Decision Report - Executive Decision

Forward Plan Reference: 'n/a - Special Urgency' Decision Date – 19/09/2023 Key Decision



Commissioning of Somerset Integrated Domestic Abuse Service Lot 4 – Counselling Services

Executive Member(s): Cllr Adam Dance – Lead Member for Public Health, Equalities

and Diversity.

Local Member(s) and Division: Not applicable

Lead Officer: Lou Woolway, Deputy Director of Public Health

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Summary / Background

- 1. In October 2022, the Council awarded contracts for the Somerset Integrated Domestic Abuse service, which comprises 5 service 'lots':
 - Lot 1 Central 'hub'
 - Lot 2 Safe Accommodation
 - Lot 3 Advocacy, support, and behaviour change
 - Lot 4 Counselling to Victims/Survivors and children in Safe Accommodation
 - Lot 5 Children and young people
- 2. All service contracts went live in April 2023 with the exception of Lot 4, which, due to existing contractual arrangements, had a commencement date of 1st August 2023. However, as a result of the provider not being able to put in place the full-service offering, a detailed action plan alongside an extended mobilisation date of 1 October 2023 was agreed. Further to the last provider review meeting, 8 September 2023, commissioners remained unassured that the full-service offering would be in place by the revised commencement date.
- 3. In addition, the provider has submitted a modified budget that shows a significant shortfall between the originally agreed contract price and their projected costs over the contract term. They have indicated that they are not able to fund this shortfall themselves and are seeking that the increase in the contract value above 10% be covered by the council.
- 4. Providing counselling services for adults and children who reside in Safe Accommodation is stipulated as part of the council's statutory responsibilities under the Domestic Abuse Act. It is vital that the service functions effectively in supporting some of our most vulnerable communities. We are not willing for the service delivery to commence until we are satisfied that this vulnerable group will have access to the full range of services that they require and

continuity of support. Therefore commissioners are seeking for the arrangement with the identified provider to be terminated. In taking this decision, commissioners are then able to begin negotiations to find an alternative supplier so that this service can be in place as soon as possible to meet our statutory obligations to support vulnerable adults and children in relation to domestic abuse.

5. Given the statutory importance of this service and the need to ensure services are in place to support vulnerable stakeholders the Leader of the Council (13 September 2023) and relevant Scrutiny Chairs have agreed to the use of special urgency and urgent implementation in relation to the commissioning of this service.

Recommendations

- 6. The Executive Member for Public Health, Equalities and Diversity:
 - a. Approves the terminating of the contract with the currently appointed supplier of Lot 4 (Counselling to Victims/Survivors and children in Safe Accommodation).
 - b. Authorises the Deputy Director for Public Health, in consultation with themselves, to put in place alternative contracting arrangements to enable the Council's statutory duties to be met up to the value of £990,000.

Reasons for recommendations

- 7. In April 2021, the new Domestic Abuse Act became law. This for the first time, gives a statutory definition of domestic abuse and places a number of obligations on tier one authorities (as Somerset Council is defined). These obligations include the need to commission sufficient safe accommodation for women, men and children experiencing domestic abuse.
- 8. Section 4 of the Statutory Guidance 'Delivery of support to victims of domestic abuse in domestic abuse safe accommodation services stipulates the requirement to provide 'Counselling and therapy (including group support) for both adults and children, including emotional support.'
- 9. Commissioners are not willing for counselling service delivery to commence until we are satisfied that this vulnerable group will have access to the full range of services that they require and continuity of support. Commissioners are unable to progress work on finding alternative solutions until this decision is made.
- 10. Further to approval from the Deputy Director of Public Health, commissioners have worked closely with procurement and legal service colleagues in reaching these recommendations.

Other options considered

11. The current contract provider, if no change is inacted, would not be able to provide the full service offering at the agreed price in line with the Council's specification to support vulnerable stakeholders and so this option has been discounted.

