

Title of Report:	Delegation of Procurement Functions for Public Health
Report to be considered by:	Executive
Date of Meeting:	19 December 2013
Forward Plan Ref:	EX2769

Purpose of Report:

This report recommends the delegation of procurement functions in respect of public health contracts to the Director of Public Health to facilitate the joint procurement of such contracts by the six Berkshire unitary authorities. It is also recommended that authority be delegated for the amendment of the inter-authority agreement entered into by the Berkshire authorities put in place upon the transfer of the public health function to local authorities, to provide for the management, administration and operation of contracts to be jointly procured.

Recommended Action:

- (1) That the Executive delegates to the Director of Public Health Authority to jointly procure with the other Berkshire unitary authorities contracts for the future provision of public health services, subject to consultation on each such procurement with the Joint Public Health Advisory Board.
- (2) That the Executive waives the use of its Contract Rules of Procedure relating to these joint procurements and that the contract standing orders of Bracknell Forest Borough Council apply in accordance with the Joint Agreement and following consultation with the Joint Public Health Advisory Board.
- (3) That authority be delegated to the Head of Public Health and Wellbeing (in consultation with the Portfolio Holder and Head of Legal Services) to negotiate and conclude an amendment to the inter-authority Public Health agreement, to provide for the administration, management and operation of future jointly procured Public Health contracts.

Reason for decision to be taken:

To enable shared procurements of public health contracts to be undertaken by the Berkshire unitary authorities economically, efficiently and effectively.

Other options considered:

The Council could carry out its own individual procurement of public health contracts but at increased cost both financially and in terms of staff resources.

The proposals contained in this report will help to achieve the following Council Strategy priority:

☒ **CSP1 – Caring for and protecting the vulnerable**

The proposals will also help achieve the following Council Strategy principles:

☒ **CSP5 - Putting people first**

☒ **CSP6 - Living within our means**

☒ **CSP8 - Transforming our services to remain affordable and effective**

Portfolio Member Details

Name & Telephone No.:	Councillor Marcus Franks 01635 841552
E-mail Address:	mfranks@westberks.gov.uk
Date Portfolio Member agreed report:	21 November 2013

Contact Officer Details

Name:	David Holling/Lesley Wyman
Job Title:	Head of Legal Services/Head of Public Health and Wellbeing
Tel. No.:	01635 519422/01635 5193434
E-mail Address:	dholling@westberks.gov.uk/lwyman@westberks.gov.uk

Implications

Policy:	Public Health functions transferred to local government under the Health and Social Care Act 2012 and the Council agreed under an inter-authority agreement delivery of these functions
Financial:	There are no financial implications arising from this delegation. The budget is covered in the inter-authority agreement of 28th March 2013.
Personnel:	Not applicable.
Legal/Procurement:	Each unitary authority may delegate functions to the Director of Public Health as the effect of Section 113 of the Local Government Act 1972 is that she is treated as an officer of each authority for the purposes of any enactment relating to the discharge of local authorities functions.
Property:	Not applicable.
Risk Management:	The shared budget is administered under the Joint Agreement and is lead by Bracknell Forest Borough Council. This proposal develops the ability of the Director of Public Health to act on behalf of the shared centre and other authorities subject to the Joint Agreement.

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>	
Not relevant to equality				<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Report is to note only	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Executive Report & Summary

1. Introduction

- 1.1 The six Berkshire Unitary Authorities entered into a joint agreement on 31st March 2013 relating to the appointment of a Director of Public Health to have responsibility for the Public Health functions of all six authorities. Bracknell Forest Borough Council acts as host authority and employs the Director of Public Health, Dr Lise Llewellyn who has been placed at the disposal of each of the unitary authorities so that she may discharge the functions of the Director of Public Health on behalf of each of them.
- 1.2 The joint agreement dealt with a number of matters including the employment of a 'shared' team to provide core public health services and made provision for the public health contracts that transferred under statutory schemes to the unitary authorities. However, intentionally, it did not deal with future procurement of renewal or replacement public health contracts.
- 1.3 It is considered that the joint procurement of future public health contracts will be in the best interests of all the Berkshire authorities through the achievement of economies of scale and greater purchasing power. Although it is currently envisaged that each authority will have a direct contractual relationship with providers, it is highly likely that the administration and management of the contracts could most beneficially be undertaken by the existing 'shared' team. To put in place such an arrangement will require amendment to the existing agreement, not least because the existing agreement can be terminated on notice expiring on 31st March 2016 whilst future jointly procured contracts are likely to extend beyond that date.

2. Proposals

- 2.1 It is proposed that to take advantage of the combined purchasing power of the six Unitary Authorities' contracts for major public health services (e.g. sexual health) will be jointly procured. At this stage it is envisaged that the contracts will be set up as a local framework arrangement so that each Unitary Authority will be able to call off services under the contract.
- 2.2 It would be extremely unwieldy (perhaps to a degree that would be unmanageable) if at each key stage of the procurement process (e.g. approval of specification, approval of contract award criteria, approval of tenderers, award of contract) a decision had to be formally taken by each Unitary Authority, especially if the decision was one required to be taken by Members. The Joint Public Health Board is constituted as an advisory group (i.e. it is not a joint committee) and therefore decisions cannot legally be taken by the Joint Board, although it is envisaged that in practice the Joint Board will be the group which takes the decision.
- 2.3 To overcome the difficulties alluded to above it is proposed that decisions on the procurement should formally be taken by the Director of Public Health, as she is an officer of or treated in law as being an officer of each of the Unitary Authorities (under the Joint Agreement between the Unitary Authorities put in place on the transfer of public health to local authorities). In order to avoid each procurement having to comply with five differing sets of contract standing orders (covering

number of persons invited to tender, opening of tenders etc) it is also proposed that Bracknell Forest Borough Council's (or any one others) contract standing orders should apply and the other Unitary Authorities waive their contract rules of procedure for those procurements.

- 2.4 In order to ensure that all six Unitaries are able to procure solutions in the most cost effective manner economically and in order to achieve best value it is proposed that each delegates to the Director of Public Health the ability to jointly procure with the other Berkshire unitary authorities contracts for the future provision of public health services subject to consultation on each such procurement with the Joint Public Health Advisory Board upon which each unitary authority has a representative.
- 2.5 The Council has the ability under the provisions of Section 113 of the Local Government Act 1972 to delegate these functions to the Director of Public Health as she is treated as an officer of each authority for the discharge of these functions which is also reflected in the joint agreement.
- 2.6 Also as outlined above it is appropriate that authority be delegated to the Head of Public Health and Wellbeing, in consultation with the Portfolio Holder and Head of Legal Services, to negotiate and conclude an amendment to the inter authority Public Health Agreement in order to provide for the administration, management and operation of the future jointly procured public health contracts which would be carried out by the 'shared' team.
- 2.7 All Berkshire Unitaries are taking a similar report to their Cabinet or Executive.

3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality.

4. Conclusion

- 4.1 The proposal provides a cost effective economic and efficient means of procuring public health provision by utilising economies of scale and Council is recommended to approve the Actions above.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: The six Berkshire Unitary authorities

Officers Consulted: Andy Day, Moira Fraser and Corporate Board

Trade Union: N/A