ED2. EXECUTIVE DECISIONS BY A CABINET MEMBER OR AN OFFICER

A. Report Title: COMMENCEMENT O BETTER CARE FUND SERVICES	F PROCUREME	INT OF PUBLIC HEALTH AND					
B. Report Author(s): Christopher Smit Manager, Adults Health and Commissio	Tel: 64557 E-mail: cpsmith@thurrock.gov.uk						
C. Decision Maker: Cllr John Kent		J					
D. Position held: The Leader of the Council							
E. Key decision: Key	F. Delegation	tion ref:					
G. Is the decision urgent? Yes							
H. If yes, state why. A number of controcommissioned as part of the Better Care services to be provided from 1 April. The under "Part B" of the Public Contract Refew of the detailed rules of the Regulation Contract Regulations 2015 on 26 Febru procurement of health and social care social Regulations. Procurement of these services before the end of March and social procurement of these services before 26 the Part B Regulations.	e Fund) need to be procurement of egulations 2006. One applying. The ary 2015 will rendervices from that ices under the new approval is being to the procure of the procure	be awarded in March 2015 for the of these services has been planned. This is a lesser regime, with only a ne introduction of new Public move the Part B exemptions and t date must comply fully with the ew Regulations would not be ng sought to commence the					
DECISION (strike out whichever does n 1. I agree the recommendations in		ort for the reasons given in the					
report;	ino allaonoa rop	ore to the control of					
Signed: Odl.	Date: 2	THE Fel 2015.					
URGENCY							
Democratic Services will arrange for the comple	etion of the following	j :					
J. I confirm that in my opinion a dec reasonably be delayed:	ision on this ma	atter is urgent and cannot					
Signed:	Date:						

To be completed by Democratic Services

Date decision received by Dem. Services:	Date decision published: 25 February 2015
24 February 2015	
Implementation date: 25 February	
20185	
Relevant O & S Committee: Health and V	Vell-being Overview and Scrutiny Committee

24 February 2015

ITEM: Not Applicable

Report to the Leader of the Council

Commencement of the procurement of community health care (Better Care Fund) services

Wards and communities affected:

Key Decision:

ΑII

Key

Report of: Christopher Smith, Programme Manager, Adults Health and Commissioning

Accountable Head of Service:

Accountable Director: Roger Harris, Director of Adults, Health and Commissioning

This report is Public

Executive Summary

A number of contracts for community health care (Better Care Fund) services need to be awarded in March 2015 for the services to be provided on 1 April. The procurement of these services has been planned under "Part B" of the Public Contract Regulations 2006. This is a lesser regime, with only a few of the detailed rules of the Regulations applying. The introduction of the Public Contract Regulations 2015 on 26 February 2015 will remove the Part B exemptions and procurement of health and social care services from that date must comply fully with the Regulations. Procurement of these services under the new Regulations would not be possible before the end of March and so approval is being sought to commence the procurement of these services before 26 February so that the procurement will come under the Part B Regulations.

- 1. Recommendation(s)
- 1.1 To commence the procurement of the services listed in the Appendix to the report.
- 2. Introduction and Background
- 2.1 In 2015/16, the Council as host of the Better Care Fund pooled fund will assume responsibility for a range of contracts for community health care services. These services are currently provided under contract to NHS Thurrock CCG. The plan is to put these services through a competitive

procurement process over the course of a period of years. Until then a waiver from the Constitutional requirement for a competitive procurement process to determine the award of the contract is sought so as to allow the services to continue to be provided in 2015/16.

2.3 A complication has now arisen with the announcement on 6 February 2015 that the public Contracts Regulations 2015 will come into force on 26 February. One consequence of the new Regulations will be to remove the "Part B" exemption for health and social care services. The current Regulations do not require any form of prior advertising or competitive tendering of Part B services although contracts must still be awarded in line with the general obligations of transparency, equal treatment, non-discrimination and proportionality. The new Regulations will require the Council to advertise the contracts and to follow one of the formal tendering procedures. It would not be possible to undertake this process and award the contracts in time to allow the services to continue without interruption from April 2015.

3. Issues, Options and Analysis of Options

- 3.1 An urgent decision is needed to commence the procurement of these community health care services before 26 February 2015 so that the Part B exemption for health and social care services will apply to this procurement exercise.
- 3.2 A failure to commence the procurement before that date would mean the Council would need to undertake the procurement under the new regulations. However, to do so would mean the contracts could not be put in place by the deadline for the start of the Better Care Fund pooled funding arrangements on 1 April 2015.

4. Reasons for Recommendation

- 4.1 The commencement of the procurement will mean that the Council will be able to introduce the Better Care Fund arrangements as planned and agreed by the Health and Well-Being Board.
- 5. Consultation (including Overview and Scrutiny, if applicable)
- 5.1 Consultation has been undertaken on the Better Care Fund Plan.
- 6. Impact on corporate policies, priorities, performance and community impact

The continued delivery of these community health care services is a crucial part of our Health and Well-Being Strategy and our aim to reduced unplanned admissions to hospital and residential care homes.

7. Implications

7.1 Financial

Implications verified by:

Sean Clark

Head of Corporate Finance

Thurrock Council

Femi Otukoya Head of Finance NHS Thurrock CCG

The Better Care Fund will be made up from the following contributions; Thurrock CCG contribution £14,766,142 and Thurrock Council contribution £3,253,194.

The fund will need to be accounted for in accordance with the relevant legislation and regulations, and the agreement between the local authority and the health service.

7.2 Legal

Implications verified by:

Daniel Toohey - Principal Corporate Solicitor,

Legal and Democratic Services

- This report is seeking approval from Cabinet to commence the procurement of the contracts referred to in the report. It is proposed that the procurement exercise be commenced prior to the Public Contracts Regulations 2015 coming into force. Under the present regulations, that is, the Public Contracts Regulations 2006 (the 'Regulations'), health care services are classified as Part B Services and therefore are not subject to the full tendering requirements of the Regulations, namely in respect of competitive tendering. However in conducting the procurement, the Council still has a legal obligation to advertise the award of the contract, and also to comply with the relevant provisions of the Council's Contract Rules and with the EU Treaty principles of equal treatment of bidders, non-discrimination and transparency in conducting the procurement exercise.
- The report author and responsible directorate are advised to keep Legal Services fully informed at every stage of the proposed procurement exercise. Legal Services are on hand and available to assist and answer any questions that may arise in relation to ensuring a compliant procurement exercise.

7.3 Diversity and Equality

Implications verified by:

Rebecca Price

Community Development Officer

Thurrock Council

Andrew Stride

Head of Corporate Governance

NHS Thurrock CCG

The vision of the Better Care Fund is improved outcomes for patients, service users and carers through the provision of better co-ordinated health and social care services. The commissioning plans developed to realise this vision will need to be developed with due regard to equality and diversity considerations. This will include adherence to the relevant 'Equality' Codes of Practice on Procurement. These require consideration of the equality arrangements of all such providers, such as relevant policies on equal opportunities and the ability to demonstrate a commitment to equality and diversity. These arrangements will also be subject to a full review as part of the contract management of the services to be provided.

7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

- 8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):
 - Procurement Policy Note Public Contracts Regulations 2015
- 9. Appendices to the report
 - THURROCK HEALTH & WELLBEING BOARD BETTER CARE FUND 2015/16 – (This contains the list of community health care (Better Care Fund) services for which procurement must commence to allow the award of contract before April 2015).

Report Author:

Christopher Smith Programme Manager Adults Health and Commissioning

THURROCK HEALTH & WELLBEING BOARD BETTER CARE FUND 2015/16 (Final)

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