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| <b>Report of:</b>          | The Mayor and Executive Member for Adult Social Care & Public Health<br>Director of Public Health (South Tees) |
| <b>Submitted to:</b>       | Executive  |
| <b>Date:</b>               | 20 June 2023   |
| <b>Title:</b>              | Proposal to bring the Substance Misuse Clinical Prescribing Service In-house.                                  |
| <b>Report for:</b>         | Decision   |
| <b>Status:</b>             | Public   |
| <b>Strategic priority:</b> | Vulnerability  |
| <b>Key decision:</b>       | Yes  |
| <b>Why:</b>                | Decision(s) will incur expenditure or savings above £150,000   |
| <b>Urgent:</b>             | No   |
| <b>Why:</b>                | Not Applicable   |

**Executive summary**

This report seeks approval to bring the specialist clinical/prescribing service for substance misuse into Middlesbrough Council, for delivery to commence 1 October 2023.

Due to the current service provider ending their provision on 30 September 2023 and a procurement process resulted in no organisations submitted tender proposals. There is an absolute requirement to have the service in place, therefore, a need for as much certainty as possible in order to mobilise a new service within these extremely challenging timescales.

It is imperative that essential elements such as securing clinical staff, having a prescribing system and appropriate buildings to deliver the service from are all in place. These are complex undertakings and require specialist knowledge from a broad range of individuals, teams and organisations.

The recommended option will allow the remaining timeframe to be fully utilised in ensuring a seamless transition in terms of priority actions, including:

- Securing the necessary clinical staff via TUPE and recruitment (as required);
- Suitable delivery locations being available for 1<sup>st</sup> October;
- Developing and testing an appropriate prescribing system solution;
- Ensuring the necessary clinical governance and Care Quality Commission (CQC) arrangements are in place;
- Managing the pathways and interdependencies with essential partners, primarily the Recovery Solutions team, which is already delivered by Middlesbrough Council;
- Utilising the broad range of knowledge and expertise within the Council, as well as the existing links to key partner organisations to ensure that this complex transition can be achieved within the timescales.

It also enables the current provider's exit to be carried out directly in tandem with South Tees Integrated Care Board (ICB) colleagues, which is beneficial given the crossover of the current services commissioned by both health and public health.

The proposed decision is that the Middlesbrough Council Executive approve that the specialist clinical/prescribing service for substance misuse is brought into Middlesbrough Council.

The primary reason for this recommendation is that the remaining time until 1 October 2023 is not a sufficient timescale to carry out all of the necessary steps (identify a provider willing to deliver the service, carry out negotiations on the specification and funding, agree and sign contracts and ensure adequate mobilisation and implementation periods) for a direct award.

The in-house option removes uncertainties and enables work to commence immediately on ensuring a quality service offer is in place for the necessary date. The budget allocation for this service and delivery sites is £989,000. The one-off implementation costs and on-going service delivery costs will be achieved within this budget. It also presents opportunities – for example in the short-term regarding improved resilience by increasing the skilled, delivery workforce within the substance misuse service, and longer-term regarding the potential to align with other clinical Public Health South Tees (PHST) services like the specialist stop smoking service and the school nursing team.

Any disruption to prescribing and clinical care would result in serious risk of overdoses and deaths. It would also increase health inequalities for an extremely vulnerable, underserved group in terms of their healthcare needs not being delivered in an accessible manner. There are also many wider, negative implications for the local system, such as increased crime and ASB (anti-social behaviour), and impacts on other public sector services (urgent and emergency care settings, frontline police and custody services, etc.).

## **Purpose**

1. This report seeks approval to bring the specialist clinical/prescribing service for substance misuse into Middlesbrough Council, for delivery to commence 1 October 2023.

