



CPG Waiver Form

Please use this form to make an application to waive compliance with the Council's Internal Procurement Rules. Please refer to Bristol City Council Procurement Rules and the Guidance before completing this request

Note that the Council can waive compliance with its own procurement rules, but cannot waive its obligation to comply with public contracts regulations, which apply to all contracts over the EU threshold (approx. £180,000 for goods and services, £615,000 for 'light touch' regime, and £4.5m for works).

You must seek advice from the [Legal](#) and [Procurement](#) teams before submitting this request, who will record their advice on the form below.

If approved, you must:-

1. Ensure this waiver is recorded on the Contract Register – the CPG team will do this for you.
2. Officers are **legally required** to publish an Officer Executive Decision Notice where their request involves a resource commitment of between £100k and £500k. Accordingly, you **must** ensure this is done. Further information about Officer Executive Decisions can be found [here](#).
3. It is a **legal requirement** to obtain a key decision if your request involves a resource commitment of over £500k and/or affects more than one ward. You **must** ensure this is done. Further information about Key Decisions can be found [here](#).

Name of Officer:

Susan Milner

Directorate:

Adults, Children and Education

Name of Director Authorising Request

Susan Milner, Interim Director City Wellbeing, Resilience and Strategic Partnerships

Detail of Services, Good or Works to be supplied

Bristol City Council currently commission:

Behaviour Change services:

- **Alcohol brief interventions:** commissioned through separate contracts with 48 individual GP practices and 94 pharmacies across Bristol. (Note: payments made by activity).
- **Support to stop smoking services:** commissioned through separate contracts with GP practices and pharmacies (payments by activity) and various voluntary sector organisations (block contract).
- **NHS Healthchecks:** commissioned through separate contracts with GP practices and one pharmacy (payments by activity) and one voluntary sector organisation (block contract).
- **Weight management on referral:** commissioned through separate contracts with Slimming World and Weight Watchers (payments by activity).
- **Children and families weight management service:** commissioned through separate contract with Everyone Active (block contract).

The request is to renew these contracts for up to a further 12 months – to 30th

September 2019.

Other Public Health services:

- **HealthWatch:** commissioned through separate contract with The Care Forum (block contract).
- **Alcohol community detox:** commissioned through separate contracts with GP practices (payments by activity).
- **Substance misuse services:** commissioned through separate contracts with GP practices and pharmacies (payments by activity).
- **Sexual health services:** commissioned through separate contracts with GP practices and pharmacies (payments by activity).

The request is to renew these contracts for up to a further 12 months – to 31st March 2020.

Please note: The primary care contracts (GPs and Pharmacists) fall outside of the NHS contracts commissioned by NHS England.

1. Background to this waiver request

1.1 Under which clause of the council's [Procurement Rules](#) are you requesting a waiver?

- 7.2.1 7.2.2 7.2.3 7.2.4 7.2.5

Please outline your justification for this.

- If a waiver is required due to **the absence of other suppliers**, please detail any market testing you have undertaken
- If a waiver is required due to the **urgency** of the situation, please explain how this has arisen (note that 'urgency' is only applicable if caused by events outside the council's control. Lack of prior planning cannot be used as a justification for urgency).

Up to 12 months renewal of these contracts will enable Public Health to continue to deliver support to help residents whilst we undertake a full consultation on a new commissioning strategy for all of the Public Health commissioned services (due autumn 2018), and implement the commissioning plan.

As part of developing the commissioning strategy we will be exploring possible different commissioning options for the primary care contracts (GPs and Pharmacists) including joint commissioning across BNSSG and whether the Clinical Commissioning Group (CCG) would commission these services on our behalf in the future.

Behaviour Change Services:

The Bristol Behaviour Change services was in scope for new service combining all of them which was out to tender earlier this year. This procurement process was suspended in April 2018. The current service contract runs until 30th September 2018.

12 months is the maximum amount of extension required (to 30th September 2019), and should we complete the commissioning process earlier, the contract will be terminated at an earlier stage.

HealthWatch:

Reprocurement for this service, and for NHS Complaints Advocacy, was paused in 2017 and a

waiver granted by CPG for services from April 2018-March 2019. We currently have two commissioning options for HealthWatch:

1. HealthWatch is included in an Advocacy procurement process started in 2018. This also includes NHS Complaints Advocacy, which is not in scope for this waiver request.
2. Agreement is being pursued with North Somerset and South Gloucestershire to remodel HealthWatch on a BNSSG footprint. This approach is more unpredictable, and Option 1 may still need to be exercised. It also may require a longer timeline than presently allowed to complete a 3 way procurement process.

