

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Adult Social Care
Date:	16 January 2012
Title:	Prison Substance Misuse Tender – HMP Winchester
Reference:	3545
Report From:	Director of Adult Services

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1. Executive Summary

The purpose of this paper is:

- 1.1. To seek approval for delegated authority to the Director of Adult Services to enter into a Section 75 agreement with NHS Hampshire, subject to consultation, to enable Hampshire County Council to be the lead commissioner for health and social care substance misuse services in HMP Winchester and in the community in Hampshire. The decision should be made in consultation with the Executive Member for Adult Social Care.
- 1.2. To seek approval to go out to tender for substance misuse services at HMP Winchester.
- 1.3. To seek approval to enter into the novated Counselling, Assessment, Referral, Advice and Throughcare (CARAT) contract from the National Offender Management Service (NOMS) for the period January to March 2012.
- 1.4. To seek approval for a single tender contract in respect of the novated CARAT contract for the period 1 April to 30 September 2012 as an interim measure while the service is in transition.
- 1.5. To seek approval for delegated authority to the Director of Adult Services to negotiate the terms of the proposed Section 75 Agreement and take account of any changes to contractual agreements due to legislation, government guidance, funding arrangements and legal advice.
- 1.6. This paper seeks to:
 - set the contextual background for the changed commissioning and funding arrangements for prison substance misuse services
 - describe the current and future service

- demonstrate the funding allocation
- identify the expected outcomes from the service
- describe the legal authority for the procurement of prison and future procurement of community substance misuse services
- identify potential risks and mitigating actions

2. Contextual information

- 2.1. On 31 March 2011, the Ministry of Justice, Department of Health (DH) and the National Treatment Agency for Substance Misuse (NTA) issued Gateway Letter 15827 (Appendix C) setting out new funding and commissioning arrangements for prison substance misuse services.
- 2.2. Currently there are separate funding allocations and commissioning arrangements for the different services:
 - clinical drug treatment, known as Integrated Drug Treatment System (IDTS) is commissioned by NHS Hampshire, with a contract running until 1 October 2012, provided by Solent NHS Trust
 - psychosocial CARAT service is commissioned by NOMS, with a contract running until 31 March 2012, provided by RAPt (The Rehabilitation for Addicted Prisoners Trust)
 - two cognitive-behavioural programmes, SDP (Short Duration Programme) and P-ASRO (Prisoners – Addressing Substance Related Offending) also run in HMP Winchester. They are nationally accredited, although without an extensive evidence base showing effectiveness. Locally, they are delivered by prison staff, who would not be subject to TUPE.
- 2.3. The intention of the new arrangements is to bring all prison substance misuse services together in a single contract achieving the recovery-focused and “one pot one purpose” concepts as recommended by the Patel Report, September 2010 on behalf of the Prison Drug Treatment Strategy Review Group, and the Green Paper ‘Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders’, December 2010.
- 2.4. The government’s ‘Drug Strategy 2010 Reducing Demand, Restricting Supply, Building Recovery: Supporting people to live a drug free life’, and ‘Healthy Lives, Healthy People, November 2010 proposed a new vision of a locally-led, recovery-orientated drug system with most drug and alcohol services being commissioned by Local Authorities through the Director of Public Health, supported by Health and Wellbeing Boards.
- 2.5. Responsibility for Offender Health, however, will transfer to the NHS Commissioning Board and will cover all health services, including substance misuse, within prisons. Both this and the above (2.4) are

subject to the passage of the Health and Social Care Bill, currently awaiting the Report Stage: House of Lords.

- 2.6. The intention appears to be that they forward all the funding to the DAAT (Drug and Alcohol Action Team) for commissioning on behalf of partner agencies, as described in the Gateway letters (Appendix C). The finer detail of how the above arrangements will work in practice is still being developed.
- 2.7. Although separately funded, it is expected that the prison contract will operate in the same way as community drug and alcohol contracts, thus supporting individuals along the full course of their recovery.
- 2.8. HMP Winchester is a male local Category B prison, housing a maximum of 707 prisoners, aged 21 and above, at any one time in the main prison or in the Category C West Hill campus. It holds remand and convicted prisoners on short sentences from Hampshire, Portsmouth and Southampton, with a rapid throughput of prisoners.
- 2.9. The needs assessment, undertaken between August and October 2011, shows that in quarter 1 of 2011-12, there were 319 new receptions into the prison, of which 148 (46%) began drug treatment interventions. A total of 160 prisoners began drug treatment in quarter 1, including new and existing prisoners. Of those:
 - 61% received clinical interventions only
 - 27% received psychosocial interventions only
 - 12% received both clinical and psychosocial interventions
 - 82.5% were opiate users, with heroin the main drug of choice