## **Background and relevant information**

2. The specialist prescribing service in Middlesbrough is currently contracted with Foundations Medical Practice. Historically this service has been delivered as part of a coterminous arrangement with the former South Tees Clinical Commissioning Group – (CCG, now NENC Integrated Care Board (ICB)), who commission Foundations for primary care.
3. The ICB provide an enhanced service payment in relation to the Foundations patient group, to augment the general medical element of service delivery. This, along with the public health and various primary care contracts, have historically made the service financially viable and ensured that the healthcare needs of an underserved population group have been more effectively met.
4. The service has been affected by the overall budget reductions to substance misuse with significant cuts to the funding since 2013. These impositions, on both the service and wider substance misuse model, have resulted in caseload sizes becoming dangerously high, which restricts the amount of support that can be provided to individuals who are reliant on the service.
5. In 2020, a two year contract was awarded to Foundations via VEAT Notice (Voluntary Ex Ante Transparency), with an annual value of £800,000. It was agreed that, during this period, work with the CCG to look at new, complementary models would take place. This work was delayed due to COVID 19 and, in August 2021, the CCG (now ICB) had to seek approval from their Executive to extend the Foundations contract by one year to 31st March 2023. Middlesbrough Council agreed to do the same.
6. As this contract was transferred from Tees Primary Care Trust on transfer of Public Health to the Council and has not, to date, been part of a tendering activity, Middlesbrough Council agreed that a review of their current specialist clinical/prescribing contract was required. To carry out a review ahead of any major procurement exercise is standard practice within public health, to ensure new contracts both meet the current needs of the local population and provide value for money.
7. Due to the complexity of the system and the need to carry out separate reviews of the public health and enhanced primary care service elements. A new specification and associated changes to the overall operating model could not have been developed without the aforementioned review being undertaken.
8. An independent, clinical expert was secured to lead the review of the specialist clinical/prescribing contract. This has been undertaken between July-October 2022, in conjunction with members of the council's public health and procurement teams. The ICB also carried out a review of their primary care service.

9. Foundations also provided several other service elements across the local system, including the HILT hospital-based support service, Project ADDER and other grant funded activity (both for public health), plus the asylum seekers' practice and the violent patients service (for the ICB).
10. In September 2022, Foundations served notice on their public health substance misuse clinical contract and also their primary care elements of service. This would have resulted in the service ceasing to operate on 31/3/23 and their decision was based on the financial risks of continuing without all components being in place and funded.
11. To avert this situation, a one year extension was granted a Single Executive approval in November 2022. This enabled a procurement process to be undertaken and a subsequent safe mobilisation period (approx. nine months) for delivery to commence on 1/4/24. The ICB also agreed a one year extension to their primary care and violent patients service contracts, in order to plan and develop how those services would be delivered from April 2024 onwards.
12. Foundations agreed to and signed the extensions with both the Council and the ICB. The recommendations of the review and needs of the local population were considered within the development of a new service specification for the Council's contract. This was put out to tender in early 2023, as a standalone specialist clinical/prescribing service for substance misuse, with delivery to commence 1 October 2023.
13. On 31/3/23 Foundations served their six months' notice periods on their remaining contracts with both the Council and the ICB. The partners stated that they had agreed prior that they were not interested in tendering for the new service contract. This early notice severely reduced both the mobilisation period available to the next provider and for the ICB to disperse the Foundations patients throughout the rest of the local primary care system.
14. The tender submission closing date was 12 May 2023. No organisations submitted proposals and there was little interest throughout the process. This is deemed to be due to a combination of:
  - a. It being only for the clinical aspect of the overall substance misuse model (the majority areas have a single provider leading on delivery of the entire system but this is not deemed to be the optimum solution for Middlesbrough, nor was it possible within the current circumstances);
  - b. Perceived risk regarding potential TUPE/redundancy liabilities of existing staff, given that the current provider is an NHS body;
  - c. The incredibly tight mobilisation timescales.
15. There are a number of factors meaning it is not feasible to amend the current model. These include having an externally commissioned recovery service with several years of its contract remaining and, having only recently brought the Recovery Solutions team in-house, there is a risk that disruption and uncertainty (associated with putting it back out to a provider so soon) would result in the loss of key, hard to replace staff.
16. The preferred model is deemed to be the optimum solution for addressing local issues due to the range of specialities within the services and ongoing collaboration with public health as an intrinsic part of the delivery and oversight. This enables the complex needs of this cohort of people to be more effectively supported. It has also been held up as innovative and an example of good practice nationally.

17. All wards are affected by the proposals, given that the service supports more than 2,000 people per year across a variety of settings.