In considering these options we have realised there are new factors that may now potentially impact on the procurement approach and timeline. More specifically this is the Public Health commissioning strategy and:

- The ongoing work necessary with partner authorities to demonstrate that the BNSSG Clinical Commissioning Group footprint for HealthWatch is an achievable option that remains the most effective and economic means of delivery.

12 months is the maximum amount of extension required (to 31st March 2020), and should we complete the commissioning process earlier, the contract will be terminated at an earlier stage.

Substance misuse and sexual health services

The contracts were awarded in October 2017 (direct award) to 31st March 2019. We are requesting 12 months is the maximum amount of extension required (to 31st March 2020) to explore the options identified from the commissioning strategy (noted above). Should we complete the commissioning process earlier, the contract will be terminated at an earlier stage.

1.2 Are you seeking this waiver in order to extend or renew an existing contract (where there is no provision to do so in the existing contract?) This refers to a compliantly tendered contract.

Yes No

If yes:

1.2.1 What is the contract number (DNxxxxxx) of the original contract?

DN319951 – Alcohol Brief Interventions
DN319956 – Support to Stop Smoking Services
DN319963 – NHS Healthchecks (primary care)
DN319957 – NHS Healthchecks (voluntary sector)
DN326401 – Adult Weight Management on Referral
DN319945 – Children and Families Weight Management Service
DN167476 – HealthWarch
DN300406 – Substance Misuse, Alcohol Community Detox and Sexual Health Services

1.2.2 What was the total value of the original contract (including any extensions)?

- **Alcohol Brief Interventions:** £17,000 per annum (payment made on activity)
- **Support to Stop Smoking Services (primary care):** £241,800 per annum (payment made on activity); original budget was £300,000 per annum
- **Support to Stop Smoking Services (voluntary sector):** £81,400
- **NHS Healthchecks (primary care):** £241,800 per annum (payment made on activity)
- **NHS Healthchecks (voluntary sector):** £32,754
- **Adult Weight Management on Referral:** £100,000 per annum (payment

made on activity)

- **Children and Families Weight Management Service:** £496,500 (3 year contract)
- **HealthWatch:** £347,250 (3 year contract)
- **Substance Misuse:** £1,250,000 per annum (payment made on activity)
- **Alcohol Community Detox:** £148,000 per annum (payment made on activity)
- **Sexual Health Services:** £474,000 per annum (payment made on activity)

1.2.3 What was the length of the original contract, including start and end dates?

- **Alcohol Brief Interventions; Support to Stop Smoking Services; NHS Healthchecks:** 12 months - 1 April 2016 to 31 March 2017
- **Adult Weight Management on Referral:** 1 April 2013 to 31 March 2016
- **Children and Families Weight Management Service:** 1 February 2012 to 31 January 2014
- **HealthWatch:** 1 April 2013 to 31 March 2018
- **Substance Misuse, Alcohol Community Detox and Sexual Health Services:** 18 months: 1 October 2017 to 31 March 2019

1.2.4 Did the contract include any provision for extensions, and if so have they been used?

- **Alcohol Brief Interventions; Support to Stop Smoking Services; NHS Healthchecks:** No
- **Adult Weight Management on Referral:** No
- **Children and Families Weight Management Service:** No
- **HealthWatch:** Yes. The three year contract was extended by a further two years, and a direct award offered for 2018-19
- **Substance Misuse, Alcohol Community Detox and Sexual Health Services:** No

1.2.5 How was this previous contract procured (e.g. via framework, Open tender, 3 quotes, etc.)?

- **Alcohol Brief Interventions; Support to Stop Smoking Services; NHS Healthchecks:** direct award
- **Adult Weight Management on Referral:** Tender process; Weight Watchers from 2013; and Slimming World from April
- **Children and Families Weight Management Service:** Tender process; Commissioning was undertaken in the NHS and contract was novated as part of Public Health transition to the local authority in April 2013
- **HealthWatch:** Compact compliant full procurement
- **Substance Misuse, Alcohol Community Detox and Sexual Health Services:** Direct award following key decision at Health and Wellbeing Board

1.2.6 How many times has this contract been extended by means of a waiver already? Please provide details (including Contract Number – DNXXXXX, start and end date and value – for each previous waiver:

- **Alcohol Brief Interventions; Support to Stop Smoking Services; NHS Healthchecks:** The 2016/17 contract has been extended 3 times to date (under waivers) to allow time for the then planned procurement of the

behaviour change programme.