Of the 160 prisoners commencing treatment in that quarter, 30% claimed to be drinking above the recommended daily alcohol unit consumption. A 2008 survey found that 46% of prisoners felt their offending was linked to alcohol consumption, increasing to 68% where their crime was violent and 71% where the crime was robbery.

3. The Prison Substance Misuse Service

- 3.1. The contract will cover the following treatment elements:
 - first night medical check
 - opiate stabilisation through substitute prescribing and subsequent reduction/withdrawal
 - clinical observation of prisoners dependent on cannabis and stimulants
 - alcohol and benzodiazepine managed withdrawal prescribing (detox)
 - blood borne virus testing and vaccination
 - keyworking with individuals to support their recovery
 - choice of psychosocial interventions

- access to peer support and mutual aid (e.g. AA)
 - access to other health, educational, housing and parenting services
- 3.2. Staffing will need to be medical and nursing with arrangements for use of prison staffing.
- 3.3. It is proposed that the contract will run for 30 months from 1 October 2012 to 31 March 2015 with an optional extension period not exceeding two years. This would bring the project in line with any potential national direction over to Payment by Results (PbR).

4. Finance

- 4.1. There is no financial input to these services from Hampshire County Council Adult Services.
- 4.2. The identified budget for the integrated prison substance misuse services is as follows:

Current service and funding	2011-12	2012-13	2013-14	2014-15
Prison substance misuse allocation (PSMA) - for IDTS and CARAT	£1,223,439	£1,223,439	£1,223,439	£1,223,439
PSMA uplift (confirmed by DH)	£40,000	£40,000	£40,000	£40,000
PCT baseline health investment – supporting clinical aspects of IDTS	£499,000	*£424,000	*£349,000	*£349,000
Total	£1,762,439	£1,687,439	£1,612,439	£1,612,439

* NHS Hampshire have indicated that from October 2012, they will be removing £150,000 per annum from substance misuse services in the prison and will be re-investing it into providing personality disorder and psychology services for all prisoners at HMP Winchester. They believe this will significantly benefit those prisoners with a dual diagnosis (substance misuse and mental health) who are currently not well identified or served.

- 4.3. Although there is a reduction in funding from the PCT, a single contract offers opportunities for cost efficiencies and greater flexibility in commissioning. Links with the primary health and mental health services in the prison will be a key element of the service specification. The Strategic DAAT accepted the PCT offer of funding at their meeting on 23 November 2011.

- 4.4. The total budget for the contract would be £4,031,097 for 30 months with a maximum of £7,255,975 should the contract run unchanged by PbR for the full four and a half years.
- 4.5. The budget for the six month CARAT contract to run from the end of the novated contract (31 March 2012) to September 2012 is £389,807. The total value of the contract throughout its lifetime is in excess of £1 million.

5. Performance

- 5.1. There are performance indicators related to these services for HMP Winchester (Prison Health and Performance and Quality Indicator for drug treatment) and NOMS (drug treatment key performance targets). Currently no indicators impact on the Pooled Treatment Budget which the DAAT receives for commissioning drug services outside the prison environment and no performance indicators relate to the Council.
- 5.2. The current CARAT contract incorporates a mechanism for calculating invoice payments based on delivery. No payments can be made above contract value but there can be a financial penalty for sub-standard performance.
- 5.3. As yet there is no firm indication from the NTA of future performance indicators, although the NTA does expect the contract will have the following recovery-orientated characteristics:
 - a) a commitment to maximise the numbers who can successfully overcome their dependency and sustain their recovery on release
 - b) individual recovery care planning and key working for all in treatment
 - c) continuity of care in and out of prison
 - d) availability of psychosocial interventions
 - e) clear post-detoxification support and abstinence pathways
 - f) access to support and treatment for mental and physical health needs
 - g) access to mutual aid (peer support)
 - h) visibility of successfully recovering current and ex-prisoners
 - i) access to practical housing, employment, education (particularly in relation to literacy), training and family support
 - j) recovery-orientated workforce (including prison staff)
- 5.4. Outcomes of the prison substance misuse service are likely to feature those recommended in the Patel Report, 2010:
 - reduced drug use
 - reduced re-offending
 - improved health and social functioning and relationships
 - increased employment and enhanced workforce skills