**What decision(s) are being recommended?**

18. The proposed decision is that the Middlesbrough Council Executive approve that the specialist clinical/prescribing service for substance misuse is brought into Middlesbrough Council.

**Rationale for the recommended decision(s)**

19. There is no option to risk having any break in service provision. This would result in serious risk of overdoses and deaths, and have extremely negative consequences for a large number of extremely vulnerable people. This decision provides appropriate timescales to enable the future service to be planned, developed and implemented safely, in conjunction with relevant partners and stakeholders.

20. The service was offered to the market via a procurement process, which commenced in March 2023, but no submissions were received. Following the lack of interest in the tender opportunity, work has been undertaken to understand the reasons the market have chosen not to bid. There is insufficient time to undertake a further procurement exercise within the notice period, therefore, bringing the service in-house is the option that enables the Council to effectively manage the risks in the current circumstances. Plans will be made to incorporate the understanding from the feedback into the work to bring the service in-house.

21. The whole process has caused a significant impact on the service and their ability to retain key staff. Due to Foundations having served notice on all of their local contracts, they have already informed their staff that the service was going to cease. As a result, many staff have actively been seeking alternative employment and several clinical members of staff have already left.

22. If there is a delay of another month, the risk of losing a significant number of staff is amplified, particularly in terms of further clinical roles. These are very difficult to recruit in normal circumstances but, as there are only a matter of months until October, they would be virtually impossible to replace. Roles such as Non-medical Prescribers are critical to the running of the service and, given the uncertainties around the future, staff are already unsettled. Further losses would leave us in a position where the next provider is unable to deliver the service within the timescales.

23. The TUPE situation does not present any major risk to the Council due to the relatively small number of people that will potentially transfer across. Their current terms and conditions do not vary significantly from existing, equivalent posts within the authority, with the potential exception of pension costs. Whilst full TUPE details have not been shared yet (including ages) it is understood that there are less than ten staff in the NHS pension scheme and none in the pre-1995 NHS pension scheme. The potential additional pension financial liabilities are therefore considered not to be significant.

24. The staffing resource requirements reflects the current service demand and that which is forecasted in the foreseeable future. The service is very much led by demand and, as

such, this capacity will be reviewed annually, as a minimum. Please see appendix 5 for more detail of the anticipated staffing structure.

25. The in-house option has the most advantages of the available options and enables the preferred model to be implemented as envisaged. It also presents a wide range of opportunities and potential benefits, including:
  - a. Providing additional staffing capacity within the overall Middlesbrough Council substance misuse service. By having multi-skilled roles wherever appropriate, the clinical support and care co-ordination functions can be combined, which will help to address the high caseload levels. The Dame Carol Black/national drug strategy recommends caseloads of forty but we are currently approx. double that amount;
  - b. There is existing experience within the PHST team of transferring services, including specialist clinical, in-house. Allied to this is additional resilience, capacity and expertise from the PHST specialist Clinical and Pharmaceutical Advisors, and the specialist stop smoking service clinicians;
  - c. The Council having the ability to offer development opportunities, plus competitive terms and conditions in order to retain specialist clinical staff in a competitive market. Having a high quality service within the Council will also help with recruitment to any future vacant posts and 'growing our own' specialist staff;
  - d. Enhancing the current case management system to include prescribing functionality. This will enable it to hold singular, full client records encompassing all elements of needs and support provided;
  - e. Potential to enhance the existing collaborative working arrangements with adult's and children's services and other LA teams, which is beneficial for safeguarding concerns, early intervention, prevention, etc.
26. This service is part of a broader service offer from the former Berwick Hills Housing Office building, adjacent to the large Morrisons supermarket. A report on the regeneration of this site, to be called LiveWell East, will be brought to a future Executive meeting.
27. This site will be the main base for the in-house team, including the clinical staff, as the current premises at the Acklam Road site are unaffordable within the scope of the substance misuse service alone. Delivery from the MACE building on Ayresome Green Lane (i.e. in close proximity to the current service's location) and via a satellite offer from the Hemlington locality hub will also take place, ensuring that more people than ever can be supported closer to their homes.
28. Securing this building has enabled investment to be made into an empty Middlesbrough Council building. We have carried out refurbishment and made it fit for purpose to be brought back into use. The TEWV (Tees, Esk and Wear Valley NHS Mental Health Trust) Middlesbrough Community Mental Health team are also utilising it as their main staff base. This enables collaborative delivery to be carried out, addressing drugs and/or alcohol-related issues and supporting lower level mental health needs at the same time. Existing TEWV delivery locations and multi-agency outreach will continue to be used. It will not be a case of bringing people from the whole town to Berwick Hills.
29. It is essential that we have the facility to deliver joint reviews and support people across a variety of locations. In recent years, there has been extreme pressure on the space available in the current Acklam Road site and a very limited clinical offer away from this location. It is both best practice and an expectation of OHID (formerly Public Health

