

Report to: STRATEGIC COMMISSIONING BOARD

Date: 28 July 2021

Executive Member: Councillor Eleanor Wills – Executive Member (Adult Social Care and Population Health)

Clinical Lead: Dr Vinny Khunger – Clinical Lead

Reporting Officer: Dr Jeanelle de Gruchy, Director of Population Health
James Mallion, Consultant in Public Health

Subject: SUBSTANCE MISUSE SERVICE CONTRACT NOVATION TO CGL SERVICES LTD

Report Summary: This report provides background information on the borough’s substance misuse service, provided by Change Grow Live (CGL), and the proposal to novate the existing contract from CGL to CGL Service Ltd, part of the same organisation. This will enable to service to charge and reclaim VAT and will bring direct financial benefit to the front line service in Tameside, with no cost impact to the Council. This will support the service to meet challenging financial savings already built into the contract during 2021/22, on top of rising demands and unexpected costs.

Recommendations: That the Strategic Commissioning Board be recommended to agree: that approval is given to novate the contract for Drug and Alcohol treatment ‘My Recovery Tameside’ from CGL to CGL services Limited.

Financial Implications:
(Authorised by the statutory Section 151 Officer & Chief Finance Officer)

Budget Allocation (if Investment Decision)	Annual Budget £3.3m
CCG or TMBC Budget Allocation	TMBC
Integrated Commissioning Fund Section – S75, Aligned, In-Collaboration	Section 75
Decision Body – SCB, Executive Cabinet, CCG Governing Body	SCB
Value For Money Implications – e.g. Savings Deliverable, Expenditure Avoidance, Benchmark Comparisons	
<p>The financial implications outlined in this paper will increase the existing contract by approx. £613k in relation to VAT charges. The impact to the Council will be zero as this would be fully recoverable via HMRC.</p> <p>There are no direct savings to the Council on this, but will result in approx. £50k net saving to CGL Services Ltd that will be reinvested directly back into the service contract to focus on demand and improve service delivery.</p>	
Additional Comments	
<p>Advice on this contract novation was sought from LAVAT back in 2019 that supports the Councils ability to reclaim VAT on this contract, following its novation. This advice has been reconfirmed again in June 2021 to ensure no changes in legislation impedes on that advice, for which it has not.</p>	

Legal Implications: (Authorised by the Borough Solicitor)	<p>As set out in the report, there is no change to the service delivery rather the novation of the current contract to a different part of the same organisation currently delivering the service.</p> <p>From a legal perspective there will be no change to the actual terms of the contract and the delivery expectations. As ever the contract should be robustly managed to ensure that all performance indicators are being met and that the service continues to represent good value for money.</p>
How do proposals align with Health & Wellbeing Strategy?	<p>The proposals link with several of the strategic priorities of the health and Wellbeing Board:</p> <ul style="list-style-type: none"> • Improve the health and wellbeing of local residents throughout life • Give targeted support to those with poor health to enable their health to improve faster • Develop cost effective solutions and innovative services, through improved efficiency • Deliver more joined up services that meet local need • Enable and ensure public involvement in improving health and wellbeing <p>The proposal also aligns with the Living Well programme of the Health and Wellbeing Strategy - Creating a safe environment to build strong healthy communities and strengthening prevention.</p>
How do proposals align with Locality Plan?	<p>The proposals will support the locality plan objectives to –</p> <ol style="list-style-type: none"> 1.1 Improve health and wellbeing for all residents 1.2 Address health inequalities 1.3 Protect the most vulnerable and those suffering multiple disadvantage 1.4 Develop a Place based/ Neighbourhood model of delivery 1.5 Develop an integrated personalised approach
How do proposals align with the Commissioning Strategy?	<p>This supports the 'Care Together Commissioning for Reform Strategy 2016-2020' commissioning priorities for improving population health particularly:</p> <ol style="list-style-type: none"> 1.1 Addressing the wider determinants of health 1.2 Creating the right Care Model 1.3 Encourage healthy lifestyles 1.4 Supporting positive mental health
Recommendations / views of the Health and Care Advisory Group:	n/a
Public and Patient Implications:	The recommendations will ensure continued access to services to improve health and wellbeing.
Quality Implications:	The Council is subject to the duty of Best Value under the Local Government Act 1999, which requires it to achieve continuous improvement in the delivery of its functions, having regard to a combination of economy, efficiency and effectiveness. The same quality assurance and terms over the existing contract with CGL will apply to the contract with CGL Services Limited.
How do the proposals help to reduce health inequalities?	The contract addresses a wide range of inequalities and will continue to seek to support the social determinants suffered by those who are misuse substances. There is a strong focus on identifying and

reaching those suffering multiple disadvantage and identifying their wide-ranging needs. Pathways and protocols that have been developed will ensure more support and an equitable access to service for clients, resulting in a reduction in health inequalities and improvement in health and wellbeing

The proposal links with the Tameside Our People Our Place-Our Plan priority 'Longer healthy lives with good mental health through better choices and reducing health inequalities' by aspiring to reduce drug and alcohol related harm

What are the Equality and Diversity implications?

