

Meeting:	Executive
Meeting date:	14 November 2024
Report of:	DASS Sara Storey
Portfolio of:	Cllr Steels Walshaw – Executive Member for Adult Social Care

Decision Report: York Mental Health Hub Commissioning Arrangements Options Paper

Subject of Report

1. The Connecting our City Project is a multi-agency project aimed at improving mental health and wellbeing in York. The Project team are hosted by City of York Council (CYC) and the Project has largely been funded through NHS Community Mental Health Transformation (CMHT) Funding.
2. CYC currently hold York's allocation of CMHT moneys and commission on behalf of the York mental health partnership (YMHP) (see Annex A Summary of Grants and Funding). We hold several contracts and grant agreements using the NHS transformation funding, primarily funding voluntary sector (VS) provision with the York Mental Health hub (located at 30 Clarence Street) and pathway to recovery team.
3. This includes peer support, social prescribing and carer support.
4. All agreements include clear milestones and outcomes. All providers submit quarterly reports to the Connecting our City Steering Group. The Project team also meet every 6 weeks with providers to monitor progress and address any issues or support required.
5. Due to the success of the mental health hub developments, additional NHS funding has been secured for up to 2 further hubs in the city. One of these is part of a national pilot funded by NHS England.
6. A decision is required on how to commission the current hub provision post April 2025 when most of the current agreements end and the Voluntary sector provision for the remaining two hubs. This decision is required to enable us to have staff recruited and in

post for the opening of hub 2 (24/7) currently estimated to be April 2025.

7. Timescales for the 24/7 hub, implemented by NHS England (NHSE), are extremely tight with expectation that provision is up and running within this financial year. Voluntary sector providers were a key part of the partnership expression of interest and form the majority of the staffing. These roles cannot be recruited until funding arrangements are confirmed. Any delay to recruitment risks an inability to deliver the project on time and potential claw back of funds by NHSE.
8. This was a partnership bid, developed and submitted by partners who form the staff base of the hub team. Therefore, there is an expectation that partners who were part of the successful bid will be the providers within the hub model.
9. Hub one opened in May 2024 after being prototyped and then paused and has recently re-opened and it still in a soft launch period, gradually taking new people into the service. As it is not fully operational, the provision is still in its infancy as is the current team. Disruption to providers at this stage would be ill-timed as there has not been sufficient time to allow the team or the model to establish, to agree staffing structures and service specification or for proof of concept.
10. Disruption to providers at this stage would inevitably result in losing key members of the team and ultimately the current hub having to pause work destabilising the system. York has been on an important journey of learning to develop this model and there has not yet been sufficient time to allow this to establish, to agree staffing structures, service specification or for proof of concept.
11. We require consistency of provision across all hubs to be able to measure the effectiveness and respond quickly to change.
12. Long term planning is currently underway to establish the needs of all three hubs so that a future integrated commissioning model can be developed. However, due to the current timescales and stage of hub development, we are seeking to establish an interim two-year arrangement with the existing voluntary sector providers to maintain consistency of provision across the city. This would be without inviting competition and the total value of all of the agreements is over £500,000. Therefore a decision is required at Executive level.

