

Officer Key Decision Record

Title of Report: Addictions Service (North Cumbria) – authorisation to vary contract to allocate additional funding for supplementary services

Decision of: John Readman, Executive Director - People

Cabinet Member: Deborah Earl, Cabinet Member for Public Health and Community Services

1. What is the decision about? (Brief Summary)

- 1.1. This Officer Decision Record (ODR) requests authorisation to vary the Cumbria Addictions Service (North Cumbria) contract with Humankind Charity (Humankind), to allocate additional funding from the Office for Health Improvement and Disparities (OHID), NW Probation Services and the Public Health Restart & Recovery Fund.
- 1.2. This will involve allocating £615,173 of funding to the North Cumbria contract. The Probation Services and OHID funding has already been received by the Local Authority and needs to be spent with the Provider by 31.03.2023.

2. Recommendation(s) to the Executive Director?

- 2.1. It is recommended that the Executive Director authorise the contract modification to allocate the additional £615,173 of funding to the Addictions Service (North Cumbria) contract with Humankind Charity to enable the provision of additional services, as previously agreed between NW Probation Services, OHID and Public Health.

3. Background to the proposals

Probation Services Funding

- 3.1. This funding will increase the value of the contract by £182,701. A decision was taken by the Executive Director – People on 1 August 2022 to enter into a Memorandum of Understanding with NW Probation Services to commission Humankind to provide additional drug testing services using Probation Services funding of £288,098. Apportioning this funding across the North Cumbria and South Cumbria contracts with Humankind take account of a mid-year adjustment of contract value to align both contracts with Local Government Reorganisation, as agreed by the Executive Director – People on 13 January 2023.

OHID SSMTRG Funding

- 3.2. This funding will increase the value of the contract in the 2022-23 financial year by £286,017 to provide additional services agreed in the Council's Supplementary Substance Misuse Treatment and Recovery Grant (SSMTRG) Plan. A decision was taken by the Executive Director – People on 1 August 2022 to allocate £654,784 SSMTRG fund to addiction-related services in the 2022-23 financial year. Apportioning this funding across the North Cumbria and South Cumbria contracts with Humankind takes account of a mid-year adjustment of contract value to align both contracts with Local Government Reorganisation, as agreed by the Executive Director – People on 13 January 2023.

Public Health Restart & Recovery Funding

- 3.3. This funding will increase the value of the contract in the 2022-23 financial year by £146,455 to provide additional services from the Council's Public Health Grant Restart & Recovery Fund. A decision was taken by the Executive Director – People on 10 August 2022 to allocate £234,199 from the Public Health Grant Restart & Recovery Fund to Humankind to fund addiction-related services in the 2022-23 financial year.

Urgency of request

- 3.4. If the OHID funding is not spent by the Council before 31.03.2023 it will have to be returned, as it cannot be rolled over into the next financial year.
- 3.5. Humankind has already committed to delivering the agreed services in expectation of receiving the additional funding, delayed due to legal advice recommending the North and South Cumbria contracts were first realigned with LGR before proceeding with allocating additional funding.

Simultaneous modifications

- 3.6. This ODR is one of a pair relating to the Addictions Service contracts with Humankind that relate to the geographical areas covered by Cumberland Council and Westmorland and Furness Council.
- 3.7. Further details on varying the North Cumbria contract can be found in the approved request to modify a contract during its term - attached as Appendix 1.

4. Reasons for the recommendation(s)?

- 4.1. The NHS Act 2006 and the Health and Social Care Act 2014 give the Council a statutory duty, alongside health and other partners, to protect the health and well-being of its residents.

4.2. The Council has already entered into a Memorandum of Understanding with NW Probation Services to deliver additional services.

4.3. The Council has already entered into a Memorandum of Understanding with OHID for SSMTRG funding, to supplement agreed Public Health spending, to deliver on areas of national focus for tackling substance misuse.

5. **What options have been considered?**

5.1. **Option 1 (Recommended) – To allocate the additional funding to Humankind to offer additional services.** This will help enable the Council to meet its obligations for tackling substance misuse, honouring the agreements already made with OHID and Probation Services.

5.2. **Option 2 – Not to allocate the additional funding to Humankind.** This is not recommended as the Council has already entered into Memorandum of Understandings with both NW Probation Services and OHID and has received the funding from them. This money will need to be paid back if it is not allocated to Humankind as agreed.

6. **What risks have been identified?**

6.1. If the recommended option is not agreed in time, the Council will become liable to pay back unused OHID SSMTRG funding that was not used in the 2022-23 financial year, despite Humankind having begun delivering in good faith of the funding.