Links to Council Plan and Medium-Term Financial Plan

- 12. This contracted service supports the new Council Plan ambitions, namely:
 - A Healthy and Caring Somerset
 - A Fairer, Ambitious Somerset
 - A Flourishing and Resilient Somerset

Financial and Risk Implications

- 13. The service is funded via monies received from the Department of Levelling Up, Housing and Communities (DLUHC) specifically to support the New Burdens Doctrine, Core LA funding for domestic abuse and funding provided by Children's Commissioning specifically to support the family safeguarding elements of the Integrated Domestic Abuse Service.
- 14. The provider has made it clear that they will be unable to provide the full service that they are contracted to provide from the Service Commencement Date of 1st October 2023.
- 15. The provider has also provided the council with an updated budget that shows a significant shortfall between the originally agreed contract price and their projected costs over the contract term. They have indicated that they are not able to fund this shortfall themselves and are seeking that the increase in the contract value above 10% be covered by the council.
- 16. The inability to commence this Lot 4 contract and ongoing concerns has been logged on the Council JCAD PH0057/001 and is monitored on a regular basis. This risk will be amended on this decision being taken.

Legal Implications

- 17. Commissioners are working with the Council's Legal team to ascertain implications of terminating the contract.
- 18. The Council's Procurement team have revisited the original tender process and advised that had the provider submitted the updated pricing as part of their tender, they would not have been the successful tenderer.
- 19. Regulation 72 of the Public Contracts Regulations 2015 sets out the basis on which contracts can be modified during their term. The proposed modification required to allow the provider to meet their contractual commitments (ie a greater than 10% price increase) is contrary to the provisions of Regulation 72.

- 20. Furthermore, as the proposed modification (if accepted) is one which would have allowed for the acceptance of a tender other than that originally accepted, it is considered a substantial modification for the purposes of Regulation 72.
- 21. The provider by its statements and actions that it:
 - a. will not be able to meet its obligations in full under the contract from the 1st October 2023;
 - b. has no viable plan to fund the shortfall it has identified between the contract price and its costs of delivery; and
 - c. requires a substantial modification of the contract that is likely to place the council in breach of its obligations under the Public Contracts Regulations 2015.

has demonstrated a clear and unequivocal intention not to fulfil its obligations under the contract from the 1st October 2023 (the Service Commencement Date).

- 22. Under common law, the provider's statements and actions amount to an anticipatory repudiation of the contract. In response the council has the right to accept the provider's repudiation and terminate the contract.
- 23. Given the vulnerable nature of the stakeholder group and council's obligations to protect them, it is felt that allowing the provider to commence delivery of a partial service from the 1st October that is not fully funded would have negative consequences. Allowing service delivery to commence without key counselling staff in place and a funding shortfall is likely to result in council breaching its statutory obligations to this particularly vulnerable group.
- 24. Commissioners are working closely with the legal services team to advise, draft and manage communications with the provider.
- 25. Legal services will be consulted on the process to engage a replacement supplier.

HR Implications

26. We are working with legal and the provider to understand any potential HR implications. Whilst roles have been advertised for the new service a number remain vacant. The previously commissioned service ended 31 July 2023.

Other Implications:

Equalities Implications

Accessibility

- 27. For specialist services for victims of domestic abuse, service accessibility is vitally important. This is stipulated in the Domestic Abuse Act statutory guidance which states that "Tier one authorities should ensure support services are provided in locations and ways which are accessible to all victims including their children. This should reflect needs identified as part of the needs assessment and should include, but is not limited to, having in place translation services, British Sign Language interpreters and wheelchair access, and accessible formats for people with learning disabilities and speech and language issues, such as easy read".
- 28. For this reason, service accessibility was incorporated throughout the competitive process, requiring all bidders to consider how they will ensure their service is accessible to people with protected characteristics. In some 'lots', this was a specific criterion, for instance, for those bidding to manage the service 'hub'.