Benefits and Challenges

13. There are benefits to CYC continuing to commission the mental health hub provision as CYC already holds the existing agreements and hosts the project team. The project team are responsible for developing the hub model and establishing future commissioning arrangements. This will also allow funding to be carried over financial years should there be recruitment delays ensuring maximum use of available funds for York. The Project Team are also hosted by CYC and monitor contracts and grant agreements from partners, which enables the team to evidence the impact of the roles within the model and collect data on the outputs.
14. The proposed grant agreements can be delivered within the required timeframes and will allow time and flexibility to embed the hub model and create a clear specification for after the 2-year period. After this 2-year period, we will review service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York and the council achieves Value for Money.
15. Grants will need to comply with the council's Contract Procedure Rules (CPR 4) and a Best Value form completed to explain the decision for not inviting competition.
16. Grant agreements will need to be prepared by Legal Services and will need to be properly assessed to make sure they are in line with subsidy control principles – this will take time due to limited capacity and resource within the Legal Team.
17. The York Mental Health Hub developments are a high-profile project with significant system engagement across York. Uncertainty around funding arrangements for voluntary sector partners creates instability amongst the existing hub team and risks staff retention if decisions are delayed. This would compromise the ability of the hub to meet key performance indicators due to lack of capacity.
18. As hub one only opened in May 2024, after being prototyped, the provision is still in its infancy as is the current team. Disruption to providers at this stage would inevitably result in losing key members of the team and ultimately the current hub having to close. This risks destabilising the system.
19. The NHS England funded project is expected to be delivered within an extremely short timeframe and any delay to voluntary sector partner funding arrangements will delay recruitment and

- thus delivery of the project. This could result in NHSE clawing funding back as well as reputational damage.
20. Risk of challenge for directly awarding grants to existing providers has been mitigated as far as possible through the rationale of allowing sufficient time to embed and refine the hub model. The two-year agreements will allow for sufficient time to develop a robust model and specification as well as to confirm future funding and resource commitments. This will allow for a review of service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York and the council achieves Value for Money.
 21. The funding for all hubs comes via the NHS.
 22. For all of the above options, the mental health hub is operating a 'co-located' model whereby employing organisations retain responsibility for staff, with staff reporting on a day to day basis to the hub manager. Therefore, staff employed through the grant agreements will be voluntary sector employees. There are no TUPE implications for CYC as any transfer as a result of a change in provider would be the responsibility of the individual organisations involved.

Policy Basis for Decision

23. This decision complies with both the **Health and wellbeing** and **Cost of Living** priorities within the Council Plan. The project looks to improve access to mental health and wellbeing support, ensure open access, person centred and flexible support. Integrated models of care allow best use of resources, avoid duplication and avert more costly acute and crisis services. Offering flexible support within the community will increase accessibility for groups who are currently underrepresented within mental health services.
24. The model also seeks to address the **health inequalities** for people with a severe mental illness by improving access to physical health support, addressing the social determinants of mental health and building community connectedness.
25. Advice has been taken from both procurement and legal colleagues regarding compliance with the Contract Procedure Rules. Risk to the council is lower as the Contract Procedure Rule requirements for grants aren't as prescribed for the award of Grants as they are for the award of contracts.

Financial Strategy Implications

26. These are all Health funding sources which are/will be passported to the Council to manage. Funding for two of the three hubs is recurrent funding. The 24/7 pilot funding is for 2 years. Discussions are happening at both a place and ICS level about how this model can be sustained after the 2-year period. Some of this will rely upon the realignment of existing resource within mental health services and transformation plans are already being developed to support this within the relevant organisations.
27. The recommended two-year agreements will allow for sufficient time to develop a robust model and specification and to refine the costs and workforce required.
28. The hub development work aligns with other developments in relation to integrated community service provision and Integrated Neighbourhood Teams for which joint funding arrangements are being developed.

Recommendation and Reasons

29. Executive are recommended to:

- approve Option 3, namely the issuing of 2-year term grant agreements by CYC to the existing voluntary sector providers, without a competitive process, and to delegate authority to the Corporate Director - Adults and Integration, in consultation with the Chief Finance Officer and the Director of Governance, to take such steps as are necessary to determine the provisions of, award and enter into the resulting grant funding agreements.

Reason(s): This allows for a flexible interim arrangement in compliance with the Subsidy Control Act 2022, the Financial Regulations under Appendix 10a of CYC's Constitution and the Contract Procedure Rules under Appendix 11 of CYC's Constitution. This option can be delivered within the required timeframes. The two-year agreements will allow for sufficient time to develop a robust model and specification as well as to confirm future funding and resource commitments. This will allow for a review of service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York and the council achieves Value for Money.