6.2. If the recommended option is not agreed, Cumbria County Council would have broken its Memorandum of Understanding with NW Probation Services by not delivering the agreed service and/or with the Provider for services already rendered without payment.

7. **What resources will be needed / how will the proposal be funded?**

7.1. This ODR recommends that the Executive Director – People authorises a contract modification to increase the value of the Addictions Service (North Cumbria) contract by £615,173.

7.2. The increase in contract value of £615,173 will be funded as follows: NW Probation £182,701; OHID £286,017; Public Health Restart & Recovery Fund £146,455.

7.3. That part of the contract increase funded from OHID and Public Health Restart & Recovery Fund relates to 2022/23 only. OHID funding of £654,784 is available in 2022/23. The Public Health Restart & Recovery fund arose as a result of underspends on the Public Health grant due to COVID with staff funded from various COVID grants and reduced expenditure on demand led services.

The Fund is therefore non-recurring. The increased contract value funded from the Restart & Recovery Fund has been committed in 2022/23.

7.4. NW Probation has allocated £288,098 in total until 2025/26 which will fund this part of the contract increase.

8. What Legal considerations are relevant to the decision?

8.1. The request to modify the contract was approved by the Senior Manager – Corporate Procurement and Contract Management on 15 March 2023 which is attached as Appendix 1 to this report.

8.2. Due to the value of the modifications, this is a Key Decision.

8.3. It is a proper decision for the Executive Director – People to agree the proposed modifications to the Addiction Services for the North contract with Humankind Charity under paragraphs 8.1 and 10.3(f) of Part 3A of the Constitution.

8.4. If the Executive Director approves the recommendation, the requesting officer will need to instruct Legal services to prepare the variation documentation.

Executive member Consultation

Name: Deborah Earl, Cabinet Member for Public Health and Community Services

Details of any registrable interest relevant to the decision: None

Details of any dispensation granted: None

Key Decisions

Notice on Forward Plan? No

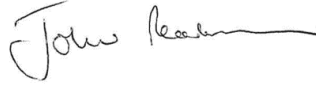
Rule 15 Notice? No

Rule 16 Approval by Chair of Scrutiny Board? Yes

Exempt from Call in? Yes

Decision

Signature of the decision record authorises the implementation (following expiry of the Call In period where applicable) of the recommendations in Section 2.

A handwritten signature in black ink, appearing to read "John Readman". The signature is written in a cursive style with a long horizontal flourish at the end.

Signature of decision maker:

Name: John Readman

Post title: Executive Director (People)

Date: 20 March 2023

Delegated authority to make the decision: Part 3A paragraphs 8.1 and 10.3(f) of the Constitution

Appendices

Appendix 1 – Approved request to modify the Addictions Service (North Cumbria) contract during its term

REQUEST TO MODIFY A CONTRACT DURING ITS TERM

CUMBRIA COUNTY COUNCIL CONTRACT PROCEDURE RULES

Use this form from 15 January 2020 to seek approval to modify a contract during its term.

Modification is the term used in the Public Contracts Regulations 2015 and the CPRs for variations and extensions to contracts.

Please note that a contract that has terminated cannot be extended.

The Executive Director – Corporate, Customer and Community Services is responsible for approving requests to modify contracts following consultation with the Chief Legal Officer.

The Executive Director – Corporate, Customer and Community Services is not authorised to approve requests for modifications which would cause the Council to breach the Public Contracts Regulations 2015.

SUMMARY

MODIFICATION PROVIDED FOR IN CONTRACT	Yes
VALUE of modification	£615,173
DATE DECISION REQUIRED	1 March 2023

DIRECTORATE INFORMATION

DIRECTORATE	People
NAME OF OFFICER REQUESTING MODIFICATION	Paul Johnson
POST TITLE	Commissioning Manager

CONTRACT DETAILS

PARTIES	Humankind Charity
DATE OF CONTRACT	28 September 2021
TERM	1 October 2021 to 30 November 2025 with an option to extend by up to 12 months.
TOTAL CONTRACT VALUE (including value of any options to extend the contract)	North Cumbria contract: £13,809,558 includes additional funding agreed November 2021 and reappportionment for Local Government Reorganisation agreed January 2023 plus £615,173 additional funding requested in this report total: £14,424,731