- 5.5. It is intended to incorporate performance incentivising targets within the contract, based on the above characteristics and outcomes, with consideration being given to penalties for sub-standard performance.
- 5.6. To ensure effective commissioning and future monitoring of the contract, a Board has been set up comprising HMP Winchester, Hampshire Probation Trust, NHS Hampshire, Hampshire DAAT, Southampton DAAT, Portsmouth DAAT, Hampshire Adult Services, Hampshire Constabulary, and the NTA. Service user representation is being sought.

6. Legal

- 6.1. DH Gateway letters 15827, 31 March 2011, 16136, 20 July 2011 and 16796, 26 October 2011 (Appendix C) state the expected actions of all parties, but they do not represent a change in legislation.
- 6.2. Hampshire DAAT sits within the Council and is a partnership of NHS Hampshire, Hampshire Probation Trust, Hampshire Constabulary, HMP Winchester, Hampshire County Council, Job Centre Plus and service users. Hampshire County Council enters into contracts for substance misuse services for most, but not all, substance misuse services in Hampshire. The DAAT reports to the Strategic DAAT, chaired by the Chief Executive of Rushmoor Borough Council.
- 6.3. Drug Action Teams were originally established in 1995 following publication of the White Paper 'Tackling Drugs Together'. Their function was further described in the 1998 'Tackling Drugs to build a better Britain' government strategy, where they were given the responsibility for the local implementation of the ten year drug strategy with annual reporting on progress; in effect, lead commissioning.
- 6.4. In Hampshire, the DAAT has always sat within the Local Authority, although in some areas they are based in PCTs. Funding originates with the NTA, which is an NHS Special Health Authority. The NTA distributes ring-fenced funding, the Pooled Treatment Budget, to NHS Hampshire, for which the Council invoices quarterly.
- 6.5. It is believed that a Memorandum of Understanding between partner agencies was written in Hampshire but it cannot be located. The current contract for the HOMER community substance misuse service is a joint contract with NHS Hampshire. There is no Section 75 Agreement (S75) (NHS Act 2006). A S75 Agreement covering both the prison and community substance misuse services is required to enable Hampshire County Council, to act as lead commissioner for health and social care provision for substance misusing prisoners in HMP Winchester and in future for those in the community.
- 6.6. As the NOMS' CARAT contract terminates on 31 March 2012, with no permission to extend further, a novation of the contract to Hampshire County Council is required. The Ministry of Justice has provided information and a draft Deed of Novation which is currently being used by the Council's Legal Services to draw up documents to enable the contract to be novated to the Council by 31 January 2011. A single tender

extension to 30 September will be required to provide continuity of service by RAPt until the new service commences on 1 October 2012.