Background

30. The Connecting our City Project is a multi-agency project aimed at improving mental health and wellbeing in York. The Project team are hosted by City of York Council (CYC) and the Project has largely been funded through NHS Community Mental Health Transformation (CMHT) Funding.
31. One of the key priorities for the Project was to establish a Trieste style mental health hub model for York. These hubs will offer a range of support in a flexible manner with a multi-agency team, that are able to be responsive and enable early intervention to prevent a decline in mental health. The Hub is able to support a person to develop a network of community assets to support them to thrive in their local communities.
32. The hub model was codesigned in April 2022 as part of a detailed process involving people with lived experience and a range of practitioners from across organisations in York. The model was then prototyped supporting a small number of individuals from January 2023 with a team including clinicians, social care, peer support, recovery workers, carer support and social prescribing.
33. A prototype report (see Annex B York's Hub Journey) was published which demonstrated significant benefits. For the individuals accessing support:
 - the team were able to offer support to people who have previously struggled to access what they needed;
 - 24 of the 33 people (72.7%) at the Hub achieved progress directly connected to their reasons for seeking support at the time;
 - 11 of 13 obtained ReQol scores had improved, meaning 84.6% of those from whom data was obtained had displayed reliable improvements;
 - Case studies demonstrated a dramatic reduction in use of crisis, A&E, and interactions with the police for those people being supported by the hub;
 - The physical space and community acted as an important enabler, means of belonging and social support in itself.
34. For the hub team:
 - They appreciated the permission to work flexibly and within a more flattened hierarchy;
 - People valued the team's flexible approach as well as being given options for formal or more informal support;

- The team empowered people to be able to better manage their own crisis through co-developing support;
 - The team have been able to work more in alignment with their own personal values;
 - Being a part of change was an appeal for the team.
35. A quote from an individual who received support:
“They're trying to get me to come and use it as like a Hub, like a place to build friendships and interact with and get support from people, whether it be people in the cafe or people in the office. If you're having a bad week, you can turn up and go 'D, can I just speak to you for 10 minutes please because I'm having a bit of a bad day or a bad week, and as long as he hasn't got appointments that happens. The relaxed nature of the place is its strength because it's not like you have to wait weeks and weeks to see someone you can literally drop in, reach out.”
36. Alongside the successes, the hub experienced some key challenges and in September 2023 the hub was paused to allow time to establish a more robust governance structure and to recruit to a permanent fully staffed team. The hub reopened at the end of May 2024 at 30 Clarence Street and from September 2024 has integrated with the Mental Health Recovery Service (See Annex B – York's Hub Journey). Due to the challenges experienced within prototyping, we have been operating a phased approach to opening to ensure that the team can manage demand. However, the hub is already showing positive outcomes both for individuals and the system.
37. The aim of the mental health hub model is that individuals are able to access a range of support, that is flexible to meet needs at the point they need it. In order for us to be able to offer this support across the City and develop this as an integrated model of mental health support, we need to establish three hubs. Citywide hub coverage would allow the realignment of health and social care resources and ensure sustainability for this model.
38. Therefore, we were delighted to have had the opportunity to apply for national NHS England funding for a 24/7 mental health hub in the West of the City (Acomb, Holgate & Westfield). Yorks bid was successful, and we have secured £2.4m over two years for this pilot which sees investment in 6 sites across the country.
39. We have also submitted a bid for NHS Service Development Funding of £498k (recurring) which would allow us to establish a third hub. This funding is to be confirmed.
40. York's hub development journey and the partnership approach to this, continues to attract significant national and local interest. We

have recently hosted visits to the current hub from key leaders within the Department for Health and Social Care (Director and Deputy Director of Mental Health) and Rachel Maskell MP.