SUBJECT MATTER	<p>This Request seeks authorisation to increase the value of the North Cumbria contract by £615,173 in the following areas:</p> <p><u>Probation Services</u> Increase the contract value by £182,701 to provide drug testing services to more service users from 1 April 2022 to 30 November 2025, from already agreed NW Probation funding.</p> <p><u>Office for Health Improvement and Disparities (OHID)</u> Increase the contract value by £286,017 in financial year 2022-23 to provide the services agreed in the Authority’s successful Supplementary Substance Misuse Treatment and Recovery Grant (SSMTRG) application to OHID.</p> <p><u>Public Health</u> Increase the contract value by £146,455 in financial year 2022-23 to provide additional services from the Public Health Grant Restart & Recovery Fund, against already approved Public Health spending plans.</p>
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CLAUSE IN CONTRACT PERMITTING MODIFICATION

Insert details of the clause in the contract (if any) which permits modification
<p>Section C Special Terms and Conditions, clause 2.1 reads “Where the Authority or the Provider sees a need to change this Contract, the Authority may at any time request, and the Provider may at any time recommend, such Change only in accordance with this Change Control Procedure set out in clause 2 and 3 of the Special Conditions.”</p>

IMPACT OF MODIFICATION

<p>Use this section to explain the impact of the modification, including: The monetary value of the modification and its impact on the contract; and The effect on the scope of the contract (include precise information on the effect of the modification on the existing specification, contract terms and subject matter of the contract).</p>
<p><u>Probation Services Funding: Monetary Value Impact</u> This funding will increase the value of the contract by £182,701 A decision was taken by the Executive Director – People on 1 August 2022 to enter into a Memorandum of Understanding with NW Probation Services to commission Humankind to provide drug testing services using Probation Services funding of £288,098 to complement the existing service. Apportioning this funding across the North Cumbria and South Cumbria contracts with Humankind takes account of a mid-year adjustment of contract value to align both contracts with Local Government Reorganisation as agreed by the Executive Director – People on 13 January 2023. The £182,701 will be allocated as outlined in the following table.</p>

Description	Invoice Date	Period	Amount
NW Probation Service – Drug Testing – North Cumbria	01-Mar – 22	1 to 31 Mar 2022	£ 21,560
NW Probation Service – Drug Testing – North Cumbria	01 Apr -22	1 Apr 2022 to 31 March 2023	£29,208
NW Probation Service – Drug Testing – North Cumbria	01 Apr -23	1 Apr 2023 to 31 March 2024	£41,579
NW Probation Service – Drug Testing – North Cumbria	01 Apr -24	1 Apr 2024 to 31 March 2025	£ 45,059
NW Probation Service – Drug Testing – North Cumbria	01 Apr -25	1 Apr 2025 to 31 March 2026	£45,295
Total			£182,701

Probation Services Funding: Scope Impact

The following requirements are to be met by the Provider.

The additional funding will contribute towards the delivery of the target number of Drug Rehabilitation Requirements (DRR) drug tests per annum in accordance with the DRR and Court Orders issued to Service Users by the courts, as stated in the following table:

Financial Year	North Cumbria DRR Drug tests / annum
2021/22	514
2022/23	676
2023/24	981
2024/25	994
2025/26	949
Total	4,114

DRR Drug tests carried out for Criminal Justice purposes will be increased. The under achievement of the required number of DRR Drug Tests will be rolled forward to future financial years.

The funding will be used to employ at least an additional 0.80 Full Time Equivalent Housing and Criminal Justice worker to create additional staffing capacity to provide DRR drug tests across Cumbria.

OHID SSMTRG Funding: Monetary Value Impact

This funding will increase the value of the contract in the 2022-23 financial year by £286,017 to provide the services agreed in the Council's Supplementary Substance Misuse Treatment and Recovery Grant (SSMTRG) Plan.

A decision was taken by the Executive Director – People on 1 August 2022 to allocate £654,784 SSMTRG fund to addiction-related services in the 2022-23 financial year. Apportioning this funding across the North Cumbria and South Cumbria contracts with Humankind takes account of a mid-year adjustment of contract value to align both contracts with Local Government Reorganisation as agreed by the Executive Director – People on 13 January 2023.

The £286,017 allocated to the North Cumbria contract is 44% of this SSMTRG funding and is to be allocated as follows:

Description	Invoice date	Period	Amount
OHID SSMTRG – North Cumbria	1 July 2022	1 July to 30 Sept	£81,940
OHID SSMTRG – North Cumbria	1 Oct 2022	1 Oct to 31 Dec	£81,940
OHID SSMTRG – North Cumbria	1 Jan 2023	1 Jan to 31 Mar	£122,137
Total			£286,017

Public Health Restart & Recovery Funding: Monetary Value Impact

This funding will increase the value of the contract in the 2022-23 financial year by £146,455 to provide the services from the Council's Public Health Grant Restart & Recovery Fund.