The contract with primary care has been directly awarded on an annual basis since April 2013 when Public Health transitioned to Bristol City Council.

- **Adult Weight Management on Referral:** We extended each year for a period of 1 year to March 2018; and then 2 further extensions (first to June 2018, and then September 2018) to enable the procurement of the behaviour change programme.
- **Children and Families Weight Management Service:** We extended each year for a period of 1 year to March 2018; and then 2 further extensions at a reduced contract value of £166,500 per year (first to June 2018, and then September 2018) to enable the procurement of the behaviour change programme.
- **HealthWatch:** Once – a direct award was accepted by the Provider for the current year
- **Substance Misuse, Alcohol Community Detox and Sexual Health Services:** the local authority became responsible for commissioning these primary care services in 2013, the contracts were directly awarded on an annual basis up to the end of March 2017. At this point the substance misuse and sexual health elements of the services were given a 6 month extension, and other primary care services were considered separately as part of the healthy lifestyles procurement. A range of different procurement approaches for the substance misuse and sexual health services were considered at this point, but given the complex legal, financial and policy considerations it was concluded that directly awarding these contracts continued to be the preferred option. A key decision to directly award an 18 month contract was made at the Health and Wellbeing Board in August 2017.

1.2.7 Why was the contract not retendered (if due to timing issues, include an explanation of what caused these)?

Behaviour Change Services: The commissioning intention was to include the support to stop smoking services in a new Bristol Behaviour Change for Healthier Lifestyles Programme, with a start date of 1 October 2018, however this was pulled at scoring stage due to the financial position and need to make further savings in public health.

HealthWatch: The decision was made by the Category Manager to align with Advocacy services and explore options noted in this waiver.

Substance Misuse and Sexual Health Services: Our reasons for requesting we continued with a direct award were:

1. The prescribing costs for the LARC devices are still met from NHS prescribing budgets rather than the local authority. The cost of the devices far outweighs the prices we pay for fitting. Other providers would not be able to access this prescribing budget. There is no formal agreement with NHS England on funding the devices, and a procurement process could risk this current arrangement, as national policy states that local authorities are responsible for the full costs of these services.
2. Primary care are the only feasible place where these services can be provided at the current tariffs which covers staff time and do not allow for any overhead costs. These are specialist services which required trained clinical staff who are able to

address the whole patient need, with adequate clinical governance arrangements. The only organisations who would want the contract would be those who would subcontract to primary care. However, primary care are highly unlikely to want to give up some of their tariff for management costs, which would most likely lead to a gap in service. We have increasing demand for these services in the context of a growing population.

3. In terms of substance misuse the only realistic option in developing an alternative model to meet the needs of the population would be through the provision of specialist prescribing clinics. These are medically led facilities with the capability, competency and governance to prescribe controlled substances (i.e. methadone) and facilitate alcohol detoxes. The Personal Social Services Research Unit identifies the unit cost of delivering a specialist prescribing service as £55 per patient week. With ~2000 OST clients in treatment at any one time and an aspiration to be facilitating 150 detoxes at any given moment this would cost the Council £6,149,000 to fund an equivalent service. This cost however relates to a centralised service with clients required to travel into the clinic. This is highly likely to lead to significant decrease in the system's ability to engage and retain opiate and alcohol clients in treatment and lead to significant increase in terms of offending and health related costs.
4. Running a procurement process such as an open framework would require significant investment in BCC and primary care staff time, but with little benefit. The procurement would not save any money, achieve efficiencies or deliver any service improvements. It would however risk relationships with our current providers and possibly reduce access to services in key locations as has been experienced by other local authorities using this approach. Damaging relationships with primary care would have repercussions for the local authority beyond the provision of these services.
5. There are no benefits to opening up these services to providers outside of primary care, because the involvement of primary care in delivering these services is key. A patient's GP and pharmacists are often the pathway into specialist substance misuse and sexual health services. Continuing to commission services in primary care will help to ensure smooth patient pathways and ensure that services are provided in convenient locations within communities that Bristol residents trust and already access for their general healthcare needs. Marginalised and vulnerable populations most in need of these services are generally willing to use their GP or pharmacy.