England) that joint reviews are regularly carried out and recorded/reported via NDTMS (the national monitoring system that we have a statutory responsibility to report via).

30. Utilising these multiple delivery sites will provide the vital, additional delivery space required. Costs associated with the development of the new Live Well East location are reflected in the financial information within this report. The other locations are existing Middlesbrough Council sites, which do not incur additional costs. This will facilitate both an improved wider system approach to service provision (including joint review meetings of both clinical and wider needs) and also a broader geographical offer across the town.
31. The recommended option delivers efficiencies in terms of not having to pay a management fee to an external organisation. The funding will be directed primarily to staffing and the elements that are essential to the delivery of the service (e.g. equipment and clinical consumables). Providing clinical expertise and frontline capacity from within the existing budgetary envelope will be the priority.
32. The management fee efficiencies will be utilised to fund necessary specialist clinical expertise to support the mobilisation within the timescales. Essential elements in terms of clinical governance, development of more than forty policies and associated procedures/pathways and the application for CQC registration process all have to be carried out. This will not be achievable from within the PHST team alone, due to other existing priorities and workloads. Suitably skilled and experienced options have already been identified and their availability confirmed. The cost of this work is £40,000 and will be funded from the existing budget allocation for this service.
33. The recommended option enables public health to work with the ICB and directly implement a communications strategy. This will ensure that service users and stakeholders within the local system are appropriately informed and assurance is given regarding high quality service continuity and support. The development of the communications plan is already underway and will continue as a priority to ensure that fear of negative changes and potential disengagement from the service are minimised.
34. Should there be any issues, beyond the control of Middlesbrough Council, which delay the commencement of the service, then contingency plans will be enacted. These will consist of working with existing substance misuse providers already operating in nearby areas and/or large NHS partner organisations to ensure there is no break in service provision.

### **Other potential decision(s) and why these have not been recommended**

35. Please see the Business Case within the appendices, which contains a detailed options appraisal.
36. In summary, other potential decisions were considered but were not recommended for the following reasons:
  - a. Do nothing – not a feasible option as the outcome would be having no service provision on 1/10/23;
  - b. Direct award of a contract to a suitable provider organisation – there are several major risks associated with this option, mainly regarding to the lack of certainty in this process within the already tight timescales. Other risks include:

- i. There has been no market interest in the tender, therefore, may not yield a suitable provider willing to take this on;
  - ii. Potential that the process may fail during negotiations, which would leave no timescales to get alternative provision in place;
  - iii. Highly likely to be a more costly option in order to secure a suitable provider and expected that the preferred delivery model would have to be compromised;
  - iv. Would be a limited time solution and require taking the service back to the market in the near future – likely to have to change the model to secure a bid;
- c. Direct award of a contract to a Primary Care Network or GP practice – the risks outlined in option b. also apply here. There is even less likelihood of securing a suitable provider from this sector, most crucially due to the lack of skills and experience within local primary care.

## Impact of the recommended decision

### **Legal**

37. Section 12 of the Health and Social Care Act 2012 introduced a duty for all unitary local authorities in England to take appropriate steps to improve the health of the people who live in their areas. From 1 April 2013, local authorities became responsible for improving the health of their local populations through the provision of a range of public health services and interventions, including alcohol and drug treatment services. A disruption to the provision of the service may be considered as a failure to act, which leaves Middlesbrough Council at risk of Judicial Review.

