

Open Report on behalf of Glen Garrod, Executive Director – Adult Care and Community Wellbeing

Report to:	Executive
Date:	05 July 2022
Subject:	Substance Misuse Grant Monies
Decision Reference:	I026576
Key decision?	Yes

Summary:

This report outlines additional funding that National Government has allocated to Lincolnshire to support delivery of the 2021 National Drug Strategy, and seeks authorisation for an exception to the Council's Contract and Procurement Procedure Rules (CPPRs) to enable delivery of initiatives for which grant monies have been allocated by variation to the Council's existing Substance Misuse Treatments and Recovery contracts with We Are With You, in order to facilitate the grant allocation by July 2022 in line with deadlines set by the Government.

Recommendation(s):

That the Executive:

1. approves the modification of the Substance Misuse Treatment Service contract to a maximum value of £1,161,489 to incorporate delivery of activity in support of the National Drug Strategy for a 9-month period between 1st July 2022 and 31st March 2023;
2. approves the modification of the Substance Misuse Recovery Service contract to a maximum value of £97,000 to incorporate delivery of activity in support of the National Drug Strategy for a 9-month period between 1st July 2022 and 31st March 2023; and
3. delegates to the Executive Director - Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care and Public Health authority to determine the final form of the modifications referred to in paragraphs 1 and 2.

Alternatives Considered:

1. Procurement of a new contract

The Council's CPPRs require variations to contracts not expressly within the scope of the original procurement to be considered for procurement of a new contract.

Tight deadlines for meeting the grant funding requirements have been imposed on Lincolnshire County Council by the Office for Health Improvement and Disparities and the Department for Levelling Up, Housing and Communities. The time required to undertake a new procurement for services to utilise the grant funding would result in the Council being unable to fulfil the deadlines imposed.

In this instance, the additional services required are consistent with the scope of the existing services, but the contract does not expressly make provision for flexibility to increase service capacity above the original defined funding envelope.

A change in contractor, which may result from a new procurement, would cause substantial duplication of costs for the Council; consisting of the costs associated with the procurement and contract management of an additional service, and in particular duplication in the costs of delivery of a secondary service involving separate infrastructure, management and operating overheads, and further duplication and complexity in associated partnerships and relationships.

Reasons for Recommendation:

In total the grant funding on offer to Lincolnshire for 2022/23 is £1.402 million. This is significant inward investment for substance misuse prevention and treatment and it will enable us to work in partnership across Lincolnshire to improve health and wellbeing outcomes, and reduce crime.

If we are not able to vary the current contracts there is a risk that Lincolnshire will lose the funding allocated by OHID and DLUHC. This is because we would need to work with partners to redesign our applications and undertake new procurement procedures to allocate and utilise the funding, which would exceed the timeframes set out by National Government.

Regulation 72(1)(e) of the Public Contracts Regulations 2015 define circumstances in which a contract modification is not to be taken to be material for the purposes of requiring a competitive procurement to be carried out. This modification is considered to meet these requirements.

In particular the contract is not materially different in character; does not introduce new conditions; does not change the economic balance of the contract; and does not change the scope of the contract considerably.

1. Background

- 1.1. 'From harm to hope: A 10-years drugs plan to cut crime and save live' was launched in December 2021. In February 2022, the Government announced a comprehensive spending review for substance misuse services in England and Wales, to support delivery of the new national strategy. Since April 2022, Lincolnshire County Council has been encouraged to apply for two separate funding streams to support delivery of the national strategy:
 - The Supplemental Substance Misuse Treatment and Recovery Grant (SSMTR) which is being managed by the Office of Health Improvement and Disparities (OHID).
 - The Rough Sleeping Drug and Alcohol Treatment Grant (RSDATG) which is being managed by the Department for Levelling Up, Housing and Communities.

- 1.2. Conditions on the funding include that:
 - Public Health Grant Funding must be maintained at 2020/21 levels as a minimum.
 - Spending plans must be developed in consultation with a wide range of stakeholders including the police and crime commissioner, the local health and social care system, probation and NHS health and justice colleagues.
 - Bids across different streams must align funding to avoid duplication.
 - Future grants (e.g. SSMTR is expected to continue annually for the life of the 10-year national drug strategy) are subject to performance reviews of current spending.
 - Any unspent funding must be returned.