41. To date, City of York Council have held York's allocation of CMHT moneys and commissioned on behalf of the partnership. Totalling £695k (recurring). We hold a number of contracts and grant agreements, as above, using the transformation funding, primarily funding provision with the York MH hub and pathway to recovery team. CYC holding this funding has supported significant flexibility and ensured maximum use of all available funding for York.
42. These contracts and agreements were established during the prototype phases of both the hub and pathway to recovery. All providers were originally subject to an expression of interest process which included a project brief, expressions of interest being submitted, a partnership panel scoring submissions based on agreed criteria and interviewing providers.
43. A decision is required on how to commission the current hub provision post April 2025 when most of the current agreements end and the Voluntary sector provision for the remaining two hubs. This decision is required to enable us to have staff recruited and in post for the opening of hub 2 (24/7) currently estimated to be April 2025.
44. Timescales for the 24/7 hub, implemented by NHS England (NHSE), are extremely tight with expectation that provision is up and running within this financial year. Voluntary sector providers were a key part of the partnership expression of interest and form the majority of the staffing. These roles cannot be recruited until funding arrangements are confirmed.
45. This was a partnership bid, developed and submitted by partners who form the staff base of the hub team. Therefore, there is an expectation that partners who were part of the successful bid will be the providers within the hub model.
46. As hub one only opened in May 2024, after being prototyped, the provision is still in its infancy as is the current team. Supporting a multi-agency co-located team to operate seamlessly is complex. It has taken significant work and time to orientate the current team, develop operational procedures and working practices. This work is ongoing. Disruption to providers at this stage would inevitably result in losing key members of the team and ultimately the current hub having to close. This would destabilise the system. York has been on an important journey of learning to develop this model and there has not yet been sufficient time to allow this to establish, to agree staffing structures and service specification or for proof of concept.

47. We are seeking to explore the mechanism by which we can establish agreements for minimum of 2 years, with the existing VS providers, to allow us to embed the model across 3 hubs and prove concept as well as to establish a collaborative future commissioning and provision model.
48. Following the 2-year period, we will have a much clearer understanding of available funds and a robust specification for delivery of the model. This will allow for a review of service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York.
49. A workshop to consider future commissioning models is planned for 24th October 2024. This workshop will consider the options below and recommend a future commissioning model which will be developed and planned over the 2-year period. An update following this workshop will be brought back to the joint commissioning forum.
50. A summary of the options that have been considered is below.

Consultation Analysis

51. The development of the York Community Mental Health Hubs involved an in-depth codesign process with representation from clinicians, social work, local area coordination, voluntary sector, and over 50% lived experience and carers. The core principles that emerged from this process continue to guide the development of the York hub model, including the desire to embed lived experience leadership. Monthly conversation cafes provide ongoing dialogue and involvement as the project develops. The project also has a dedicated Coproduction Champion providing ongoing opportunities for involvement and engagement as well as a System Change Lead who works alongside voluntary sector colleagues to support and improve commissioning practice.

Options Analysis and Evidential Basis

45.

1. Lead provider model commissioned by the ICB

The ICB commissions the hub model through a lead provider model (contract variation to an existing contract) who then subcontract the different elements of the offer to VCSE providers.

Pros	Cons	Summary/recommendation
<ul style="list-style-type: none"> • Relatively straightforward as contract variation allowed up to 25% of existing contract. • Short timeframe. • Places the delivery within the mental health trust – sustainability, embedded within the system. • Largest source of resource has accountability for delivery - All clinical resources in Hub 1, future Hub 3 and post pilot Hub 2 including team manager currently come or are expected to come from existing contract and are not funded with transformation investment. • Commissioning/procurement teams in place 	<ul style="list-style-type: none"> • Potentially would involve novating/transferring existing Voluntary and Community Social Enterprise (VCSE) agreements over prior to being able to establish longer term agreements (delay). • May result in changes in current procurement process followed – as a change of lead contracting authority from Local Authority to NHS procurement. • Any delays in recruitment etc could result in underspends being lost. • Potential future loss of partnership control over the multi-agency elements of delivery 	<ul style="list-style-type: none"> • Potential future delivery option, but not able to be delivered within the immediate timeframe. • Insufficient flexibility across financial years for current funding arrangements. • Not recommended as interim arrangement.