Equality and Diversity and Human Rights

- 29. The Act also states that 'tier one authorities should make clear how they plan on making available relevant safe accommodation support services that meet the needs of all victims who share protected characteristic(s) under the Equality Act 2010 or who share a vulnerability requiring additional support.
- 30. In addition, section B5 of the Statutory guidance states that 'Authorities must bear in mind their Public Sector Equality Duties (see B6.3, below) and duties under the Public Services (Value) Act when commissioning services. For example, there must be adequate and appropriate support within the area to support victims with particular protected characteristics and needs such as disabled victims, those from a BAME background, those who identify as LGBTQ+, female victims, and male victims.'
- 31. All bidders were asked to state how they would take in intersectional approach to supporting survivors and their families and how they meet their legal duties Victims of domestic abuse often have complex needs which are result of health inequalities, their physical and emotional needs, ethnic background but also cultural diversity that cannot be anticipated from the outset, meaning that our specialist services must be flexible in the way they approach victim care and support.
- 32. There are no direct adverse implications related to Human Rights as a result of this decision. By commissioning this enhanced service, it will support the Council ensure that people's Human Rights are upheld, particularly with regards to the enhanced provision of preventative and restorative services that will be included in the new service.

Community Safety Implications

- 33. Domestic abuse is a key area within the community safety function of the Council. Additionally, domestic abuse is a strategic priority for the Safer Somerset Partnership (of which Somerset Council is a statutory member). This reflects the burden that domestic abuse has on not just the Council, but all statutory partners including NHS Somerset, police, fire service and probation.
- 34. Somerset Council is a tier one authority under the Domestic Abuse Act 2021 and is required to commission safe accommodation services for domestic abuse victims.
- 35. Based on Somerset's current population and national rates of domestic abuse victimisation, 23,960 individuals in Somerset will experience domestic abuse (both familial and intimate partner violence) each year. Police data highlights that in Somerset 38.7% of all violent offences are domestic abuse related. (Somerset Domestic Abuse Needs Assessment 2021). By commissioning specialist support for victims, their families and those who cause harm, we work to both prevent domestic abuse from occurring but working with victim to stop the cycle of abuse and prevent repeat offending, whilst offering essential safety planning and advocacy for those in highest need.
- 36. The Specialist service is monitored for its effectiveness to improve outcomes for its service users, including reduction in offending, feelings of safety, reduction in calls to the police (crime reporting), improvements in health and wellbeing indicators.
- 37. The Council of Europe (COE) estimate that one family refuge space is required per 10,000 residents in the community. Based on the number of adults over the age of 16 in Somerset (n=463,227) the total number of refuge spaces required is 46. Currently, only 35% of this quota is available but the new service will include an enhanced Safe Accommodation offer of physical spaces and support for those residing in them. Domestic abuse victims are likely to present to local authorities as homeless as they attempt to flee their abusive relationship/situation. A lack of available, specialist accommodation for this cohort, adds pressure and unmet demand within the wider housing system which will, as of 1st April 2023 be a prominent service area for the new Council.
- 38. The Domestic Violence, Crime and Victims Act 2004, includes several provisions, including that for Domestic Homicide Reviews (DHR). The DHR provision was established on a statutory basis on 13th April 2011 and although community safety partnerships take the lead. Local authorities are explicitly identified as being required to participate in a DHR. Failure to have an effective co-ordinated response to tackling domestic abuse, could lead to significant community safety issues, and reflect poorly upon Somerset Council in the event of a DHR

- 39. If fewer victims of domestic abuse are supported, then it could lead to increased tensions within communities and fear of crime. As domestic abuse does not only happen within the confines of a residential property, but also within public places.
- 40. The award of this contract will support community safety. This decision will also have a positive impact on the Council's existing transformational project to improve Somerset's approach to Integrated Offender Management. From 2022 onwards, a new cohort of domestic abuse offenders will be eligible for Integrated Offender management and our specialist services will be a key vehicle in supporting offenders to a life free of crime.

Climate Change and Sustainability Implications

- 41. The service will continue to operate on a pan-Somerset basis. This means there will be staff travelling, that could lead to increased carbon emissions. Whilst schedules and work will be planned as efficiently as possible, the needs of the client will remain paramount, meaning staff will always be required to travel, as necessary.
- 42. Whilst the service will encompass more than one provider, they have been required to work together and encouraged to develop partnerships to limit the number of premises, and associated utilities demands (i.e., water, energy). The service will be designed so staff can work flexibly where appropriate, meaning some staff can work from home and others can co-locate as suitable for their role.
- 43. The safe accommodation element of this service will be required to develop a safe housing strategy for sourcing properties. This will include ensuring where new or additional housing is required, sustainability will be a key influencing factor on decisions.
- 44. Sustainability has been considered throughout evaluation of the tender submissions. The successful bidders will be required to continue to demonstrate commitment and action to sustainability throughout the life of the contract.