- 1.3. On a national basis the additional funding should deliver:
 - 54,500 new high-quality treatment places, including 21,000 new places for opiate and crack users, bringing a total of 53% of opiate and crack users into treatment.
 - A treatment place for every offender with an addiction.
 - 30,000 new treatment places for non-opiate users and alcohol users.
 - A further 5,000 more young people in treatment.
 - 24,000 more people in long-term recovery from substance dependence.
 - 800 more medical, mental health and other professionals.
 - 950 additional drug and alcohol and criminal justice workers.
 - Sufficient commissioning and co-ordinator capacity in every local authority.

- 1.4 The aim of all additional funding is to improve the quality and reach of the current Substance Misuse Treatment and Recovery Services. Each funding stream comes with a 'menu of interventions' on which the grant funding may be spent. The public health team at LCC have worked in partnership with colleagues from existing treatment and recovery services, District Councils, the NHS, Police, Probation, and the Community and Voluntary Sector, to develop plans for each funding stream.

2. Grant Applications and Proposals for Lincolnshire

3.1. The application processes for the SSMTR and RSDATG ran in parallel in April and early May 2022. The deadline for applications for the SSMTR grant was 11th May and the deadline for applications for the RSDATG was 10th May. Both applications were followed up with clarification questions from OHID and DLUHC in late May and we responded quickly to those requests. We are still awaiting final confirmation of the grant funding for both the SSMTR and RSDATG at the time of writing (9th June). In both applications we have been asked to model activity from 1st July with a view to commencing activity as soon as possible once the funding has been confirmed.

a. SSMTR

In line with the 'menu of interventions' supplied by the Office for Health Improvement and Disparities, our application for the SSMTR Grant requests funding for (Table 1):

Intervention	Detail of staff and consumables	Spend in 2022-23
1. Enhanced naloxone provision, including through peer networks and the police.	1.0 FTE Peer Naloxone Coordinator Cost £40,000 per annum pro rata Cost £7,500 for Naloxone and promotional activity	£37,500
2. Targeted treatment for priority or vulnerable groups, including underserved ethnic groups, women/girls, LGBTQ communities, and people engaged in chemsex.	2.0 FTE Women/Girls Workers Cost £40,000 per annum pro rata Cost £3,000 for group material and promotion	£63,000
3. Additional treatment capacity to respond to a need for increased diversionary activity, including through out of court disposals, liaison and diversion and drug testing on arrest and workforce capacity for psycho-educational diversionary interventions for low level drug offences for adults and young people.	1.0 FTE Young Persons Worker FTE 1.0 Cost £40,000 per annum pro rata Cost £3,000 for prevention activity	£33,000
4. Enhanced treatment service capacity to undertake police and court custody assessments to improve pathways into treatment, including to: <ul style="list-style-type: none"> increase the number of community service treatment requirements particularly DRRs/ATRs and support improved compliance with court mandated orders increase the engagement and retention in community treatment of individuals referred 	6.0 FTE Criminal Justice Substance Misuse Workers Cost £40,000 per post, per annum pro rata	£180,000

Intervention	Detail of staff and consumables	Spend in 2022-23
from prison.		
5. An increase in service manager capacity, to ensure good management and support maximum impact of additional substance misuse workers funded through SSMTR.	Recruit Criminal Justice Team leader FTE 1.0 Cost £50,000 per annum pro rata	£37,500
6. Key working/case management quality improvement, including reducing caseload sizes, implementing caseload segmentation approaches, increased clinical supervision and training and development.	3.0 FTE Substance Misuse Workers Cost £40,000 per annum pro rata	£90,000
7. Psychosocial intervention quality improvements, including reducing caseload sizes, implementation of evidence-based programmes, increased/enhanced clinical supervision and training and development.	1.0 FTE Psychotherapist Cost £50,000 per annum pro rata	£37,500
8. Increased residential rehabilitation placements, to ensure the option is available to everyone who would benefit.		£109,489
9. Enhanced partnership working with physical and mental health services, including the co-location of services and interventions. Pathway development, including outreach/in-reach, to respond to co-morbidities or complex needs, including co-occurring mental ill health, respiratory health conditions, liver diseases.	1.0 FTE mental health liaison worker 1.0 FTE hospital liaison worker Cost £40,000 per worker per annum pro rata	£70,000
Total		£657,989