<p>2. CYC commissions the hub offer</p> <p><i>CYC develops a lead provider service specification for the mental health hub and conducts a procurement for this service</i></p>		
Pros	Cons	Summary/recommendation
<ul style="list-style-type: none"> • CYC already holds the existing agreements and hosts the project team. • CYC has the ability to carry funding over financial years should there be recruitment delays. • Commissioning/procurement teams in place. • Procurement process could potentially be waived due to time and provider requirements of the 24/7 hub grant fund. 	<ul style="list-style-type: none"> • May require a Section 75 agreement which would cause delay. • May (subject to requirements of the applicable Procurement legislation, with new Procurement Act 2023 to commence from 24th Feb. 2025) involve a full procurement exercise which could be time consuming and may result in changes to providers and thus delays/recruitment challenges/partnership impact. • Estimated timeframe 9-12 months so would need to extend existing agreements – short term in line with their respective terms and conditions and (where applicable) procurement and subsidy control law. Assessment of each agreement’s legal and procurement status will also require time, potentially creating delay due to limited capacity and resource in both the Legal and Commercial Procurement Teams. 	<ul style="list-style-type: none"> • Not deliverable within the current timeframes. • Largest source of resource would not sit with local authority commissioning and so offer could become fragmented. • Any waiving of procurement rules poses potential risk to CYC. • Not recommended

	<ul style="list-style-type: none"> • Even if procurement process was waived due to nature of funding stream, the model is potentially not sufficiently developed to be able to provide clear specifications at this time and funding streams are not all recurring. • Project team could retain oversight in the short to medium term but potential risk to partnership control in the longer term. • Largest source of resource would not sit with local authority commissioning - All clinical resources in Hub 1, future Hub 3 and post pilot Hub 2 including team manager currently come or are expected to come from existing contract and are not funded with transformation investment. Change would require change in ICB / Mental Health Trust Contracts. 	
<p>3.CYC issues 2-year grant agreements to the existing VCSE providers (without a competitive process) as interim arrangement</p>		
<p>Pros</p>	<p>Cons</p>	<p>Summary/recommendation</p>
<ul style="list-style-type: none"> • CYC already holds the existing agreements and hosts the project team. • CYC has the ability to carry funding over financial years should there be recruitment delays. 	<ul style="list-style-type: none"> • Largest source of resource would not sit with local authority commissioning. • Grant agreements allow for less specification of delivery. • Would require guarantee of funding from NHS for 2-year period. • Grants will need to comply with the council's Contract Procedure Rules (CPR 4) and a Best 	<ul style="list-style-type: none"> • Can be delivered within timeframe. • Risk to the council is lower as the Contract Procedure Rule requirements for grants aren't as prescribed for the award of Grants as they are for the award of contracts.

- Commissioning/procurement teams in place.
- Maintain control over the different elements of the offer and preserve this multi-disciplinary element.
- Grant agreements allow time and flexibility to embed model and create clear specification for after the 2-year period.
- After the 2-years, we can review service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York and the council achieves Value for Money. No delay for procurement.

- Value form completed to explain the decision for not inviting competition.
- Grant agreements will need to be prepared by Legal Services and will need to be properly assessed to make they are in line with subsidy control principles – this will take time due to limited capacity and resource within the Legal Team.

- Allows for a flexible interim arrangement whilst the model is refined, and longer-term commissioning arrangements can be planned.
- **Recommended**

4.Alliance - The Partnership forms an alliance which assumes legal responsibility for the transformation funding