The Substance Misuse services provided are available regardless of age, race, sex, disability, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity, and marriage and civil partnership.

What are the safeguarding implications?

There are no safeguarding implications associated with this report. Where safeguarding concerns arise the Safeguarding Policy will be followed.

What are the Information Governance implications?

Information Governance is a core element of all contracts. The necessary protocols for the safe transfer and keeping of confidential information are maintained at all times by the provider. A Data Protection Impact Assessment (DPIA) has been carried out with the provider under the existing contract.

Has a privacy impact assessment been conducted?

A privacy impact assessment has not been carried out, however the privacy statement for this purpose has been updated specifically by Head of Risk Management and Audit Services.

Risk Management:

Risks will be identified and managed by the Public Health team.

Access to Information:

The background papers relating to this report can be inspected by contacting the report writer James Mallion, Consultant Public Health.

Telephone: 07970946485

 e-mail: james.mallion@tameside.gov.uk

1 INTRODUCTION

- 1.1 Substance misuse places a significant burden on health outcomes in Tameside with high rates of drug and alcohol consumption and dependence. This impacts adults and children across the borough and we continue to see substantial amounts of unmet need.
- 1.2 Change Grow Live provide the established My Recovery Tameside service to provide specialist drug and alcohol support to residents of all ages. Planned savings throughout the current contract are able to be achieved via ongoing transformation, however these place significant pressure on the front line service with increasing demand on the service and additional costs due to Covid-19. In order to help meeting the financial challenges, we are proposing to novate the current contract from CGL to CGL Services Ltd, which will enable substantial savings of up to £50k per year for the service via VAT charges and refunds. The service would also be charging the council VAT under the main contract, which they would have to pay to HMRC and the council can reclaim. This is cost neutral to the council. This paper details the rationale for this, the benefits it will bring to the front line service and the risk mitigations, which will be put in place.

2 BACKGROUND

- 2.1 High rates of drug and alcohol consumption and dependence in Tameside has an impact on the health of our population. Tameside has the highest rate of alcohol-specific mortality and dependent drinkers of all our statistical peers. There are also almost 1,400 opiate users living in the borough and a high proportion of adults with drug dependency in Tameside living with children.
- 2.2 In terms of unmet need, we currently estimate that there are 3,214 dependent alcohol users and 1,509 Opiate/Crack users who are not accessing treatment services or support. There are a wide range of reasons for this.
- 2.3 We have an established, all-age integrated substance misuse service, which was commissioned from August 2015 and is delivered by Change Grow Live, My Recovery Tameside (CGL MRT). As part of this contract, there are a series of planned budget reductions throughout the life of the service, with a further saving of £200k to be made in 2021/22 (from August 2021). While these savings have been planned and are being met by ongoing transformation of the service, they are challenging, and do not account for additional demands and costs facing the service such as up to 400 additional service users accessing the service in the last 3 years, rising medication costs and the impact of the Covid-19 pandemic. Alternative approaches to reduce the impact of financial savings on front line services have been explored. These are detailed further in section 5 of this report.

3 THE GM AND TAMESIDE CONTEXT

- 3.1 The GM Drug and Alcohol Strategy 2019-2022 sets out a vision to make Greater Manchester a place where everyone can have the best start in life, live well and age well, safe from the harms caused by drugs and alcohol:

The strategy identifies six priorities for making things better:

- Prevention and early intervention.
- Reducing drug and alcohol related harm.
- Building recovery in communities
- Reducing drug and alcohol related crime and disorder.
- Managing availability and accessibility
- Establishing diverse, vibrant and safe night-time economies

- 3.2 The high level outcomes of the GM strategy include: reducing levels of drug and alcohol related harm; reducing drug and alcohol related offending; and increasing the number of people in recovery
- 3.3 Tameside is adopting the GM Strategy locally as we know that substance misuse harm in Tameside is extensive and is an important factor that adversely affects the overall quality of life and perpetuates inequalities. We have a local Strategic Substance Misuse Partnership with senior leaders from the local authority, CCG, ICFT, police and voluntary sector, which oversees the local work programme with: specialist treatment services, hospital alcohol liaison service, therapeutic residential supported housing, motivational programmes in community and residential settings, proactive work with licensing colleagues to reduce harms of alcohol availability across the community, the Alcohol Exposed Pregnancies work programme, and dedicated work around the hidden harm to children.
- 3.4 The Tameside Community Safety Partnership (CSP) also plays pivotal role in the substance misuse agenda. The draft Tameside Community Safety Strategy has 5 key priorities all of which align with key aspects of the Substance Misuse Programme and outcomes of the locally commissioned service.
- Building stronger communities
 - Preventing and reducing violent crime, knife crime & domestic abuse
 - Preventing and reducing crime & anti-social behaviour
 - Preventing and reducing the harm caused by drugs & alcohol
 - Protecting vulnerable people and those at risk of exploitation