2. This waiver

2.1 Name of Proposed Supplier:

- **Alcohol Brief Interventions:** GPs and Pharmacists in Bristol
- **Support to Stop Smoking Services:** GPs and Pharmacists in Bristol; Working in Southmead for Health; Knowle West Health Park; Easton Community Centre; Hartcliffe Health and Environment Action Group; Bristol Drugs Project
- **NHS Healthchecks (primary care):** GPs and Pharmacists in Bristol
- **NHS Healthchecks (voluntary sector):** Knowle West Health Park
- **Adult Weight Management on Referral:** Weight Watchers; Slimming World
- **Children and Families Weight Management Service:** Everyone Active
- **HealthWatch:** The Care Forum
- **Substance Misuse, Alcohol Community Detox and Sexual Health Services:** GPs and Pharmacists in Bristol

2.2 Address of Proposed Supplier:

Various

2.3 Is the supplier brief, terms and formal quotation attached?

Yes No

If no, please explain why not

[Click here to enter text.](#)

2.4 Does this waiver include all new work envisaged?

Yes No

If no, explain what is to follow:

[Click here to enter text.](#)

2.5 What are the start and end dates for this Waiver (not including extensions)?

Behaviour Change Services:

Start date:

01/10/2018

End date:

30/09/2019

HealthWatch:

Start date:

01/04/2019

End date:

31/03/2020

Substance Misuse and Sexual Health:

Start date:

01/04/2019

End date:

31/03/2020

2.6 Describe the consequences to the Council/Citizens/Service users if this waiver is not approved

Lack of access to evidence-based support for residents. Risk of reputational damage for the council.

2.7 Confirm that in selecting the proposed provider due consideration has been given to the following, *as appropriate*:

Social Value	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Information Security	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Safeguarding	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Health & Safety	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Business Resilience	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A
Equalities	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A

3. Decommissioning/recommissioning strategy

Explain how any contract for on-going requirement will be competitively tendered (where appropriate) or brought to an end, to avoid requirement for a further waiver.

Note: where there is an ongoing requirement for these goods, services and/or works, and they can be procured in compliance with the rules, CPG expects to receive a Procurement Approval Form, [here](#) outlining your future procurement plans at the earliest opportunity.

Version 5: April 2018

Form Owner: Commissioning & Procurement Group

We are in the process of developing a commissioning strategy for all of the Public Health services to achieve the savings required. This will be consulted on in the autumn with implementation to commence early 2019.

As part of this we will also be exploring different commissioning options including joint commissioning across BNSSG and whether the Clinical Commissioning Group (CCG) would commission these services on our behalf in the future.

The maximum amount of extension required for all contracts is 12 months, and should we complete the commissioning process earlier, the contract will be terminated at an earlier stage.

4. Funding, finance and savings

4.1 State whether the request is for Statutory or Discretionary Spend

- **Alcohol Brief Interventions:** discretionary
- **Support to Stop Smoking Services:** discretionary
- **NHS Healthchecks (primary care):** statutory
- **NHS Healthchecks (voluntary sector):** statutory
- **Adult Weight Management on Referral:** discretionary
- **Children and Families Weight Management Service:** discretionary
- **HealthWatch:** statutory
- **Substance Misuse:** discretionary
- **Alcohol Community Detox:** discretionary
- **Sexual Health Services:** statutory

4.2 State whether the request is for Capital or Revenue spend

Revenue

4.3 State the funding Source e.g. General Fund / HRA / Grant / Public Health etc.

Public Health and General Fund (HealthWatch)

4.4 Total value of the contract

4.4.1 What is the total value of the contract to date (as set out in 1.2.6 above), not including any compliantly procured term or extensions to this (number of years x annual spend value through previous waiver(s)).

- **Alcohol Brief Interventions:** £42,500
- **Support to Stop Smoking Services:** £808,000
- **NHS Healthchecks (primary care):** £622,500
- **NHS Healthchecks (voluntary sector):** £81,885
- **Adult Weight Management on Referral:** £550,000
- **Children and Families Weight Management Service:** £1,192,500
- **HealthWatch:** £578,750
- **Substance Misuse:** £1,875,000
- **Alcohol Community Detox:** £148,000
- **Sexual Health Services:** £711,000

4.4.2 What is the proposed total value of this waiver (number of years x annual spend)

- **Alcohol Brief Interventions:** £17,000 (12 months)
- **Support to Stop Smoking Services:** £323,200 (12 months)
- **NHS Healthchecks (primary care):** £249,000 (12 months)
- **NHS Healthchecks (voluntary sector):** £32,754 (12 months)
- **Adult Weight Management on Referral:** £100,000 (12 months)
- **Children and Families Weight Management Service:** £165,500 (12 months)
- **HealthWatch:** £115,750 (12 months)
- **Substance Misuse:** £1,250,000 (12 months)
- **Alcohol Community Detox:** £148,000 (12 months)
- **Sexual Health Services:** £474,000 (12 months)

4.4.3 What is the proposed total value of the overall contract (number of years x annual spend). This should be the sum of 4.4.1 and 4.4.2.