### **Strategic priorities and risks**

38. Please see a detailed assessment of risks within the appendices.

39. The proposed option will contribute as follows to the Council's strategic plan:

| <b>People</b>   | <b>Place</b>  | <b>Business</b>  |
|---|---|--|
| <i>We will work to address the causes of vulnerability and inequalities in Middlesbrough and safeguard and support those made vulnerable.</i> | <i>We will tackle crime and anti-social behaviour head on, working with our partners to ensure local people feel safer.</i> | <i>We will ensure that we place communities at the heart of what we do, continue to deliver value for money and enhance the reputation of Middlesbrough.</i> |

40. This option will impact positively on the following risks:

- O3-030 Improved offer of support for addiction recovery

### **Human Rights, Equality and Data Protection**

41. The ICB is managing the swift dispersal of approx. 3,000 extremely vulnerable patients, from the variety of primary care contracts that the current provider served notice on. If



there were to be any disruption to the substance misuse service element, then there would be a significant increase in demand for urgent and emergency care provision. The ICB are concerned that this could have a severe, negative impact on the overall local health system.

42. Public Health South Tees is equally concerned that there is significant risk of these extremely vulnerable patients not being re-engaged. They consist of people affected by substance misuse-related issues, with a majority having serious co-morbidities and/or multiple additional vulnerabilities; and asylum seekers, most with no recourse to other support. Both of these population groups struggle to navigate the system effectively and, consequently, end up with no healthcare nor specialist substance misuse support.
43. Although asylum seekers make up less than 10% of the local substance misuse treatment population, they have greater levels of need. This is in terms of the support they require for a wide range of factors that have a negative impact on their lives.
44. Overall, the vast majority of people in substance misuse treatment are shown to be living with a variety of vulnerabilities, in addition to their drugs and/or alcohol use. These factors include more than 20% having a significant housing problem, more than two thirds being impacted by mental health-related issues and approx. 90% not in work or education. These issues are all linked to deprivation, which is clearly a factor in this area, and place this cohort of people at far greater risk of poor outcomes.
45. The in-house option has been proposed in response to the risks associated with extremely limited timeframes for the mobilisation and safe transition to a new service (as highlighted by the Risk Profile, provided as an appendix to this report). The human rights of an extremely vulnerable group of our local population would likely be significantly and negatively impacted by any disruption to this vital service provision. By maintaining and improving the current provision, there are no impacts on equality nor data protection.
46. An Equality Impact Assessment (EIA) has been completed and is attached within the appendices. This document includes assessment of the anticipated impacts on equality, patients/individuals and the wider system.
47. Taking into account the potential negative impacts highlighted in the attached assessment, the purpose of the decision recommended in this report is to mitigate these risks. The recommendation would not have any disproportionately negative impacts on protected groups.
48. All of the options require the transfer of sensitive data from the current prescribing system. The recommendation presents the least risk, as the existing provider is contracted to input information on to the Council's case management system. In terms of the in-house approach, this system will be utilised for prescribing going forward and all of the patients being prescribed should already have their details within it. The benefit will be moving from the current separate systems being used, to a single, dominant client record on the internal case management system.
49. Should a direct award be explored, there is a significant chance that, given the timescales, any provider could insist that their own prescribing system be utilised. This would necessitate a far greater level of sensitive information being transferred and perpetuate the continuation of dual entry across two different systems. Clearly these issues present greater risks than using the single, in-house case management system.

50. The process in terms of the Executive considering the options/recommendation within this paper and taking a decision does not involve the collation and use of personal data.

### ***Financial***

51. This clinical service has a budget allocation of £989,000 as is already a core part of the mainstream public health budget. In addition, a one-off £90,000 partnership contribution has been secured to fund the refurbishment costs of the part of the Live Well East site.

52. The cost of the mobilisation, implementation and operation of the core service, for the period October 2023 to March 2024, will be a total of £575,000. This is accounted for in the £989,000 budget. Assuming similar demand for services, the ongoing cost of the service is anticipated to be £843,000-£877,000 per annum in 2024-26. This cost will be met from the public health budget.