4 CONTRACT VALUE

- 4.1 The Contract Value is £12,893,248 with 4 years and 3 months remaining. The Contract runs from August to August and comes to term on 31 July 2025. For the current year, the annual budget is £3,269,000. From 01 August 2021 this will reduce to £3,069,000 per year, followed by a further reduction of £100k to £2,969,000 from 01 August 2023, until the end of the contract.
- 4.2 The Contract was novated from Lifeline Project Limited, to CGL in 2017. Changes to the contract overall since 2015 include: updates to GDPR terms; reduced funding for the core contract; addition of the development of the Drug, Alcohol & Tobacco Schools Curriculum; rough sleepers initiative Work (in partnership with MHCLG); Communities in Charge of Alcohol programme and events (in partnership with GMCA)

5 PROPOSAL

- 5.1 Change Grow Live (CGL) is a registered charity delivering health and welfare services in relation to drug and alcohol need for Tameside residents. As a registered charity they are unable to recover VAT on supplies or charges, which increases the cost of delivering the same services compared to non-charitable organisations who are able to claim this back.
- 5.2 The proposal is to novate the contract we currently hold with Change Grow Live (CGL) to its wholly owned, non-charitable, trading subsidiary, Change Grow Live Services Ltd (CGL Services). This would mean that CGL Services is then able to charge VAT on all supplies and charges. This would include the contract they hold with the council, resulting in approx. £613k annual VAT charged, but this would be fully recoverable by the council, and therefore cost neutral to Tameside MBC. CGL Services will need to pay HMRC VAT they charge but would also be able to reclaim VAT charged by their suppliers, resulting in a financial benefit of approx. £50k pa. This will allow CGL to divert all the reclaimed funds into the service contract and focus

spend on areas that improve service delivery and meet demands, rather than paying unnecessary VAT.

- 5.3 This process will ensure the best use of the public funds allocated to CGL for frontline service delivery. In considering this approach to meet the financial challenges facing CGL, and ensuring the most effective use of public funds, we have sought advice from our VAT experts (LAVAT), finance team and Legal team throughout this process.
- 5.4 The delivery of all services under the Contract would continue to be undertaken by the charity CGL (on a subcontract basis) and CGL will be required to maintain the appropriate regulatory status (CQC Registered). As such, CGL Services do not need to be CQC registered. CGL Services must sub-contract to CGL only.
- 5.5 CGL would also provide a parent company guarantee, and a Service Level Agreement for the delivery of the services under the contract as CGL Services does not have a trading history. This means that, commercially, there will be little change for the Commissioner. Staff would continue to be employed by CGL and would not transfer to CGL Services. A detailed Data Protection Impact Assessment (DPIA) has also been completed to ensure there are no adverse impacts on data protection from taking this forward.
- 5.6 In terms of benefits, the amount of VAT to be reclaimed will be variable, however based upon the service invoice amount and ongoing use of supplies, the financial benefit is currently estimated at around £50,000 per annum. These savings will only be realisable within the duration of the existing contract.
- 5.7 In order to monitor this situation, regular meetings will be held between commissioners and the service to review the VAT amount recovered and review how this is repurposed within the Tameside Contract to support front line service delivery.

6 RATIONALE

- 6.1 CGL is a registered charity delivering a wide range of services to all ages within the contract for integrated substance misuse services in Tameside. Their status as a registered charity places them at a financial disadvantage as they are unable to reclaim VAT charges. The novation of this contract to CGL Services Ltd, and appropriate sub-contracting and parent company guarantee in place, would enable the same service to benefit from reclaimed VAT charges going forward.
- 6.2 There is provision within the current contract to novate the Contract. Clause F1 of the Contract provides for transfer and sub-contracting. F1.1 providing the right on the Provider to assign (or any other way dispose) of the Contract or any part of it with the prior Approval of the Purchaser.
- 6.3 There are no concerns with the performance provided within the current contract and the current elements provided represent value for money each quarter, evidenced by quarterly finance returns within budget.
- 6.4 The council's Finance department have been engaged in this process throughout discussions and have sought specialist advice from Local Authority VAT advisors (LAVAT) with updated advice in June 2021 confirming that, if this novation goes ahead, the council will be entitled to recover any VAT charged for the taxable services received from CGL Services Ltd. This will be an entirely cost neutral exercise for the council.
- 6.5 **Service pressures:** CGL continue to strive to deliver the most cost efficient service while still meeting the needs of service users and leading a system-wide approach to addressing drug and alcohol harm. A Striving For Excellence programme is in place, involving close working