A decision was taken by the Executive Director – People on 10 August 2022 to allocate £234,199 from the Public Health Grant Restart & Recovery Fund to Humankind to fund addiction-related services in the 2022-23 financial year.

£146,455 has been apportioned to the North Cumbria contract to be allocated as follows:

Description	Invoice date	Period	Amount
Public Health Grant – Addiction Services North Cumbria	1 July 2022	1 July to 30 Sept	£39,031
Public Health Grant – Addiction Services North Cumbria	1 Oct 2022	1 Oct to 31 Dec	£39,031
Public Health Grant – Addiction Services North Cumbria	1 Jan 2023	1 Jan to 31 Mar	£68,393
Total			£146,455

Joint OHID and Public Health Funding Scope Impact

The following requirements are to be met by the Provider:

OHID Plan Ref.	Funding		Requirement
	SSMTRG 2022-23	PHG 2022-23	
1.2	£28,600		<ul style="list-style-type: none"> Employ 0.65 FTE Cumbria Harm Reduction Manager to lead the development of a Local Drug Information System and the achievement of the Cumbria Harm Reduction Plan. Staffing and activity costs.
1.3	£19,987	£5,213	<ul style="list-style-type: none"> Increase management capacity and resources of the Service Staffing and activities costs
3.2		£60,640	<ul style="list-style-type: none"> Keep Workington premises open

4.1		£80,603	<ul style="list-style-type: none"> • Employ 0.65 Team leader and 2 Criminal Justice and Housing workers to provide additional support to service users engaged in Criminal Justice partners.
5.1	£44,200		<ul style="list-style-type: none"> • Subcontract The Well Communities to recruit and employ 1.3 additional FTE Hope Workers.
5.2	£66,000		<ul style="list-style-type: none"> • Employ an additional 2 FTE Recovery Co-ordinators
8.1	£26,030		<ul style="list-style-type: none"> • Sub contract The Well Communities to increase the number of Mutual Aid and Peer Support Groups
8.2	£46,450		<ul style="list-style-type: none"> • Sub contract The Well Communities to sustain Quasi Recovery Housing beds and provision. • Employ 0.65 FTE Quasi Recovery Housing Manager
10.2	£39,000		<ul style="list-style-type: none"> • Employ an additional 0.65 FTE Independent Prescriber
10.3	£15,750		<ul style="list-style-type: none"> • Staff recruitment and retention activity costs
	£286,017	£146,455	TOTAL: £432,472

BACKGROUND AND REASONS FOR REQUESTING A MODIFICATION

Explain the reasons why the modification is sought

NW Probation Funding

On 1 August 2022 the Executive Director - People gave authorisation for the Council to enter into a Memorandum of Understanding (MoU) with HM Prison and Probation Service to receive funding from its Dependency and Recovery Service Fund to provide additional support to the Alcohol and Drug Treatment and Recovery services in Cumbria. This is to be provided by Humankind.

The request to modify the contract with Humankind seeks to implement the requirements placed on the Council by the MoU with HM Prison and Probation Service.

OHID and Public Health Funding

The National Drug Treatment and Recovery review carried out by Dame Carol Black acknowledges that there has been significant disinvestment in addiction services over the last decade, which arguably has led to year on year increases in alcohol and drug related deaths. The national picture is true of Cumbria, where staff are under significant pressure to provide a quality service that meets demand.

On 1 August 2022 the Executive Director gave authorisation for the Council to enter into an MoU with OHID to access the grant for £654,784 to be used towards the expenditure incurred for supplemental substance misuse treatment and recovery services.

On 10 August 2022 the Executive Director gave authorisation for the Council to allocate £460,000 of the Council's Public Health Grant Restart & Recovery Fund to make provision for harm reduction and substance misuse treatment and recovery services. This request to modify a contract is being sought to enable the Council and its commissioned provider Humankind to meet the expectations of Central Government stated in its From Harm to Hope 10-year drug strategy and to implement the requirements placed on the Council by the MoU with OHID.

VIEWS OF THE ASSISTANT DIRECTOR (& CABINET MEMBER)

Use this section to provide confirmation that the Assistant Director supports the request and any other comments from the Assistant Director. Where the value of the contract exceeds the Key Decision threshold, confirmation should be provided that the Cabinet Member supports the proposal.

Supportive of this process

LEGAL IMPLICATIONS

Comments from Legal Services

Due to the value the Humankind Charity North contract it is regulated by the Public Contract Regulations 2015 (PCRs).