Pros	Cons	Summary/recommendation
<ul style="list-style-type: none">• Tested collaborative model within region and nationally but not a recognised legal entity, would require a lead (typically VCSE provider) to commission.• (Subject to the lead provider) could carry funds should there be recruitment delays.• Relatively straightforward as contract variation allowed up to 25% of existing contract.• Short timeframe.• Places delivery within the partnership – sustainability, embedded within the system.	<ul style="list-style-type: none">• Internal authorisations necessary for formation of partnership likely to cause delay.• Legal input required on drafting and negotiating partnership arrangements – time required, and capacity still an issue.• Formation of a partnership would still be subject to public procurement rules, so additional time would be required to assess the market or to properly set up without a tender exercise but is a way that complies with procurement law.• Potentially would involve novating/transferring existing VCSE agreements over prior to being able to establish longer term agreements.• Partnership control over how the ‘offer’ is delivered longer term may depend on level of autonomy and/or financial authority alliance is given entity/commissioner.	<ul style="list-style-type: none">• Potential future delivery option but not able to be delivered within the immediate timeframe.• Not recommended as interim arrangement

	<ul style="list-style-type: none"> • Largest source of resource would not sit with alliance - All clinical resources in Hub 1, future Hub 3 and post pilot Hub 2 including team manager currently come or are expected to come from existing contract and are not funded with transformation investment. Change would require change in ICB / Mental Health Trust Contracts. 	
<p>5.CIC - The Partnership formally establishes itself as a Community Interest Company (CIC) and is commissioned by the ICB to deliver the hub model</p>		
Pros	Cons	1. Summary/recommendation
<ul style="list-style-type: none"> • Partnership control over funding longer term. • Funding can be carried over financial years and reinvested into provision. • Fosters a sense of ownership and accountability of spend. • Ability to flexibly subcontract/commission elements of the provision. • Opportunity to pool and fully integrate resource. 	<ul style="list-style-type: none"> • Time delay on process to apply for CIC (Community Interest Company) status. • Formation of a new CIC with partners will require time for internal authorisation at CYC with Executive and other committees (Shareholder Committee; Staffing & Urgency Matters), adding delay to this option. For authorisations, governance arrangements will need to be drafted and produced for approval (see below). • Significant time demand on those running the CIC. • Significant infrastructure required within the CIC. All governance documents for the CIC will require input from Legal Services to ensure that the CIC is set up properly for CYC and partners to be able to 	<ul style="list-style-type: none"> • Potential future delivery option but not able to be delivered within the immediate timeframe. • Not recommended as interim arrangement

	<p>award it contracts directly in accordance with the Procurement Regs/Procurement Act. This could create further delay and may incur additional cost if external support/advice is required.</p> <ul style="list-style-type: none"> • Additional time required for production of new contracts for CIC. • Other potential legal issues – e.g., TUPE transfer of staff to new CIC; property arrangements; etc.) • Would need to be registered with CQC if deemed to be directly providing/delivering services. • Likely to need to continue with existing arrangements whilst this is developed – lack of long-term certainty for VCSE during this phase. • Establishing as a separate entity may add complexity into the wider system and to the balance of working as an agile, cross-sector partnership. 	
<p>6. Do Nothing</p>		
<p>Pros</p>	<p>Cons</p>	<p>Summary/recommendation</p>
	<ul style="list-style-type: none"> • Current contracts would end in March and therefore provision within current hub would cease. • NHS England funding would be returned as unable to deliver the model within timeframes. • Inability to establish City-wide mental health hub offer 	<p>Not an option as would not deliver the positive outcomes outlined</p>

46. The current hub is based at 30 Clarence Street and integrated with the Recovery Service. Future hub locations still to be confirmed.
47. The teams will be using the TEWV recording system – Cito. CYC ICT have been informed of this and this has been reflected in the DPIA and Information Sharing Agreement. Dual recording is in place for adult social care staff. Patient Knows Best is utilised as a patient facing portal.
48. The funding for all hubs comes via the NHS. Two of the hubs are funded on a recurring basis. The 24/7 hub is 2-year funding and plans for sustainability after this point are being developed. Following the two years of the 24/7 hub pilot we intend to move to an integrated model of commissioning for the hubs. This will be closely aligned with changes to wider commissioning arrangements and other related developments such as the frailty hub.