between the council and CGL to ensure that their service is exemplary and continues to improve population health outcomes. While the planned budget reductions in the contract are embedded in longer-term plans for the service, they pose challenges in terms of meeting increasing costs and demands. The service has seen a large increase in service users accessing the service over the last 3 years with almost 400 additional people. Recent years have also seen unprecedented increases to the costs of some of the key medications that the service utilise and new interventions, which benefit population health but were not in the initial contract (eg. Naloxone kits). The Covid-19 pandemic has also seen increased costs for the service, particularly for take-home naloxone kits, safe storage boxes and additional IT equipment. While the service are managing these pressures, this novation will give them the opportunity to increase revenue and ensure pressures do not adversely impact service users.

- 6.6 **Risk of not proceeding:** The risk of not novating the contract would mean that CGL will not be able to charge or reclaim VAT. By charging VAT, the playing field is more equal between charitable and non-charitable providers. This would support CGL in meeting budget reductions. There has already been a collapse of a provider in this area, in Tameside, due to an unstable market. CGL have also expressed that, due to increasing costs and demands, without this additional funding available for the service, they may have to increase staff caseloads and make 1-2 staff redundant. The increase in caseloads would require more 'light-touch' management of some service users including more supervised consumption, which results in more charges from pharmacies, which in-turn will result in less resource for preventative measures such as take-home-naloxone, needle & syringe programmes and direct support.
- 6.7 **Precedent:** CGL are a national provider and have other substance misuse services in other areas where this novation has already taken place including Dudley, West Midlands. In Dudley this novation was signed off internally by their legal team. Manchester City Council are taking the same novation forward. There have been other providers in the care sector (Care Homes) requesting contract novations for VAT purposes, which we are aware the Association of Directors of Adults Services (ADAS) have not granted. In these instances, the financial benefits have not been guaranteed to be re-directed into front line services, to benefit residents, in the way that we have guaranteed for CGL with the proposal in this report. Therefore, we feel there is much clearer justification for this proposed novation of CGL's contract in Tameside.
- 6.8 The Charity Commission guidance says that charities can consider different structures to minimise paying unnecessary tax. Many charities have trading subsidiaries to minimise tax cost and ensure they maximise funds for delivery of their charitable purposes. CGL has liaised with the Charities Commission who have confirmed that this proposed structure and novation follows their guidance to avoid paying unnecessary tax. While there is no formal requirement for CGL to notify HMRC of this process, they have liaised with them and notified them that they are exploring this with some of their services with local authorities. HMRC accept that this structure follows the rules and they have not challenged other examples of it.
- 6.9 **Star Comment:** The novation to contract is provided for in the Councils standard T&Cs at clause F1.1 There is a general provision to novate the contract, subject to the Council's approval. There are advantages to the contract novating in this manner, and the novation clause and novation letters make clear that the same terms apply and there are no other changes to the terms other than the providing party. There is no reason to believe that the quality of service will be affected by this novation.

7 NEXT STEPS

- 7.1 In addition to the standard Novation decision notice, the Council would require supplementary documents be put in place.
- i) a Parent Company Guarantee as form of security to protect in the event of default.
 - ii) a Service Level Agreement, which would include requirements stipulated in point 6.2

- 7.2 The Council would require the Contract to be novated as standard with all existing Terms and Conditions, flexibly to allow subcontract elements of the programme where appropriate within the existing agreement. The recovery of any VAT element would be solely for the recuperation and benefit of the Tameside provision. Any risks in HMRC reversing their position would be at the risk of the Provider.
- 7.3 Working jointly, the Council and CGL would monitor the return of any VAT element and its utilisation within the service.

8 CONCLUSION

- 8.1 This request is made to make the best use of the financial resources allocated to this contract and to avoid CGL, as a charitable organisation, paying unnecessary tax. This will be cost neutral to the council, with any risks mitigated as detailed in this report. This will result in approx. £50k financial benefit to the front line service, which will help them to meet the joint challenges of planned budget reductions alongside increasing costs and demands. This will enable them to better support Tameside residents who access the service and continue to focus on the most preventative interventions to reduce drug and alcohol harms across Tameside. There is precedent for this with other CGL services nationally going ahead with this novation.

9 RECOMMENDATION

- 9.1 As stated at the front of this report.