the 2013 National Sexual Health Strategy for England. Whilst it is not yet clear nationally as the new national strategy for sexual health and HIV is currently under development, it will be necessary to align local service provision with the overarching principles of the national strategy and establish our local service offer in line with the strategic actions for Nottingham and Nottinghamshire.

Approach to procurement

1) A Competitive procedure with negotiation under reg 29 of the PCR 2015 was considered the optimum procurement route following a comprehensive review of procurement options, with the advantage of the means to negotiate with bidders which provides a good mechanism to refine the service specification and commissioning opportunities resulting in an improved service offer for residents.

Stakeholder/User Engagement

User Engagement

1) Between September 2022 and November 2022 proactive work was undertaken to engage directly with targeted service users to understand the sexual health needs and barriers to accessing sexual health services, develop the sexual health model and plan better services for the future (see survey results in background papers). At-risk groups were identified using Health Needs Assessment (HNA) and included:

    - Looked after children and young people
    - People with a mental health problem
    - People with a learning disability
    - Transgender, bisexual and non-binary people
    - People Who Inject Drugs (PWID)
    - People who are homeless
    - People in the criminal justice system
    - People involved in sex work
    - Refugees and asylum seekers.

Stakeholder Engagement

1) Four professional stakeholder events took place across Nottingham and Nottinghamshire in early November 2022 (available on request). Each session provided context for how Integrated Sexual Health Services are configured in Nottingham and Nottinghamshire and commissioner's current thinking about the scope of sexual health service from 2024. Each event enabled delegates to discuss three specific aspects relating to future provision of ISHS:

    1. How the service will be configured;
    2. Health promotion and outreach;
    3. Collaboration and partnership working.

2) Stakeholders that engaged represented sexual health provider organisations both ISHS and other related sexual and reproductive health services such as termination of pregnancy provider, a digital sexual health and community interest companies/ voluntary and community sector organisations that provide ISHS in other parts of the country. Other stakeholders included delegates from district council, county council, community pharmacy, university, and General Practice.

3) In addition a survey was undertaken between 3/10/2022 and 31/10/2022 asking a number of questions to help inform the Council about what people wished for in their sexual health service model, the Council received 258 responses.

4) Findings and subsequent recommendations will be weaved into the development of the service model and specification.

Other Options Considered in Making Recommendations:

1) The current contracts will cease on 31 March 2024. Without re-commissioning, there would be no commissioned services and a lack of provision, with Nottingham City Council neglecting the duty to ensure these services and would put Nottingham at significant disadvantage for the delivery integrated sexual health services for Nottingham residents.

Consideration of Risk:

1) There are numerous posts within the incumbent providers funded through the sexual health grant. Currently it is not known whether the commissioners will commission the whole service as a single entity or as "lots" (recognising Provider specialties). There is always the risk of destabilising current Providers if they are not contracted with again and this must be given serious consideration in the procurement process. If new providers are identified, then there will be the questions of TUPE and mobilisation timeframes to ensure a seamless continuation of sexual health services.

Finance Colleague Comments (including implications and value for money/VAT):

For reasons outlined by the report author, this decision seeks approval to allocate budget and approve maximum spend of £31,956,785 from the Public Health grant to commission the Integrated Sexual Health Services (ISHS) for the period 1st April 2024 for a maximum 7 years (on a 3 + 2 + 2-year contract basis) to 31st March 2031.

The annual cost of this decision is £4,565,255.

Service	Budget per annum	Total (3 years)	Total (3 + 2 years)	Total (3 + 2 + 2 years)
ISHS (Integrated Sexual Health Service)	£3,767,342	£11,302,026	£18,836,710	£26,371,394
Online	£723,378	£2,170,134	£3,616,890	£5,063,646
PrEP (pre-exposure prophylaxis)	£74,535	£223,605	£372,675	£521,745
TOTAL	**£4,565,255**	**£13,695,765**	**£22,826,275**	**£31,956,785**

The maximum cost of this decision is £31,956,785 which will be fully funded from the Public Health grant, as incorporated within the Medium Term Financial Plan (MTFP) and in-line with the Public Health grant conditions. If the Public Health grant was to reduce in future years, the service would need to realign services within the revised available funding limit ensuring that no financial pressure arises.

