

Officer Decision Record – Executive Decision

If Key Decision: Decision Ref. No.

B121/24

OFFICER DECISION RECORD ⁱ

Officer Key Decisions are subject to the Council's Call-In Procedure (Annex 9 of the Council's Constitution <https://www.hertfordshire.gov.uk/about-the-council/freedom-of-information-and-council-data/open-data-statistics-about-hertfordshire/who-we-are-and-what-we-do/who-we-are-and-what-we-do.aspx>)

Subject: Proposed Extension of NHS Compliant Counselling Contract from 1 February 2025 to 31 April 2025

Type of Decision: Executive

Key Decision (Executive Functions only): Yes

Executive Member/Committee Chairman:

Tony Kingsbury

Portfolio (Executive Functions only):

Executive Member, Adult Care, Health & Wellbeing

Officer Contact: Robin Goold

Tel: 01438 845 472

1. Decision

To proceed with the extension of the NHS Talking Therapies Compliant Counselling Framework on behalf of commissioning partners for three months from the 1 February 2025. To implement an increase in the rate per session for the period of the extension to £54.34 per session.

2. Reasons for the decision

The County Council is the lead commissioner on behalf of its NHS commissioning partners. The Council holds delegated health related duties under Section 75 Agreement (NHS Act 2006).

Under this arrangement the Council holds a framework for NHS Talking Therapies compliant counselling services across Hertfordshire that is due to end on the 31 January 2025.

The Council has been working to gain agreement from the Integrated Care Board (ICB) to new rates and terms for the procurement of the framework that respond to market feedback through the pre procurement market engagement process, including from current providers. The services are health services solely funded by the ICB.

However, agreement has now been gained but delays to this process in agreeing the future funding of the services means there is no longer enough time to complete the procurement before the current framework ends at the end of January 2025. Current providers are now in a position where they need to make decisions about ceasing referrals and winding down operations prior to the end of the current framework, presenting a risk to service delivery and provider viability.

Legal advice has been sought that identifies that under Section 13 of The Health Care Services (Provider Selection Regime) Regulations 2023 (PSR) a (contract or) framework agreement for relevant health care services can be modified (which includes an extension) during its term without following a new procurement process where the modification is attributable to a decision of the council/ICB and:

- (a) the modification does not render the framework agreement materially different in character, and
- (b) the cumulative change in the lifetime value of the framework agreement since it was entered into or concluded is:
 - (i) below £500,000; or
 - (ii) less than 25% of the lifetime value of the original framework agreement when it was entered into or concluded.

The only element to change during the extension is an increase in rate for the period of the extension with no other terms changing in the framework. The increase in rate to £54.34 per session equates to the calculation of NHS inflation over the period since the framework was let. So is therefore felt to be reasonable and not materially change the framework agreement satisfying point (a) above.

The proposed extension period is forecast to equate to c. 9% of the lifetime value of the original framework agreement when it was entered into or concluded, satisfying point (b) above.

Although the current framework was procured under the Public Contracts Regulations 2015 (PCR), Section 72 of the PCR also provides grounds for an extension, including on urgency grounds. This is felt to be satisfied to maintain service delivery during the period of the procurement.

Exercising the three-month extension will enable:

- the commissioning of the framework to happen while ensuring a continuity of service to the citizens of Hertfordshire.
- increasing the rate through the period of the extension will provide market sustainability in the interim.

3. Alternative options considered and rejected

Option	Considerations	Recommendation
1. Do nothing.	The framework agreement will expire in January 2025 leaving Hertfordshire without the provision of these services. This is an inefficient way to re procure the services and may expose the Council, its partners or providers to additional costs and risks.	Not recommended
2. Extend for a period longer than 3 months.	The extension is making an exception to procurement regulations and therefore should only be made for the length of time necessary to ensure service delivery.	Not recommended
3. Extend the framework but do not uplift the sessional rate.	Pre procurement market engagement and feedback from current providers indicates that the current rate is unsustainable, and a significant amount of current supply would cease with providers unwilling to extend at the current rate leading to a loss of service provision.	Not recommended

4. Consultation (see Summary of Requirements below)

Was any Councillor consulted? Yes

If yes:

- (a) Comments of Executive Member/Committee Chairman
- (b) Comments of other consultees

5. Any conflict of interest declared by a councillor who has been consulted in relation to the decision

N/A

6. Following consultation with the Executive Member, I am proceeding with the proposed decision.

Signed: Chris Badger

Title: Executive Director, Adult Care Services

Date: 29 November 2024

Copies of record to:

- All consultees
- hard & electronic copy (if required to be made available for public inspection) to Democratic Services Manager - Room 213 County Hall.ⁱⁱ

Summary of Requirements to Inform/Consult Councillors

Significance of Proposed Action	Controversial	Relevant Councillor(s) to be Consulted
Technical/Professional/ Routine	No	No need to inform or consult councillors
Technical/Professional/ Routine	Yes	Executive Functions: Consult relevant Lead Executive Member and, where appropriate, Local Councillor Non-Executive Functions: Relevant Committee Chairman and, where appropriate, Local Councillor
Local	No	Executive Functions: Inform Lead Executive Member and Local Councillor Non-Executive Functions: Inform Local Councillor
Local	Yes	Executive Functions: Consult Lead Executive Member and Local Councillor Non-Executive Functions: Consult Local Councillor
General or County-wide	No	Executive Functions: Consult relevant Lead Executive Member (s) Non-Executive Functions: Consult relevant Committee

		Chairman
General or County-wide	Yes	Executive Functions: Consult relevant Lead Executive Member (s) and the Leader of the Council Non-Executive Functions: Consult relevant Committee Chairman/Leaders all Political Groups