

DMPC Decision – PCD 1564**Title: Novation of the contract for Integrated Offender Management Mental Health service****Executive Summary:**

MOPAC and London Probation have jointly co-commissioned a mental health provider, Together for Mental Wellbeing, to deliver the Integrated Offender Management (IOM) mental health service across all boroughs in London. This decision was approved under PCD 1291.

Currently, Together for Mental Wellbeing operates as a registered charity and state-regulated provider of welfare services, applying VAT exemption under the provisions of VAT Act 1994, Schedule 9, Group 7. However, this VAT exemption means that the provider is unable to recover any VAT on the costs associated with its supply, resulting in an additional cost. Subsequently, MOPAC has been informed of Together for Mental Wellbeing's intention to change the status of the body holding this contract. This change will allow them to apply VAT at the standard rate to the services provided. Therefore, this follow-up decision seeks approval to novate the current contract with Together for Mental Wellbeing to a wholly owned trading subsidiary, Together for Mental Wellbeing Support Services Ltd, under its new name. This will not have an impact on MOPAC as we will be able to recover the VAT paid to the new subsidiary.

This change will not alter the way the service currently operates. The services provided operationally in IOM would continue with no material differences.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

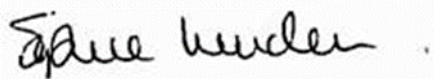
1. Approve novation of the current contract with Together for Mental Wellbeing to a wholly owned trading subsidiary, namely, Together for Mental Wellbeing Support Services Ltd, as per the new name.

Deputy Mayor for Policing and Crime

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature



Date 01/02/2024

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1 Currently Together for Mental Wellbeing is a registered charity and state regulated provider of welfare services. It provides its services and applies VAT exemption (under the provisions of VAT Act 1994, Schedule 9, Group 7). The effect of Together providing exempt services is that it is unable to recover any VAT on the costs associated with their supply and hence the VAT Together incurs represents an additional cost.
- 1.2 Together for Mental Wellbeing sought professional advice with regards to the services, which states that if their services were provided by wholly owned subsidiary of Together, they would be able to apply VAT at the standard rate to the services provided.

2. Issues for consideration

- 2.1 If this change takes place MOPAC will be able to recover the VAT charge in full under the rules applicable to Local Authorities, NHS Trusts (VAT act 1994, Section 33). Therefore, there will be no cost implication for MOPAC as a result of this.
- 2.2 Together for Mental Wellbeing has advised that other providers already operate in this manner, and HMRC accepts that this arrangement is acceptable. By novating the contract in the name of the trading subsidiary, the provider can apply VAT on sales invoices. Mental Wellbeing can then offset any VAT they have incurred against VAT repayable to HMRC, releasing funds for reinvestment in their operations, at no additional cost to MOPAC. In addition MOPAC are able to reclaim in full VAT payable on the service.
- 2.3 This change will not alter the way the IOM mental health service currently operates or materially affect how the service is delivered. The services provided operationally in IOM would continue with no material differences.
- 2.4 The registered name is being changed from 'Together for Mental Wellbeing' to 'Together for Mental Wellbeing Support Services Ltd'.
- 2.5 Insurance policies are in the name of parent Charity 'Together for Mental Wellbeing' which 100% owns the trading Subsidiary, Together for Mental Wellbeing Support Services Limited.

- 2.6 Trading subsidiary is not registered with Care Quality Commission (CQC), but the service they receive will be no different, as all staff is employed by the parent charity, Together for Mental Wellbeing. All staff are subjected to enhanced vetting level 1 as per the contract already in with MOPAC.

3. Financial Comments

- 3.1. The maximum value of this contract is £1,300,523.
- 3.2. The novation of this contract would enable MOPAC to recover the full VAT charge, aligning with the practices of other providers, which are recognised and accepted by HMRC. If MOPAC were unable to recover the VAT charge, then an additional cost of £260,105 would be incurred.
- 3.3 MOPAC has sought advice from the MPS VAT team, and they have confirmed that this proposal is acceptable from a tax perspective.
- 3.4 A credit check has been completed on Together for Mental Wellbeing Support Services Ltd. Company number: 11915148, VAT Number: 323 2203 59. The company has been assessed as Very Low Risk and no concerns were raised.

4. Legal Comments

- 4.1. Paragraph 4.8 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has authority to approve the novation of contracts above £500,000.
- 4.2. Officers must ensure that the arrangements comply with the Financial Regulations and the Contracts Regulations.
- 4.3. The Mayor's Office for Policing Crime is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £181,302 or above will be procured in accordance with the Regulations.

5. Commercial Issues

- 5.1. There is a co-commissioning arrangement for this service with London Probation which is underpinned by a MOU to define the purpose, roles and responsibilities of each commissioning partner and the agreed financial contributions. MOPAC is the lead commissioner for this service and holds the contract solely with the provider, therefore is responsible for agreeing the novation.

6. GDPR and Data Privacy

- 6.1. MOPAC and London Probation are the joint Data Controllers for this service.

- 6.2. A Data Protection Impact Assessment (DPIA) has been produced to identify and minimise risks to data subjects. This will not be affected by the novation of this contract.
- 6.3. All providers funded by MOPAC are required to comply with the GDPR and Data Protection Act 2018.

7. Equality Comments

- 7.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2. An Equality Impact Assessment has been completed for this service in line with the issues recognised in PCD 1291. Additionally, it is important to note that there are no equality considerations for the novation.

8. Background/supporting papers

PCD 1291.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? No

If yes, for what reason: Until what date: N/A

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – NO

ORIGINATING OFFICER DECLARATION	<i>Tick to confirm statement (✓)</i>
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Legal Advice: Legal advice is not required.	✓
Equalities Advice: Equality and diversity issues are covered in the body of the report.	✓
Public Health Approach Due diligence has been given to determine whether the programme sits within the Violence Reduction Unit's public approach to reducing violence. This has been reviewed and supported by a senior manager within the VRU.	✓
Commercial Issues The Contract Management Team has been consulted on the commercial issues within this report. The proposal is in keeping with the GLA Group Responsible Procurement Policy.	✓
GDPR/Data Privacy <ul style="list-style-type: none"> • GDPR compliance issues are covered in the body of the report. • A DPIA is not required. 	✓
Director/Head of Service: The Head of Policy and Commissioning has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature

Sanakucherd.

Date 31/01/2024