£9,485,339

4.5 Do you expect this contract to deliver a saving or efficiency, compared to a previous contract or provision?

Yes No

If yes,

What is the value of the saving?

Click here to enter text.

What is the saving as a percentage of previous spend or budget for this contract?

Click here to enter text.

Does this saving contribute to an existing savings plan?

Yes No

If so, what is the savings tracker reference?

Click here to enter text.

4.6 Any other comments on savings:

4.7 Please confirm the proposed inflation arrangements for this contract (Please note the assumption is that all contracts will have zero inflation)

Zero inflation

4.8 Do you intend to use existing terms and conditions?

Yes No

If no, what are the arrangements (i.e. legal services asked to draft or supplier's own).

Click here to enter text.

4.9 Please give the following finance details:

Cost Centre and account code:

- **Alcohol Brief Interventions:** 13901/R408 (Leonie Roberts)
- **Support to Stop Smoking Services:** 13954/R4408 (Viv Harrison)
- **NHS Healthchecks (primary care):** 13932/R4408 (Viv Harrison)

- **NHS Healthchecks (voluntary sector):** 13932/R4408 (Viv Harrison)
- **Adult Weight Management on Referral:** 14859/R4401 (Sally Hogg)
- **Children and Families Weight Management Service:** 13904/R4401 (Jo Williams)
- **HealthWatch:** 13962/R5001 (Viv Harrison)
- **Substance Misuse:** 13905/R4408 (Leonie Roberts)
- **Alcohol Community Detox:** 13901/R408 (Leonie Roberts)
- **Sexual Health Services:** 14988/R4408 (Thara Raj)

Current annual Budget (£): 2,875,204

5. Consultation

Note that CPG will only accept waiver forms if they have comments from Legal (legal.support@bristol.gov.uk) and Procurement (procurement.support@bristol.gov.uk) colleagues. Please seek Legal comments first, and then pass to Procurement. See guidance on The Source for more details.

5.1 Comments from Legal Representative

As health and social care contracts, these will all be subject to the £615k threshold. Many of the contracts will be subject to aggregation, both in terms of previous contracts and individual contracts for similar services. Ultimately though, some would remain sub-threshold, whilst others would be in excess of the threshold and specific legal comments will be provided in relation to the individual waivers in this regard.

Those contracts that would remain sub-threshold post-aggregation pose little, if any, risk on a procurement front given that there must be concrete evidence of cross-border interest in order for the Treaty Principles, which would require some form of competition, to apply.

In accordance with the Public Contracts Regulations 2015, the contracts which are above the threshold should be advertised and subject to a fair and transparent tender process. There are of course reasons set out in this report as to why the preferred approach is to continue with the existing arrangements in order that a more joined up approach be adopted in due course. Those reasons are commercial considerations and do not translate into legal exemptions (of which there are a number) from running an open tender process in order to award the contracts. In practice, these contracts are predominantly, if not exclusively, in areas in which there is limited service provision in terms of the number of providers and, as such, generally minimal likelihood of challenge. This isn't to say that non-compliant awards of contracts that are in excess of the threshold would be a recommended approach from a legal standpoint but, if it were felt that from a commercial perspective the suggested approach holds sufficient merit then, subject to comments on individual waivers highlighting area specific risk, the approach outlined in this report may be preferred on the basis of the seeming likelihood of challenge being low.

Legal Representative Name Nicholas Mimmack	Date 17/08/2018
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5.2 Comments from Procurement representative

A category specialist (Wanda Knight) has been allocated to support the commissioning and procurement of these services. We will require quarterly progress reports to check that the procurement of new services is achieved without delay.

Procurement Representative Name Joanna Roberts (Category Manager)	Date 05/09/2018

6. Sign off

All waivers must be approved by the appropriate Director of the applicable service area or an equivalent officer with authorisation to do so.

As an Officer of Bristol City Council I confirm I have read and understood the relevant procurement regulations and confirm this request is compliant.

I confirm that the appropriate decision making pathway has been followed.

I declare that we have consulted the Procurement & Commercial Solutions Service and Legal Services, as appropriate, and agree that the best interests of the Council are being secured by granting this waiver and that the condition(s) stated above exist and are true and correct to the best of my knowledge.



Signed:

Date: 10/08/2018

(Nb signature can be electronic)