In addition, £79,500 will be used to create two new posts at Lincolnshire County Council. One post will enhance the capacity of the commissioning team and support the development of future commissioning models, spending plans and management of complex and evolving treatment and recovery services, whilst the other will develop policies and procedures for reporting on drug related deaths and enhance our grant monitoring provision.

b. RSDATG

The Rough Sleeper Drug and Alcohol Treatment Grant must focus on substance misuse treatment for individuals who are rough sleeping or at risk of rough sleeping. The model proposed is one of assertive outreach which will complement the existing responses to rough sleeping in each area. The approach planned is endorsed by Crisis, whose 'Plan to end homelessness' advocates for an assertive outreach model with multi-agency person centred support to end rough sleeping.

In line with the 'menu of interventions' and discussions held with DLUHC and OHID, the application for the RSDATG requests funding for (Table 2):

Intervention	Detail of staff and consumables	Spend in 2022-23
10. Outreach Peer Recovery Planner. These peer workers will maximise engagement with treatment and improve recovery outcomes through sharing lived experience, providing one-to-one support, facilitating themed groupwork and connection to mutual aid.	2.0 FTE Cost £35,000 per worker per annum pro rata	52,500
11. Outreach substance misuse workers. These substance misuse workers will provide assertive outreach within supported accommodation and outreach teams. This will increase numbers engaging with the service and reduce the numbers that drop out of treatment.	7.0 FTE Cost £42,000 per worker per annum pro rata	£220,500
12. Outreach Team Leader, to both carry a caseload and manage the outreach team.	1.0 FTE Cost £50,000 per worker per annum pro rata	£37,500
13. Non-medical prescriber. This post will provide clinical support to the assertive outreach model including clinical assessments, rapid access to prescribing and access to detox provision.	1.0 FTE Cost £76,000 per worker per annum pro rata	£57,000
14. Trauma Incident Reduction Training		£7,000
Total		£374,500

In addition, £35,250 will be used to create a new data analyst post at Lincolnshire County Council. This post will be a part of the Public Health Division, working closely with both the Programme Manager with responsibility for Substance Misuse and the Public Health Intelligence Team. A further £28,500 will be used to develop a Transition Support Practitioner post, based within the departure lounge at HMP Lincoln, to provide dedicated support to men leaving prison into Lincolnshire that have housing needs and problems with substance misuse. This post will be employed by Lincolnshire Action Trust.

3.2. In Lincolnshire we expect that this additional funding will deliver the following local outcomes:

- Improved accessibility of the service and quality of care for key vulnerable population groups including women, people who are homeless or at risk of rough sleeping, and young people.
- Improved engagement of people in contact with the criminal justice system in treatment, including continuity of care between prison and community services, leading to reduced recidivism.
- An increase in prevention and early intervention work with children and young people to support harm reduction and drug awareness.

- More people supported to become drug and/or alcohol free through residential rehabilitation.
 - A reduction in drug-related deaths.
- 3.3. Additionally, Lincolnshire's Probation Service is offering £200,000 for 2022/23 to build activity in support of tackling substance misuse among people in contact with the Probation Service. This funding does not follow the same grant application process as the SSMTR and RSDATG. Funding for 2022/23 has been confirmed at £200,000 and local negotiations on how this funding will be allocated are ongoing. The proposal is to fund 4.0 FTE substance misuse workers who will be based within the Lincolnshire Probation Service 4 days a week and 1 day a week with We Are With You. The remainder of the funding will be used for testing kits to enable regular testing of drug users who are on probation.
- 3.4. OHID have also agreed that an underspend of £26,000 within the 2021/22 Universal grant funding can be utilised for a Buvidal pilot (a long-acting opiate substitute medication). This will treat up to 10 patients for 12 months and will utilise existing clinical team resources.
- 3.5. The total value of the additional grant funding for 2022/23 is £1,401,739 made up of:
- SSMTR: £737,489
 - RSDATG: £438,250
 - Probation: £200,000
 - Universal Grant: £26,000
- In total, this represents an overall increase to the core budget (£5,447,653) in 2022/23 of 25.7%.
- 3.6 OHID, DLUHC and Probation have all indicated that future grants will be made available to Lincolnshire based on performance during 2022/23.