Organisational Impact and Implications

49. Financial:

The Grant agreements that will be extended are estimated as follows:

Agreement	Yr 1 (£000)	Yr 2 (£000)	Total (£000)
York Mind Peer Support	643	643	1,286
York mind social prescribing	337	337	674
York Carers Centre	291	291	582
York CVS	280	280	560

The value of the grant agreements can be met from the following sources:

Community Mental Health Transformation Fund: £695k recurrent funding

NHS England Funding 24.7 Pilot: £2.4m (funding for two years)

Service Development Funding (SDF): £498k recurrent (TBC)

These are all Health funding sources which are/will be passported to the Council to manage. There are other commitments against these funding pots but the financial modelling assures the preferred option is affordable within the resources available to the project pending final confirmation of the Hub 3 funding.

50. Human Resources (HR):

Based on the specific details of the report, there are no HR implications for CYC in terms of the recommended approach or those noted in options one, two and four. There may be potential TUPE implications in relation to option 5 depending upon the setup of the Community Interest Company and what activities it will cover. Should this option be taken forward further work would need to be undertaken to assess what, if any, implications there may be for City of York Council resources with any change managed in accordance with the council's workforce change policies.

51. Legal:

General implications applicable to all options:

- All public service contracts will need to be commissioned in line with a compliant procurement route under CYC's Contract Procedure Rules ("**CPRs**") and the Public Contract Regulations 2015 ("**PCRs**") or the Procurement Act 2023 or the Provider Selection Regime ("**PSR**") (as applicable) ("**Procurement Law**").
- Any proposed extensions, modifications, and novations of existing contracts will need to be drafted in line with the relevant terms and conditions and compliant with Procurement Law (where applicable).
- All grant funding agreements will need to be properly assessed to make sure they are in line with subsidy control principles under the Subsidy Control Act 2022 before they are awarded and entered into.
- With the exception of Option 3, any of the other options could result in the transfer of CYC staff and/or third-party staff meaning there would be TUPE and/or pension implications from any relevant transfers.

Option 1:

- It is noted that this option could involve novating/transferring existing Voluntary and Community Social Enterprise agreements to either the ICB or the ICB's appointed contractor prior to being able to establish longer term agreements.

Option 2:

- If CYC were to commission its own lead provider for the Project, this would require an agreement under section 75 of the National Health Services Act 2006 between the partners. Section 75 agreements can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.

Option 3:

- The award of any grant funding by CYC to a third party is subject to CYC's Financial Regulations ("**Financial Regs**") and CYC's CPRs, as well as the Subsidy Control Act 2022. CYC is required to assess any proposed financial assistance and any application must only be granted if it is consistent with the Subsidy Control Act 2022.
- Any grant funding agreements must be drafted and concluded to ensure compliance with the CYC CPRs, the CYC Financial Regs, and the Subsidy Control Act 2022.
- It is unlikely that any grant funding agreements entered into will have Procurement Law implications. However, CYC cannot elect to award grant agreements where the sole purpose for doing so would be to avoid conducting a competitive tender process in accordance with Procurement Law.

Option 4:

- Formation of a partnership would require an agreement setting out the detailed governance arrangements of the partnership. It is noted that this option will involve the preparation of a service contract and could involve the novation of existing contracts, both of which would need to ensure compliance with the relevant Procurement Law, and (where applicable) any existing terms and conditions with regards to novation.

Option 5:

- Any new company set up to deliver the Hub offering would require a full business case to be presented to Executive and will need to ensure that the company is set up correctly in line with company law. If the intention is to directly award contracts to the company without undertaking a procurement process, the provisions of the *Teckal* exemption under Reg 12(1) of the Public Contract Regulations 2015 (or the Vertical exemption under Schedule 2 of the Procurement Act 2023), as well as Article 12 of the CYC Constitution, would also need to be applied. Such a company will also be bound by Procurement Law and will also be subject to the Freedom of Information Act 2000 as well as other public law provisions.