The Assistant Director – Strategic Commissioning may approve this modification under paragraph 11.3(b) Part 3A of the Constitution in accordance with rules 7.11 and 7.12 of the Contract Procedure Rules at Part 5H of the Constitution as the modification satisfies the conditions set out under Regulation 72(5) of the PCRs, namely it does not alter the overall nature of the contract and:

- (a) the total value of the modification (£615,173) does not exceed £663,540 which is the relevant financial threshold in accordance with Regulation 5(1)(d) of the PCRs (public service contracts under Schedule 3 the 'Light Touch Regime'); and
- (b) the total value of the modification does not exceed 10% (£1,399,265.10) of the initial contract value.

Once the modification request is signed off, the requesting officer will need to seek further authority to implement the proposed modifications and instruct legal accordingly.

Solicitor: S Barnes

Date: 13/03/2023

Likelihood of claim against Council being successful	Impact of claim against Council being successful	Risk Score
2	2	4

FINANCE IMPLICATIONS

Comments from Finance

The increase in contract value of £615,173 will be funded as follows: NW Probation £182,701; OHID £286,017; Public Health Restart & Recovery Fund £146,455. That part of the contract increase funded from OHID and Public Health Restart & Recovery Fund relates to 2022/23 only. OHID funding of £654,784 is available in 2022/23. The Public Health Restart & Recovery fund arose as a result of underspends on the Public Health grant due to COVID with staff funded from various COVID grants and reduced expenditure on demand led services. The Fund is therefore non-recurring. The increased contract value funded from the Restart & Recovery Fund has been committed in 2022/23.

NW Probation has allocated £288,098 in total until 2025/26 which will fund this part of the contract increase.

Finance Officer: Susan Milburn

Date: 15.03.2023

Likelihood	Impact	Risk Score
1	11	

REQUESTING OFFICER SIGNATURE AND DATE OF REQUEST

SIGNED	DATE
 Paul Johnson	27 January 2023

COMMENTS OF THE SENIOR MANAGER – CORPORATE PROCUREMENT AND CONTRACT MANAGEMENT [OR PROCUREMENT & CONTRACT MANAGER IF BEING AUTHORISED BY THE SENIOR MANAGER]

Whilst high value I understand that it satisfies the requirements of Regulation 72(1)(e) of the PCRs, therefore I'd recommend it be approved

OVERALL RISK ASSESSMENT

Likelihood	Impact	Risk Score
1	3	3

Officer Name: Bev Kent

Date: 15/3/23

DECISION OF THE EXECUTIVE DIRECTOR - CORPORATE, CUSTOMER AND COMMUNITY SERVICES [OR SENIOR MANAGER – CORPORATE PROCUREMENT AND CONTRACT MANAGEMENT UNDER DELEGATED AUTHORITY FROM EXECUTIVE DIRECTOR – CORPORATE CUSTOMER & COMMUNITY DATED 9 SEPTEMBER 2019]

MODIFICATION APPROVED	Conway Stewart
MODIFICATION NOT APPROVED	
COMMENT	As per legal, finance and proc comments above
DATE OF DECISION	15/3/23

PROCEDURE

The Executive Director – Corporate, Customer and Community Services will only consider requests for modification of contracts made on the Request for Exemption form.

Corporate Procurement and Contract Management can provide assistance in completing the form and this is advised to ensure that sufficient relevant information is included in the request.

The manager requesting the modification must:

1. complete all sections of the form;
2. circulate the form for comment to Legal Services and Finance;
3. e-mail the completed form to the Executive Director – Corporate, Customer and Community Services or the Senior Manager – Corporate Procurement and Contract Management.

The Executive Director – Corporate, Customer and Community Services will log the request and consult with the Senior Manager – Commissioning, Procurement and Contract Management and the Chief Legal Officer (Monitoring Officer) before determining the request.

The Executive Director – Corporate, Customer and Community Services or the Senior Manager – Corporate Procurement and Contract Management will return the signed decision to the requesting officer.

The Executive Director – Corporate, Customer and Community Services or Senior Manager – Corporate Procurement and Contract Management will retain a record of the request and the decision.

Impact

Likelihood	V Likely	5	5	10	15	20	25
	Likely	4	4	8	12	16	20
	Possible	3	3	6	9	12	15
	Unlikely	2	2	4	6	8	10
	V Unlikely	1	1	2	3	4	5
			1	2	3	4	5
		Insignificant	Minor	Moderate	Major	Most severe	