4. Timescales and Implementation

- 4.1. National Government expects the grant funded activity to begin in July 2022 and performance is being scrutinised by a board chaired by the Prime Minister.
- 4.2. All the additional grant funding will be used to enhance Lincolnshire's existing treatment and recovery service offer, for example through the promotion of assertive outreach, specialist support for vulnerable groups, and developing more integrated ways of working. In order to ensure Governments timescales for commencement of grant funded activity can be met, it is proposed that the majority of funding will need to be distributed and utilised by the incumbent Provider We Are With You in the delivery of the existing Substance Misuse Treatment and Recovery contracts.
- 4.3. The proposed variation to the Treatment Contract is £1,161,489, made up of the elements described in 2-9 and 11-13 in Tables 1 and 2 above, the £200,000 grant

from the Lincolnshire Probation Service and the £26,000 Universal Grant underspend. The interventions this will fund are closely aligned to the existing scope of the contract and the value represents 3.65% of the original total contract value (£31,854,564). As such, the proposed variation does not change the economic balance or scope of the contract considerably.

4.4. The proposed variation to the Recovery Contract is £97,000, made up of the activity described in 1, 10 and 14 in Tables 1 and 2 above. Again, the interventions this will fund are closely aligned to the existing scope of the contract and the value represents 4.62% of the original total contract value (£2,097,900), so the economic balance and scope of the contract will not be considerably altered.

4.5. The incumbent provider is performing well and meeting the majority of LCC's targets in both treatment and recovery contracts. This puts them in a good position to incrementally expand the service in line with the increased funding. Adding these amounts of funding to the existing services does not therefore pose a risk to LCC as there is confidence the additional requirements will be met. However, there are external factors that pose some risk to spending the full 2022/23 allocations which include:

- Recruiting skilled staff to fulfil the roles identified above. This is a national issue with so much new funding being made available but may be particularly difficult along the east coast where recruitment has previously been challenging.
- Retaining skilled staff given the current uncertainty surrounding future grant funding, based upon performance reviews. We will work quickly with the provider to implement monitoring of grant related activity to support grant-related performance reviews. We will also work with OHID, DLUHC and Probation to secure funding allocations for 2023/24 as early as possible.
- OHID, DLUHC and Probation confirming allocations in time to mobilise activity against the grant funding.

4. Legal Issues:

Procurement Implications

The Council's Contract Regulations usually require variations to contracts not expressly within the scope of the original procurement to be considered for procurement of a new contract. However, CPPRs do permit exceptions to be made, approved by the Executive where the value is above the relevant threshold for the application of the Light Touch Regime under the Public Contract Regulations (PCR) 2015, and where the decision is compliant with the Council's obligations under the regulations set out in the PCR.

The PCR permits the modification of contracts under Reg. 72(1)(e) where the modifications, irrespective of their value, are not substantial within the defined meaning.

For the purposes of the regulations, a modification is considered substantial where one or more of the following conditions is met:

- a) the modification renders the contract or framework agreement materially different in character from the one initially concluded;
- b) the modification introduces conditions which, had they been part of the initial procurement procedure, would have –
 - i. allowed for the admission of other candidates than those initially selected,
 - ii. allowed for the acceptance of a tender other than that originally selected,
 - or
 - iii. attracted additional participants in the procurement procedure
- c) the modification changes the economic balance of the contract or the framework agreement in favour of the contractor in a manner which was not provided for in the initial contract or framework agreement;
- d) the modification extends the scope of the contract or framework agreement considerably.

In this instance, because the additional services required are consistent with the scope of the existing services and their proportionate values are small by comparison to the original total contract values, the proposed modifications are not considered to be substantial. In particular the contracts will not be materially different in character; no new conditions will be introduced that would have allowed for the admission of other candidates, the acceptance of a tender other than that originally selected or attracted additional participants; based on the proportionate values, the economic balance of the contracts will not change; and the scope of the contracts will not change considerably.

The decision would therefore meet the requirements of Reg. 72(1)(e) and be compliant with the Council's obligations under the PCR.

It should be noted that the procurement regime applicable to healthcare contracts will be changing. The new Health and Care Act 2022 will introduce a new procurement regime, called the Provider Selection Regime (PSR) for these kinds of services in future.