7. Risks

- 7.1. Failure to agree a S75 with NHS Hampshire will leave the County with no legal authority to commission services that are not within the remit of the Council. Work has commenced on this and on the formal consultation that is a requirement and it is anticipated that this will be completed by April 2012. Other authorities do have S75 agreements in place for substance misuse services which can be used to inform the work. This could be high risk as such an arrangement has not been undertaken in respect of DAAT business before. In future, the Health and Social Care legislation is likely to provide the legal mechanism for this but information is not yet available.
- 7.2. Failure to novate the CARAT contract in January 2012 would put the service from April 2012 in jeopardy. Work is currently being undertaken to ensure this progresses on time.
- 7.3. Shortage of staff to operate all elements of the contracts until October 2012 could result in a reduction in service to prisoners. Recruitment is currently being undertaken by Solent NHS Trust and RAPt. Prison staff will be withdrawn from the SDP and P-ASRO programmes prior to October 2012, but targets for engagement in these programmes have already been achieved and as previously stated, the evidence base for them is not strong.
- 7.4. Insufficient interest from providers in the contract might prevent the contract from being awarded. This is unlikely due to the value of the contract. There are thought to be about ten providers in the region and other national providers may show an interest in bidding. All prison substance misuse contracts across the country will be tendering for a new integrated service on a similar timescale. There will be some co-ordination at a regional level to enable staggering of interview dates.
- 7.5. A lack of knowledge of the clinical aspects of this contract could put the health of prisoners at risk. This is mitigated by the inclusion of clinical specialists on the Board.
- 7.6. IDTS and CARAT investment is ring-fenced and there is written confirmation for the NHS Hampshire baseline funding and £40K uplift. However, there is no information available yet for transfer of funding when PCTs cease to exist in 2013. As long term funding is at risk contracts will need to reflect this. Without a S75 Agreement future transfer of funding could be problematic.
- 7.7. The Project Board keeps a risk register which is reviewed and updated on a regular basis. Entry will be made to the Departmental risk register.

8. Recommendations

- 8.1. That the Executive Member for Adult Social Care give approval to enter into the novated CARAT contract for the period January to March 2012.
- 8.2. That the Executive Member for Adult Social Care give approval to enter into a Single Tender 6 month contract, in respect of the novated CARAT contract at HMP Winchester as an interim measure while the service is in transition.
- 8.3. That the Executive Member for Adult Social Care give delegated authority to the Director of Adult Services to enter into a S75 Agreement with NHS Hampshire, subject to consultation, to enable Hampshire County Council to be the lead commissioner for health and social care substance misuse services in HMP Winchester and in the community in Hampshire. The decision should be made in consultation with the Executive Member for Adult Social Care.
- 8.4. That the Executive Member for Adult Social Care give delegated authority to the Director of Adult Services to negotiate the terms of the proposed Section 75 Agreement and take account of any changes to contractual agreements due to legislation, government guidance, funding arrangements and legal advice.
- 8.5. That the Executive Member for Adult Social Care give approval to go out to tender for an integrated prison substance misuse service at HMP Winchester. The contract value will be a maximum of £7,255,975 for a maximum period of four and half years (31 March 2017).

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u> Substance Misuse Strategic Review Implementation - Tendering and Procurement	<u>Reference</u> 929	<u>Date</u> 11 December 2009
Direct links to specific legislation or Government Directives		
<u>Title</u> National Health Service Act (S75) The Patel report: Reducing drug-related crime and rehabilitating offenders		<u>Date</u> 2006 September 2010

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

<u>Document</u>	<u>Location</u>
None	

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. A full Equalities Impact Assessment has been undertaken. The commissioning of the substance misuse service will not have any disproportionate impact on any protected group. Any providers will be expected to show how they will adhere to the duties outlined in the Equality Act 2010.
- 1.2. There are areas where further information will need to be sought to enable the effective monitoring of characteristics such as sexual orientation, where data is not held and a culture of not disclosing sexual orientation can prevent providers from having a clear understanding of the characteristics of service users.
- 1.3. The Prison Substance Misuse Needs Assessment October shows that 86% of prisoners entering substance misuse treatment in quarter 1 were white British or white other, with 11% white or black Caribbean and Caribbean. The service provider will be expected to demonstrate how they will engage effectively with black and ethnic minority prisoners. Close monitoring will ensure that BME prisoners continue to have good access to the service.

<http://www3.hants.gov.uk/as-equality-ia-archive.htm>

2. Impact on Crime and Disorder:

- 2.1. There is a known correlation between numbers of people entering substance misuse treatment services and a reduction in crime rates. Linking the community and prison substance misuse services in a similar recover-orientated model will promote more effective engagement in treatment and should lead to a reduction in crime and disorder.

3. Climate Change:

- 3.1. There is no identifiable effect on climate change from this service.

Department of Health Gateway Letters

See attached documents:

DH Gateway Number 15827

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_125881

DH Gateway Number 16136

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_128520

DH Gateway Number 16796

http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Dearcolleagueletters/DH_130782