53. In addition, the Substance Misuse Supplemental Grant and other external grant funding will continue to be utilised for the enhancements to the service delivery (funding is confirmed to 31/3/2025). This will primarily fund additional staff and also be utilised to make a range of improvements/enhancements to specialist interventions and support. This is existing additional support and is not affected by this decision.

54. A summary of the costs is shown on the next page, please see appendix 4 for a detailed overview.

## Summary of Costs:

| Core Service                  | Clinical Service Cost 2023 - 2026 |                    |                    |
|-------------------------------|-----------------------------------|--------------------|--------------------|
|                               | 23/24 Cost<br>£000                | 24/25 Cost<br>£000 | 25/26 Cost<br>£000 |
| Foundations (upto 30/9/23)    | 480                               | 0                  | 0                  |
| Staffing - 12.7 fte           | 349                               | 725                | 753                |
| Live Well Centre East         | 54                                | 81                 | 86                 |
| Service Delivery Running Cost | 43                                | 37                 | 39                 |
| LWCE refurbishment            | 90                                | 0                  | 0                  |
| Consultancy (service set-up)  | 40                                | 0                  | 0                  |
| <b>TOTAL COST</b>             | <b>1056</b>                       | <b>843</b>         | <b>878</b>         |
| <u>Resources Available</u>    |                                   |                    |                    |
| Public Health Grant           | 989                               | 856                | 884                |
| Partnership Contribution      | 90                                | 0                  | 0                  |
| <b>AVAILABLE FUNDING</b>      | <b>1079</b>                       | <b>856</b>         | <b>884</b>         |
| <b>(Surplus) / Shortfall</b>  | <b>(23)</b>                       | <b>(13)</b>        | <b>(6)</b>         |

| Enhanced Service                        | Enhanced Service Cost 2023 - 2026 |            |          |
|---|-----------------------------------|------------|----------|
|   |                                   |            |          |
| <b>Service enhancement (to 31/3/25)</b> |                                   |            |          |
| Staffing (service enhancement) - 3 fte  | 140                               | 147        | 0        |
| <b>TOTAL COST</b>                       | <b>140</b>                        | <b>147</b> | <b>0</b> |
| <u>Resources Available</u>              |                                   |            |          |
| Substance Misuse Specific Grant         | 140                               | 147        | 0        |
| <b>AVAILABLE FUNDING</b>                | <b>140</b>                        | <b>147</b> | <b>0</b> |
| <b>(Surplus) / Shortfall</b>            | <b>0</b>                          | <b>0</b>   | <b>0</b> |

## Actions to be taken to implement the recommended decision(s)

| Action  | Responsible Officer          | Deadline                        |
|---|------------------------------|---------------------------------|
| <p>The service mobilisation plan for 1 October 2023 will immediately commence, including:</p> <ul style="list-style-type: none"> <li>• Workforce and TUPE;</li> <li>• Clinical governance/CQC;</li> <li>• Prescribing system and information governance;</li> <li>• Estates and pathways;</li> <li>• Communications plan – for service users and stakeholders.</li> </ul> <p><i>See appendices for more detailed plan overview.</i></p> | Jonathan Bowden/Vicky Franks | Immediately following approval. |
| The ICB are formally informed of the Council's decision to bring the service in-house.  | Mark Adams                   | Immediately following approval. |
| The TUPE process regarding the existing staff from the current service provider will be prioritised. This is to ensure the essential clinical staff, required to deliver the service, feel well informed and supported and, therefore, are more likely to transfer.   | Legal/HR                     | Immediately following approval. |
| All necessary, external support (specialist clinical provision) is swiftly contracted to ensure that the timescales for the mobilisation and implementation can be met.   | Corporate Procurement/Legal  | Immediately following approval. |

## Appendices

|   |  |
|---|--|
| 1 | Risk Profile - Specialist substance misuse clinical/prescribing service. |
| 2 | Equality Impact Assessment.  |
| 3 | Options Appraisal.   |
| 4 | Financial overview.  |
| 5 | Staffing structures.   |
| 6 | Mobilisation plan overview.  |

## Background papers

| Body | Report title | Date |
|------|--------------|------|
| N/A  |              |      |

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