Health and Safety Implications

- 45. The current services are already externally commissioned, with publicised contact details. There is a risk that any change in service could lead to confusion by the public and professionals on how to refer. This could lead to victims having a delay in receiving help that impacts on their health and safety, through experiencing serious injury.
- 46. Throughout the tender process, bidders were required to submit risk logs which identified any key health and safety impacts. The winning providers will be asked for details of their key policies as part of our due diligence process.

Health and Wellbeing Implications

- 47. This service will positively impact on health and wellbeing, preventing ill-health and reducing health and social inequalities.
- 48. The specialist service will work with those at the highest risk of experiencing domestic abuse. So, these positive health and wellbeing impacts will be for anyone experiencing domestic abuse, including children and the elderly who all can be living in abusive and violent households.
- 49. It should be noted that under the Domestic Abuse Act 2021, children are now considered as victims in their own right. Therefore, the successful provider(s) will be required to fully consider children and ensure their health and wellbeing needs are met.
- 50. The service specifications have been devised to ensure that the needs of older people are fully considered and met. Local and national research suggests that older people are experiencing domestic abuse in greater numbers but are less likely to report.

Social Value

- 51. Social value was included as a separate criterion within the tender evaluation process in 2022. Providers were asked to complete a social value calculator and associated narrative describing how they will implement and report on the success of social value across a wide range of indicators. If a new tender process is to take place as a consequence of this decision being taken, social value will again, be included as a predominant element of the competitive process.
- 52. Regular contract reviews will include a standing item of social value, to ensure the provider is acting in this matter.

Scrutiny comments / recommendations:

53. The proposed decision has not been considered by a Scrutiny Committee but the Chairs of the Adults and Health, Children and Families and Communities Scrutiny Committees have all been contacted and briefed.

Background Papers

 Key Decision 19 October 2022 - Somerset Integrated Domestic Abuse Service (Lots 1 to 5) Approval to Award (Forward Plan Reference: FP/22/06/30)

Appendices

• Appendix A – Equalities Impact Assessment

Report Sign-Off (if appropriate)

	Officer Name	Date Completed
Legal & Governance	David Clark	15/09/2023
Implications		
Communications	Chris Palmer	15/09/2023
Finance & Procurement	Nicola Hix / Jason Vaughan	18/09/2023
Workforce	Alyn Jones	18/09/2023
Asset Management	Oliver Woodhams	13/09/2023
Executive Director / Senior	Lou Woolway	15/09/2023
Manager		
Strategy & Performance	Alyn Jones	18/09/2023
Executive Lead Member	Cllr Adam Dance	19/09/2023
Consulted:		
Local Division Members	Not applicable	
Opposition Spokesperson	Cllr Lucy Trimnell -	15/09/23 'sent'
	Opposition Spokesperson for	
	Public Health and Equalities	
Opposition Spokesperson	Cllr Frances Nicholson - Lead	15/09/23 'sent'
	Member for Children, Families	
	and Education	
Scrutiny Committee -	Cllr Gill Slocombe	13/09/2023
Adults and Health		Special urgency
Scrutiny Committee -	Cllr Leigh Redman	14/09/2023
Children and Families		Special Urgency
Scrutiny Committee –	Cllr Gwil Wren	15/09/2023
Communities		Special Urgency

Appendix A

Somerset Equality Impact Assessment

Before completing this EIA, please ensure you have read the EIA guidance notes – available from your Equality Officer

Version V2 Date 13.9.23

Description of what is being impact assessed

Somerset Integrated Domestic Abuse Service

Evidence

What data/information have you used to assess how this policy/service might impact on protected groups? Sources such as the Office of National Statistics, Somerset Intelligence Partnership, Somerset's Joint Strategic Needs Analysis (JSNA), Staff and/ or area profiles,, should be detailed here

- Somerset Domestic Abuse Needs Assessment 2021
- Somerset Integrated Domestic Abuse Service 2020-21 performance report
- Somerset Integrated Domestic Abuse Service 2019-20 performance report
- Safe Lives "Whole System Mapping, MARAC Deep Dive and Perpetrator Deep Dive" Report July 2022
- Safe Lives "Transgender Victims and Survivors Experiences of Domestic Abuse" 2021 <u>Briefing Transgender Victim-Survivors'</u> Experiences of Domestic Abuse Final.pdf (safelives.org.uk)

Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?