If the decision is approved, a competitive procurement process will be undertaken by Nottinghamshire County Council to ensure value for money services are obtained and that comprehensive sexual health services are procured for the citizens of Nottingham and Nottinghamshire.

Contract performance will need to be closely monitored to ensure the outcomes align to the Nottingham City Council's framework to achieve value for money and deliver on the principles of economy, efficiency and effectiveness as well as ensuring appropriate exit strategies are considered and implemented into any contract.

Once the decision is approved, a budget virement will be posted to realign the budgets, supporting

budget managers to robustly monitor the budget.

The actual costs associated with this decision will require regular monitoring by the service to form an audit trail against this grant funding and support robust forecasting.

Any decisions taken will need to be robustly captured against this decision value to ensure it is not exceeded, any increase in contract value outlined above the amount in this report will require further approval via the appropriate process. This information will also be used for internal/external grant reporting purposes as required.

Tracey Moore, Commercial Business Partner - 17 February 2022

Legal Colleague Comments:

Legislative Background to ISHS.

1) Part 2 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 ("the Regulations") imposes duties on local authorities to exercise prescribed public health functions of the Secretary of the State and to take prescribed steps in exercise of public health functions of their own, including the duty as to the improvement of public health (section 2B of the National Health Service Act 2006 ("the 2006 Act")).

2) Regulation 6 of the Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 require local authorities to arrange for the provision of open access sexual health services for everyone present in their area; covering free sexually transmitted infections (STI) testing and treatment, and notification of sexual partners of infected persons; and free contraception, and reasonable access to all methods of contraception.

3) Part 3, regulation 9 operated to prevent the local authority being able to make and recover charges in respect of anything which the local authority is required to do in exercise of its public health functions under Part 2 of these Regulations. The services provided are therefore funded from the provision of the ring-fenced Public Health grant from the Department of Health and conferred by section 31 of the Local Government Act 2003. The purpose of the grant is to provide local authorities in England with the funding required to discharge the public health functions detailed in 'Grant conditions' issued under the grant determination. These include:

   (a) functions under section 2B, 111 or 249 of, or Schedule 1 to, the 2006 Act;
   (b) functions by virtue of section 6C of the 2006 Act;
   (c) the Secretary of State's public health functions exercised by local authorities in pursuance of arrangements under section 7A of the 2006 Act;
   (d) the functions of a local authority under section 325 of the Criminal Justice Act 2003 (co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders);
   (e) such other functions relating to public health as may be prescribed

4) Regulation 7 of the Regulations creates a duty on local authorities to provide or make arrangements to secure the provision of a public health advice services to any clinical commissioning groups (now Integrated Care Boards) in their area, the purpose of which is to assist ICB in relation to their powers and duties to commission health services for the persons for whom they have responsibility.

5) Clinical Commissioning Groups have now been formally abolished by the Integrated Care

Boards (Establishment) Order 2022 ("the 2022 Order"), which was made under provisions in the Health and Care Act 2022 ("the 2022 Act"). The National Health Service (Areas of Integrated Care Boards: Appointed Day) Regulations 2022 provides that ICBs come into effect from 1 July 2022.

6) The contact for the services in question comprises a public service contract for provision of services to the community within schedule 3 of the Public Contract Regulations 2015 and is above threshold such that the 'light –touch' procurement regime will apply to the procurement of the commissioned ISHS's. Although the Authority is not required to follow one of the established procurement procedures under the regulations, contracting authorities are permitted to and may prefer to use these established procedures or aspects of them, since they enshrine the principles of transparency and equal treatment with which a contracting authority must comply. In utilising the competitive procedure with negotiation, the Local Authority must ensure regulation 26(4) PCR 2015 is satisfied by ensuring:

- The needs of the contracting authority cannot be met without adaptation of readily available solutions.
- The contract includes design or innovative solutions.
- The contract cannot be awarded without prior negotiation because of specific circumstances related to the nature, the complexity, or the legal and financial makeup or because of risks attaching to them.
- The technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, European Technical Assessment, common technical specification or technical reference.