52. **Procurement: *Implications***

The commissioning of the York Mental Health Hubs is to deliver a number of mental health hubs for our customers in the city following a successful pilot scheme. The mental health services being commissioned through the hub are categorised as health care services within the Provider Selection Regime (“**PSR**”) which is a set of rules for procuring health care services and applicable to NHS, ICB’s and Local Authorities that came into force from 1st January 2024.

Therefore, the commissioning of further Mental Health Hubs in the city which for these new hubs are being funded by the NHS would fall within the current PSR rules that includes a number of options to commission services that are

categorised as health care services. This will require Adult Social Care commissioners working with Commercial Procurement, Legal and Finance colleagues to consider the series of commissioning options within the PSR rules which includes Direct Award processes options A-C, Most Suitable Provider process or the Competitive process.

The processes to consider the PSR options for the commissioning of the York Mental Health Hubs includes a PSR Governance process and series of tests, questions and evidence which are included within a PSR template report that will require an appropriate CYC representative(s) with delegated authority for consideration and decision to be taken. The PSR Governance process would be completed by ASC commissioners working alongside CYC colleagues to determine the most appropriate route to commission the York Mental Health Hubs in accordance with the applicable rules as defined within the PSR.

53. Health and Wellbeing:

This project looks to improve access to mental health and wellbeing support, ensure open access, person centred and flexible support.

54. Environment and Climate action: n/a

55. Affordability: n/a

56. Equalities and Human Rights:

Everyone has the right to the highest attainable standard of physical and mental health. We have an obligation to develop and implement legislation and policies that guarantee universal access to quality health services and to address the root causes of health inequalities, including poverty, stigma and discrimination. The right to health is indivisible from other human rights - including the rights to education, participation, food, housing, work and information. This model is person centred, and holistic, and will help the council to ensure equity of access to services, particularly for those who have protected characteristics.

A full Equalities Impact Assessment will be undertaken and can be found at Annex C

57. **Data Protection and Privacy:**

The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

This is evidenced by completion of DPIA screening questions under the reference AD-10196.

58. **Communications:**

Communications will support the commissioning of this project through a thorough communications plan and timely responses to any press enquiries. It is also recommended that comms is engaged in providing assistance for a robust stakeholder engagement plan.

59. **Economy: n/a**

Risks and Mitigations

60. The York Mental Health Hub developments are a high-profile project with significant system engagement from across York. Uncertainty around funding arrangements for voluntary sector partners creates instability amongst the existing hub team and risks staff retention if decisions are delayed. This would compromise the ability of the hub to meet key performance indicators due to lack of capacity.
61. As hub one only opened in May 2024, after being prototyped, the provision is still in its infancy as is the current team. Disruption to providers at this stage would inevitably result in losing key members of the team and ultimately the current hub having to close. This risks destabilising the system.
62. The NHS England funded project is expected to be delivered within an extremely short timeframe and any delay to voluntary sector partner funding arrangements will delay recruitment and thus delivery of the project. This could result in NHSE clawing funding back as well as reputational damage.

63. Risk of challenge for directly awarding grants to existing providers has been mitigated as far as possible through the rationale of allowing sufficient time to embed and refine the hub model. The two-year agreements will allow for sufficient time to develop a robust model and specification as well as to confirm future funding and resource commitments. This will allow for a review of service and future requirements under either the Procurement Act 2023 or the Provider Selection Regime in order to determine the most appropriate commissioning route to ensure the best outcomes for the residents of York and the council achieves Value for Money.
64. Grant agreements will include notification of termination of agreements and expectations on providers for managing this as well as reporting and evaluation requirements.

Wards Impacted

65. All wards will be impacted once three hubs are open. The 24/7 hub will specifically be supporting people within Holgate, Westfield and Acomb wards.

Contact Details.

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Background papers

None.

Annexes

- Annex A: Summary of grants and funding
- Annex B: York's Hub Journey
- Annex C: Equalities Impact Assessment