Somerset Community Council – their new 'diverse communities' team'

Safe Lives – during conversations regarding their LA commissioned 'whole system mapping' and deep dives (MARAC and perpetrators) – final report July 2022

Analysis of impact on protected groups

The Public Sector Equality Duty requires us to eliminate discrimination, advance equality of opportunity and foster good relations with protected groups. Consider how this policy/service will achieve these aims. In the table below, using the evidence outlined above and your own understanding, detail what considerations and potential impacts against each of the three aims of the Public Sector Equality Duty. Based on this information, make an assessment of the likely outcome before you have implemented any mitigation.

Protected group	Summary of impact	Negative outcome	Neutral outcom e	Positive outcom e
Age	According to the DA Needs Assessment 2021 there is estimated to be: • 4,090 young people (16-24) who will experience DA every year • 7,230 people aged 60 years + who will experience DA The service specification is being designed to ensure that it is accessible to all irrespective of protected characteristic. There will be also a separate lot for children and young people, so specific young people workers. The service must work with children, this decision will ensure that the service commissioned meets this need fully on commencement date. Given the vulnerable nature of this group and council's obligations to protect them, it is felt that allowing the provider to commence delivery of a partial service from the 1st October that is not fully funded would have negative consequences.			X

Disability	The Somerset DA Needs Assessment 2021 states: "Overall, we can estimate there are around 112,820 individuals with a disability in Somerset County Council. Of those individuals around 13,040 are likely to experience domestic abuse every year. The number of disabled people may also be linked to the number of older people and could in fact be higher than this estimate." The service specification is being designed to ensure that it is accessible to all irrespective of protected characteristic. With the wording that they are "proactive" in ensuring access.	X	
Gender reassignment	The Somerset DA Needs Assessment 2021 found limited data regarding domestic abuse victims who are transgender. However, it did conclude that: "We estimate in Somerset County that there will be around 2,990 victims of domestic abuse within the LGB+ community every year" Although the Somerset Integrated Domestic Abuse Service (SIDAS) 2020-21 data showed there were 3 clients who were transgender. The service is designed to be inclusive of all with protected characteristics too		
Marriage and civil partnership	The Somerset DA Needs Assessment 2021 states: "Crime data for the year ending March 2020 showed that adults who were separated or divorced were more likely to have experienced domestic abuse compared than those who were married or civil partnered, cohabiting, single or widowed. However, it is important to note that those who have separated from an abusive partner are more likely to disclose abuse or report a related crime than those still in a relationship. Domestic abuse is also known to escalate at the	×	

	point of separation, increasing the likelihood that someone will report it. " The service provider(s) will be required to record and monitor data to ensure it is accessible to all irrespective of their relationship status.		
Pregnancy and maternity	It is known that domestic abuse can escalate in its severity during pregnancy. The Somerset DA Needs Assessment 2021 states that: "We can estimate at least 455 pregnant women might experience domestic abuse each year." The service provider(s) will be required to record and monitor data around pregnancy. And also participate in any multi-agency meetings and protocols around women at risk of harm during pregnancy.		×
Race and ethnicity	The Somerset DA Needs Assessment 2021 states that in Somerset: "We can estimate that around 940 victims of domestic abuse in Somerset will be from a BAME community." The vast majority of clients in the Somerset Integrated Domestic Abuse Service 2020-21 report were of White British ethnicity. However, this maybe reflective of the fact that the service is not currently very accessible for those who do not speak English, as it requires them to know someone who speaks English to help them identify that the service exists and then to access it. Translation services are vital but thought needs to be given to how best to ensure services are accessible to people without barriers of needing to speak to an English speaker first. The new service specification requires the service to be proactive in reaching those with protected characteristics. This includes ensuring		X