7) Officers should refer to the Government Commercial Function Competitive Procedure with Negotiation Guidance Note dated May 2021 for detailed guidance relating to the competitive dialogue and competitive Inappropriate use of a competitive procedure with negotiation risks legal challenge under the PCR 2015 leading to possible suspension of the procurement; being ordered to restart their procurement process, or to re-run a particular part of it; or having to pay damages to any bidders caused loss by the choice of procedure or the order to restart the process.

8) There are practical and commercial implications behind the choice of a procurement procedure. Although the Competitive Procedure with negotiation is flexible, it is also costly for both authorities and bidders and, despite its iterative nature, requires careful planning and upfront preparation to ensure its success. Choosing the CDP may also affect market interest. The requirement in regulation 84 PCR 2015 to document the grounds for use of the procedure in the procurement report is satisfied in the detail in background reports. This must be retained, and it should note the report may be disclosable under freedom of information requests.

9) The local authority will need to ensure in any contracts entered with providers of the commissioned services that any relevant grant determination conditions flow through to the contracts, to ensure there is no breach of those conditions by either the Local Authority for the providers. Failure to comply with any of these conditions could result in clawback of grant monies from the Local Authority.

10) Legal Services will support with the drafting of relevant contracts as required.

Richard Bines, Solicitor, Contract and Commercial Team – 13.12.2022

Other Relevant Comments:

Procurement colleague comments:

1) This report relates to the commissioning of Integrated Sexual Health Services jointly with Nottinghamshire County Council, under a collaboration agreement between the two authorities. The procurement of services will be through a competitive procurement process to be led by Nottinghamshire County Council, in compliance with the UK Procurement Regulations and the Council's Contract Procedure Rules.

2) These proposals are supported from a procurement perspective and the Procurement Team are engaged and will support this process as needed. The services in question are considered to fall under the 'light regime' of the Public Contracts Regulations 2015 and an appropriate procurement process will be followed to secure the best outcomes from the contracts awarded in terms of value for money and service delivery.

   Jo Pettifor, Category Manager - 29 December 2022

Crime and Disorder Implications (If Applicable):

N/A

Social Value Considerations

1) Stakeholder engagement with users of the sexual health services clearly indicated that they wish for the provision of open access, comprehensive sexual health services which meet their current and future sexual health needs. Providing more choice, ease of access and good quality, responsive and innovative services is key to reducing inequalities within the population.

2) Questions we will ask providers are as follows:

   How they have helped communities manage and recover from the impact of COVID and whether they have noticed a change in resident's behaviour when accessing SH services that could impact on the way we anticipate recommissioning services.

   How they have tackled economic inequality to create new jobs especially taking accountability for diversity and equality and how does this ensure a better service to residents.

   How have they provided services in such a way as to ensure effective stewardship of the environment and what changes could be made to the SH services to improve adverse effects on climate change?

Regard to the NHS Constitution (If Applicable):

N/A

Equality Impact Assessment (EIA):

An Equality Impact Assessment will be completed on the approved commissioning model, and due regard with be given to any implications identified within it.

Data Protection Impact Assessment (DPIA):

A Data Protection Impact Assessment will be completed on the approved commissioning model, and due regard with be given to any implications identified within it.

Carbon Impact Assessment (CIA):

A Carbon Impact Assessment will be completed on the approved commissioning model, and due regard will be given to any implications identified within it.

List of Background Papers Relied Upon in Writing this Report (not including published docume or confidential or exempt information):

Please refer to the following Nottinghamshire County and Nottingham City Joint Strategic Needs Assessment (JSNA) chapter:

- Nottingham City Sexual Health JSNA Sexual health and HIV (2018) - Nottingham Insight

Please note that an updated Health Needs Assessment has been carried out as part of the recommissioning process, but these cannot be published in their current form to the sensitive nature of data and the risk that individuals could be identified.

Published Documents Referred to in this Report:

- (2021) Towards Zero – an action plan towards ending HIV transmission, AIDS and HIV related deaths England – 2022 to 2025, DOH

- Advancing Our Health: Prevention in the 2020s

- Nottingham City Joint Health and Wellbeing Strategy 2022-25.pdf (nottinghamcity.gov.uk)