The establishment of the Provider Selection Regime remains subject to final formulation of regulations and statutory guidance by HM Government, but current information suggests that DHSC wishes to implement the PSR later in 2022. As a result, any future procurement of Substance Misuse Services, including the use of any subsequent SSMTR and RSDATG grant allocations beyond 31st March 2023, will be subject to PSR (which will include rules governing the modification of contracts in scope of the regime).

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

No adverse impact has been identified for any of the protected characteristic groups identified by the Equality Act, in relation to this Report. The activity to be funded through the SSMTR, RSDATG and Probation Service is designed to be inclusive and improve access to substance misuse treatment and recovery services for all Lincolnshire residents who need it.

Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

Lincolnshire's Joint Strategic Needs Assessment identifies Substance Misuse as a priority topic and describes the important role of a comprehensive treatment and recovery service

for reducing harm from substance misuse. It also describes substance misuse as a risk factor for contact with the criminal justice system in young people, and there are specific roles within the proposed funding that seek to address this challenge. The Joint Health and Wellbeing Strategy has identified Mental Health as a priority and the bidirectional relationship between substance misuse and poor mental health is well documented. As such, the proposed activity should contribute to this Health and Wellbeing Strategy priority.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There is a strong focus within the proposed activity on disrupting the relationship between substance misuse and crime and disorder. The grant applications were developed in collaboration with colleagues from Lincolnshire Police, the Probation Service, HMP Lincoln and wider partners who support people of all ages who are in contact with the criminal justice system. There is also specific support for vulnerable groups such as women and girls, designed to prevent and break cycles of criminal activity. The work will support people who often have poorer outcomes or struggle to remain engaged in treatment services to maintain engagement, thus improving outcomes for individuals and wider society.

5. Conclusion

National Government has allocated £1.402 million to Lincolnshire County Council to support delivery of the 2021 National Drug Strategy. This is significant inward investment for substance misuse prevention and treatment and it will enable us to work in partnership across Lincolnshire to improve health and wellbeing outcomes, and reduce crime. The contract variation proposed is not materially different in character; does not introduce new conditions; does not change the economic balance of the contract; and does not change the scope of the contract considerably. If we are not able to vary the current contracts there is a risk that Lincolnshire will lose the funding allocated by OHID and DLUHC. This is because we would need to work with partners to redesign our applications and undertake new procurement procedures to allocate and utilise the funding, which would exceed the timeframes set out by National Government. As such, this report seeks authorisation for an exception to the Council's Contract and Procurement Procedure Rules (CPPRs) to enable delivery of initiatives for which grant monies have been allocated by variation to the Council's existing Substance Misuse Treatments and Recovery contracts with We Are With You, in order to facilitate the grant allocation by July 2022 in line with deadlines set by the Government.

6. Legal Comments:

The Council has the power to modify the contracts as proposed and such modification is considered to be consistent with the Council's procurement law obligations for the reasons set out in detail in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive.

In particular the Council's Contract Regulations require the Executive to approve an alternative to a competitive procurement where the value of the services exceeds the Light Touch Regime threshold under the Public Contracts Regulations 2015 as applies to recommendation 1.

7. Resource Comments:

All grant funding and eligible spend will be accounted for separately aligned to the conditions of the grant. The proposed financial commitments detailed in this report are within the funding available. There is an expectation that this funding will continue in the medium term (approx. 10yrs) however the programme infrastructure is an annual application process for funding. Whilst we are not anticipating any financial risk as a result of this process, should a financial pressure occur a review of expenditure commitments will take place to ensure we live within the funding available.

8. Consultation

a) Has Local Member Been Consulted?

Not applicable.

b) Has Executive Councillor Been Consulted?

Yes.

c) Scrutiny Comments

Due to timeframes imposed by National Government upon Lincolnshire County Council in relation to this grant funding it has not been possible to attend Scrutiny.

d) Risks and Impact Analysis

In addition to the risks identified in Section 4.5 above, it should be noted that National Government timescales for implementation of this funding have created a situation in which it has not been possible to follow the usual governance processes to seek authorisation for this exception.

9. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Supplemental Substance Misuse Treatment and Recovery Grant Funding Documentation	Issue details - Substance Misuse Treatment Grant Funding Exception report (modern.gov.co.uk)
Rough Sleeper Drug and Alcohol Treatment Grant Funding Documentation	Issue details - Substance Misuse Treatment Grant Funding Exception report (modern.gov.co.uk)

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