	training and volunteering opportunities are provided to any protected characteristic.		
Religion or belief	The SIDAS Performance Report 2015-20 showed that 78% of victims either had "no religion or belief" or it was "not recorded". The Somerset DA Needs Assessment 2021 has no reference to the impact of religion/belief on accessing services. However, current, and recent domestic homicide reviews have showed that some victims have attended church or other faith organisations. The new service specification is required to be accessible to all those with a protected characteristic. This will be monitored through regular contract reporting.		
Sex	The Somerset DA Needs Assessment 2021 estimates based on the population split in Somerset an estimate of 16,360 females (68%) and 7,600 male (32%) victims each year. This is considerably higher than those who accessed the Somerset Integrated Domestic Abuse Service in 2020-21, where circa 10% of referrals were male and circa 90% were female. According to Women's Aid domestic abuse is a gendered crime, with women being disproportionately impacted. Somerset's recent and current domestic homicide reviews have also included several for men who have died where domestic abuse has been reported by them prior to their death (in cases of suicide), or where they have killed by their female (current/ex) partner.		

	The service specification has been written to include a requirement to include specific branding for male victims to encourage access.		
Sexual orientation	The Somerset DA Needs Assessment 2021 estimates there are 2990 victims within the LGBT+ community each year. The SIDAS 2015-20 performance report states over this 5 year period they had circa 1.2% of victims identifying as LGBT+. This increased in the 2020-21 report to circa 2.8% of victims. According to Safe Lives MARAC data we should have 2.5-5.8% of high risk victims who are LGBT+, however only circa 1% of MARAC victims in 2021 were. The service specification requires the provider(s) of all lots to ensure accessibility for all those with protected characteristics and will be reviewed through contract monitoring.		X
Other, e.g., carers, veterans, homeless, low income, rurality/isolation, etc.	Rurality Somerset's recent and current domestic homicide reviews have highlighted rurality and isolation as being significant factors in people knowing about the local service. The Council has recently (2021) launched online learning for the public to identify domestic abuse and know what to do if they know someone experiencing it. The service specification has an awareness raising element to it. There are also plans to continue and develop a communications campaign targeting different parts of Somerset's communities to help increase awareness too. This is in addition to any work the new service completes.		oxtimes

Veterans/Military

The Somerset Integrated Domestic Abuse Service 2020-21 report stated there were no victims in the military, but there were 45 perpetrators in the military.

This indicates that there may be a benefit for the service to ensure its voluntary programme for people who want to change their abusive behaviour, is promoted and accessible to those in the military. And additionally, that victim's services are promoted, as statistics indicate there will be a prevalence of domestic abuse. Additionally, Somerset has a current DHR where both the victim and perpetrator had served in the military and evidence indicates that the Ministry of Defence are completing lots of work, but more can be done, including linking with local services.

<u>Carers</u>

Domestic abuse has a statutory definition surrounding the relationship of those who can be deemed to be in an domestically abusive relationship. However, those who are caring for a relative or partner(ex) may experience domestic abuse from that person or be the person causing harm. Additionally, Somerset has current domestic homicide reviews whereby the victim (suicide) was carer. This article from specialist provider We Are Hourglass provides more information

Data on local prevalence of this is not currently known. However, it is a theme which will be reviewed through contract monitoring. Any recommendations from domestic homicide reviews regarding this will also be completed and overseen by the (statutory) Somerset Domestic Abuse Board

Negative outcomes action plan Where you have ascertained that there will potentially be negative outcomes, you are required to mitigate the impact of these. Please detail below the actions that you intend to take.							
Action taken/to be taken		Date	Person responsible	How will it be monitored?	Action complete		
		Select date					
		Select date					
		Select date					
If negative impacts remain, please provide an explanation below.							
Completed by:	Suzanne Ha	arris					
Date	13.9.2022						
Signed off by:	Lucy Macrea	ady					
Date	13.9.2022						
Equality Lead/Manager sign off date:	Michelle And	derson 10/10/2	22				
To be reviewed by: (officer name)	Lucy Macrea	ady					

13.09.23

Review date: